GENERAL LAWS

OF THE

STATE OF IDAHO

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

Convened January 10, 2000
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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

CHAPTER 282
(H.B. No. 677)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5204, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A CHARTER SCHOOL MAY BORROW MONEY AS A NONPROFIT CORPORATION FOR THE PURCHASE OF A SCHOOL BUILDING FACILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a charter school shall be deemed public agents authorized by a public school district or the state board of education to control the charter school. A charter school shall be considered a public school for all purposes. For the purposes of section 59-1302(15), Idaho Code, a charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax.

(2) A charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of public school districts and other public schools. The approving authority of a charter school shall have no liability for the acts, omissions, debts or other obligations of a charter school, except as may be provided in an agreement or contract with such charter school.

(3) Nothing in this chapter shall prevent the board of directors of a charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase of school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility as collateral for the loan.

(4) Charter schools shall secure insurance for liability and property loss.

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

Approved April 13, 2000.

CHAPTER 283
(H.B. No. 774)

AN ACT

STATING LEGISLATIVE INTENT AND PROVIDING BACKGROUND INFORMATION; APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR THE NATIONAL WORLD WAR II MEMORIAL FUND FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is the intent of the Legislature of the State of Idaho to join the twenty-three other states in the Union which have already honored their World War II veterans by participating in the National World War II Memorial "dollar per veteran" campaign.

The American Battle Monuments Commission was authorized by federal law in 1993 to establish the World War II Memorial. It will be located on seven acres on the National Mall in Washington, D.C., situated directly between the Lincoln Memorial and the Washington Monument. Primary funding for the one hundred million dollar memorial must be raised from private contributions.

"Millions served in uniform. Millions more served at home. And nearly a half million gave their lives. They were ordinary people who, during World War II, did nothing less than help save the world. Yet unbelievably there is no national memorial to honor their sacrifice. It is time to say thank-you. Dying for freedom isn't the worst that could happen. Being forgotten is." (Actor Tom Hanks)

SECTION 2. In addition to the appropriation made in Section 1, Chapter 254, Laws of 1999, there is hereby appropriated from the General Fund to the Office of the Governor for the Military Division for trustee and benefit payments the sum of $66,000 for the period July 1, 1999, through June 30, 2000. This amount is equal to one dollar for each resident of the state of Idaho who served in the Armed Forces of the United States during World War II. Any other provision of law notwithstanding, the Military Division shall disburse these funds upon enactment to the World War II Memorial Fund, 2300 Clarendon Boulevard, Suite 501, Arlington, Virginia 22201.

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

Approved April 13, 2000.

CHAPTER 284
(H.B. No. 786)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2001; GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HAZARDOUS MATERIALS' MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Military Division, the following amounts to be expended for the following programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General Fund	$1,241,000	$ 840,000	$14,700	$200,000	$ 2,295,700
Federal Grant Fund		161,700			161,700
Miscellaneous Revenue Fund	17,100	21,100			38,200
TOTAL	$1,258,100	$ 1,022,800	$14,700	$200,000	$ 2,495,600
II. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 609,200	$ 425,400	$ 4,400		$ 1,039,000
Federal Grant Fund	5,748,200	8,402,200	13,200		14,163,600
Professional Services Fund	522,600				522,600
TOTAL	$6,880,000	$ 8,827,600	$17,600		$15,725,200
III. DISASTER SERVICES:					
FROM:					
General Fund	$ 684,700	$ 85,200	$52,100		$ 822,000
Federal Grant Fund	469,100	551,100		$407,300	1,427,500
Indirect Cost Recovery Fund	58,700	8,600			67,300
TOTAL	$1,212,500	$ 644,900	$52,100	$407,300	$ 2,316,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. BUREAU OF HAZARDOUS MATERIALS:					
FROM:					
General Fund	$ 164,700	$ 111,200	$ 2,500		$ 278,400
Federal Grant Fund		185,700		$ 76,500	262,200
TOTAL	$ 164,700	$ 296,900	$ 2,500	$ 76,500	$ 540,600
GRAND TOTAL	$9,515,300	$10,792,200	$86,900	$683,800	$21,078,200

SECTION 2. The Military Division is hereby granted continuous appropriation authority for the Bureau of Hazardous Materials' Miscellaneous Revenue Fund for the period July 1, 2000, through June 30, 2001.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred eighty-two and eighty hundredths (182.80) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 13, 2000.

CHAPTER 285
(S.B. No. 1312)

AN ACT

RELATING TO THE IDAHO REAL ESTATE LICENSE LAW; REPEALING SECTIONS 54-2021 THROUGH 54-2053, IDAHO CODE; AMENDING THE HEADING FOR CHAPTER 20, TITLE 54, IDAHO CODE; AMENDING CHAPTER 20, TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-2001 THROUGH 54-2081, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO REQUIRE A LICENSE TO ENGAGE IN THE BUSINESS OR ACT AS A REAL ESTATE BROKER OR REAL ESTATE SALESPERSON, TO PROVIDE EXCEPTIONS TO LICENSURE, TO PROVIDE DEFINITIONS, TO CREATE THE IDAHO REAL ESTATE COMMISSION, TO PROVIDE QUALIFICATIONS AND TERMS OF COMMISSIONERS AND ORGANIZATION OF THE COMMISSION, TO PROVIDE FOR COMPENSATION, POWERS AND DUTIES OF THE COMMISSION, TO ESTABLISH THE IDAHO REAL ESTATE EDUCATION COUNCIL, TO PROVIDE FOR APPOINTMENTS TO THE COUNCIL, QUALIFICATIONS, TERMS AND COMPENSATION OF MEMBERS, TO PROVIDE FOR TYPES OF LICENSES, TO PROVIDE MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE, TO PROVIDE FOR ERRORS AND OMISSIONS INSURANCE, TO PROVIDE FOR LICENSE EXAMS, TO PROVIDE REQUIREMENTS FOR INDIVIDUALS ACTIVELY LICENSED IN ANOTHER STATE OR JURISDICTION TO

OBTAIN PRIMARY IDAHO LICENSURE, TO PROVIDE REQUIREMENTS FOR PRIMARY IDAHO LICENSES FOR LEGAL BUSINESS ENTITIES, SOLE PROPRIETORSHIPS AND BRANCH OFFICES, TO PROVIDE FOR RECIPROCAL IDAHO LICENSES, TO PROVIDE FOR LICENSE RENEWALS AND INACTIVE LICENSES, TO PROVIDE FOR DENIAL OF LICENSE APPLICATIONS, TO PROVIDE FEES, TO PROVIDE FOR DISPOSITION OF FUNDS, TO PROVIDE PRELICENSE EDUCATION REQUIREMENTS, TO PROVIDE CONTINUING EDUCATION REQUIREMENTS, TO PROVIDE FOR A CERTIFICATION PROGRAM FOR REAL ESTATE EDUCATION PROVIDERS, INSTRUCTORS AND COURSE CONTENT, TO PROVIDE CERTIFICATION REQUIREMENTS, TO PROVIDE FOR CERTIFICATION OF COURSE PROVIDERS, TO PROVIDE DUTIES AND REQUIREMENTS OF CERTIFIED COURSE PROVIDERS, TO PROVIDE THE TERM OF PROVIDER CERTIFICATION AND RENEWAL, TO PROVIDE FOR NOTICE OF POTENTIAL EXPIRATION OF CERTIFICATION, TO PROVIDE FOR EXPIRATION OR WITHDRAWAL OF PROVIDER CERTIFICATION AND NOTICE TO STUDENTS, TO PROVIDE FOR WITHDRAWAL OF IDAHO CERTIFICATION FOR CAUSE, TO PROVIDE FOR CERTIFICATION OF INSTRUCTORS AND INSTRUCTOR QUALIFICATIONS, TO PROVIDE FOR COMMISSION DISCRETION IN INSTRUCTOR CERTIFICATION, TO PROVIDE THE TERM OF INSTRUCTOR CERTIFICATION AND RENEWAL, TO PROVIDE FOR CERTIFICATION OF COURSES AND COURSE CONTENT, TO PROVIDE THE TERM OF COURSE CERTIFICATION AND RENEWAL, TO PROVIDE RESPONSIBILITIES OF A DESIGNATED BROKER, TO PROVIDE FOR BROKER AND BRANCH OFFICE MANAGER ABSENCES AND CHANGES, TO PROVIDE FOR A MAIN OFFICE OR BUSINESS LOCATION, TO PROVIDE FOR TRUST ACCOUNTS AND ENTRUSTED PROPERTY, TO PROVIDE REQUIREMENTS FOR CREATION OF NONINTEREST-BEARING TRUST ACCOUNTS, TO PROVIDE FOR INTEREST-BEARING TRUST ACCOUNTS, TO PROVIDE FOR TRUST ACCOUNT RECORDKEEPING, TO PROVIDE FOR TRUST ACCOUNT DEPOSITS AND RECEIPT OF CONSIDERATION, TO PROVIDE FOR TRUST ACCOUNT DISBURSEMENTS, TO PROVIDE FOR DISPUTED EARNEST MONEY, TO PROVIDE THE DUTIES AND RECORDKEEPING REQUIRED OF THE BROKER RESPONSIBLE FOR A TRANSACTION, TO PROVIDE RECORD RETENTION SCHEDULES, TO SPECIFY THE REQUIRED ELEMENTS OF BROKERAGE REPRESENTATION AGREEMENTS, TO PROVIDE FOR OFFERS TO PURCHASE, TO PROVIDE FOR ELECTRONICALLY GENERATED AGREEMENTS, TO PROVIDE FOR ADVERTISING, TO SPECIFY PROHIBITED CONDUCT WITH RESPECT TO COMPENSATION, COMMISSIONS AND FEES, TO PROVIDE FOR LICENSEES DEALING WITH THEIR OWN PROPERTY, TO PROVIDE FOR TERMINATION OF LICENSE BUSINESS RELATIONSHIPS, TO PROVIDE FOR THE DEATH OR INCAPACITY OF A DESIGNATED BROKER, TO PROVIDE THE AUTHORITY OF THE COMMISSION TO INVESTIGATE AND DISCIPLINE LICENSEES, TO PROVIDE FOR REVOCATION, SUSPENSION OR OTHER DISCIPLINARY ACTION, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO PROVIDE FOR REVIEW OF COMMISSION DISCIPLINARY ACTIONS, TO AUTHORIZE THE COMMISSION TO REFER A COMPLAINT TO THE COUNTY PROSECUTING ATTORNEY, TO PROVIDE THE PENALTY FOR ACTING AS A BROKER OR SALESPERSON WITHOUT A LICENSE, TO PROVIDE FOR INJUNCTIVE RELIEF AND CEASE AND DESIST ORDERS, TO PROVIDE FOR WITNESSES, DEPOSITIONS, FEES AND SUBPOENAS, TO ESTABLISH THE REAL ESTATE RECOVERY FUND, TO PROVIDE FOR AUGMENTATION OF AND RECOVERY FROM THE FUND, TO PROVIDE THE AUTHORITY OF THE COMMISSION IN AN ACTION FOR RECOVERY FROM THE FUND, TO PROVIDE FOR A COURT ORDER REQUIRING PAYMENT FROM THE FUND, TO PROVIDE FOR LICENSE SUSPENSION OF THE BROKER, ASSOCIATE BROKER OR SALESPERSON UPON ENTRY OF THE COURT ORDER AND TO PROVIDE CONDITIONS FOR LICENSE REINSTATEMENT, TO PRO-

VIDE THE ORDER OF CLAIM PAYMENTS IF THE RECOVERY FUND BALANCE IS INSUFFICIENT AND TO PROVIDE FOR INTEREST ON UNPAID CLAIMS, TO PROVIDE THE COMMISSION'S RIGHT TO SUBROGATION, TO PROVIDE FOR A WAIVER OF RIGHTS, TO PRESERVE THE AUTHORITY OF THE COMMISSION TO TAKE DISCIPLINARY ACTION, TO REQUIRE FILING OF A STATEMENT WITH THE COMMISSION UPON TERMINATION OF A SALESPERSON FOR VIOLATION OF DISCIPLINARY PROVISIONS, AND TO PROVIDE FOR PUBLIC DISCLOSURE OF RECORDS; AMENDING SECTION 54-2060, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-2061, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER CODE REFERENCES AND TO REDEFINE "CLIENT" AND "CUSTOMER"; AMENDING SECTION 54-2062, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE OBSOLETE LANGUAGE AND TO REQUIRE A SEPARATE WRITTEN DOCUMENT SHOWING AGREEMENT BY THE BROKERAGE, BUYER OR SELLER TO REPRESENTATION; AMENDING SECTION 54-2063, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REQUIRE THAT EACH BROKERAGE KEEP AN INITIALED, DATED RECORD OF A BUYER OR SELLER'S RECEIPT OF THE AGENCY DISCLOSURE BROCHURE, TO PROVIDE CORRECT CODE REFERENCES AND TO PROVIDE THAT NEITHER THE BROCHURE OR REPRESENTATION CONFIRMATION SHALL CREATE A BROKERAGE RELATIONSHIP; AMENDING SECTION 54-2064, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO INCLUDE A PROSPECTIVE BUYER WITHIN THE PURVIEW OF THE SECTION; AMENDING SECTION 54-2065, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-2066, IDAHO CODE, TO REDESIGNATE THE SECTION AND PROVIDE CORRECT CODE REFERENCES; AMENDING SECTIONS 54-2067, 54-2068, 54-2069, 54-2070 AND 54-2071, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 54-2072, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR EQUITABLE REMEDIES FOR BREACH OF FIDUCIARY DUTIES; AMENDING SECTION 54-2073, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 20, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2096, IDAHO CODE, TO PROVIDE FOR SEVERABILITY; AMENDING SECTION 54-2074, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2101A, IDAHO CODE, TO DELETE A CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Sections 54-2021 through 54-2053, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That the heading for Chapter 20, Title 54, Idaho Code, be, and the same is hereby amended to read as follows:

IDAHO REAL ESTATE ~~BROKER'S~~ LICENSE LAW

SECTION 3. That Chapter 20, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 54-2001 through 54-2081, Idaho Code, and to read as follows:

54-2001. SHORT TITLE. Sections 54-2001 through 54-2081, Idaho Code, shall be known and may be cited as "Idaho Real Estate License Law."

54-2002. LICENSURE REQUIRED. No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefore. Unless exempted from this chapter, any single act described within the definitions of "real estate broker" or "real estate salesperson" shall be sufficient to constitute "engaging in the business" within the meaning of this chapter. Any person who engages in the business or acts in the capacity of real estate broker or salesperson in this state, with or without an Idaho real estate license, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the Idaho real estate commission, and shall be subject to all penalties and remedies available under Idaho law for any violation of this chapter.

54-2003. EXCEPTIONS TO LICENSURE. (1) Except as otherwise stated below, an Idaho real estate license is not required for the following:

(a) The purchase, option, exchange or sale of any interest in real property, or business opportunity for a person's own account or use;

(b) The acquisition, exchange or other disposition of any interest in real property or business opportunity by its owner or a regular employee of the owner, acting within the scope of his or her employment;

(c) The sale, exchange, purchase or other disposition of any interest in real property or business opportunity by a duly authorized attorney in fact whose power of attorney is granted for the purpose of consummating a single transaction involving the conveyance of a single or undivided interest in a parcel of real property or in a business opportunity;

(d) The acquisition or other disposition of any interest in real property or business opportunity by the following parties only if such acquisition or disposition is undertaken in the performance of their duties as:

(i) A receiver, trustee in bankruptcy, legal guardian or conservator;

(ii) An administrator, executor or personal representative of an estate;

(iii) Any person selling pursuant to the default provisions of a deed of trust, or any duly authorized agent thereof.

(e) The acquisition or other disposition of any interest in real property or business opportunity by an attorney at law in connection with client representation, and if the attorney is not regularly engaged in the conduct or business of real estate broker or salesperson.

(2) An actively licensed real estate broker, associate broker or salesperson must comply with this chapter, regardless of whether the licensee otherwise qualifies for any of the exceptions of subsection (1) of this section.

(3) Exceptions to licensure shall not be used in any way to evade the purposes of this chapter. Any such attempt to evade this chapter shall be considered the unlicensed and unlawful practice of real estate.

54-2004. DEFINITIONS. As used in this chapter:

(1) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of acts requiring a real estate license in Idaho.

(2) "Business opportunity" means and includes an established business, good will of an established business, or any interest therein, or any one (1) or combination thereof, where a sale or transfer of an interest in land, including, but not limited to, an assignment of a lease, is involved in the transaction.

(3) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and which is conducting or holding itself out as conducting the business of real estate through a designated broker.

(4) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(5) "Convicted" means a plea of nolo contendere or guilty, a jury verdict of guilty or a court decision of guilt whether or not a judgment or sentence has been imposed, withheld or suspended.

(6) "Council" means the Idaho real estate education council.

(7) "Dealer in options" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

(8) "Double contract" means two (2) or more written or unwritten contracts of sale, purchase and sale agreements, loan applications, or any other agreements, one of which is not made known to the prospective loan underwriter or the loan guarantor, to enable the buyer to obtain a larger loan than the true sales price would allow, or to enable the buyer to qualify for a loan which he or she otherwise could not obtain.

(9) "Designated broker" means an individual who is licensed as a real estate broker in Idaho and who is designated by the brokerage company to be responsible for the supervision of the brokerage company and the activities of any associated licensees in accordance with this chapter.

(10) "Executive director" means the executive director of the Idaho real estate commission.

(11) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(12) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.

(13) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or

salespersons licensed with that broker.

(14) "Person" means and includes an individual, or any legal business entity.

(15) "Primary Idaho license" means an Idaho real estate license not obtained by reciprocal agreement.

(16) "Provisional license" means an extension of the period of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(17) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others.

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth.

(e) A dealer in options as defined in this section.

(18) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of acts requiring a real estate license in Idaho.

(19) "Reciprocal license" means an Idaho real estate license issued to any person based upon a specific, written reciprocal agreement between Idaho and another state where the person holds a primary license.

(20) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(21) "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and transaction files for the transaction, in the manner described in section 54-2048, Idaho Code.

(22) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

(23) "State or jurisdiction" means and includes any of the fifty (50) states and any foreign jurisdiction that issue real estate licenses substantially similar to those provided for in this chapter.

(24) "Wall license" means the certificate of license issued by the commission.

54-2005. THE IDAHO REAL ESTATE COMMISSION. There is hereby created in the department of self-governing agencies the Idaho real estate commission, for the purpose of administering this chapter. The commission shall consist of four (4) members appointed by the governor as follows: one (1) from the northern district consisting of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner counties; one (1) from the southeastern district consisting of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock counties; one (1) from the southwestern district consisting of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley counties; and one (1) from the south central district consisting of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties.

54-2006. QUALIFICATIONS OF COMMISSIONERS, TERM AND ORGANIZATION. (1) Each member of the commission shall be an actively licensed Idaho designated real estate broker or associate broker who has had at least five (5) years active license experience as a designated broker or associate broker in the real estate business in Idaho.

(2) Each regular appointment, other than an appointment to fill an unexpired term, shall commence on July 1 of the year of appointment and be for a term of four (4) years. Each commissioner shall hold office until a qualified successor is appointed. Upon the death, resignation or removal of any member of the commission, the governor shall appoint a qualified licensed real estate broker or associate broker to fill out the unexpired term. The governor may remove any member from the commission for neglect of duty required by law, for incompetency, or for unprofessional or dishonorable conduct.

Each year, within thirty (30) days after the appointment of the members of the commission, the commission shall call a meeting and elect a chair, a vice chair, and a commissioner to serve on the Idaho real estate education council. Thereafter the chair may call meetings of the commission whenever he or she deems it advisable, but if the chair refuses to call a meeting upon written demand of the other three (3) members of the commission, then such members may call the meeting.

(3) The commission may hire an executive director and such other assistants as it may require from either within or without the commission, and shall pay these persons a compensation as determined by the commission. The position of executive director shall be a nonclassified state employee, and such person shall be an at-will employee of the commission.

54-2007. COMPENSATION, POWERS AND DUTIES OF COMMISSION. Members shall be compensated as provided by section 59-509(n), Idaho Code. The commission is charged with administering and enforcing all provisions of this chapter, and is expressly vested with the power and authority to make and enforce any and all reasonable rules as it deems necessary for administering and enforcing this chapter.

54-2008. ESTABLISHMENT OF IDAHO REAL ESTATE EDUCATION COUNCIL. An education council consisting of six (6) members, four (4) of whom are to be appointed by the Idaho real estate commission, plus one (1) com-

missioner and the commission's executive director, may be established to act as an advisory group to the commission, and to perform functions as set forth in this chapter and in the council's bylaws, which bylaws must be approved by the commission. The council shall recommend to the commission real estate education policy and course content quality for all education courses approved by the commission as meeting the education requirements of this chapter and its rules, and for such other courses or clinics deemed advisable by the commission for promoting higher standards of practice in the real estate business. The council will prepare for approval by the commission any additional recommended procedures or guidelines for certifying educational courses, instructors and providers.

54-2009. COUNCIL APPOINTMENT, QUALIFICATIONS AND TERM. One (1) member of the council shall be named from each of the four (4) geographic districts of the state: north, south, east and west. The education director of the commission shall serve as the council executive at all council meetings and functions. Each education council member shall be appointed for a term of four (4) years. The commission may remove any council member for neglect of duty, for incompetency, or for unprofessional, dishonorable or any other conduct which the commission believes interferes with that person's ability to properly act or serve as a council member.

54-2010. COMPENSATION. Members of the education council are not employees of the state of Idaho, but shall be reimbursed expenses in the same manner as state employees in addition to a per diem allowance in the same amount as that received by the commissioners for each day of approved service.

54-2011. TYPES OF LICENSES. The commission may issue a primary or reciprocal Idaho real estate license to any individual, sole proprietorship or legal business entity in accordance with the requirements of this chapter. An individual may be licensed as a real estate salesperson, an associate broker, or a designated broker acting for a sole proprietorship or legal business entity.

54-2012. MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE. (1) Requirements for all individual primary licenses. Unless a qualification is waived or modified by the commission for good cause and upon special consideration, each person seeking a primary Idaho real estate license as a salesperson, associate broker or designated broker shall meet all of the following minimum qualifications:

(a) Be an individual;

(b) Be eighteen (18) years of age or older;

(c) Furnish satisfactory proof that the applicant graduated from an accredited high school or its equivalent or holds a certificate of general education;

(d) Not have had a real estate or other professional or occupational license revoked, suspended, or surrendered, or the renewal refused, for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction, within five (5) years immediately prior to the

date the application for license is submitted to the commission;

(e) Not have been convicted, issued any fine, placed on probation, received a withheld judgment or completed any sentence of confinement for or on account of any felony, or any misdemeanor involving fraud, misrepresentation or dishonest or dishonorable dealing, in a state or federal court, within five (5) years immediately prior to the date the application for license is submitted to the commission;

(f) Complete all prelicense education requirements as provided for in section 54-2022, Idaho Code, for a salesperson's or broker's license;

(g) Pass the commission-approved real estate licensing exam for a sales or broker license in the time and manner stated in section 54-2014, Idaho Code, and pay the required exam fees;

(h) Be fingerprinted by an authorized law enforcement agency, and file these fingerprints with the commission for the purpose of determining whether the qualifications for licensure are fulfilled; the fingerprints will be forwarded to the federal bureau of investigation or the Idaho department of law enforcement; all fees charged by the commission and the law enforcement agency for fingerprint services shall be paid by the applicant;

(i) Sign and file with the commission an irrevocable consent to service, appointing the commission's executive director to act as the licensee's agent upon whom all judicial and other process or legal notices directed to such licensee may be served, and consenting that any lawful process against the licensee that is served upon the executive director shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon receipt of any such process or notice, the executive director shall immediately mail a copy of the same by certified mail to the last known business address of the licensee. All licensees shall provide the commission a full and current mailing address and shall immediately notify the commission in writing of any change in mailing address;

(j) If licensing as an active salesperson or associate broker, provide the name and physical address of the main business location of the designated broker with whom the applicant will be licensed, and the signature of that broker; or, if licensing as a designated broker, provide the name and physical address of the main business location;

(k) Submit a properly completed application and all license, application and other fees listed in section 54-2020, Idaho Code, or as otherwise required by statute or rule; and

(l) Provide satisfactory proof of meeting the mandatory errors and omissions insurance requirement for real estate licensees, as stated in section 54-2013, Idaho Code.

(2) Additional requirements for broker and associate broker licenses. Applicants seeking a primary Idaho license as a broker or associate broker shall meet the additional following qualifications:

(a) Provide satisfactory evidence of having been actively engaged for two (2) years as a licensed real estate salesperson within five (5) years immediately prior to the date upon which the indi-

vidual makes application:

(i) A broker or associate broker applicant may be required to furnish a report of listings and sales accomplished by the applicant during two (2) or more years within the last five (5) years of licensure immediately prior to the application date;

(ii) This report shall be certified as correct by the broker or brokers with whom the applicant has been associated;

(iii) The broker experience requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the applicant's educational background, or experience in related or affiliated business activities;

(iv) The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable;

(b) Designate a physical office location and a business name. The commission may refuse to issue a license to any person if the business name is the same as that of any person whose license has been suspended or revoked or is so similar as to be easily confused with another licensee's name by members of the general public. However, nothing in this subsection shall restrict an individual from obtaining a license in his or her own legal name.

(c) If currently licensed in Idaho as a salesperson and applying for a license as an Idaho broker or associate broker, the individual shall submit a new fingerprint card for processing with the application and pay associated fees.

54-2013. ERRORS AND OMISSIONS INSURANCE. (1) Each licensee who is actively licensed under this chapter shall, as a condition to licensing, carry and maintain errors and omissions insurance to cover all licensed activities under the provisions of this chapter.

(2) The commission shall make the insurance required under the provisions of this section available to each licensee by contracting with an insurance provider for errors and omissions insurance coverage for each licensee after competitive, sealed bidding in accordance with chapter 57, title 67, Idaho Code. The exact premium shall be set by the commission by motion.

(3) Any policy obtained by the commission shall be available to each licensee with no right on the part of the insurance provider to cancel coverage for any licensee.

(4) Each licensee shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in an independently obtained policy complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage required under the provisions of this section including, but not limited to, the minimum limits of coverage, the permissible deductible and the permissible exemptions.

(6) A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission ten (10) days prior to the license renewal date by each licensee who elects not to participate in the insurance program administered by the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the insurance program at a reasonable premium, not to exceed one hundred forty dollars ($140) per year, per licensee, the requirement of insurance coverage as provided in this section shall be void during the applicable contract period.

(8) The commission is also specifically empowered to charge and collect an administrative fee in addition to the premium paid from each licensee who obtains errors and omissions insurance through the commission contract, which fee shall not exceed ten dollars ($10.00) per licensee. This administrative fee shall be of an amount sufficient to raise that revenue required to administer the provisions of this section. The limit in subsection (7) of this section applies only to premium cost and not to any administrative fee charged.

54-2014. LICENSE EXAMS. (1) Exam required. Unless a written certificate of waiver is obtained from the commission and submitted with the application, an individual applicant seeking a primary Idaho real estate license shall take and pass the national portion and the Idaho state portion of an approved exam administered by or through the commission. The applicant shall take and pass the required portion or portions of the exam within no more than twelve (12) months immediately preceding the date of application.

(2) Preregistration for the exam. An applicant may preregister to sit and take the exam by submitting a completed preregistration application form and a nonrefundable exam fee in an amount established by motion of the commission, not to exceed one hundred dollars ($100). The application and fee shall be submitted directly to the testing company administering the exam, or to the commission, as specified by the commission, and shall be postmarked in the manner and time specified by the commission. Failure to appear for any reason for the exam shall cancel the application. A new application and fee shall be required to take the exam at a future time.

(3) Walk-in registration for the exam. An applicant may appear at a testing center and take the exam without having preregistered so long as seating remains available at the center. The applicant shall submit a completed exam application and a walk-in exam fee in an amount established by motion of the commission, not to exceed one hundred ten dollars ($110), at the time the applicant is admitted to take the exam.

(4) Waiver of national portion of exam. An applicant who has obtained a written certificate from the commission waiving the national portion of the exam shall be required to take and pass the Idaho state portion of the exam only. The certificate of waiver and exam fee shall be submitted with the application for exam.

(5) Failure to pass the exam. An applicant who fails to pass the exam may reapply to take another exam. The applicant must complete a new application and submit a new exam fee.

(6) The commission shall establish, by motion, fees for the exam which, in its discretion, are sufficient to raise the revenue required to administer the exam. Fees so established shall remain effective from year to year and may be altered only upon proper motion by the commission.

54-2015. INDIVIDUALS ACTIVELY LICENSED IN ANOTHER STATE OR JURISDICTION SEEKING PRIMARY IDAHO LICENSURE. (1) An individual who is currently and actively licensed as a real estate broker or salesperson in another state or jurisdiction at the time of application for a primary Idaho real estate license shall meet all qualifications listed in section 54-2012, Idaho Code, for the type of license sought, except that the applicant shall not be required to furnish proof of the educational prerequisites described in subsections (1)(c) and (1)(f) of section 54-2012, Idaho Code. In addition, such applicant shall provide a current, certified license history from the other licensing state or jurisdiction, which history shall indicate any disciplinary action taken against the applicant's license by the other licensing state or jurisdiction, and the status and standing of the applicant's license in the other state or jurisdiction.

(2) An applicant who holds an active license, in good standing, in another state or jurisdiction may request a waiver of the national portion of the exam required for Idaho licensure. To have the national portion of the exam waived, a certificate of waiver must be obtained from the Idaho real estate commission and submitted with the application for exam as provided in subsection (4) of section 54-2014, Idaho Code.

(3) An individual who is currently and actively licensed in another state or jurisdiction that administers a real estate exam may be issued a primary Idaho license without further exam or proof of educational prerequisites pursuant to written agreement between Idaho and the other state or jurisdiction, provided that such other state or jurisdiction allows the issuance of real estate licenses in substantially the same manner as set forth in this subsection.

54-2016. PRIMARY IDAHO LICENSES FOR LEGAL BUSINESS ENTITIES, SOLE PROPRIETORSHIPS AND BRANCH OFFICES -- ADDITIONAL REQUIREMENTS. (1) Legal business entities. Each legal business entity, as defined in section 54-2004, Idaho Code, shall be licensed by the Idaho real estate commission to engage in the real estate business in Idaho and shall make proper application, pay all required fees, and meet all requirements listed below.

(a) Each legal business entity shall have a properly licensed individual designated broker, who shall be held responsible for the activities of the licensed entity. The individual designated broker shall also hold the following legal position within the licensed entity:

(i) Corporation -- an officer;

(ii) Partnership or limited partnership -- a general partner;

(iii) Limited liability company -- a member or manager.

It is the intent of the law that in these and in any other instance, the individual designated broker for any business entity shall have full authority to act on behalf of the licensed business entity, and shall submit sufficient and satisfactory proof thereof with the application for license. All acts of that individual as designated broker shall be considered acts of the licensed business entity. Nothing in this section is intended to create liability to a legal business entity for illegal or fraudu-

lent acts by the individual broker performed solely on his own account.

(b) A license issued to a legal business entity, as defined in this chapter, is effective only as long as the individual designated broker's license is in active status and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise made inactive by the commission, or if the individual designated broker voluntarily surrenders the individual license or ceases to be connected with the entity in the manner required above, the business entity shall have ten (10) business days in which to designate another qualified individual as designated broker before the entity's license is terminated, and the licenses of all associated licensees are made inactive.

(c) One (1) individual may act as designated broker for more than one (1) licensed business entity, however, all entities shall have their main offices in the same physical location.

(d) Satisfactory proof of mandatory errors and omissions insurance shall be provided for both the individual designated broker and the licensed business entity.

(e) A legal business entity doing business under an assumed name shall provide satisfactory proof of having legally filed a certificate of assumed name with the Idaho secretary of state.

(2) Sole proprietorships. An individual designated broker not licensed with a legal business entity, as defined in section 54-2004(11), Idaho Code, shall be licensed as a sole proprietor. Each sole proprietorship seeking a real estate license shall meet all the following requirements:

(a) A licensed sole proprietor doing business under an assumed business name shall provide satisfactory proof of having legally filed a certificate of assumed name with the Idaho secretary of state;

(b) Satisfactory proof of mandatory errors and omissions insurance shall be provided for the licensed designated broker of a sole proprietorship.

(3) Multiple business names prohibited. A legal business entity or sole proprietorship shall be licensed under only one (1) business name.

(4) Branch offices. Branch offices in which trust funds or original transaction files are maintained shall be separately licensed by application and payment of fifty dollars ($50.00) for the issuance and renewal of each branch office license. Such branch office shall designate in the application a branch manager, who shall be a salesperson with at least two (2) years experience or an associate broker, to be responsible for the supervision of the branch office. No separate branch office license or manager is required for business locations other than the main office unless trust funds or original transaction records are kept at the branch. Each branch office or business location, whether separately licensed or not, shall conduct business only in the licensed name of the legal entity or sole proprietor.

54-2017. RECIPROCAL IDAHO LICENSES. The commission may issue a reciprocal Idaho real estate license to a qualified person who holds an active primary license in another state or jurisdiction if a writ-

ten reciprocal licensing agreement exists between Idaho and the other state or jurisdiction. Each reciprocal license issued shall be limited to and governed by the terms of the applicable written agreement between Idaho and the other jurisdiction.

(1) Any reciprocal licensing agreement with Idaho shall require that the person seeking an Idaho reciprocal license make proper application, pay all required fees, and:

(a) Be currently and actively licensed as a designated broker in the applicant's primary state or jurisdiction, or be licensed under a designated broker who holds a current, active Idaho reciprocal license;

(b) Provide satisfactory proof of holding an active license, in good standing, as defined in the agreement, at the time of application;

(c) File an irrevocable consent to service as described in section 54-2012(1)(i), Idaho Code, on the form approved and furnished by the Idaho real estate commission;

(d) Provide satisfactory proof of errors and omissions insurance covering the applicant's licensed activities in Idaho; and that

(2) Whenever a designated broker who holds a reciprocal Idaho license ceases to hold a current active license in the primary licensing jurisdiction, the Idaho reciprocal license of that broker, and the licenses of all persons licensed under that broker, shall immediately be made inactive without further process. If a salesperson who holds a reciprocal Idaho license ceases to hold a current, active license in the primary licensing jurisdiction, that person's Idaho reciprocal sales license shall immediately be made inactive without further process.

54-2018. LICENSE RENEWALS -- INACTIVE LICENSES STATUS. (1) Each new or reactivated license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on a date to coincide with the last day of the month of the birth date of the licensee. Corporations, partnerships, limited liability companies and other entities defined as "persons" in this chapter shall have established as the equivalent of a birth date, the birth date of its designated broker. Licensed branch offices shall have established as the equivalent of a birth date, the birth date of the real estate broker establishing the branch office.

(2) Each license shall be renewable for a period of two (2) years by submitting a properly completed application, including evidence of having met the commission's continuing education requirements as set forth in section 54-2023, Idaho Code, and all renewal fees established by this chapter or by the commission, on or before 5 p.m. of the last day of the birth month of the licensee. If mailed, the application and fee shall be postmarked by that same date and time.

(3) If the licensee fails to submit a proper application or pay the renewal fee on or before the last day of the birth month of the licensee, the commission may accept a later payment, subject to such conditions as the commission may require including, but not limited to, the assessment of a late fee; provided that between the last day of the month of the licensee's birth date and the date of renewal of

the license, the rights of the licensee under such license shall be suspended, and during such period of suspension it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of real estate broker or real estate salesperson in section 54-2004, Idaho Code, in consideration of compensation of any kind or expectation thereof.

(4) A licensee may place his license on inactive status. The holder of an inactive license shall not engage in the business or act in the capacity of real estate broker, associate broker or salesperson. An inactive license may be reactivated as provided in this chapter and the rules of the commission.

54-2019. DENIAL OF LICENSE APPLICATIONS. The commission may deny any license application, including an application for license renewal, upon the commission's determination of any of the following:

(1) The applicant does not possess all of the qualifications required for the license sought;

(2) The applicant employed fraud, deception, misrepresentation, misstatement or omission or any unlawful means in applying for a license or taking the exam;

(3) Within the five-year period immediately preceding the application, the applicant committed any act for which a real estate license in Idaho may be revoked or suspended; or

(4) There exist any other specific facts about the applicant that cause the commission to reasonably conclude that granting the applicant's request for Idaho licensure is not in the best interests of the citizens of the state of Idaho.

54-2020. FEES. The Idaho real estate commission shall establish fees which, in its discretion, are sufficient, when added to the other fees authorized by this chapter, or any other law or rule, to raise that revenue required to administer the provisions of this chapter.

Each person seeking any type of Idaho real estate license shall pay the following fees, in addition to any other fees established in this chapter or by rule:

(1) For each year or portion thereof for which an active or inactive license is issued or renewed, a license fee in an amount not to exceed one hundred dollars ($100), the exact fee to be determined by administrative rule of the commission. Fees so established shall remain effective from year to year unless changed through the rules promulgation process prescribed in chapter 52, title 67, Idaho Code;

(2) A tuition or registration fee for real estate education courses, course materials and any course exam fee. These fees shall be established based upon the total annual costs involved in the provision of all real estate education courses, course materials and course exam fees;

(3) A fee in the amount of twenty-five dollars ($25.00) for late license renewal;

(4) A fee in the amount of fifteen dollars ($15.00) for any license change that necessitates the printing of a new license certificate;

(5) A fee in the amount allowed by law for insufficient funds checks or other types of insufficient payment;

(6) A fee in the amount of ten dollars ($10.00) for each certified copy of a licensee's education history or license history;

(7) A fee in the amount of fifty dollars ($50.00) for issuance or renewal of a branch office license.

54-2021. DISPOSITION OF FUNDS. All fees collected by the commission under the provisions of this chapter, except as designated in section 54-2070, Idaho Code, shall be deposited at least monthly in the state treasury and all moneys so deposited shall be deposited to the credit of the special real estate fund, which fund is hereby created. All moneys so deposited in the special real estate fund are hereby perpetually appropriated for the purpose of carrying out the provisions of this chapter. All expenditures from the fund by the commission under the provisions of this chapter shall be paid out on warrants drawn by the state controller upon presentation of proper vouchers approved by the commission. Such claims and supporting vouchers shall be examined by the state board of examiners in the same manner as other claims against the state of Idaho. For the purposes of carrying out the objectives of this chapter and in the exercise of the powers herein granted, the commission shall have power to make orders concerning the disbursement of the moneys in the special real estate fund, including the payment of compensation and expenses of its members, clerks and employees and for the payment of printing and for the training and education of all licensees under this chapter. Moneys in the fund may be expended by the commission for the promotion and improvement of the real estate profession, the advancement of education and research in the field of real estate including, but not limited to, courses sponsored by the commission or in conjunction with any university or college in the state and/or contracting for a particular research project in the field of real estate, and the promotion and advertising of the state of Idaho.

54-2022. REAL ESTATE EDUCATION -- PRELICENSE REQUIREMENTS. (1) Except as provided in section 54-2015, Idaho Code, an applicant seeking a primary Idaho license as a real estate salesperson, broker or associate broker shall furnish satisfactory proof to the commission that the applicant has successfully completed current commission-approved and accredited courses of real estate study as follows:

(a) Salesperson's license. For a salesperson's license, the applicant shall complete a total of ninety (90) classroom hours, or the equivalent in available correspondence hours;

(b) Broker's or associate broker's license. Applicants seeking a broker's or associate broker's license shall, in addition to meeting the requirements for salesperson's license, successfully complete four (4) specified courses in advanced real estate study, for a minimum of ninety (90) additional classroom hours, or the equivalent in available correspondence hours.

(2) Each applicant shall successfully complete all prelicense real estate courses within no more than five (5) years prior to the date of the license application. However, upon written request for special consideration by the license applicant, the commission may waive or modify the five-year requirement at its discretion, based on the applicant's experience or additional education. Each waiver

request shall be submitted with a current certified license history from Idaho or the applicant's other licensing jurisdiction, which history shall indicate all disciplinary actions taken against the applicant's license and the status and standing of such license in such licensing state or jurisdiction, along with sufficient proof of education completion.

(3) To receive credit for prelicense real estate courses, a student must regularly attend and complete the course, and such course must meet all requirements set forth in section 54-2036, Idaho Code.

(4) No credit will be given for courses taken for audit.

(5) Credit for completion of approved prelicense education course work will not be granted when the content of a course repeats that for which credit has been previously received.

54-2023. CONTINUING EDUCATION REQUIREMENTS. Each licensee seeking renewal of an Idaho real estate license on active status, and each Idaho licensee seeking to change from inactive to active license status, shall submit satisfactory proof to the commission of having successfully completed at least twelve (12) classroom hours of commission-approved and certified continuing education course work. Failure to provide proof of meeting the continuing education requirements as set forth in this chapter constitutes an incomplete application for a renewal of an active license or for a change in license status from inactive to active, and, as such, constitutes grounds for denial of those applications.

(1) Renewing active license. Licensees renewing on active status must successfully complete the continuing education requirement on or before the license expiration date, in the manner stated in section 54-2018, Idaho Code.

(2) Change from inactive to active. Licensees changing from inactive to active status must successfully complete one (1) continuing education requirement offered during their current inactive license period.

(3) No duplicate credit. Credit for completion of any approved continuing education course will not be granted twice.

(4) Excess credits. The twelve (12) hours of course work shall apply to the license period in which such course work is completed; hours completed in excess of those required for the license period shall not accumulate or be credited for the purposes of subsequent license renewal periods.

(5) Challenge exams. The commission may substitute all or a portion of the course work required when a licensee shows evidence of passing an approved challenge exam or of completing equivalent education determined by the commission to be in full compliance with such continuing education requirements.

(6) Provisional license -- Extension of time. A three-month extension of time for completing the education requirements may be obtained by submitting with the renewal application, or application to activate, satisfactory evidence showing that the applicant was unable to comply with such education requirements. Such evidence may be:

(a) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;

(b) Health reasons preventing attendance or completion;

(c) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or

(d) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

If such an extension is granted, the licensee shall receive a provisional license for a period of time not to exceed three (3) months.

54-2024. PURPOSE OF CERTIFICATION. It is the intent of this chapter that delivery of high quality real estate education to licensees and to those seeking to become licensed in the state of Idaho is a necessary and reasonable way to protect the citizens, businesses and public interests in Idaho. Therefore, the commission shall create and maintain a certification program for real estate education providers, instructors and course content.

54-2025. CERTIFICATION REQUIREMENTS. (1) Certification required. Certification must be obtained by all course providers, course instructors and for all course content in order for the course to be credited toward prelicense or continuing education requirements in Idaho under this chapter.

(2) Courses, instructors and providers monitored. The commission or its representative may monitor any course for the purpose of course, instructor or provider certification.

54-2026. CERTIFICATION OF COURSE PROVIDERS. (1) Degree-granting institutions. Degree-granting, accredited colleges and universities in any state or jurisdiction shall be deemed to be approved course providers in Idaho. However, course content must still be approved for the real estate education course to receive credit toward prelicense or continuing education licensing requirements in Idaho.

(2) Other course providers. All other course providers desiring to offer real estate courses for credit toward Idaho prelicense or continuing education requirements must first meet the following qualifications and receive certification. Each applicant seeking certification as a course provider shall comply with the following:

(a) File an application for certification in the form and manner required by the commission, along with proper fees, at least two (2) months prior to contemplated date of opening or first accredited course offering;

(b) Designate a "director" or "individual in charge," who shall be responsible for the course provider's operation and its real estate courses, and with whom the commission may communicate. Unless this requirement is waived upon special review of the commission in the manner stated below, the individual in charge must not have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction. The designated individual in charge must not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony or a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable

dealing in a court of proper jurisdiction.

(c) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and in substantial accordance with section 54-2012(1)(i), Idaho Code. The commission, in its discretion, may make such additional investigation and inquiry relative to the applicant for provider certification as it deems advisable and, if good cause exists, may deny or accept the application for certification.

54-2027. DUTIES AND REQUIREMENTS OF ALL CERTIFIED COURSE PROVIDERS. Failure of a certified course provider to comply with the following duties and requirements shall be grounds for the commission to withdraw or cancel the provider's certification for cause.

(1) Discrimination prohibited. Each certified course provider shall at all times be in compliance with state and federal laws, rules and regulations regarding all aspects of equal opportunity and protection of civil rights. No course provider shall engage in discriminatory practices, nor allow their course instructor, or method of delivery to violate laws prohibiting discrimination. Each course provider will fully comply with any requirements of the Americans with disabilities act regarding access to and delivery of its courses, including the provision of accessible facilities and reasonable accommodations for students.

(2) Open access to course offerings. Registration and attendance at all certified courses offered for prelicense or continuing education credit shall be open to all persons meeting normal course prerequisites. A certified course provider located in or affiliated with a licensed real estate brokerage company may not refuse reasonable access to any licensee based on that licensee's affiliation with another organization or brokerage company, or the licensee's membership status in any professional organization. However, a course provider is not prohibited from charging a separate and reasonable course fee to nonaffiliated or nonmember licensees.

(3) Facilities and supportive personnel. The provider shall provide the facilities and all supportive qualified personnel or approved proctors necessary to adequately implement its real estate program.

(4) Student records and other requirements. Each Idaho certified course provider shall comply with the following requirements:

(a) Records. Maintain for each individual student a complete, accurate and detailed record which shall include the total number of hours of instruction undertaken and satisfactorily or unsatisfactorily completed in the area of study;

(b) Course completion lists. Within five (5) working days after conclusion of each course of instruction, the provider shall submit to the council or commission an alphabetical list which shall include the names, addresses and social security numbers of the students completing the course of instruction, the name of the course, the name of the instructor, the number of hours included in the course, the date of the course and the location. The list shall be certified by the instructor from whom the students received instruction and an authorized representative of the provider;

(c) Grades. The provider will provide written notification to

students who successfully or unsuccessfully complete a course within thirty (30) days of the course completion date;

(d) Evaluations. Each provider shall submit acceptable student evaluations for each course and instructor, which must be on commission-approved forms. The use of the commission evaluation form is recommended;

(e) Course schedules. Each provider shall submit schedules of courses and instructors as requested by the commission and submit changes promptly as they occur.

(5) Advertising restrictions:

(a) Providers may advertise that they are currently certified by the commission, if current certification has been approved, but no such advertising may state or imply that the provider is an agency of the commission or the council;

(b) No course provider shall provide any information to the public or to prospective students which is misleading in nature. Information is misleading when, taken as a whole, there is distinct probability that it will deceive the persons whom it is intended to influence.

(6) Changes in certification. Certification shall be granted to the particular provider for the specific ownership, provider location, and named individual in charge as designated in the application for certification. Any changes in ownership, provider location, or provider name, or named individual in charge must be submitted for approval to the commission, at least one (1) month in advance of the effective date of the proposed changes.

54-2028. TERM OF PROVIDER CERTIFICATION AND RENEWAL. Each course provider's certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the provider certificate. In order to maintain certification, each provider must return a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date for commission approval. Recertification is not effective until the commission has formally approved the application for renewal. Failure to obtain approved renewal of certification prior to its expiration date will result in no credit being given for courses not yet successfully completed by the expiration date.

54-2029. NOTICE OF POTENTIAL EXPIRATION OF CERTIFICATION. Certified providers who have not applied for renewal of certification or whose renewal applications do not meet the qualifications for renewal of certification shall be notified by the commission of potential termination at least fifteen (15) days before termination occurs.

54-2030. EXPIRATION OR WITHDRAWAL OF PROVIDER CERTIFICATION -- NOTICE TO STUDENTS. If a provider's certification expires, is terminated or withdrawn for any reason, the provider will no longer be approved by the commission, and no credit will be given to students for any courses starting after the expiration date. A provider whose certification has expired, been terminated or withdrawn for any reason, shall immediately notify every present or future student in writ-

ing that it is not a certified provider of approved real estate courses in Idaho, and that no credit for prelicense or continuing education will be given for its courses.

54-2031. WITHDRAWAL OF IDAHO CERTIFICATION FOR CAUSE -- PROCESS. The commission may withdraw a provider's certification at any time, for cause, including the violation of any provision of this chapter by the provider or those for whom the provider is responsible. Any withdrawal of certification shall be governed by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, the rules of practice and procedure of the Idaho real estate commission, this chapter and all laws of the state of Idaho.

54-2032. CERTIFICATION OF INSTRUCTORS. All individuals wishing to teach real estate courses for credit toward prelicense or continuing education requirements in Idaho must first be approved or certified by the commission for each course the individual wishes to teach.

54-2033. INSTRUCTOR QUALIFICATIONS. (1) Qualified instructors at degree-granting institutions. A qualified or full-time instructor or professor of an accredited college or university in any state or jurisdiction and who teaches real estate related courses is deemed to be an approved instructor of such courses, in Idaho, for the purposes of this chapter.

(2) Other instructor applicants. All other individuals wishing to teach real estate courses for credit toward Idaho prelicense or continuing education requirements must first meet the following additional qualifications and receive separate certification for each course to be taught:

(a) Unless this requirement is waived upon special review of the commission in the manner stated below, no individual instructor seeking certification may have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction. Further, the individual may not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony, or any misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing, in a court of proper jurisdiction.

(b) Each applicant for certification shall also:

(i) Submit a properly completed application for instructor certification in the form and manner required by the commission, with all proper fees;

(ii) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and according to section 54-2012(1)(i), Idaho Code;

(iii) Qualify as at least one (1) of the following:

1. An attorney at law actively licensed in any state or jurisdiction with at least five (5) years of active practice in the areas of study proposed to be taught, and who has also successfully completed a commission-

approved instructor training course or procedure, including a student teaching period;

2. An individual currently approved or certified and in good standing as a real estate instructor for the same or similar course material in any other state or jurisdiction;

3. An individual who is appointed to teach a nationally recognized real estate course which is generally accepted in other states or jurisdictions; or

4. An individual with at least five (5) years active real estate-related experience who has also successfully completed a commission-approved instructor training procedure, including a student teaching period.

54-2034. SPECIAL CONSIDERATION -- DISCRETION OF THE COMMISSION. The commission may, in its discretion, make such additional investigation and inquiry relative to the applicant for instructor certification as it shall deem advisable, and if other good cause exists, may deny or accept the application for certification. Based upon an applicant's educational background, experience in related activities, or a review of the applicant's evaluations as a student teacher, the commission may modify the requirements for instructor certification; such modification may include reducing the requirements or assigning additional requirements for certification.

54-2035. TERM OF INSTRUCTOR CERTIFICATION AND RENEWAL. (1) Certification. Each instructor certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the instructor certificate. In order to maintain certification, each instructor shall:

(a) Return a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date, for commission approval;

(b) Have taught, or assistant taught during the preceding two (2) years at least twenty (20) hours of each council certified course for which the instructor wishes to continue to be certified; and

(c) Have attended a commission-sponsored instructor development seminar or received other acceptable training in methods of teaching adults during the preceding two (2) years.

(2) Recertification. Recertification shall not be effective until the commission formally approves the application for renewal. An instructor's failure to obtain approved recertification prior to the expiration of the certification will result in no credit being given for any course taught by the instructor whose certification has expired prior to conclusion of the course.

54-2036. CERTIFICATION OF COURSES AND COURSE CONTENT. Every real estate course offered for prelicense or continuing education credit for an Idaho real estate license shall first be certified and accredited by the Idaho real estate commission.

(1) An application for course certification must be submitted in the form and manner required by the commission, with proper fees, at

least two (2) months prior to contemplated date of the first course offering.

(2) Minimum requirements for course certification:

(a) Each course must be certified individually, offered only through a provider certified or approved in Idaho, and taught by an instructor certified or approved in Idaho in accordance with this chapter.

(b) Each prelicense course must contain at least twenty (20) hours of classroom instruction.

(c) Exam time shall not be included as approved classroom hours of instruction.

(d) A course hour is defined as a period of at least fifty (50) minutes of actual instruction.

(e) Distance learning and alternative course delivery. The length of a certified distance learning or other alternative course shall be based upon the same number of hours which would be awarded in an equivalent classroom course, and must include a commission-approved, proctored final exam.

(f) Each prelicense course must include a proctored, commission-approved final exam requiring a minimum passing score of seventy percent (70%).

(i) Exam retake policy. Each certified course provider, may, at its option, allow students who fail the initial course exam one (1) opportunity to retake the approved course exam within the following time periods:

1. Prelicense course exam retakes must occur within one (1) month of the original course exam;

2. Continuing education course challenge exam retakes must occur within that course's certification period;

(ii) If a student fails the retake exam for any prelicense or continuing education course, the student must repeat the entire course and pass the final exam to receive credit.

(g) Challenge exams. A student shall not earn credit for any prelicense course by challenging and passing the course exam without otherwise completing all course requirements. Credit for continuing education courses may be earned by challenge exam only as allowed in section 54-2023(5), Idaho Code.

(3) Approved topics. The commission shall establish specific, approved topics for course content as it deems appropriate to current real estate practices and laws.

54-2037. TERM OF COURSE CERTIFICATION AND RENEWAL. Each course certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the course certificate. In order to maintain certification a course provider, for each course, must return a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date and within sufficient time for commission review and approval. Recertification is not effective until the commission has formally approved the application for renewal. Failure to obtain approved renewal of certification prior to its expiration date will result in no credit being given for a course if its certification has expired prior to conclu-

sion of the course.

54-2038. DESIGNATED BROKER -- GENERAL RESPONSIBILITIES. The requirement that each brokerage company be maintained and conducted in compliance with the Idaho real estate license law and the Idaho real estate brokerage representation act is the responsibility of its designated broker. The designated broker is responsible for the actions of its licensees and associated unlicensed persons performed within the course and scope of their employment or agency, regardless of the location of the company's business or where representation is conducted.

(1) A designated broker is required to:

(a) Supervise and control, in the manner required by law and rule, all office locations, and the activities of all licensees and unlicensed persons associated with that brokerage company or for whom that designated broker is responsible;

(b) Review and approve all real estate agreements including, but not limited to, those related to listing, selling or purchasing property and brokerage representation agreements;

(c) Be reasonably available to manage and supervise the brokerage company during regular business hours. When a broker is a regular full-time employee or is engaged in a full-time activity at a location other than where the broker is licensed to do business, a presumption will be made that the broker is unable to manage and supervise the brokerage company in accordance with these requirements, and no sales associate shall be licensed under the broker until such presumption is overcome by evidence to the contrary, satisfactory to the commission.

(2) A broker who is otherwise qualified to do business in Idaho, but is not able to manage and supervise according to this section, may be licensed as a "limited broker" in Idaho and shall not have any sales associates licensed under that broker.

(3) A designated broker shall not allow any person who is not properly licensed to represent that broker as a sales associate or otherwise, in any real estate business activities requiring a real estate license. "Properly licensed" means a license or a change in license that has been made effective by the commission.

54-2039. BROKER AND BRANCH OFFICE MANAGER ABSENCES AND CHANGES. Each real estate brokerage company must have a legally qualified individual acting as designated broker at all times. Each branch office licensed under section 54-2016(4), Idaho Code, shall have, at all times, a legally qualified individual acting as branch office manager.

(1) Broker or branch manager absent for more than twenty-one days. A designated broker who is absent from his main office for more than twenty-one (21) calendar days shall appoint a qualified designated broker of another office, or an associate broker who is licensed and associated with the absent broker, to manage, supervise and oversee the regular office operations of the company in his absence. A branch office manager who is absent for more than twenty-one (21) days from a branch office in which trust funds and original transaction files are maintained shall appoint a qualified individual to manage, supervise and oversee the regular office operations of the company in

his absence. The appointee shall conduct all supervisory activities normally required of the designated broker or branch manager. Except in the event of an emergency, the designated broker or branch manager shall notify the commission in writing of the name of the appointee prior to the broker or manager leaving the office for an extended period of more than twenty-one (21) days.

(2) Broker or branch manager absent for more than sixty days. A designated broker, or manager of a branch office in which trust funds and original transaction files are maintained, shall not be absent from his main office for a period longer than sixty (60) days. In the case of such extended absence, another qualified individual shall be designated to act as broker or branch office manager. If a designated broker is absent from his main office for a period longer than sixty (60) days, and no new broker is designated to act as broker for the brokerage company, the commission shall place on inactive status the licenses of the absent broker and of all licensees associated with him, and all brokerage listing agreements and all buyer brokerage agreements shall be terminated.

(3) Change of broker in business entity. A license issued to a legal business entity, as defined in this chapter, is effective only as long as the individual designated broker's license is in active status and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise made inactive by the commission, or if the individual designated broker voluntarily surrenders the individual license or ceases to be connected with the entity in the manner required in this chapter, the business entity shall have ten (10) business days in which to designate another qualified individual as designated broker before the entity's license is terminated, and the licenses of all associated licensees are made inactive.

(4) Effective date of changes. No change in designated broker shall be effective until written notice is received and approved by the commission, in the form required.

(5) Failure to comply -- Original broker to remain responsible except in the case of revocation. Where a licensed brokerage company fails to comply with this section and its office is closed, or during any period where the designated broker has left the brokerage company and no new broker has been designated to act for the company, the original designated broker shall remain responsible for trust account funds, pending transactions and records in the manner described in sections 54-2041 through 54-2049, Idaho Code. However, if the license of the original designated broker of the brokerage company is revoked, the license of that brokerage company shall be made inactive and its office closed until the company designates another qualified individual to act as broker.

54-2040. MAIN OFFICE OR BUSINESS LOCATION. (1) Definite location required. Each individual licensed as a designated real estate broker under the provisions of this chapter shall be required to have and maintain a definite, physical place of business, which place shall serve as his main office for the transaction of business and be regarded for the intent and purpose of this chapter as his principal place of business. Notice in writing shall be given to the commission of any change by the broker of the business name or business location,

whereupon a new license shall be issued reflecting the changed business name or address. A change of business name or location without notification to the commission and issuance of a new license shall automatically cancel the license heretofore issued. The broker shall also notify the commission in writing of any change in the business mailing address.

(2) Broker for more than one business. A qualified individual may be the designated broker for more than one (1) licensed real estate business entity only if all licensed businesses operate their main offices at the same physical location.

(3) Brokers sharing same business location. More than one (1) individually licensed broker may operate an office at the same address only if each broker operates under a business name which clearly identifies the broker as an individual within the group of brokers, and each broker shall maintain his or her records and trust accounts separate from all other brokers.

(4) Business name and display of licenses. A broker shall not conduct business under any name other than the one in which the license is issued. Current licenses of the broker and all associates licensed with the broker shall be prominently displayed or available for public inspection in the office designated with the commission as the broker's main office location. No other location may be used as a main office location until proper notice is acknowledged by the commission.

(5) Lending license prohibited. A broker shall not lend or permit the use of the broker's license, whether for compensation or not, to enable anyone licensed or unlicensed to, in fact, establish or carry on a business for which a real estate broker's license is required, wherein the broker does not actively manage and have full control. In like manner, a salesperson shall not use another person's broker's license, whether for compensation or not, to establish or carry on a business for which a broker's license is required, nor to manage and control the office, except as allowed by sections 54-2016(4), and 54-2039(1), Idaho Code.

54-2041. TRUST ACCOUNTS AND ENTRUSTED PROPERTY. A licensed Idaho real estate broker shall be responsible for all moneys or property entrusted to that broker or to any licensee representing the broker. Immediately upon receipt, the broker shall place entrusted moneys in a neutral, qualified trust fund account in Idaho, and shall properly care for any entrusted property. The real estate broker shall remain fully responsible and accountable for all entrusted funds until a full accounting has been given to the parties involved.

54-2042. CREATION OF NONINTEREST-BEARING TRUST ACCOUNTS -- REQUIREMENTS. A broker may establish one (1) or more real estate trust accounts but each account must meet all requirements of this chapter, including the following:

(1) Each trust account must be established at an approved depository, which must be located in the state of Idaho, and must be noninterest-bearing, except as allowed in section 54-2043, Idaho Code, or as otherwise may be provided by law. Approved depositories are state or federally chartered banks and trust companies, state or fed-

erally chartered savings and loan associations, properly licensed title insurance companies in Idaho, or an actively licensed attorney at law in Idaho.

(2) Each account must be identified by the term "real estate trust account," on checks, deposit slips, and with the depository.

(3) Each trust account must be established and maintained under the licensed business name of the broker, and shall be under the full control of the broker.

(4) Each broker trust account must have a separate and complete set of records, which must consist of a monthly accounting, deposits, charges, and withdrawals or checks, even if the moneys are on deposit with a title company, attorney or other approved depository. The broker is responsible for ensuring that these separate account records are provided by the depository.

(5) Funds deposited in a real estate trust account must be subject to withdrawal on demand at the order or direction of the broker at all times, even if deposited with a title company or other approved depository.

(6) A commission-approved form giving notice of opening a trust account and giving authorization for the commission to inspect the account must be completed for each trust account, signed by the broker and an officer of the bank or depository and returned to the commission.

(7) No deposits to the trust account shall be made of funds that belong to the broker or real estate firm, except that the broker may deposit broker or firm funds for the purpose of opening and maintaining the account and for the payment of anticipated bank service charges for the trust account. In no event shall the balance of broker or firm funds in the account exceed three hundred dollars ($300). Maintenance funds shall not be disbursed for any purpose other than to cover bank charges charged directly to the trust account by the bank.

54-2043. INTEREST-BEARING TRUST ACCOUNTS. The broker may deposit funds in a separate, interest-bearing trust account for a single transaction if directed in writing by both parties to the transaction, and only if the following additional requirements are met:

(1) The interest-bearing trust account must be established in accordance with all requirements in section 54-2042, Idaho Code. However, the interest-bearing trust account shall be created at an approved depository in Idaho.

(2) The deposit shall be made in the name of the broker, as described above, and each such account shall contain only the funds relating to one (1) transaction.

(3) The interest-bearing trust account, when created for this purpose, must allow for withdrawal of the funds upon the broker's demand, unless all parties direct the broker in writing to do otherwise.

(4) There must be a written agreement signed by both the buyer and the seller stating who is to receive the interest accrued from the deposit. This agreement is to be retained by the responsible broker in the transaction file with a copy given to the buyer and the seller.

54-2044. TRUST ACCOUNT RECORDKEEPING -- FORMAT OF RECORDS REQUIRED. In order that the financial interests of the consumers of Idaho be adequately protected, each designated broker is required to create and maintain the following records regarding any real estate trust account, and is required to reconcile and balance each trust account with all ledger records, the check register and the bank statement at least once each month. Any electronic recordkeeping system is required to have a generally accepted and adequate backup system in use at all times.

(1) Maintenance ledger record. A separate ledger card or record, herein called "ledgers," identified as "trust account maintenance fund" shall be initiated when the broker's or firm's funds are initially deposited into the trust account. These ledgers shall be filed at all times with the broker's current "open" ledgers of pending transactions. Additions or deductions to trust account maintenance funds shall be posted to the ledger records as soon as the broker is given notice of the deposit or deduction. The balance on this maintenance fund ledger shall be kept current at all times.

(2) Individual trust ledger records. An individual trust ledger shall be immediately created whenever a broker, or any licensed or unlicensed person representing the broker, receives earnest money or other consideration, even if the consideration will be deposited with, held by, paid directly to, transferred or delivered to a title company, other approved depository, or any other person, as directed in writing, and signed by both parties to the transaction. Receipt of consideration, for purposes of this chapter, occurs when the broker or any person representing the broker, takes physical possession of the consideration or assumes the responsibility to deliver or deposit it.

(3) When a broker deposits funds with another broker, an approved depository, or directly to the seller or any other person, as directed in writing by both parties to the transaction, a ledger record must be created by the transferring broker, with a transaction number assigned. Upon transfer of funds or consideration, a receipt for such deposit shall be obtained and retained in the transaction files of the transferring broker. The receipt must show the name of the payee and date of transfer.

(4) Additional requirements for creating an individual trust ledger record are set forth in section 54-2045, Idaho Code. Individual trust ledger records must each be assigned a transaction number. In addition, each individual trust account ledger record created must contain:

(a) The next chronological transaction number for each transaction;

(b) The names of both parties to the transaction;

(c) The location of the property;

(d) The date of each deposit and disbursement;

(e) The name of the payor or payee;

(f) The amount and check number of each disbursement;

(g) The amount and nature of the deposit;

(h) The current balance; and

(i) After the transaction is closed, each individual ledger record must show the final disposition of the transaction and funds.

A broker's trust account ledger records must be maintained with one (1) file, electronic or hard copy, for closed, terminated and rejected transactions, and a separate file for transactions pending but not closed. Ledger records shall be kept in order by transaction number. Ledger posting must be kept current at all times.

(5) Trust account checks. The broker shall maintain consecutively numbered checks for each trust account, which checks must:

(a) Contain the broker's licensed business name and current business address; and

(b) Be imprinted with the words "real estate trust account."

(6) Check register or journal. A check register or journal must be posted properly, maintained and kept current by the broker at all times even if funds are held at a title company or other approved depository. The register must itemize deposits and disbursements in consecutive order, and must also clearly show:

(a) The date of the deposit or disbursement;

(b) The payee or payor;

(c) The amount and purpose of any deposits or disbursements;

(d) The check number;

(e) The transaction number; and

(f) The current cash balance remaining in that trust account.

(7) Duplicate bank deposit record. For each trust account, the broker shall maintain, in hard copy, a duplicate bank deposit record, which shall be imprinted with the broker's business name and the words, "real estate trust account." Each deposit record shall state:

(a) The name of the person or firm placing the money with the broker's office;

(b) The date of the deposit; and

(c) The transaction number. The duplicate deposit record shall be retained in the bank deposit records in proper chronological sequence and shall be date stamped by the bank or the bank deposit receipt shall be attached to the duplicate deposit record in the deposit records.

(8) Real estate trust account checks. For each trust account, the broker shall maintain a set of consecutively numbered checks, which shall be imprinted with the broker's business name and address and the words "real estate trust account." Any check drawn on such a trust account shall be identified by a transaction number noted on the face of the check. Any voided trust account check shall be marked "VOID" and retained in numerical sequence with the other checks for the banking month.

54-2045. TRUST ACCOUNT DEPOSITS AND RECEIPT OF CONSIDERATION. Except as otherwise provided in this section, all entrusted funds received by a broker in connection with a regulated real estate transaction, including, but not limited to, earnest money, shall be deposited into a real estate trust account maintained by the broker at an approved depository located in the state of Idaho. In addition, all earnest money, option money, promissory notes, tangible personal property and any other consideration received by a broker, regardless of form, must be accounted for upon receipt and in the following manner:

(1) Time of deposit. All moneys received by a broker for another in a real estate transaction are to be deposited on or before the

banking day immediately following the receipt day of such funds, unless written instructions signed by the party or parties having an interest in the funds direct the broker to do otherwise.

(2) Checks held in uncashed form. A ledger record must also be created when the broker or associate receives a check to be held for later deposit. However, such a check must be accompanied by written instructions in the purchase and sale agreement or offer to withhold deposit until a time certain, such as acceptance of the offer by the seller.

(3) Consideration returned before deposit. A ledger record must also be created even if the consideration received by a broker or salesperson is to be returned before it has been deposited or otherwise properly transferred. A written and dated notation must be placed on both the purchase and sale agreement, offer or other document dealing with the consideration, and on the ledger record. No consideration is to be returned without the knowledge and consent of the broker.

(4) Consideration received by sales associate. All consideration, including cash, checks held in uncashed form and promissory notes, received by a sales associate in connection with a real estate transaction shall be immediately delivered to the broker or the broker's office.

54-2046. TRUST ACCOUNT DISBURSEMENTS. The broker who holds entrusted funds or like payments in lieu of cash received in a regulated real estate transaction is fully responsible for all such funds until a full accounting has been made to the parties involved. All cash or like payments in lieu of cash must be disbursed from the real estate trust account only in accordance with this section. Failure to comply with this section is a violation of license law and will subject the broker to discipline.

(1) Written authorization required. No disbursements shall be made without a written, signed authorization by the parties to the transaction or an order of the court. Written and signed instructions from parties to the transaction may be in the purchase and sale agreement or in a separate document.

(2) Disbursements in advance of closing. No disbursements shall be made in advance of closing or before the happening of a condition set forth in the purchase and sale agreement or other agreement in a regulated real estate transaction to the seller, closing agent or any other person without the required written and signed authorization.

(3) Withdrawal of broker's commission. No disbursement of any portion of the broker's commission shall take place without prior written, signed authorization from the buyer and seller or until copies of the closing statements, signed by the buyer and seller, have been delivered to the broker and until the buyer or seller has been paid the amount due as determined by the closing statement.

(4) Provision for forfeited earnest money. The purchase and sale agreement must include a provision for division of moneys taken as earnest money when the transaction is not closed and such moneys are retained by any person as forfeited payment.

54-2047. DISPUTED EARNEST MONEY. (1) Any time more than one (1) party to a transaction makes demand on funds or other consideration

for which the broker is responsible, such as, but not limited to, earnest money deposits, the broker shall:

(a) Notify each party, in writing, of the demand of the other party; and

(b) Keep all parties to the transaction informed of any actions by the broker regarding the disputed funds or other consideration, including retention of the funds by the broker until the dispute is properly resolved.

(2) The broker may reasonably rely on the terms of the purchase and sale agreement or other written documents signed by both parties to determine how to disburse the disputed money and may, at the broker's own discretion, make such disbursement. Discretionary disbursement by the broker based on a reasonable review of the known facts is not a violation of license law, but may subject the broker to civil liability.

(3) If the broker does not believe it is reasonably possible to disburse the disputed funds, the broker may hold the funds until ordered by a court of proper jurisdiction to make a disbursement. The broker shall give all parties written notice of any decision to hold the funds pending a court order for disbursement.

54-2048. RESPONSIBLE BROKER FOR THE TRANSACTION -- DUTIES AND RECORDKEEPING. The "responsible broker," as referred to in this section, shall be responsible to the commission for the transaction, transaction records, the funds and closing in accordance with the requirements of this chapter. The broker who lists and sells any real property shall be deemed the responsible broker in the transaction. In the case of a cooperative sale, the broker who holds entrusted funds in a real estate trust account while the transaction is pending, or who delivers or transfers the funds to the closing agency or any authorized party other than the cooperating broker in the transaction, shall be deemed the broker responsible for the transaction. The responsible broker shall:

(1) Ensure the correctness and delivery of detailed closing statements which accurately reflect all receipts and disbursements for their respective accounts to both the buyer and seller in a transaction, even if the closing is completed by a real estate escrow closing agent, title company or other authorized third party and regardless of the responsible broker's agent or nonagent relationship to the buyer or seller.

(2) Show proof of delivery of the closing statement to the buyer and seller by their signatures on copies of such closing statements which shall be retained in the broker's transaction file. When signatures of the parties cannot be obtained, a copy of the closing statement transmittal letter, sent by certified mail, return receipt requested, or a written certification of delivery signed by an officer of the escrow closing agency, shall be retained in the broker's transaction files.

(3) Create and maintain, for the retention period required in section 54-2049, Idaho Code, a transaction file containing the following documents, as applicable. For all pending, closed or fallen transactions, the original or a true and correct copy of:

(a) Signed closing statements, if applicable;

(b) Written and signed brokerage representation agreements, if any. A responsible broker who is representing both the seller and the buyer in a transaction shall retain properly executed brokerage representation agreements in the transaction file, and, if appropriate to the transaction, a properly executed "consent to limited dual representation" statement. A responsible broker who has a signed brokerage representation agreement with only one (1) party to the transaction, either buyer or seller, must only retain that one (1) agreement in the transaction file;

(c) All offers accepted, countered or rejected, which must each be retained in the manner required in section 54-2049, Idaho Code;

(d) All offers presented to the seller and not accepted by that seller shall be clearly marked and dated as rejected. The original or a true and correct copy of all rejected offers must be retained in the files of the selling broker for the statutory records retention period in section 54-2049, Idaho Code.

54-2049. RECORD RETENTION SCHEDULES. All records required in this chapter to be kept and maintained by a real estate broker, including trust account and financial records, transaction files and other records are to be kept in the broker's files according to this section. The following records must be kept by a broker for three (3) calendar years after the year in which the event occurred, the transaction closed, all funds were disbursed, or the agreement and any written extension expired:

(1) The original or true copy of all accepted, countered or rejected offers;

(2) Listing or buyer brokerage representation agreements and "consent to limited dual representation" forms;

(3) Transaction files and the contents required in section 54-2048(3), Idaho Code;

(4) Trust account ledger records; and

(5) All trust account reconciliation records, as defined in this chapter.

54-2050. BROKERAGE REPRESENTATION AGREEMENTS -- REQUIRED ELEMENTS. All real estate brokerage representation agreements, whether with a buyer or seller, must be in writing in the manner required by section 54-2085, Idaho Code, and must contain the following contract provisions:

(1) Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

(a) Conspicuous and definite beginning and expiration dates;

(b) A legally enforceable description of the property;

(c) Price and terms;

(d) All fees or commissions; and

(e) The signature of the owner of the real estate or the owner's legal, appointed and duly qualified representative, and the date of such signature.

(2) Buyer representation agreements. Each buyer representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

(a) Conspicuous and definite beginning and expiration dates;

(b) All financial obligations of the buyer or prospective buyer, if any, including, but not limited to, fees or commissions;

(c) The manner in which any fee or commission will be paid to the broker; and

(d) Appropriate signatures and their dates.

(3) Prohibited provisions and exceptions -- Automatic renewal clauses. No buyer or seller representation agreement shall contain a provision requiring the party signing the agreement to notify the broker of the party's intention to cancel the agreement after the definite expiration date, unless the representation agreement states that it is completely nonexclusive and it contains no financial obligation, fee or commission due from the party signing the agreement.

(4) Copies required. A broker or salesperson who obtains a written brokerage representation agreement of any kind shall, at the time of securing such agreement, give the person or persons signing such agreement, a legible, signed, true and correct copy thereof. Copies may be electronically generated or transmitted, faxed or delivered in another method as long as the representation agreement specifically allows for such transmission and the parties to the agreement agree in writing to accept such copies or documents as true and correct.

(5) Electronically generated agreements. Brokerage representation agreements with a buyer or seller may be electronically generated or transmitted, faxed or delivered in another method as long as the representation agreement specifically allows for such transmission and the parties to the representation agreement agree in writing to accept such copies or documents as true and correct and enforceable as originals.

54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as promptly as practicable, tender to the seller every written offer to purchase obtained on the real estate involved, up until time of closing, and shall obtain the signature of the seller or seller's agent verifying time and date such offer was received. A purchase and sale agreement signed by the prospective buyer shall be deemed in all respects an offer to purchase.

(2) Immediately upon receiving any offer to purchase signed and dated by the buyer and any consideration, a broker or salesperson shall provide a copy of the offer to purchase to the buyer as a receipt.

(3) Upon obtaining a properly signed and dated acceptance of an offer to purchase, the broker or sales associate shall promptly deliver true and legible copies of such accepted offer to both the buyer and the seller.

(4) The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements:

(a) All terms and conditions of the real estate transaction as directed by the buyer or seller;

(b) The actual form and amount of the consideration received as earnest money;

(c) The name of the responsible broker in the transaction, as

defined in section 54-2048, Idaho Code;

(d) The "representation confirmation" statement required in section 54-2085(4), Idaho Code, and, only if applicable to the transaction, the "consent to limited dual representation" as required in section 54-2088, Idaho Code;

(e) A provision for division of earnest money retained by any person as forfeited payment should the transaction not close;

(f) All appropriate signatures; and

(g) A legal description of the property.

(5) All changes made to any offer to purchase or other real estate purchase agreement shall be initialed and dated by the parties to the transaction.

54-2052. ELECTRONICALLY GENERATED AGREEMENTS. Offers to purchase, counteroffers and acceptances may be electronically generated or transmitted, faxed or delivered in another method only if the representation agreement specifically allows for such transmission and the parties to the representation agreement agree in writing to accept such copies or documents as true and correct and enforceable as originals.

54-2053. ADVERTISING. (1) Only licensees who are actively licensed in Idaho may be named by an Idaho broker in any type of advertising of Idaho real property, may advertise Idaho property in Idaho or may have a sign placed on Idaho property.

(2) All advertising of listed property shall contain the broker's licensed business name. A new business name shall not be used or shown in advertising unless and until a proper notice of change in the business name has been approved by the commission.

(3) All advertising by licensed branch offices shall contain the broker's licensed business name.

(4) No advertising shall provide any information to the public or to prospective customers or clients which is misleading in nature. Information is misleading if, when taken as a whole, there is a distinct probability that such information will deceive the persons whom it is intended to influence.

54-2054. COMPENSATION, COMMISSIONS AND FEES -- PROHIBITED CONDUCT. (1) Court action for fee collection. No person engaged in the business or acting in the capacity of real estate broker or salesperson in Idaho shall bring or maintain any action in the courts for the collection of a fee, commission or other compensation for the performance of any acts requiring a real estate license as provided in section 54-2002, Idaho Code, without alleging and proving that such person was an actively licensed broker or salesperson in Idaho at the time the alleged cause of action arose.

(2) Fee-splitting with unlicensed persons prohibited. Unless otherwise allowed by statute or rule, a real estate broker, associate broker or salesperson licensed in the state of Idaho shall not pay any part or share of a commission, fee or compensation received in the licensee's capacity as such in a regulated real estate transaction to any person who is not actively licensed as a real estate broker in Idaho or in another state or jurisdiction. The Idaho broker making the

payment to another licensed person is responsible for verifying the active licensed status of the receiving broker. This section shall not prohibit payment of a part or share of a commission, fee or compensation by the broker to a corporation, all of whose shareholders and directors are active real estate licensees.

(3) Finder's fees prohibited. Any offer of monetary value, by an Idaho licensee, to any person who is not licensed in Idaho or any state or jurisdiction, made for the purpose of inducing such unlicensed person to secure prospects to buy, sell, option, or otherwise dispose of an interest in real property shall be considered to be splitting fees with an unlicensed person, and is prohibited.

(4) Interference with real estate brokerage agreement prohibited. It shall be unlawful for any person, licensed or unlicensed, to interfere with the contractual relationship between a broker and a client. Communicating a company's relocation policy or benefits to a transferring employee or consumer shall not be considered a violation of this subsection so long as the communication does not involve advice or encouragement on how to terminate or amend an existing contractual relationship between a broker and client.

(5) Double contracts prohibited. No licensed broker or salesperson shall use, propose the use of, agree to the use of, or knowingly permit the use of a double contract, as defined in section 54-2004, Idaho Code, in connection with any regulated real estate transaction. Such conduct by a licensee shall be deemed flagrant misconduct and dishonorable and dishonest dealing and shall subject the licensee to disciplinary action by the commission.

(6) Kickbacks and rebates prohibited. No licensed real estate broker or salesperson shall receive a kickback or rebate for directing any transaction to any individual for financing. A licensee shall not receive a kickback or unearned fee for directing any transaction to any lending institution, escrow or title company, as those practices are defined and prohibited by the real estate settlement and procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq. However, a licensee legally receiving any fee or rebate from any person providing direct services to either the buyer or the seller in connection with a regulated real estate transaction is required to disclose the licensee's intent to receive such fee, rebate or compensation in writing to all parties to the transaction prior to closing.

(7) Compensation from more than one party. No licensed real estate broker or salesperson shall charge or accept compensation from more than one (1) party in any one (1) transaction, without first making full disclosure in writing of the broker's intent to do so, to all parties involved in the transaction.

(8) After-the-fact referral fees prohibited. It shall be unlawful for any person to solicit or request a referral fee or similar payment from a licensed Idaho real estate broker or sales associate, for the referral of a buyer or seller in connection with a regulated real estate transaction, unless the person seeking the referral fee has reasonable cause. "Reasonable cause" shall not exist unless:

(a) The person seeking the referral fee has a written contractual relationship with the Idaho real estate broker for a referral fee or similar payment; and

(b) The contractual relationship providing for the referral fee

exists at the time the buyer or seller purportedly referred by such person signs a written agreement with the Idaho broker for the listing of the real estate or for representation by the broker, or the buyer signs an offer to purchase the real estate involved in the transaction. It shall be unlawful for any person including, but not limited to, a relocation company or company with a relocation policy or benefits, to directly or indirectly threaten to or actually reduce or withhold promised or expected employee or customer relocation benefits from a buyer or seller in a regulated real estate transaction based upon a broker's participation in payment of a referral fee or other fee.

(9) All fees must be paid through broker. No sales associate shall accept any commission, compensation or fee for the performance of any acts requiring a real estate license from any person except the real estate broker with whom the sales associate is licensed. However, a broker may pay a former sales associate for services performed while the sales associate was actively licensed with that broker, regardless of the former sales associate's license status at the time the commission or fee is actually paid.

54-2055. LICENSEES DEALING WITH THEIR OWN PROPERTY. (1) Any actively licensed Idaho broker, sales associate, or legal business entity shall comply with this entire chapter when that licensee is buying, selling or otherwise acquiring or disposing of the licensee's own interest in real property in a regulated real estate transaction.

(2) A licensee shall disclose in writing to any buyer or seller that the licensee holds an active Idaho real estate license, if the licensee directly, indirectly, or through a third party, sells or purchases an interest in real property for personal use or any other purpose; or acquires or intends to acquire any interest in real property or any option to purchase real property.

(3) Each actively licensed person buying or selling real property or any interest therein, in a regulated real estate transaction, must conduct the transaction through an actively licensed responsible broker, whether or not the property is listed.

54-2056. TERMINATING LICENSE BUSINESS RELATIONSHIPS. (1) Sales associate terminating license with broker. Any sales associate who terminates his association with a broker and licenses with another broker shall immediately return his wall license to the commission, along with the completed forms and fees necessary for relicensing. If the sales associate is unable to obtain his wall license from the broker, the sales associate shall send written notice of his termination, by certified mail, return receipt requested, to the broker, and shall deliver a copy of such notice to the commission. Upon receipt of such notice from the sales associate, the broker shall immediately return the sales associate's wall license to the commission.

(2) Broker terminating sales associate. Any broker who terminates the association of a sales associate shall return the sales associate's wall license along with a completed termination form to the commission.

(3) Closing a branch office. A written notice shall be sent to the commission office along with the branch office license and the

wall licenses of all licensees licensed in the branch office immediately upon closing the branch office.

(4) Property of the broker. Upon termination of the business relationship as a sales associate licensed under a broker, the sales associate shall immediately turn over to the broker all listing information and listing contracts, keys, purchase and sale agreements and similar contracts, buyer brokerage information and contracts, and other property belonging to the broker. A sales associate shall not engage in any practice or conduct, directly or indirectly, which encourages, entices or induces clients of the broker to terminate any legal business relationship with the broker unless he first obtains written permission of the broker.

(5) Location of trust accounts and file records. When an actively licensed broker changes to a license status other than that of a designated broker, that individual must notify the commission in writing of the location of all trust accounts and transaction file records which the broker was responsible for during the term of licensure as a designated broker. These records shall be available to the commission for three (3) years following the year in which each transaction was closed.

(6) Terminating relationships between a broker and a sole proprietorship owned by a person other than the broker. When a broker for a sole proprietorship, owned by a person other than the broker, terminates an association with the owner, all records and trust account funds shall become the property of, and be maintained and disbursed by, the terminating broker in accordance with this chapter and applicable rules promulgated thereunder. The terminating broker shall deliver, upon request made in writing by the clients and the new broker of that sole proprietorship, such records and trust account funds pertaining to that client, to the new broker who shall thereafter have the responsibility for preservation and disbursement, in accordance with this chapter and applicable rules promulgated thereunder.

54-2057. DEATH OR INCAPACITY OF A DESIGNATED BROKER. (1) Legal business entities. Upon the death or incapacity of a designated broker for a legal business entity licensed as a real estate brokerage company in Idaho, the licensed entity shall appoint and designate a qualified individual as designated broker in the manner and within the time required in section 54-2039, Idaho Code, or shall cease to be licensed.

(2) Sole proprietorships. Upon the death or incapacity of a sole proprietor broker, the commission may issue a limited authorization for an executor, administrator, conservator, personal representative, court-appointed guardian, or some other person or agency to close out the pending transactions on behalf of the deceased or incapacitated broker, and only in accordance with the provisions of this section. The person given temporary authority shall close out the affairs of the deceased or incapacitated sole proprietor broker by taking the following actions:

(a) Termination of listings and buyer brokerage agreements. Termination of all listings and buyer brokerage agreements in which there are not outstanding offers or earnest money receipts.

(b) Completion of negotiations. Completion of all negotiations

between buyers and sellers on transactions in which an offer to purchase has been written or received.

(c) Accounting for moneys. Depositing and withdrawing moneys from the real estate trust account in connection with completion of all transactions still pending at the time of death of a sole proprietor broker.

(d) Commissions. Prompt payment of all real estate commissions owing after closing of all transactions, both to the decedent broker's duly appointed personal representative and to sales associates of the deceased broker or participating brokers entitled to commissions resulting from the transactions.

54-2058. AUTHORITY TO INVESTIGATE AND DISCIPLINE. (1) General authority to investigate. The commission may investigate the action of any person engaged in the business or acting in the capacity of real estate broker or salesperson within the state of Idaho. The commission may initiate an investigation at its own discretion or upon receipt of a written complaint from anyone who claims to have been injured or defrauded as a result of such action.

A person is acting "within the state of Idaho" if that person is dealing with any interest in real property or a business opportunity involving an interest in real property, which is situated in this state, or is conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

(2) Unlicensed persons. The commission also may investigate and file a formal administrative complaint under this chapter against any person believed to have acted as a real estate broker or salesperson without a license in violation of section 54-2002, Idaho Code.

(3) Audits. The commission or its duly authorized representative is vested with the authority to conduct periodic inspections, surveys and audits of the transaction records and real estate trust accounts of all Idaho licensed designated brokers. If the analysis of a broker's real estate trust account indicates a deficiency or any irregularity which cannot be resolved between the commission and the broker, the commission may order a complete audit of the trust account by a certified public accountant at the broker's expense.

(4) The commission or its staff also has the authority to investigate the action of any Idaho licensee. The licensee or broker shall answer all reasonable investigative questions of the commission or its staff, and must make available, promptly upon request, any and all records to the commission at the licensee's own cost and at the location or in the manner requested by the commission.

54-2059. DISCIPLINARY POWERS -- REVOCATION, SUSPENSION OR OTHER DISCIPLINARY ACTION. (1) The commission may temporarily suspend or permanently revoke licenses issued under the provisions of this chapter, issue a formal reprimand and impose a civil penalty in an amount not to exceed five thousand dollars ($5,000), and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any licensee who is found to have violated any section of the Idaho Code, the commission's administrative rules or any order of the commission. The executive director may issue informal letters of reprimand to licensees without civil penalty or

cost assessment.

The commission may impose a civil penalty in an amount not to exceed five thousand dollars ($5,000) and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any person who is found, through a court or administrative proceeding, to have acted without a license in violation of section 54-2002, Idaho Code. The civil penalty provisions of this section are in addition to and not in lieu of any other actions or criminal penalties for acting as a broker or salesperson without a license which might be imposed by other sections of this chapter or Idaho law.

The commission may also accept, on such conditions as it may prescribe, or reject any offer to voluntarily terminate the license of a person whose activity is under investigation or against whom a formal complaint has been filed.

(2) If the commission suspends or revokes a license, or imposes a civil penalty, or assesses costs and attorney's fees, the commission may withhold execution of the suspension, revocation or civil penalty, or costs and attorney's fees on such terms and for such time as it may prescribe.

(3) If any amounts assessed against a defendant by final order of the commission become otherwise uncollectible or payment is in default, and only if all the defendant's rights to appeal have passed, the commission may then proceed to district court and seek to enforce collection through judgment and execution.

(4) All civil penalties, costs, and attorney's fees collected by the commission under this chapter shall be deposited in the state treasury to the credit of the special real estate fund established by section 54-2021, Idaho Code.

54-2060. GROUNDS FOR DISCIPLINARY ACTION. A person found guilty of misconduct while performing or attempting to perform any act requiring an Idaho real estate broker or salesperson's license, regardless of whether the act was for the person's own account or in his capacity as broker or salesperson, shall be subject to disciplinary action by the commission. The following acts shall constitute misconduct within the meaning of this section:

(1) Making fraudulent misrepresentations;

(2) Engaging in a continued or flagrant course of misrepresentation or making of false promises, whether done personally or through agents or salespersons;

(3) Failure to account for or remit any property, real or personal, or moneys coming into the person's possession which belong to another;

(4) Failure to keep adequate records of all property transactions in which the person acts in the capacity of real estate broker or salesperson;

(5) Failure or refusal, upon lawful demand, to disclose any information within the person's knowledge, or to produce any documents, books or records in the person's possession for inspection by the commission or its authorized representative;

(6) Acting as a real estate broker or salesperson under an assumed name;

(7) Employment of fraud, deception, misrepresentation, misstate-

ment or any unlawful means in applying for or securing a license to act as a real estate broker or salesperson in the state of Idaho;

(8) Using, proposing to use, or agreeing to use a "double contract" as prohibited in section 54-2054(5), Idaho Code;

(9) Seeking or receiving a "kickback" or rebate prohibited in section 54-2054(6), Idaho Code;

(10) Violation of any provision of sections 54-2001 through 54-2097, Idaho Code, or any administrative rule made or promulgated by the commission or any final order of the commission;

(11) Any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings;

(12) Gross negligence or reckless conduct in a regulated real estate transaction. Conduct is grossly negligent or reckless if, when taken as a whole, it is conduct which substantially fails to meet the generally accepted standard of care in the practice of real estate in Idaho.

54-2061. ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION -- COURT ACTIONS. (1) The commission may also take disciplinary action against a licensee including, but not limited to, suspension or revocation of a license, where, in a court of competent jurisdiction, the licensee:

(a) Has been convicted of a felony, or has been convicted of a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing or which otherwise demonstrates the licensee's lack of trustworthiness to engage in the real estate business;

(b) Has been declared to lack capacity or to be incompetent or under an infirmity, for the duration of such declaration only;

(c) Has a judgment entered against the licensee in a civil action upon grounds of fraud, misrepresentation, deceit or gross negligence with reference to a real estate-related transaction.

(2) The court's record of conviction, order determining legal competency, or the order entering judgment in a civil case, or certified copies thereof, shall be prima facie evidence of a conviction, or the court's action.

54-2062. ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION -- OTHER ADMINISTRATIVE ACTIONS. The commission may also take any disciplinary action, including, but not limited to, suspension or revocation of a license where the licensee:

(1) Has an order or determination of debarment, suspension, or any limitation on participation in government loan programs issued against the licensee for misconduct; or

(2) Has a license, issued by another jurisdiction, suspended or revoked for a disciplinary violation involving fraud, misrepresentation, or dishonest or dishonorable dealings. A certified copy of the order of the administrative agency in the other jurisdiction shall be prima facie evidence of the suspension or revocation.

54-2063. DISCIPLINARY PROCEDURE AND REVIEW OF AGENCY ACTION. All disciplinary actions under this chapter and all rights of review or appeal are governed by chapter 52, title 67, Idaho Code, and the rules

of practice and procedure of the Idaho real estate commission.

54-2064. PROOF OF COMPLAINT -- PROSECUTION BY COUNTY PROSECUTING ATTORNEY. The commission may prefer a complaint for violation of any section of this chapter before any court of competent jurisdiction. It shall be the duty of the prosecuting attorney of each county in the state to prosecute all violations of the provisions of this chapter in their respective counties in which the violations occur.

54-2065. PENALTY FOR ACTING AS A BROKER OR SALESPERSON WITHOUT LICENSE. Any person acting as a real estate broker or real estate salesperson within the meaning of this chapter without a license as herein provided shall be guilty of a misdemeanor and, upon conviction thereof, if a natural person, be punished by a fine of not to exceed five thousand dollars ($5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment in the discretion of the court; or if a limited liability company or corporation, by a fine of not to exceed ten thousand dollars ($10,000). Additionally, the court may assess a civil penalty against a natural person in an amount not to exceed five thousand dollars ($5,000), and against a limited liability company or corporation, in an amount not to exceed ten thousand dollars ($10,000). All civil penalties shall be credited to the special real estate fund.

54-2066. INJUNCTIVE RELIEF. The commission is hereby authorized to institute injunction proceedings in the district court of competent jurisdiction, pursuant to the Idaho rules of civil procedure, for cause shown, to restrain any person or persons from violating any provision of this chapter regardless of whether or not there exists an adequate remedy at law.

54-2067. CEASE AND DESIST ORDERS. The commission is authorized to order that any person violating any provision of this chapter cease and desist such activity immediately. Violation of the cease and desist order shall be a violation of this chapter and shall subject the person to any and all remedies available to the commission in this or other chapters of the Idaho Code.

54-2068. WITNESSES -- DEPOSITIONS -- FEES -- SUBPOENAS. (1) The commission, or any member thereof, the executive director of the commission, or such other person so designated by the commission by rule, shall have power to administer oaths, certify to all official acts, issue subpoenas for attendance of witnesses and the production of books and papers, take the testimony of any person by deposition in the manner prescribed for in the rules of procedure of the district court of this state, in civil cases, in any investigation or hearing in any part of the state.

(2) Each witness who appears pursuant to a subpoena shall receive for his attendance the fees and mileage allowed to a witness in civil cases in the district court. Witness fees shall be paid by the party at whose request the witness is subpoenaed.

(3) If a witness, who has not been required to attend at the request of any party, is subpoenaed by the commission or executive

director, his fees and mileage shall be paid from funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid.

54-2069. REAL ESTATE RECOVERY FUND ESTABLISHED. There is hereby created in the state treasury the real estate recovery fund. A balance of not more than twenty thousand dollars ($20,000) shall be maintained in the fund, to be used for satisfying claims against persons licensed under this chapter, as provided in sections 54-2069 through 54-2078, Idaho Code. Any balance over twenty thousand dollars ($20,000) shall be deposited in the special real estate fund and be subject to appropriation by the legislature for the use of the commission to carry out the provisions of this chapter.

54-2070. AUGMENTATION OF FUND. Upon the original application or renewal of every real estate broker's, associate broker's and salesperson's license for a two-year period, the licensee shall pay, in addition to the original or renewal license fee, a fee of twenty dollars ($20.00). Such additional fees and all education fees charged and collected for tuition or registration, course materials and such other fees involved with the commission education programs shall be paid into the state treasury and credited to the special real estate fund as provided in section 54-2021, Idaho Code, except for such funds as are required to maintain a balance of twenty thousand dollars ($20,000) in the real estate recovery fund as provided for in section 54-2069, Idaho Code.

54-2071. RECOVERY FROM FUND -- PROCEDURE -- GROUNDS -- AMOUNT -- HEARING. (1) When any person obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required under this chapter, such person may, upon termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment out of the real estate recovery fund in the amount of actual damages included in the judgment and unpaid, but not more than ten thousand dollars ($10,000) per licensee per calendar year. The recovery fund's liability for all claims arising from the acts or omissions of any one (1) licensee in any calendar year shall be limited to a payment of not more than ten thousand dollars ($10,000), regardless of the number of persons damaged by the acts or omissions of a licensee, or the total amount of damage caused by such licensee, in any one (1) calendar year. If a claim is made against the fund and the commission has actual knowledge of any other claims against the recovery fund which have been filed or asserted against the same licensee and arise from acts or omissions of the licensee in the same calendar year, then the commission shall file an interpleader action in accordance with the applicable statutes and the Idaho rules of civil procedure against all known parties who may claim a right to payment from the fund. Unless the commission has actual knowledge of other potential claims, as stated above, and so files the interpleader action, the first person who obtains a final judgment against a licensee shall be entitled to

the payment of that amount equal to the lesser of the judgment or ten thousand dollars ($10,000), providing the claimant meets the other criteria set forth herein.

(2) A copy of the petition shall be served upon the commission and an affidavit of such service shall be filed with the court.

(3) The court shall act upon such petition within thirty (30) days after such service and, upon the hearing thereof, the petitioner shall be required to show that:

(a) He is not the spouse of the debtor, or the personal representative of such spouse;

(b) He has complied with all the requirements of sections 54-2069 through 54-2078, Idaho Code;

(c) He has obtained a judgment of the kind described in subsection (1) of this section, stating the amount thereof and the amount owing thereon at the date of the petition;

(d) He has caused to be issued a writ of execution upon the judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized;

(e) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment; and

(f) That by such search he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(4) Whenever the aggrieved person satisfies the court that it is not practicable to comply with one (1) or more of the requirements enumerated in subsections (3)(d), (e) and (f) of this section, and that the aggrieved person has taken all reasonable steps to collect that amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may in its discretion dispense with the necessity for complying with such requirements.

54-2072. COMMISSION MAY ANSWER PETITION -- COMPROMISE OF CLAIMS. (1) Whenever the court proceeds upon a petition as provided in section 54-2071, Idaho Code, the commission may answer and defend any such action against the recovery fund on behalf of the recovery fund and in the name of the defendant and may use any appropriate method of review on behalf of the recovery account.

(2) The judgment set forth in the petition shall be considered as prima facie evidence only, and the findings of fact therein shall not

be conclusive for the purposes of sections 54-2069 through 54-2078, Idaho Code.

(3) The commission may, subject to court approval, compromise a claim based upon the application of a petitioner.

54-2073. COURT ORDER REQUIRING PAYMENT FROM RECOVERY FUND. If the court finds, after hearing that the claim should be levied against the portion of the recovery fund allocated for the purpose of carrying out the provisions of sections 54-2069 through 54-2078, Idaho Code, the court shall enter an order directed to the commission requiring payment from the recovery fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in section 54-2071, Idaho Code.

54-2074. AUTOMATIC SUSPENSION OF BROKER'S, ASSOCIATE BROKER'S OR SALESPERSON'S LICENSE ON PAYMENT BY COMMISSION -- CONDITION FOR LICENSE REINSTATEMENT. If, pursuant to court order, the commission pays from the recovery fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensed broker, associate broker or salesperson, the license of such broker, associate broker or salesperson shall be automatically suspended without further order of the commission upon the effective date of any order by the court as set forth herein authorizing payment from the recovery fund. No such broker, associate broker or salesperson shall be granted reinstatement until he has repaid in full, the amount so paid from the recovery fund plus interest at the legal rate of interest allowable by law for judgments.

54-2075. ORDER OF PAYMENT OF CLAIMS IF RECOVERY FUND BALANCE INSUFFICIENT -- INTEREST. If, at any time, the money deposited in the recovery fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of eleven percent (11%) per annum.

54-2076. COMMISSION'S RIGHT TO SUBROGATION. When the commission has paid from the recovery fund any sum to the judgment creditor, the commission has subrogated all other rights of the judgment creditor and the judgment creditor shall assign all his right, title and interest in the judgment to the commission and any amount and interest so recovered by the commission on the judgment shall be deposited to the recovery fund.

54-2077. WAIVER OF RIGHTS. The failure of a person to comply with all of the provisions of sections 54-2069 through 54-2071, Idaho Code, shall constitute a waiver of any rights hereunder.

54-2078. DISCIPLINARY ACTION AGAINST LICENSEES NOT RESTRICTED FOR VIOLATIONS OF LAW OR RULES. Nothing contained in sections 54-2069 through 54-2078, Idaho Code, limits the authority of the commission to take disciplinary action against a licensee for a violation of any of

the provisions of the chapter, or of the rules of the commission, nor shall the repayment in full of all obligations to the recovery fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or the rules promulgated thereunder.

54-2079. TERMINATION OF SALESPERSON FOR VIOLATION OF DISCIPLINARY PROVISIONS -- STATEMENT TO BE FILED WITH COMMISSION. When any real estate salesperson shall be terminated by his broker for a violation of any of the provisions of sections 54-2060 through 54-2062, Idaho Code, a written statement of the facts in reference thereto shall be filed forthwith with the commission.

54-2080. RECORDS -- DISCLOSURE TO PUBLIC. Records kept in the office of the commission under authority of this chapter and chapter 18, title 55, Idaho Code, shall be open to public inspection as provided in chapter 3, title 9, Idaho Code.

54-2081. [RESERVED.]

SECTION 4. That Section 54-2060, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~0~~82. SHORT TITLE. Sections 54-206~~0~~82 through 54-20~~7~~497, Idaho Code, shall be known and may be cited as "The Idaho Real Estate Brokerage Representation Act."

SECTION 5. That Section 54-2061, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~1~~83. DEFINITIONS. As used in ~~this act~~ sections 54-2082 through 54-2097, Idaho Code:

(1) "Adverse material fact" means a fact that would significantly affect the desirability or value of the property to a reasonable person or which establishes a reasonable belief that a party to the transaction is not able to or does not intend to complete that party's obligations under a real estate contract.

(2) "Agency representation" or "representation" means the statutory agency relationship between a client and a brokerage in a regulated real estate transaction with respect to which the duties defined in section 54-206~~5~~87, Idaho Code, are applicable. See also "representation."

(3) "Brokerage" means a licensed designated broker, the licensed real estate business represented by that broker and its affiliated licensees.

(4) "Client" means a buyer or seller, or a prospective buyer or seller, or both who have entered into an express written contract or agreement with a brokerage for agency representation in a regulated real estate transaction.

(5) "Confidential client information" means information gained from or about a client that:

(a) Is not a matter of public record;

(b) The client has not disclosed or authorized to be disclosed to

third parties;

(c) If disclosed, would be detrimental to the client; and

(d) The client would not be personally obligated to disclose to another party to the transaction. Information which is required to be disclosed by statute or rule or where the failure to disclose would constitute fraudulent misrepresentation is not confidential client information within the provisions of this act. Information generally disseminated in the marketplace, including "sold" prices of property, is also not confidential client information within the provisions of this act.

(6) "Customer" means a buyer or seller, or prospective buyer or seller, who is not represented in an agency relationship in a regulated real estate transaction.

(7) "Express agreement" or "express contract" means a written agreement by the parties to undertake brokerage representation. An express agreement under this statute can only be made in writing, and cannot be made orally or by assumption or implication.

(8) "Idaho real estate license law and rules" means chapter 20, title 54, Idaho Code, and all administrative rules promulgated thereunder.

(9) "Limited disclosed dual agent" means only that limited brokerage representation in which both a buyer and a seller are clients for the purposes of a regulated real estate transaction, and as specifically allowed in this act.

(10) "Ministerial acts" means reasonably necessary and customary acts typically performed by real estate licensees in assisting a transaction to its closing or conclusion.

(11) "Nonagent" means a brokerage and its licensees working with or assisting a buyer or seller as a customer to which the duties provided in section 54-206~~4~~86, Idaho Code, are applicable.

(12) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(13) "Representation" or "brokerage representation" or "represented" means the statutory agency relationship between a client and a brokerage in a regulated real estate transaction with respect to which the duties provided in section 54-206~~5~~87, Idaho Code, are applicable.

SECTION 6. That Section 54-2062, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~2~~84. BROKERAGE AGENCY RELATIONSHIPS ~~--~~ CREATION. ~~For--all regulated--real-estate-transactions-first-executed-on-or-after-July-1, 1996,-a~~A buyer or seller is not represented by a brokerage in a regulated real estate transaction unless the buyer or seller and the brokerage agree, in ~~writing~~ a separate written document, to such representation. No type of agency representation may be assumed by a brokerage, buyer or seller or created orally or by implication.

SECTION 7. That Section 54-2063, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~3~~85. DISCLOSURE AND WRITING REQUIREMENTS -- AGENCY DISCLOSURE BROCHURE AND REPRESENTATION CONFIRMATION. (1) A licensee shall give to a prospective buyer or seller at the first substantial business contact the agency disclosure brochure established by the Idaho real estate commission. The commission by rule shall establish the form and contents of the brochure in accordance with the provisions of this act. Each brokerage shall keep an initialed and dated record of a buyer or seller's receipt of the agency disclosure brochure.

(2) The agency disclosure brochure shall list the types of representation available to a buyer or seller in a regulated real estate transaction, the legal duties and obligations owed to the buyer or seller in each type of representation and a conspicuous notice that no representation will exist absent a written agreement between the buyer or seller and the brokerage.

(3) A brokerage's relationship with a buyer and seller as an agent, nonagent, or limited dual agent must be determined and all necessary agreements executed no later than the preparation of a purchase and sale agreement. A brokerage must disclose its relationship to both buyer and seller in any transaction no later than the preparation or presentation of a purchase and sale agreement.

(4) In addition, a purchase and sale agreement or other document drafted in connection with a real estate transaction shall contain the following confirmation of the relationship, whether it involved representation or not, between the buyer, seller and licensees involved:

REPRESENTATION CONFIRMATION

In this transaction, the brokerage(s) involved had the following relationship(s) with the BUYER ("agent" or "nonagent" or "limited dual agent"):

Listing broker acted as a(n) ..... for the buyer.

Selling broker acted as a(n) ..... for the buyer.

In this transaction, the brokerage(s) involved had the following relationship(s) with the SELLER ("agent" or "nonagent" or "limited dual agent"):

Listing broker acted as a(n) ..... for the seller.

Selling broker acted as a(n) ..... for the seller.

Each party signing this document confirms that he or she has received, read and understood the Agency Disclosure Brochure and has elected the relationship confirmed above. In addition, each party confirms that the broker's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE OR SHE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKER UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

(5) The failure of a licensee to timely give a buyer or seller the agency disclosure brochure or the failure of a licensee to properly and timely obtain any written agreement or confirmation required by this act shall be a violation of the Idaho real estate license law and may subject the licensee to disciplinary action according to the provisions of sections 54-204~~0~~58 through 54-2078, Idaho Code.

(6) Neither the commission brochure nor the representation confirmation shall create a brokerage relationship. A separate, signed, written agreement is required for that purpose.

SECTION 8. That Section 54-2064, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~4~~86. DUTIES TO A CUSTOMER. (1) If a buyer, prospective buyer, or seller is not represented by a brokerage in a regulated real estate transaction, that buyer or seller remains a customer, ~~to whom~~ and as such, the brokerage and its licensees are nonagents and owe ~~only~~ the following legal duties and obligations:

(a) To perform ministerial acts to assist the buyer or seller in the sale or purchase of real estate;

(b) To perform these acts with honesty, good faith, reasonable skill and care;

(c) To properly account for moneys or property placed in the care and responsibility of the brokerage;

(d) To disclose to the buyer/customer all adverse material facts actually known or which reasonably should have been known by the licensee;

(e) To disclose to the seller/customer all adverse material facts actually known or which reasonably should have been known by the licensee;

(2) A nonagent brokerage and its licensees owe no duty to a buyer/customer to conduct an independent inspection of the property for the benefit of that buyer/customer and owe no duty to independently verify the accuracy or completeness of any statement or representation made by the seller or any source reasonably believed by the licensee to be reliable.

(3) A nonagent brokerage and its licensees owe no duty to a seller/customer to conduct an independent investigation of the buyer's financial condition for the benefit of that seller/customer and owe no duty to independently verify the accuracy or completeness of statements made by the buyer or any source reasonably believed by the licensee to be reliable.

SECTION 9. That Section 54-2065, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~5~~87. DUTIES TO A CLIENT. If a buyer or seller enters into a written contract for representation in a regulated real estate transaction, that buyer or seller becomes a client to whom the brokerage and its licensees owe the following agency duties and obligations:

(1) To perform the terms of the written agreement with the client;

(2) To exercise reasonable skill and care;

(3) To promote the best interests of the client in good faith, honesty and fair dealing including, but not limited to:

(a) Disclosing to the client all adverse material facts actually known or which reasonably should have been known by the licensee;

(b) Seeking a buyer to purchase the seller's property at a price, and under terms and conditions acceptable to the seller and assisting in the negotiation therefor; or

(c) Seeking a property for purchase at a price and under terms and conditions acceptable to the buyer and assisting in the negotiation therefor;

(d) For the benefit of a client/buyer: conducting a reasonable investigation of the property and material representations about the property made by the seller or seller's agent, or when appropriate, advising the client to obtain professional inspections of the property or to seek appropriate tax, legal and other professional advice or counsel;

(e) For the benefit of a client/seller: requesting reasonable proof of a prospective buyer's financial ability to purchase the real property which is the subject matter of the transaction. This duty may be satisfied by any appropriate method suitable to the transaction or, when deemed necessary by the real estate licensee, by advising the client to consult with an accountant, lawyer, or other professional as dictated by the transaction.

(4) To maintain the confidentiality of specific client information as defined by and to the extent required in this act.

(5) To properly account for moneys or property placed in the care and responsibility of the brokerage.

SECTION 10. That Section 54-2066, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~66~~88. LIMITED DISCLOSED DUAL AGENCY PERMITTED. (1) A brokerage may act as a limited disclosed dual agent only with the express written consent of all parties to the transaction. Such consent shall contain separate signatures of all parties to the transaction and shall contain the following language:

CONSENT TO LIMITED DUAL REPRESENTATION

The undersigned have received, read and understand the Agency Disclosure Brochure. The undersigned understand that the brokerage involved in this transaction will be or may be providing agency representation to both the buyer(s) and the seller(s). The undersigned each understand that as agents for both buyer and seller, the brokerage(s) will be limited dual agents and cannot legally disclose to either party certain confidential information concerning price negotiations, terms or factors motivating the buyer to buy or the seller to sell without specific written permission of the disclosing party. The specific duties, obligations and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by Section 54-206~~3~~85, Idaho Code. The undersigned each understand that a limited dual agent does not have a duty of undivided loyalty to either client.

(2) All duties and obligations owed to a buyer or a seller client under section 54-206~~5~~87, Idaho Code, apply to limited disclosed dual agency relationships to the extent they do not unreasonably conflict with duties and obligations owed to the other client, except that:

(a) A limited disclosed dual agent shall not disclose any of the following without express written consent of the client to whom the information pertains:

(i) That a buyer is willing to pay more than the listing price of the property;

(ii) That a seller is willing to accept less than the listing price for the property;

(iii) The factors motivating the buyer to buy or the seller to sell;

(iv) That a buyer or seller will agree to a price or financing terms other than those offered.

(b) A limited disclosed dual agent does not have a duty of undivided loyalty to either buyer/client or seller/client, and by consenting to limited dual agency, the buyer and seller agree to those limitations.

(3) No cause of action for any buyer or seller shall arise against a limited disclosed dual agent for making any required or permitted disclosure under this act, nor does making such disclosure terminate the limited disclosed dual agency.

(4) Receipt of the agency disclosure brochure required by section 54-206~~3~~85, Idaho Code, and the signed consent to dual representation by buyer and seller agreeing to limited disclosed dual agency representation shall be sufficient informed legal consent to dual representation under this act. A consent by the buyer and seller to possible dual representation in the future, such as may be contained in a written marketing or representation agreement between a brokerage and client, shall also be considered effective and informed legal consent to dual representation.

SECTION 11. That Section 54-2067, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~7~~89. BROKER COMPENSATION. Payment of compensation or a written agreement only for payment of compensation to a brokerage shall not constitute an express agreement creating an agency relationship.

SECTION 12. that Section 54-2068, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~8~~90. WRITTEN OFFICE POLICY REQUIRED. Each designated broker shall be responsible to adopt and maintain in each office, including branch offices, a written policy which identifies and describes the types of representation in which that brokerage and its affiliated licensees may engage with any buyer or seller, or both, as a part of that office's real estate brokerage services.

SECTION 13. That Section 54-2069, Idaho Code, be, and the same is hereby amended to read as follows:

54-206~~9~~91. DURATION OF EXPRESS REPRESENTATION. (1) A brokerage representation under this act shall commence on the date indicated on the written agreement between the brokerage and a buyer/client or seller/client and shall end at the earliest of:

(a) Performance or completion of the representation;

(b) Agreement by the parties;

(c) Expiration of the agency relationship agreement.

(2) Nothing in this act shall prohibit the brokerage and the buyer or seller from changing the legal nature of their relationship or representation in accordance with this act during the course of the

real estate transaction. However, the brokerage is not relieved thereby from meeting the disclosure requirements and obtaining the written agreements, consents or confirmations required by this act.

SECTION 14. That Section 54-2070, Idaho Code, be, and the same is hereby amended to read as follows:

54-20~~70~~92. DUTIES AND OBLIGATIONS OWED AFTER TERMINATION OF REPRESENTATION. Except as otherwise agreed in writing, a brokerage owes no further duty or obligation to a client after termination of the agreed representation except:

(1) Accounting for all moneys and property received by the brokerage during the representation; and

(2) Maintaining the confidentiality of all information defined as confidential client information by this act.

SECTION 15. That Section 54-2071, Idaho Code, be, and the same is hereby amended to read as follows:

54-20~~71~~93. VICARIOUS LIABILITY ABOLISHED. (1) A client, as defined in this act, whether buyer or seller, shall not be liable for a wrongful act, error, omission or misrepresentation of his broker/representative or subagent unless the client had actual knowledge of or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(2) A licensee or brokerage engaged in representation of a client shall not be liable for a wrongful act, error, omission or misrepresentation of the client or of any subagent unless the licensee or brokerage had actual knowledge or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(3) Nothing in this section shall be construed to diminish or limit any of the broker's or licensee's responsibilities under chapter 20, title 54, Idaho Code, or the rules promulgated thereunder.

SECTION 16. That Section 54-2072, Idaho Code, be, and the same is hereby amended to read as follows:

54-20~~72~~94. REPRESENTATION NOT FIDUCIARY IN NATURE. While this act is intended to abrogate the common law of agency as it applies to regulated real estate transactions, nothing in this act shall prohibit a brokerage from entering into a written agreement with a buyer or seller which creates an agency relationship in which the duties and obligations are greater than those provided in this act. However, unless greater duties are specifically agreed to in writing between the brokerage and a represented client, the duties and obligations owed to a represented client in a regulated real estate transaction are not fiduciary in nature and are not subject to equitable remedies for breach of fiduciary duty.

SECTION 17. That Section 54-2073, Idaho Code, be, and the same is hereby amended to read as follows:

54-20~~73~~95. CONFLICTS WITH OTHER LAW. If the provisions of this act are found to be in conflict with any other provision of Idaho law, the provisions of this act shall control.

SECTION 18. That Chapter 20, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2096, Idaho Code, and to read as follows:

54-2096. SEVERABILITY. The provisions of this chapter are severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

SECTION 19. That Section 54-2074, Idaho Code, be, and the same is hereby amended to read as follows:

54-20~~74~~97. RULEMAKING AUTHORITY OF THE COMMISSION. The Idaho real estate commission shall have authority to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, to implement the provisions of this ~~act~~ chapter.

SECTION 20. That Section 33-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2101A. JUNIOR COLLEGE SHALL MEAN COMMUNITY COLLEGE. Notwithstanding any other provision of law, in sections 21-805, 21-806, 21-809, 23-404, 31-808, 33-101, 33-107, 33-107B, 33-601, 33-1252, 33-2101, 33-2102, 33-2103, 33-2104, 33-2105, 33-2106, 33-2107, 33-2107A, 33-2107B, 33-2107C, 33-2108, 33-2109A, 33-2110, 33-2110A, 33-2110B, 33-2111, 33-2112, 33-2113, 33-2114, 33-2115, 33-2116, 33-2117, 33-2118, 33-2119, 33-2121, 33-2122, 33-2123, 33-2124, 33-2125, 33-2126, 33-2130, 33-2135, 33-2137, 33-2138, 33-2139, 33-2141, 33-2142, 33-2143, 33-2144, 33-2211, 33-3716, 33-3717, 33-4001, 33-4003, 33-4004, 33-4006, 33-4201, 33-4306, 33-4315, 46-314, 50-1405, 50-1721, ~~54-2029,~~ 57-1105A, 59-1324, 59-1371, 59-1374, 67-2320, 67-2322, 67-5309C and 67-5332, Idaho Code, the term "junior college" shall mean and shall be denoted as "community college."

SECTION 21. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 286
(S.B. No. 1334)

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 28, IDAHO CODE, TO ESTABLISH THE UNIFORM ELECTRONIC TRANSACTIONS ACT, TO PROVIDE A SHORT

TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE SCOPE, TO PROVIDE PROSPECTIVE APPLICATION, TO PROVIDE FOR USE OF ELECTRONIC RECORDS AND SIGNATURES, TO PROVIDE CONSTRUCTION AND APPLICATION, TO PROVIDE FOR LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES AND ELECTRONIC CONTRACTS, TO PROVIDE FOR TREATMENT OF INFORMATION REQUIRED TO BE IN WRITING AND PRESENTATION OF RECORDS, TO PROVIDE FOR ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE, TO PROVIDE FOR EFFECT OF CHANGE OR ERROR, TO PROVIDE NOTARIZATION AND ACKNOWLEDGMENT, TO PROVIDE FOR RETENTION OF ELECTRONIC RECORDS AND USE OF ORIGINALS, TO PROVIDE FOR ADMISSIBILITY IN EVIDENCE, TO PROVIDE TREATMENT OF AN AUTOMATED TRANSACTION, TO PROVIDE TIME AND PLACE OF SENDING AND RECEIPT, TO PROVIDE FOR TREATMENT OF TRANSFERABLE RECORDS, TO PROVIDE FOR CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES, TO PROVIDE FOR ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES, TO PROVIDE INTEROPERABILITY AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 50, Title 28, Idaho Code, and to read as follows:

CHAPTER 50
UNIFORM ELECTRONIC TRANSACTIONS ACT

28-50-101. SHORT TITLE. This act may be cited as the "Uniform Electronic Transactions Act."

28-50-102. DEFINITIONS. In this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one (1) or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part,

without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality or other political subdivision of a state.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases or the like, but shall not include the electronic transfer of funds to or from the state.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two (2) or more persons relating to the conduct of business, commercial or governmental affairs.

28-50-103. SCOPE. (a) Except as otherwise provided in subsection (b) of this section, this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils or testamentary trusts; and

(2) The uniform commercial code, other than sections 28-1-107 and 28-1-206, Idaho Code, chapter 2, title 28, Idaho Code (uniform commercial code -- sales), and chapter 12, title 28, Idaho Code (uniform commercial code -- leases):

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter

under subsection (b) of this section to the extent it is governed by a law other than those specified in subsection (b) of this section.

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

28-50-104. PROSPECTIVE APPLICATION. This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the initial effective date of this chapter.

28-50-105. USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES -- VARIATION BY AGREEMENT. (a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

28-50-106. CONSTRUCTION AND APPLICATION. This chapter must be construed and applied:

(1) To facilitate electronic transactions consistent with other applicable law;

(2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

28-50-107. LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES AND ELECTRONIC CONTRACTS. (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

28-50-108. PROVISION OF INFORMATION IN WRITING -- PRESENTATION OF RECORDS. (a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law other than this chapter requires a record: (i) to be posted or displayed in a certain manner; (ii) to be sent, communicated, or transmitted by a specified method; or (iii) to contain information that is formatted in a certain manner, the following rules apply:

(1) The record must be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in subsection (d)(2) of this section, the record must be sent, communicated or transmitted by the method specified in the other law.

(3) The record must contain the information formatted in the manner specified in the other law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but:

(1) To the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (a) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) A requirement under a law other than this chapter to send, communicate or transmit a record by regular United States mail, may be varied by agreement to the extent permitted by the other law.

28-50-109. ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE. (a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) of this section is determined from the context and surrounding circumstances at the time of its creation, execution or adoption, including the parties' agreement, if any, and otherwise as provided by law.

28-50-110. EFFECT OF CHANGE OR ERROR. If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one (1) party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(A) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(B) Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) Has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subsection (1) nor (2) of this section apply, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Subsections (2) and (3) of this section may not be varied by agreement.

28-50-111. NOTARIZATION AND ACKNOWLEDGMENT. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

28-50-112. RETENTION OF ELECTRONIC RECORDS -- ORIGINALS. (a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(1) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(2) Remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) of this section does not apply to any information, the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subsection (a) of this section by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an elec-

tronic record retained in accordance with subsection (a) of this section.

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a) of this section.

(f) A record retained as an electronic record in accordance with subsection (a) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the initial effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

28-50-113. ADMISSIBILITY IN EVIDENCE. In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

28-50-114. AUTOMATED TRANSACTION. In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

28-50-115. TIME AND PLACE OF SENDING AND RECEIPT. (a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(1) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) Is in a form capable of being processed by that system; and

(3) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(1) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) It is in a form capable of being processed by that system.

(c) Subsection (b) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d) of this section.

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one (1) place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under subsection (b) of this section even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a) of this section, or purportedly received under subsection (b) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

28-50-116. TRANSFERABLE RECORD. (a) In this section, "transferable record" means an electronic record that:

(1) Would be a note under chapter 3, title 28, Idaho Code (uniform commercial code -- negotiable instruments) or a document under chapter 7, title 28, Idaho Code (uniform commercial code -- warehouse receipts, bills of lading and other documents of title) if the electronic record were in writing; and

(2) The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored and assigned in such a manner that:

(1) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5) and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

(A) The person to which the transferable record was issued; or

(B) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 28-1-201(20), Idaho Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under chapters 1 through 12, title 28, Idaho Code (uniform commercial code), including, if the applicable statutory requirements under section 28-3-302(1), 28-7-501 or 28-9-308, Idaho Code, are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession and indorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under chapters 1 through 12, title 28, Idaho Code (uniform commercial code).

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

28-50-117. CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES. Each governmental agency of this state shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.

28-50-118. ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES. (a) Except as otherwise provided in section 28-50-112(f), Idaho Code, each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (a) of this section, the governmental agency, giving due consideration to security, may specify:

(1) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(2) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(4) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in section 28-50-112(f), Idaho Code, this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

28-50-119. INTEROPERABILITY. The governmental agency of this state which adopts standards pursuant to section 28-50-118, Idaho Code, may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

28-50-120. SEVERABILITY CLAUSE. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Approved April 14, 2000.

CHAPTER 287
(S.B. No. 1335)

AN ACT

RELATING TO SENTENCING IN CAPITAL CASES; AMENDING SECTION 19-2515, IDAHO CODE, TO INCLUDE AS A STATUTORY AGGRAVATING CIRCUMSTANCE WHETHER THE MURDER WAS COMMITTED AGAINST A FORMER OR PRESENT PEACE OFFICER, EXECUTIVE OFFICER, OFFICER OF THE COURT, JUDICIAL OFFICER, OR PROSECUTING ATTORNEY BECAUSE OF THE VICTIM'S OFFICIAL STATUS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 19-2515, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515. INQUIRY INTO MITIGATING OR AGGRAVATING CIRCUMSTANCES -- SENTENCE IN CAPITAL CASES -- STATUTORY AGGRAVATING CIRCUMSTANCES -- JUDICIAL FINDINGS. (a) After a plea or verdict of guilty the court shall convene a hearing to receive evidence and argument in aggravation and mitigation of the punishment.

(b) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-223, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.

(c) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless a notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code, and the court finds at least one (1) statutory aggravating circumstance. Where the court finds a statutory aggravating circumstance the court shall sentence the defendant to death unless the court finds that mitigating circumstances which may be presented are sufficiently compelling that the death penalty would be unjust.

(d) One convicted of murder in the first degree shall be liable to imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

(e) In all cases in which the death penalty may be imposed, the court shall, after conviction, order a presentence investigation to be conducted according to such procedures as are prescribed by law and shall thereafter convene a sentencing hearing for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. At such hearing, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Should any party present aggravating or mitigating evidence which has not previously been disclosed to the opposing party or parties, the court shall, upon request, adjourn the hearing until the party desiring to do so has had a reasonable opportunity to respond to such evidence. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing. Evidence offered at trial but not admitted may be repeated or amplified if necessary to complete the record.

(f) Upon the conclusion of the evidence and arguments in mitigation and aggravation the court shall make written findings setting forth any statutory aggravating circumstance found. Further, the court shall set forth in writing any mitigating factors considered and, if the court finds that mitigating circumstances are sufficiently compelling that the death penalty would be unjust, the court shall detail in writing its reasons for so finding.

(g) Upon making the prescribed findings, the court shall impose

sentence within the limits fixed by law.

(h) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(1) The defendant was previously convicted of another murder.

(2) At the time the murder was committed the defendant also committed another murder.

(3) The defendant knowingly created a great risk of death to many persons.

(4) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.

(5) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(6) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.

(7) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.

(8) The defendant, by prior conduct or conduct in the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.

(9) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty <u>or because of the victim's former or present official status.</u>

(10) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 288
(H.B. No. 389, As Amended)

AN ACT

RELATING TO THE IDAHO BANK ACT; AMENDING SECTIONS 26-101 AND 26-1111, IDAHO CODE, TO ADD CODE REFERENCES; AMENDING SECTION 26-1203, IDAHO CODE, TO MAKE THE SECTION APPLICABLE TO TRUST COMPANIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 12, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1204, IDAHO CODE, TO PROVIDE CIVIL REMEDIES FOR FALSE STATEMENTS REGARDING BANKS AND TRUST COMPANIES; REPEALING CHAPTER 13, TITLE 26, IDAHO CODE; AMENDING SECTION 26-1401, IDAHO CODE, TO ADD CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-1808, IDAHO CODE, TO PROVIDE THAT SAVINGS BANKS WHICH HAVE RECEIVED A CHARTER AUTHORIZING THE OPERATION OF A TRUST DEPARTMENT MAY ENGAGE IN THE TRUST BUSINESS IN ACCORDANCE WITH CHAPTERS 32 THROUGH 36, IDAHO

CODE; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 32, TITLE 26, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE THE PURPOSES OF THE ACT, TO PROVIDE DEFINITIONS, TO IDENTIFY PERSONS AUTHORIZED TO ACT AS A FIDUCIARY, TO PROVIDE ACTIVITIES NOT REQUIRING A CHARTER, TO PROVIDE FOR TRUST BUSINESS OF A STATE TRUST INSTITUTION, TO PROVIDE FOR TRUST BUSINESS OF AN OUT-OF-STATE TRUST INSTITUTION AND TO PROVIDE FOR THE NAME OF A TRUST INSTITUTION; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 33, TITLE 26, IDAHO CODE, TO PROVIDE THE AUTHORITY OF A STATE TRUST COMPANY OR A STATE BANK TO ACT AS A FIDUCIARY AND ENGAGE IN TRUST BUSINESS, TO PROVIDE THE AUTHORIZED BUSINESS AT BRANCHES AND OFFICES OF STATE TRUST INSTITUTIONS, TO REQUIRE A STATE TRUST COMPANY PRINCIPAL OFFICE, TO PROVIDE FOR TRUST OFFICES AND REPRESENTATIVE TRUST OFFICES AND TO PROVIDE FOR OUT-OF-STATE OFFICES; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 34, TITLE 26, IDAHO CODE, TO PROVIDE FOR TRUST BUSINESS AT A BRANCH OR TRUST OFFICE OR REPRESENTATIVE TRUST OFFICE, TO PROVIDE FOR THE ESTABLISHMENT OR ACQUISITION OF AN INTERSTATE TRUST OFFICE OR REPRESENTATIVE OFFICE, TO REQUIRE AN OUT-OF-STATE TRUST INSTITUTION DESIRING TO ESTABLISH AND MAINTAIN A TRUST OFFICE IN THIS STATE TO GIVE WRITTEN NOTICE TO THE DIRECTOR, TO PROVIDE CONDITIONS FOR ESTABLISHMENT OF A TRUST OFFICE IN THIS STATE BY AN OUT-OF-STATE TRUST INSTITUTION, TO PROVIDE FOR ESTABLISHMENT AND REGISTRATION OF A REPRESENTATIVE TRUST OFFICE IN THIS STATE BY AN OUT-OF-STATE TRUST INSTITUTION, TO PROVIDE FOR ADDITIONAL TRUST OFFICES OF AN OUT-OF-STATE TRUST INSTITUTION AND TO REQUIRE NOTICE OF A SUBSEQUENT MERGER, TRANSFER OR CLOSING AFFECTING AN OUT-OF-STATE TRUST INSTITUTION MAINTAINING AN OFFICE IN THIS STATE; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 35, TITLE 26, IDAHO CODE, TO PROVIDE PREREQUISITES FOR A STATE TRUST COMPANY TO ENGAGE IN TRUST BUSINESS, TO PROVIDE FOR A CHARTER APPLICATION AND APPLICATION FEE, TO PROVIDE THE MINIMUM CAPITAL FOR ISSUANCE OF A CHARTER, TO PROVIDE FOR ISSUANCE OF A CHARTER, TO PROVIDE FOR RECORDS AND PRESERVATION OF RECORDS, TO PROVIDE FOR DISCLOSURE OF INFORMATION, TO PROVIDE FOR TRUST FUNDS, TO PROHIBIT LOANS TO DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES OR SUBSIDIARIES AND TO AUTHORIZE THE DIRECTOR TO SEEK A COURT ORDER REQUIRING A STATE TRUST INSTITUTION TO CLOSE A TRUST IF THE CLOSING HAS BEEN UNREASONABLY DELAYED; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 36, TITLE 26, IDAHO CODE, TO PROVIDE THE RULEMAKING AUTHORITY OF THE DIRECTOR, TO PROVIDE FOR EXAMINATIONS, PERIODIC REPORTS, COOPERATIVE AGREEMENTS AND ASSESSMENT OF FEES, TO PROVIDE FOR ADMINISTRATIVE ORDERS, TO PROVIDE FOR NOTICE AND OPPORTUNITY FOR HEARING, TO AUTHORIZE THE DIRECTOR TO ISSUE SUBPOENAS AND EXAMINE WITNESSES UNDER OATH, TO AUTHORIZE THE DIRECTOR TO REQUIRE REMOVAL OF DIRECTORS, OFFICERS AND EMPLOYEES UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THE AUTHORITY OF THE DIRECTOR IF THE CAPITAL OF A STATE TRUST COMPANY IS IMPAIRED OR THE AFFAIRS OF THE COMPANY ARE IN AN UNSOUND CONDITION, TO PROVIDE FOR LEGAL ACTION BY THE DIRECTOR AND OTHER PERSONS AND TO AUTHORIZE CONTINUED OPERATION OF BANKS CHARTERED TO OPERATE A TRUST DEPARTMENT ON JULY 1, 2000, UPON CONFORMITY WITH THE PROVISIONS OF THE ACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 26-101, Idaho Code, be, and the same is hereby amended to read as follows:

26-101. TITLE. This act, comprising chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ~~13,~~ 14, 15, 16, 17, 18, ~~and~~ 26, 32, 33, 34, 35 and 36, title 26, Idaho Code, as such chapters may be hereafter amended, shall be known as the "Idaho Bank Act" and shall be applicable to all corporations, copartnerships, cooperative associations and persons engaged in the business of banking in the state of Idaho.

SECTION 2. That Section 26-1111, Idaho Code, be, and the same is hereby amended to read as follows:

26-1111. RECORDS NOT PUBLIC. (1) The department of finance shall keep proper books and records of all regulatory acts, matters and things done by it under the provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ~~13,~~ 18, ~~19,~~ 21, ~~and~~ 26, 32, 33, 34, 35 and 36, title 26, Idaho Code, as records of its office, but the same shall be subject to disclosure according to chapter 3, title 9, Idaho Code, except as otherwise provided in this section and in sections 26-1112 and 67-2743E, Idaho Code.

(2) All written communications and copies thereof, between the department, the director, department employees and any bank, bank holding company, trust company, savings and loan association and credit union which relate in any manner to the examination or condition of the financial institution, are the property of the department of finance and, if acquired by any person, shall be returned to the department upon written demand.

(3) (a) The director of the department of finance, any federal bank or other financial institution regulatory or supervisory agency, and any bank, bank holding company, trust company, savings and loan association, or credit union incorporated or chartered under title 26, Idaho Code, or under federal law or the law of any state and doing business in the state of Idaho, shall each have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, and the contents of any documents relating to any confidential communications, between the financial institution and the department of finance or federal bank or financial institution regulatory or supervisory agency made during the regulatory relationship.

(b) A communication is confidential if it is made during the regulatory relationship between the department of finance or the federal bank or other financial institution regulatory or supervisory agency and any such bank, bank holding company, trust company, savings and loan association or credit union, and if the communication is not designed or intended for disclosure to any other parties.

(c) The privilege may be claimed by the financial institution or by the department of finance or the federal bank or other financial institution regulatory or supervisory agency, or by the lawyer for either. The privilege may be waived only in accordance

with this section and sections 26-1112 and 67-2743E, Idaho Code.

(d) The director of the department of finance or the appropriate officer or employee of the federal bank or other financial institution regulatory or supervisory agency may disclose confidential communications between the department or agency and financial institutions to the court, in camera, in a civil action. Such disclosure shall also be a privileged communication and the privilege may be claimed by the director, officer or employee or his lawyer.

(e) No sanction may be imposed upon any financial institution as a result of the claim of a privilege by the financial institution or the director of the department of finance or the officer or employee of the federal supervisory agency under this section.

SECTION 3. That Section 26-1203, Idaho Code, be, and the same is hereby amended to read as follows:

26-1203. FALSE STATEMENTS REGARDING BANKS AND TRUST COMPANIES -- PENALTY. Any person who shall ~~wilfully~~ willfully and maliciously make, circulate or transmit to another or others any false statement, rumor, or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony.

SECTION 4. That Chapter 12, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1204, Idaho Code, and to read as follows:

26-1204. FALSE STATEMENTS REGARDING BANKS AND TRUST COMPANIES -- CIVIL REMEDIES. (1) It is unlawful for any person to make, circulate or transmit to another or others any false statement, rumor, or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor.

(2) Whenever it appears to the director that any person has engaged in any act constituting a violation of this section, he may in his discretion bring an action in any court of competent jurisdiction to enjoin any such act and to enforce compliance with this section. Upon a showing that a person has engaged or is about to engage in an act constituting a violation of this section, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The director shall not be required to furnish a bond. In addition to the foregoing, the director may be granted the following remedies:

(a) An order that the person violating this section pay a civil penalty to the general fund in an amount not to exceed ten thousand dollars ($10,000) for each violation;

(b) An order that the person violating this section pay costs to the department, which may include an amount representing reason-

able attorney's fees and reimbursements for investigative efforts;
(c) An order granting other appropriate remedies upon a proper showing.

SECTION 5. That Chapter 13, Title 26, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 26-1401, Idaho Code, be, and the same is hereby amended to read as follows:

26-1401. DEFINITIONS. In this chapter:
(1) "Affiliated bank," with respect to a trust company or another bank, means any bank:
(a) That owns, directly or indirectly, eighty ~~per-cent~~ percent (80%) or more of the voting stock of such trust company or other bank; or
(b) Eighty ~~per-cent~~ percent (80%) or more of the voting stock of which is owned, directly or indirectly, by the same bank holding company that owns, directly or indirectly, eighty ~~per-cent~~ percent (80%) or more of the voting stock of such trust company or other bank.
(2) "Affiliated trust company" means a trust company with a principal place of business located within the state of Idaho, and eighty ~~per--cent~~ percent (80%) or more of the voting stock of which is owned, directly or indirectly, by the same bank or bank holding company that owns, directly or indirectly, eighty ~~per-cent~~ percent (80%) or more of the voting stock of a trust company or a bank with respect to which the affiliated trust company is participating in a transfer of fiduciary capacities as provided in this chapter.
(3) "Bank" means any state bank or national bank whose operations are principally conducted in this state and which is authorized to engage in trust business.
(4) "Bank holding company" means a bank holding company as defined in the United States bank holding company act of 1956, as amended.
(5) "Director" means the director of the department of finance.
(6) "Fiduciary account," with respect to an affiliated bank, affiliated trust company, or trust company, means an estate, trust, or other fiduciary relationship, and includes all rights, privileges, duties, obligations, and undertakings thereof, that have been established or provided for by a written instrument or in any other lawful manner with such affiliated bank, affiliated trust company or trust company.
(7) "Fiduciary capacity" means a capacity resulting from the undertaking to act alone or jointly with others as a personal representative of a decedent's estate, a guardian or conservator of an estate, a receiver, a trustee under appointment of any court or under authority of any law, or a trustee for any other purpose permitted by law.
(8) "Principal place of business," with respect to any affiliated bank, affiliated trust company, or trust company means such entity's principal place of business within the state of Idaho.
(9) "Trust company" means a corporation holding a charter to

engage in the trust business in this state, issued pursuant to chapters ~~13~~ 32 through 36, title 26, Idaho Code, with a principal place of business located within the state of Idaho.

SECTION 7. That Section 26-1808, Idaho Code, be, and the same is hereby amended to read as follows:

26-1808. TRUST POWERS. Savings banks which have received a charter from the director authorizing the operation of a trust department may ~~exercise trust powers subject to the prior written authorization by the director to establish a trust department in the savings bank~~ engage in the trust business in accordance with chapters ~~13~~ 32 through 36, title 26, Idaho Code.

SECTION 8. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 32, Title 26, Idaho Code, and to read as follows:

CHAPTER 32
TRUST INSTITUTIONS -- GENERAL PROVISIONS

26-3201. TITLE. Chapters 32 through 36, title 26, Idaho Code, shall be known and may be cited as the "Idaho Trust Institutions Act."

26-3202. PURPOSES OF THE ACT. The purposes of this act are to permit:

(1) State banks and state trust companies to engage in the trust business in this state; and

(2) Banks and other depository institutions, foreign banks and trust companies to engage in the trust business on a multistate and international basis to the extent consistent with the safety and soundness of the trust institutions engaged in a trust business in this state and the protection of consumers, clients and other customers of such trust institutions.

26-3203. DEFINITIONS. The following definitions shall be liberally construed to accomplish the purposes of this act. In this act, unless the context otherwise requires:

(1) "Account" means the client relationship established with a trust institution involving the transfer of funds or property to the trust institution, including a relationship in which the trust company acts as trustee, executor, administrator, guardian, custodian, conservator, bailee, receiver, registrar, or agent, but excluding a relationship in which the trust institution acts solely in an advisory capacity.

(2) "Act as a fiduciary" or "acting as a fiduciary" means to:

(a) Accept or execute trusts, including to:

(i) Act as trustee under a written agreement;

(ii) Receive money or other property in its capacity as trustee for investment in real or personal property;

(iii) Act as trustee and perform the fiduciary duties committed or transferred to it by order of a court of competent jurisdiction;

(iv) Act as trustee of the estate of a deceased person; or

(v) Act as trustee for a minor or incapacitated person;

(b) Administer in any other fiduciary capacity real or tangible personal property; or

(c) Act pursuant to order of court of competent jurisdiction as executor or administrator of the estate of a deceased person or as a guardian or conservator for a minor or incapacitated person.

(3) "Authorized trust institution" means any state trust company, trust office or representative trust office.

(4) "Bank" has the meaning set forth in 12 U.S.C. 1813(h); provided that the term "bank" shall not include any "foreign bank" as defined in 12 U.S.C. 3101(7), except for any such foreign bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, the deposits of which are insured by the federal deposit insurance corporation.

(5) "Bank supervisory agency" means:

(a) Any agency of another state with primary responsibility for chartering and supervising a trust institution; and

(b) The office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, the office of thrift supervision and any successor to these agencies.

(6) "Branch" with respect to a depository institution has the meaning set forth in section 26-106, Idaho Code.

(7) "Charter" means the authority issued by the director or a bank supervisory agency authorizing a trust institution to act as a fiduciary in its home state.

(8) "Client" means a person to whom a trust institution owes a duty or obligation under a trust or other account administered by the trust institution or as an advisor or agent, regardless of whether the trust institution owes a fiduciary duty to the person. The term includes the noncontingent beneficiaries of an account.

(9) "Company" includes a bank, trust company, corporation, limited liability company, partnership, association, business trust or another trust.

(10) "Department" means the Idaho department of finance.

(11) "Depository institution" means any company chartered to act as a fiduciary and included for any purpose within any of the definitions of "insured depository institution" as set forth in 12 U.S.C. 1813(c)(2) and (3).

(12) "Director" means the director of the department of finance.

(13) "Foreign bank" means a foreign bank, as defined in section 1(b)(7) of the international banking act of 1978, chartered to act as a fiduciary in a state other than this state.

(14) "Home state" means:

(a) With respect to a federally chartered trust institution and a foreign bank, the state in which such institution maintains its principal office; and

(b) With respect to any other trust institution, the state which chartered such institution.

(15) "Home state regulator" means the bank supervisory agency with primary responsibility for chartering and supervising an out-of-state trust institution.

(16) "Host state" means a state, other than the home state of a trust institution, or a foreign country in which the trust institution maintains or seeks to acquire or establish an office.

(17) "New trust office" means a trust office located in a host state which:

(a) Is originally established by the trust institution as a trust office; and

(b) Does not become a trust office of the trust institution as a result of:

(i) The acquisition of another trust institution or trust office of another trust institution; or

(ii) A merger, consolidation, or conversion involving any such trust institution or trust office.

(18) "Office" with respect to a trust institution means the principal office, a trust office or a representative trust office, but not a branch.

(19) "Out-of-state bank" means a bank chartered to act as a fiduciary in any state or states other than this state.

(20) "Out-of-state trust company" means either a trust company that is not a state trust company or a savings association whose principal office is not located in this state.

(21) "Out-of-state trust institution" means a trust institution that is not a state trust institution.

(22) "Person" means an individual, a company or any other legal entity.

(23) "Principal office" with respect to:

(a) A state trust company, means a location registered with the director as the state trust company's home office at which:

(i) The state trust company does business;

(ii) The state trust company keeps its corporate books and a set of its material records, including material fiduciary records; and

(iii) At least one (1) executive officer of the state trust company maintains an office.

(b) A trust institution other than a state trust company, means its principal place of business in the United States.

(24) "Representative trust office" means an office at which a trust institution has been authorized by the director to engage in a trust business other than acting as a fiduciary.

(25) "Savings association" means a depository institution that is neither a bank nor a foreign bank.

(26) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.

(27) "State bank" means:

(a) A bank which has received a charter from the director authorizing it to operate a trust department; or

(b) A foreign bank as defined in section 1(b)(7) of the international banking act of 1978 chartered to act as a fiduciary in this state.

(28) "State trust company" means a corporation organized under this act and chartered to act as a fiduciary by the state, including a

trust company organized under the laws of this state before the effective date of this act.

(29) "State trust institution" means a trust institution having its principal office in this state.

(30) "Trust business" means the holding out by a person to the public by advertising, solicitation or other means that the person is available to perform any service of a fiduciary in this or another state including, but not limited to:

(a) Acting as a fiduciary; or

(b) To the extent not acting as a fiduciary, any of the following:

(i) Receiving for safekeeping personal property of every description;

(ii) Acting as assignee, bailee, conservator, custodian, escrow agent, registrar, receiver or transfer agent; or

(iii) Acting as financial advisor, investment advisor or manager, agent or attorney-in-fact in any agreed upon capacity.

(31) "Trust company" means a state trust company or any other company chartered to act as a fiduciary that is neither a depository institution nor a foreign bank.

(32) "Trust institution" means a depository institution, foreign bank, state bank or trust company.

(33) "Trust office" means an office, other than the principal office, at which a trust institution is licensed by the director to act as a fiduciary.

(34) "Unauthorized trust activity" means:

(a) A person, other than one identified in section 26-3204(1), Idaho Code, acting as a fiduciary within this state;

(b) A person engaging in a trust business in this state at any office of such person that is not its principal office, if it is a state trust institution, or that is not a trust office or a representative trust office of such person, unless the person has been authorized by the director, in his discretion, to engage in a trust business in this state in another manner and upon such conditions as he may require; or

(c) An out-of-state trust institution engaging in a trust business in this state at any time an order issued by the director pursuant to section 26-3603(2), Idaho Code, is in effect.

26-3204. PERSONS AUTHORIZED TO ACT AS A FIDUCIARY. (1) No person shall act as a fiduciary in this state except:

(a) A state trust company;

(b) A state bank;

(c) A savings bank organized under the laws of this state and authorized to act as a fiduciary pursuant to the savings bank act, chapter 18, title 26, Idaho Code;

(d) A national bank authorized by the comptroller of the currency to act as a fiduciary pursuant to 12 U.S.C. 92a;

(e) A federally chartered savings association having its principal office in this state and authorized by its federal chartering authority to act as a fiduciary;

(f) An out-of-state bank with a branch in this state established or maintained pursuant to the interstate banking act, chapter 26,

title 26, Idaho Code, or the interstate branching act, chapter 16, title 26, Idaho Code, or a trust office licensed by the director pursuant to this act;

(g) An out-of-state trust company with a trust office licensed by the director pursuant to this act;

(h) A foreign bank with a trust office licensed by the director pursuant to this act; or

(i) Such other person as may be authorized by the director, in his discretion, and upon such conditions as he may require.

(2) No person shall engage in an unauthorized trust activity.

26-3205. ACTIVITIES NOT REQUIRING A CHARTER. Notwithstanding any other provision of this act, a person does not engage in the trust business or in any other business in a manner requiring a charter under this act, or in an unauthorized trust activity by:

(1) Acting in a manner authorized by law and in the scope of authority as an agent of a trust institution with respect to an activity which is not an unauthorized trust activity;

(2) Obtaining trust business as a result of an existing attorney-client relationship or certified public accountant-client relationship;

(3) Acting as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(4) Receiving and distributing rents and proceeds of sale as a licensed real estate broker on behalf of a principal in a manner authorized by the Idaho real estate commission;

(5) Engaging in a securities transaction or providing an investment advisory service as a licensed and registered broker-dealer, investment advisor or registered representative thereof, provided the activity is regulated by the Idaho department of finance or the securities and exchange commission;

(6) Engaging in the sale and administration of an insurance product by an insurance company or agent licensed by the Idaho department of insurance to the extent that the activity is regulated by the Idaho department of insurance;

(7) Engaging in the lawful sale of prepaid funeral contracts under a permit issued by the Idaho board of morticians or engaging in the lawful business of a perpetual care cemetery under the Idaho endowment care cemetery act;

(8) Acting as trustee under a voting trust as provided by the Idaho business corporation act;

(9) Acting as trustee by a public, private, or independent institution of higher education or a university system, including its affiliated foundations or corporations, with respect to endowment funds or other funds owned, controlled, provided to or otherwise made available to such institution with respect to its educational or research purposes;

(10) Engaging in other activities expressly excluded from the application of this act, by rule of the director;

(11) Acting as a fiduciary for relatives;

(12) Provided the company is a trust institution and is not barred by order of the director from engaging in a trust business in this

state pursuant to section 26-3603(2), Idaho Code:

(a) Marketing or soliciting in this state through the mails, telephone, any electronic means or in person with respect to acting or proposing to act as a fiduciary outside of this state;

(b) Delivering money or other intangible assets and receiving the same from a client or other person in this state; or

(c) Accepting or executing outside of this state a trust of any client or otherwise acting as a fiduciary outside of this state for any client;

(13) Acting pursuant to court appointment as:

(a) A personal representative of a decedent's estate; or

(b) A guardian or conservator of an estate.

26-3206. TRUST BUSINESS OF STATE TRUST INSTITUTION. (1) A state trust institution may act as a fiduciary or otherwise engage in a trust business in this or any other state or foreign country, subject to complying with applicable laws of such state or foreign country, at an office established and maintained pursuant to this act, at a branch or at any location other than an office or branch.

(2) In addition, a state trust institution may conduct any activities at any office outside this state that are permissible for a trust institution chartered by the host state where the office is located, except to the extent such activities are expressly prohibited by the laws of this state or by any regulation or order of the director applicable to the state trust institution; provided however, that the director may waive any such prohibition if the director determines, by order or rule, that the involvement of out-of-state offices of state trust institutions in particular activities would not threaten the safety or soundness of such state trust institutions.

26-3207. TRUST BUSINESS OF OUT-OF-STATE TRUST INSTITUTION. An out-of-state trust institution which establishes or maintains one (1) or more offices in this state under this act, may conduct any activity at each such office which would be authorized under the laws of this state for a state trust institution to conduct at such an office.

26-3208. NAME OF TRUST INSTITUTION. A state trust company or out-of-state trust institution may register any name with the director in connection with establishing a principal office, trust office or representative trust office in this state pursuant to this act, except that the director may determine that a name proposed to be registered is potentially misleading to the public and require the registrant to select a name which is not potentially misleading.

SECTION 9. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 33, Title 26, Idaho Code, and to read as follows:

CHAPTER 33

TRUST INSTITUTIONS -- STATE TRUST INSTITUTION OFFICES

26-3301. TRUST BUSINESS. A state trust company or a state bank may:

(1) Perform any act as a fiduciary;
(2) Engage in any trust business;
(3) Exercise any incidental power that is reasonably necessary to enable it to fully exercise, according to commonly accepted fiduciary customs and usages, a power conferred in this act.

26-3302. BRANCHES AND OFFICES OF STATE TRUST INSTITUTIONS. (1) A state trust institution may act as a fiduciary and engage in a trust business at each trust office as permitted by this act, and at a branch in this state.
(2) A state trust institution may not act as a fiduciary but may otherwise engage in a trust business at a representative trust office as permitted by this act.
(3) Notwithstanding subsections (1) and (2) of this section, a state trust institution may not engage at an out-of-state office in any trust business not permitted for such an office by the host state to trust institutions chartered by such state.

26-3303. STATE TRUST COMPANY PRINCIPAL OFFICE. (1) Each state trust company must have and continuously maintain a principal office in this state.
(2) Each executive officer at the principal office is an agent of the state trust company for service of process.
(3) A state trust company may change its principal office to any location within this state by filing a written notice with the director setting forth the name of the state trust company, the street address of its principal office before the change, the street address to which the principal office is to be changed, and a copy of the resolution adopted by the board authorizing the change.
(4) The change of principal office shall take effect on the thirty-first day after the date the director receives the notice pursuant to subsection (3) of this section, unless the director establishes an earlier or later date or unless prior to such day the director notifies the state trust company that it must establish to the satisfaction of the director that the relocation is consistent with the provisions of this act for the establishment of a state trust company at that location, in which event the change of principal office shall take effect when approved by the director.

26-3304. TRUST OFFICE -- REPRESENTATIVE TRUST OFFICE. (1) A state trust institution may establish or acquire, and maintain, trust offices or representative trust offices anywhere in this state. A state trust institution desiring to establish or acquire, and maintain, such an office shall file a written notice with the director setting forth the name of the state trust institution, the location of the proposed additional office and whether the additional office will be a trust office or a representative trust office, furnish a copy of the resolution adopted by the board authorizing the additional office and pay the filing fee, if any, prescribed by the director.
(2) The state trust institution may commence business at the additional office on the thirty-first day after the date the director receives the notice, unless the director specifies an earlier or later date.

(3) The thirty (30) day period of review may be extended by the director on a determination that the written notice raises issues that require additional information or additional time for analysis. If the period of review is extended, the state trust institution may establish the additional office only on prior written approval by the director.

(4) The director may deny approval of the additional office if the director finds that the state trust institution lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interest.

26-3305. OUT-OF-STATE OFFICES. (1) A state bank, a state trust company or a savings association chartered under the laws of this state may establish and maintain a new trust office or a representative trust office or acquire and maintain an office in a state other than this state. Such a trust institution desiring to establish or acquire, and maintain, an office in another state under this section shall file a notice with the director on a form prescribed by the director, which shall set forth the name of the trust institution, the location of the proposed office, whether the office will be a trust office or a representative trust office, and whether the laws of the jurisdiction where the office will be located permit the office to be maintained by the trust institution, furnish a copy of the resolution adopted by the board authorizing the out-of-state office, and pay the filing fee, if any, prescribed by the director.

(2) The trust institution may commence business at the additional office on the thirty-first day after the date the director receives the notice, unless the director specifies an earlier or later date.

(3) The thirty (30) day period of review may be extended by the director on a determination that the written notice raises issues that require additional information or additional time for analysis. If the period of review is extended, the trust institution may establish the additional office only on prior written approval by the director.

(4) The director may deny approval of the additional office if the director finds that the trust institution lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interest. In acting on the notice, the director shall consider the views of the appropriate bank supervisory agencies.

SECTION 10. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 34, Title 26, Idaho Code, and to read as follows:

CHAPTER 34

TRUST INSTITUTIONS -- OUT-OF-STATE TRUST INSTITUTION OFFICES

26-3401. TRUST BUSINESS AT A BRANCH OR TRUST OFFICE OR REPRESENTATIVE TRUST OFFICE. (1) An out-of-state trust institution may act as a fiduciary in this state or engage in a trust business in this state if it maintains a trust office in this state as permitted by this chapter, or a branch in this state.

(2) An out-of-state trust institution may not act as a fiduciary, but may otherwise engage in a trust business, at a representative trust office as permitted by this chapter.

26-3402. ESTABLISHING OR ACQUIRING AN INTERSTATE TRUST OFFICE OR REPRESENTATIVE OFFICE. (1) An out-of-state trust institution that does not operate a trust office in this state and that meets the requirements of this chapter may establish or acquire, and maintain, a trust office in this state.

(2) An out-of-state trust institution may establish or acquire, and maintain, a representative trust office in this state.

26-3403. REQUIREMENT OF NOTICE. An out-of-state trust institution desiring to establish and maintain a new trust office or acquire and maintain a trust office in this state pursuant to this chapter shall provide, or cause its home state regulator to provide, written notice of the proposed transaction to the director on or after the date on which the out-of-state trust institution applies to the home state regulator for approval to establish or acquire, and maintain, the trust office. The filing of such notice shall be preceded or accompanied by a copy of the resolution adopted by the board authorizing the additional office and the filing fee, if any, prescribed by the director.

26-3404. CONDITIONS FOR APPROVAL. (1) No trust office of an out-of-state trust institution may be acquired or established in this state under this chapter unless:

(a) The out-of-state trust institution shall have confirmed in writing to the director that for as long as it maintains a trust office in this state, it will comply with all applicable laws of this state;

(b) The out-of-state trust institution shall have provided satisfactory evidence to the director of compliance with:

(i) Any applicable requirements of part 15, chapter 1, title 30, Idaho Code, and

(ii) The applicable requirements of its home state regulator for acquiring or establishing and maintaining such office.

(c) The director, acting within sixty (60) days after receiving notice under section 26-3403, Idaho Code, shall have certified to the home state regulator that the requirements of this chapter have been met and the notice has been approved or, if applicable, that any conditions imposed by the director pursuant to subsection (2) of this section have been satisfied.

(2) The out-of-state trust institution may commence business at the trust office on the sixty-first day after the date the director receives the notice unless the director specifies an earlier or later date, provided, with respect to an out-of-state trust institution that is not a depository institution and for which the director shall have conditioned such approval on the satisfaction by the out-of-state trust institution of any requirement applicable to a state trust company pursuant to this act, such institution shall have satisfied such conditions and provided to the director satisfactory evidence thereof.

(3) The sixty (60) day period of review may be extended by the

director on a determination that the written notice raises issues that require additional information or additional time for analysis. If the period of review is extended, the out-of-state trust institution may establish the office only on prior written approval by the director.

(4) The director may deny approval of the office if the director finds that the out-of-state trust institution lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office is contrary to the public interest. In acting on the notice, the director shall consider the views of the appropriate bank supervisory agencies.

26-3405. REGISTRATION OF REPRESENTATIVE TRUST OFFICE. (1) An out-of-state trust institution may establish or acquire and maintain a representative trust office in this state. An out-of-state trust institution not maintaining a trust office in this state and desiring to establish or acquire, and maintain a representative trust office shall file a notice with the director on a form prescribed by the director which shall set forth the name of the out-of-state trust institution and the location of the proposed office and satisfactory evidence that the out-of-state trust institution is a trust institution, furnish a copy of the resolution adopted by the board authorizing the representative trust office, and pay the filing fee, if any, prescribed by the director.

(2) The out-of-state trust institution may commence business at the representative trust office on the thirty-first day after the date the director receives the notice, unless the director specifies an earlier or later date.

(3) The thirty (30) day period of review may be extended by the director on a determination that the written notice raises issues that require additional information or additional time for analysis. If the period of review is extended, the out-of-state trust institution may establish the representative trust office only on prior written approval by the director.

(4) The director may deny approval of the representative trust office if the director finds that the out-of-state trust institution lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interests. In acting on the notice, the director shall consider the views of the appropriate bank supervisory agencies.

26-3406. ADDITIONAL TRUST OFFICES. An out-of-state trust institution that maintains a trust office in this state under this chapter may establish or acquire additional trust offices or representative trust offices in this state to the same extent that a state trust institution may establish or acquire additional offices in this state pursuant to the procedures for establishing or acquiring such offices set forth in section 26-3304, Idaho Code.

26-3407. NOTICE OF SUBSEQUENT MERGER, TRANSFER, OR CLOSING. Each out-of-state trust institution that maintains an office in this state pursuant to this act, or the home state regulator of such trust institution, shall give at least thirty (30) days' prior written notice or,

in the case of an emergency transaction, such shorter notice as is consistent with applicable state or federal law, to the director of:

(1) Any merger, consolidation, or other transaction that would cause a change of control with respect to such out-of-state trust institution or any bank holding company that controls such trust institution, with the result that an application would be required to be filed pursuant to the federal change in bank control act of 1978, as amended, 12 U.S.C. 1817(j), or the federal bank holding company act of 1956, as amended, 12 U.S.C. 1841 et seq., or any successor statutes thereto;

(2) Any transfer of all or substantially all of the trust accounts or trust assets of the out-of-state trust institution to another person; or

(3) The closing or disposition of any office in this state.

SECTION 11. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 35, Title 26, Idaho Code, and to read as follows:

CHAPTER 35
TRUST INSTITUTIONS --
STATE TRUST COMPANY ORGANIZATION --
GENERAL PROVISIONS

26-3501. PREREQUISITE TO ENGAGING IN TRUST BUSINESS. (1) A corporation duly organized for the purpose of engaging in the trust business may apply for a charter to operate as a state trust company. A state trust company may perform any act as a fiduciary or engage in any trust business within or without this state.

(2) A bank having the power to engage in the trust business, which is organized under the laws of this state or authorized to do business in this state, and which is chartered under the provisions of the Idaho bank act to engage in banking business in the state of Idaho, may apply for a charter from the director authorizing it to operate a trust department.

(3) To the extent not inconsistent with specific provisions of this chapter, and in the discretion of the director, provisions of the Idaho bank act regarding organization, operation and closing of banks shall apply to applicants for a charter under this chapter and to state trust companies.

26-3502. APPLICATION FOR CHARTER. An application for a state trust company or trust department charter shall be in writing and in such form as the director shall prescribe, verified under oath and supported by such information, data and records as the director may require.

26-3503. APPLICATION FEE. A reasonable application fee, as set by the director, shall be paid to the department with respect to each application for a charter under this chapter at the time the application is filed.

26-3504. MINIMUM CAPITAL. (1) A charter shall not be issued to a corporation applying for a state trust company charter having a paid-in capital of less than one million five hundred thousand dollars ($1,500,000).

(2) A charter to operate a trust department shall not be issued to a bank unless the capital of the bank is in an amount of not less than one million five hundred thousand dollars ($1,500,000), in addition to its statutory required minimum capital for a bank charter required by section 26-205, Idaho Code.

(3) Subject to subsection (4) of this section, a state trust company or state bank shall at all times maintain capital in at least the amount required under subsections (1) and (2) of this section.

(4) The director may require additional capital for a proposed or existing state trust company or state bank or, on application in the exercise of discretion consistent with protecting safety and soundness, reduce the amount of minimum capital required for a proposed or existing state trust company or state bank.

26-3505. ISSUANCE OF CHARTER. Upon the filing of an application the director shall make or cause to be made an investigation and examination of the facts concerning the applicant and shall issue a charter if he finds:

(1) The applicant is a corporation having powers and purposes to engage in the trust business, organized under the laws of this state or authorized to do business in this state as a foreign corporation; and

(2) The applicant has complied with all of the applicable provisions of this act; and

(3) The ability and integrity of the persons involved in the management of the applicant's business are such as to demonstrate that it will be operated in a sound and lawful manner; and

(4) The applicant has adequate facilities to engage in trust business.

26-3506. RECORDS -- PRESERVATION OF RECORDS. A state trust company or trust department shall keep and use in its business any books, accounts and records which will enable the director to determine whether the trust institution is complying with the provisions of this act and the rules and orders of the director. The director may by rule or order provide which books, accounts and records shall be kept, and the periods of time and the manner in which they shall be preserved.

26-3507. DISCLOSURE OF INFORMATION. A state trust company or trust department, its officers and employees, shall not disclose information to any person concerning the existence, condition, management and administration of any trust of which it is the trustee except as such disclosure:

(1) Is specifically authorized by the terms of the trust or upon the direction of the trustor;

(2) Is determined by an officer of the state trust institution to be necessary for the proper administration of such trust;

(3) Is required by a court of competent jurisdiction;

(4) Is made, in the case of an irrevocable trust, to or upon the

instructions of any beneficiary thereunder whether or not presently entitled to receive benefits from the trust;

(5) Is made to the director or to any state or federal regulatory or insuring agency lawfully requiring such disclosure;

(6) Is required by title 15, Idaho Code.

26-3508. TRUST FUNDS. (1) All moneys received by a state trust company as a fiduciary on trust business within this state shall be deposited in a bank, in a specially designated account or accounts, shall not be commingled with any funds of the state trust company and shall remain on deposit until disbursed or invested in accordance with the powers and duties of the state trust company in its capacity as fiduciary.

(2) A bank which is chartered by the director to operate a trust department shall establish and maintain a trust department in which separate books and records for each trust or estate shall be maintained. All property held by the bank as a fiduciary shall be segregated from and unmingled with other property of the bank; provided, cash held by the bank as a fiduciary may be deposited to the credit of the bank as such fiduciary in time or demand deposit accounts with itself, or may be deposited in time or demand deposit accounts with any other bank in this state so long as said bank or banks are insured by the federal deposit insurance corporation. Property held by a bank as a fiduciary may be held in the name of nominees of the bank whether the bank is the sole fiduciary or acting with others, but the bank shall be responsible for the acts of any such nominee.

26-3509. LOANS TO DIRECTORS, OFFICERS OR EMPLOYEES PROHIBITED -- LOANS TO AFFILIATES OR SUBSIDIARIES PROHIBITED. (1) A state trust company or bank having a trust department shall not make any loan to any director, officer or employee of the trust institution or to any affiliate or subsidiary corporation or to any director, officer or employee of an affiliate or subsidiary corporation from its trust funds. A state trust company or bank having a trust department shall not permit any director, officer, employee, affiliate or subsidiary corporation to become indebted to it in any manner out of its trust funds unless specifically authorized to do so by the terms of the trust.

(2) This section shall not prevent the maintenance by a state trust company of its trust funds in time or demand deposits in an affiliate which is a bank, or a trust department of a bank from maintaining its trust funds in the bank in accordance with section 26-3508, Idaho Code.

26-3510. CLOSING OF TRUST UNDULY DELAYED. If, as a result of an examination, the director finds that the closing of any trust by a state trust company has been unreasonably delayed, the director may initiate proceedings in a court of competent jurisdiction to require the state trust institution to perform its duties in closing the trust.

SECTION 12. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 36, Title 26, Idaho Code, and to read as follows:

CHAPTER 36
TRUST INSTITUTIONS -- SUPERVISION AND ENFORCEMENT

26-3601. ADMINISTRATION AND RULES. Every authorized trust institution shall be under the supervision of the director. The director may issue, promulgate, amend and rescind rules or orders necessary or proper to carry out the provisions of this act. All authorized trust institutions doing business under the provisions of this act shall conduct their business in a manner consistent with all laws relating to authorized trust institutions, and all rules or orders that may be promulgated or issued by the director.

26-3602. EXAMINATIONS -- PERIODIC REPORTS -- COOPERATIVE AGREEMENTS -- ASSESSMENT OF FEES. (1) The director may make such examinations, with or without notice, of any office or branch established or maintained in this state pursuant to this act as the director may deem necessary to determine whether the office is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices. The director may compel the attendance of any person or the production of any books, accounts and records for the purpose of such examination.

(2) The director may require periodic reports regarding any trust institution that has established or maintained an office in this state pursuant to this act. The required reports shall be provided by such trust institution or, if an out-of-state trust institution, may be provided by the home state regulator.

(3) The director may enter into cooperative, coordinating and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies with respect to the periodic examination or other supervision of any office in this state of an out-of-state trust institution, or any office of a state trust institution in any host state, and the director may accept the agency's or organization's report of examination and report of investigation in lieu of conducting an examination or investigation.

(4) The director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any office established and maintained in this state by an out-of-state trust institution or any office established and maintained by a state trust institution in any host state; provided, that the director may at any time take such actions independently if the director deems such actions to be necessary or appropriate under this act or to ensure compliance with the laws of this state; but provided further that, in the case of an out-of-state trust institution, the director shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(5) Each trust institution that maintains one (1) or more offices

in this state may be assessed and, if assessed, shall pay reasonable supervisory and examination fees as set by the director. Such fees may be shared with other bank supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies in accordance with agreements between such parties and the director.

26-3603. ADMINISTRATIVE ORDERS. (1) The director shall have the power to:

(a) Order any authorized trust institution, or subsidiary thereof, or any director, officer, or employee to cease and desist violating any provision of this act or any rule or order issued thereunder;

(b) Order any authorized trust institution, or subsidiary thereof, or any director, officer, or employee to cease and desist from a course of conduct that is unsafe or unsound and which is likely to cause insolvency or dissipation of assets or is likely to jeopardize or otherwise seriously prejudice the interests of the public in their relationship with the authorized trust institution;

(c) Order any person to cease and desist from engaging in an unauthorized trust activity;

(d) Temporarily or permanently prohibit the trust institution or person subject to an order under this section from engaging in the trust business in this state.

(2) The director may determine by order that an out-of-state trust institution engaging in or proposing to engage in a trust business in this state does not meet the requirements for establishing a representative trust office in this state, which order shall be effective on the date of issuance or such other date as the director shall determine.

(3) The director may impose a civil money penalty payable to the general fund of not more than five thousand dollars ($5,000) for each violation of an order issued under this section committed by a subject of the order.

(4) Failure by an authorized trust institution to comply with an order issued under this section within such reasonable time as the director prescribes is grounds for suspension or revocation of its charter or license issued under this act.

26-3604. NOTICE AND OPPORTUNITY FOR HEARING. Consistent with chapter 52, title 67, Idaho Code, notice and opportunity for hearing shall be provided in connection with any of the foregoing actions. Provided however, in cases involving extraordinary circumstances requiring immediate action, the director may take such action, but shall promptly afford a subsequent hearing upon application to rescind the action taken. The director shall promptly give notice to the home state regulator of each enforcement action taken against an out-of-state trust institution and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving said enforcement action.

26-3605. SUBPOENA POWER -- EXAMINATION UNDER OATH. The director shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject related to a duty imposed or a power vested in the director by this act.

26-3606. REMOVAL OF DIRECTORS, OFFICERS AND EMPLOYEES. The director shall have the power to require the immediate removal from office of any officer, director, or employee of any authorized trust institution, who shall be found to be dishonest, incompetent, or reckless in the management of the affairs of the authorized trust institution, or who persistently violates the laws of this state or the rules, orders and instructions issued by the director.

26-3607. IMPAIRMENT OF CAPITAL -- UNSAFE CONDITION -- RECEIVERSHIP. If it appears to the director that the capital of a state trust company is either reduced or impaired below one million five hundred thousand dollars ($1,500,000) or the affairs of the company are in an unsound condition, the director shall order the state trust company to make good any deficit or to remedy the unsafe condition of its affairs within sixty (60) days of the date of such order and may restrict and regulate the operation of the state trust company until the capital is so restored. If the deficiency in capital has not been made good and the unsafe condition remedied within sixty (60) days, the director may apply to the district court, in the county in which the principal office of the state trust company is located, to be appointed receiver for the liquidation or rehabilitation of the state trust company. The expense of such receivership shall be paid out of the assets of the state trust company.

26-3608. LIMIT OF LEGAL ACTION. This chapter does not limit any statutory or common law right of a person to bring an action in a court for any act involved in the transaction of trust business or the right of the state to bring an action against any person for a violation of law based on such act. The director may enforce any of his orders through injunctive proceedings or any other appropriate action brought in the name of this state.

26-3609. CONTINUED OPERATION. Any bank chartered to operate a trust department on July 1, 2000, is hereby authorized to continue to operate a trust department after July 1, 2000; provided that such bank must conform its trust department operations with the provisions of this act.

SECTION 13. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 289
(H.B. No. 390)

AN ACT

RELATING TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; AMENDING SECTION 54-1202, IDAHO CODE, TO REVISE THE DEFINITION OF A CONSULTING ENGINEER; AMENDING SECTIONS 54-1205, 54-1207, 54-1208 AND 54-1209, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1211, IDAHO CODE, TO ELIMINATE PUBLICATION OF A BIENNIAL ROSTER AND PROVIDE FOR MAINTAINING A ROSTER IN ELECTRONIC FORMAT; AMENDING SECTION 54-1212, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR ASSIGNMENT TO EXAMINATIONS; AMENDING SECTION 54-1213, IDAHO CODE, TO INCREASE THE ALLOWABLE ADMINISTRATIVE FEE FOR APPLICATIONS AND TO ELIMINATE A SEPARATE FEE FOR CERTIFICATES; AMENDING SECTION 54-1214, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE PUBLICATION OF EXAMINATION BROCHURES PERMISSIVE; AMENDING SECTION 54-1215, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO ELIMINATE DETAILS OF THE SEAL; AMENDING SECTION 54-1216, IDAHO CODE, TO PROVIDE FOR BIENNIAL RENEWAL OF INDIVIDUAL CERTIFICATES OF REGISTRATION AND TO ADJUST THE FEES FOR BIENNIAL RENEWAL; AMENDING SECTION 54-1220, IDAHO CODE, TO LIMIT THE FILING OF CHARGES TO AFFECTED PARTIES, TO PROVIDE PROPER NOMENCLATURE AND TO ALLOW THE BOARD TO EXTEND THE TIME FOR HEARING A COMPLAINT; AMENDING SECTION 54-1222, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1223, IDAHO CODE, TO ELIMINATE AN OBSOLETE REFERENCE; REPEALING SECTION 54-1224, IDAHO CODE; AMENDING SECTIONS 54-1226 AND 54-1229, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(a) Engineer. The term "engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(b) Professional Engineer. The term "professional engineer" means a person who has been duly registered or licensed as a professional engineer by the board under this chapter.

(c) Professional Engineering and Practice of Professional Engineering. The terms "professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the

public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is registered under this chapter, or holds himself out as able to perform or who does perform for the public any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(d) Consulting Engineer. The term "consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; ~~who serves clients as an independent fiduciary;~~ who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(e) Professional Land Surveyor. The term "professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional land surveying and who has been duly registered or licensed as a professional land surveyor by the board under this chapter.

(f) Professional Land Surveying and Practice of Professional Land Surveying. The terms "land surveying" and "professional land surveying" mean responsible charge of surveying of land to determine the correct boundary description, to convey, to establish or reestablish land boundaries, or to plat lands and subdivisions thereof. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

(g) Board. The term "board" means the Idaho board of registration of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(h) Responsible Charge. The term "responsible charge" means the control and direction of the investigation, studies, design, construction or operation of engineering work, or the control and direction of record research, field retracement, office calculations, boundary determination and mapping of land surveying work, requiring initiative, professional skill and independent judgment.

(i) Engineer-in-Training. The term "engineer-in-training" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(j) Land Surveyor-in-Training. The term "land surveyor-in-training" means a person who has qualified for, taken and passed an

examination in the fundamentals of land surveying subjects as provided in this chapter.

(k) Rules of Professional Responsibility. The term "rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(l) Public. The term "public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

SECTION 2. That Section 54-1205, Idaho Code, be, and the same is hereby amended to read as follows:

54-1205. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code, when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual travel, per diem, incidentals and clerical expenses necessarily incurred in carrying out the provisions of this ~~act~~ chapter.

SECTION 3. That Section 54-1207, Idaho Code, be, and the same is hereby amended to read as follows:

54-1207. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold at least one (1) regular meeting each year. The rules of the board may provide for additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules. The board shall annually elect a chairman, a vice-chairman and a secretary, who shall be members of the board, and they may provide for an assistant or executive ~~secretary~~ director who need not be a member of the board. Three (3) members shall constitute a quorum.

SECTION 4. 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~~ chapter and the regulation of proceedings before the board. These actions by the board shall be binding upon persons registered under this ~~act~~ chapter 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~~ chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other per-

tinent data in any disciplinary matters or in any case wherever a violation of this ~~act~~ chapter 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~~ chapter 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 5. That Section 54-1209, Idaho Code, be, and the same is hereby amended to read as follows:

54-1209. RECEIPTS AND DISBURSEMENTS. The secretary of the board, or assistants thereto as may be designated by the board, shall receive and account for all moneys derived under the provisions of this chapter, and shall pay the same to the state treasurer, who shall keep such moneys in a separate account to be known as the "professional engineers' and professional land surveyors' account." Such moneys shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "professional engineers' and professional land surveyors' account" are hereby specifically appropriated for the use of the board. The secretary and executive ~~secretary~~ director of the board shall be bonded to the state of Idaho in the time, form and manner prescribed in chapter 8, title 59, Idaho Code. The executive ~~secretary~~ director of the board shall receive such salary as the board shall determine in addition to the expenses provided for in section 54-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this chapter, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of Examiners for Engineering and Surveying and any of its subdivisions. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensa-

tion provided for in this chapter exceed the accumulated amount of the fees collected as herein provided. All warrants on said "professional engineers' and professional land surveyors' account" shall be drawn by the state controller on vouchers by the board and the state board of examiners.

SECTION 6. That Section 54-1211, Idaho Code, be, and the same is hereby amended to read as follows:

54-1211. ROSTER. A complete roster showing the names and last known addresses of all registered professional engineers, all registered professional land surveyors, all entities holding certificates of authorization as required under section 54-1235, Idaho Code, and all who possess current certification as engineers-in-training and as land surveyors-in-training shall be ~~published~~ maintained by the board ~~biennially.--Copies--of--this-roster-shall-be-mailed-to-each-person-so registered-or-certified-and-may-be-distributed-or--sold~~ in an electronic format available to the public. ~~upon-request.~~

SECTION 7. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, be issued to an applicant having habits or character that would justify revocation or suspension of certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of eight (8) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to prac-

tice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from an approved surveying curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of land surveying acceptable to the board, and a specific record of an additional four (4) years or more of combined office and field experience in land surveying work, with a minimum of two (2) years of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) At least sixty (60) semester hours of college level academic education beyond high school, with a minimum of fifteen (15) credits in land surveying, engineering, mathematics or related science, passage of an examination on the fundamentals of land surveying acceptable to the board, and a specific record of an additional six (6) years of combined office and field experience in land surveying work, with a minimum of two (2) years of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying; or

(c) Evidence that the applicant possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college curriculum, passage of an examination on the fundamentals of land surveying acceptable to the board, and evidence of a specific record of at least eight (8) years of combined office and field experience in land surveying work with a minimum of three (3) years of progressive experience in ~~responsible--charge of~~ land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.

(3) As an engineer-in-training:

(a) Graduation from or in the last two (2) semesters of an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer-in-training; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, and a specific record of one (1) year or more of progressive experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be enrolled as an engineer-in-training.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3)(a), Idaho Code, and a passing grade is attained, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor-in-training:

(a) Graduation from, or in the last two (2) semesters of, an

approved surveying curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor-in-training; or

(b) At least sixty (60) semester hours of college level academic education beyond high school, with a minimum of fifteen (15) credits in land surveying, engineering, mathematics or related science, and in addition, a specific record of three (3) years or more of combined office and field experience in land surveying work of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training; or

(c) Possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college level academic curriculum and evidence of a specific record of at least four (4) years experience of combined office and field experience of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application.

SECTION 8. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND REGISTRATION FEES. Applications for registration as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his technical and engineering or land surveying experience. An applicant for registration as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be registered professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or

land surveying experience. An applicant for certification as an engineer-in-training or land surveyor-in-training shall furnish not less than three (3) references of whom at least one (1) should be a registered professional engineer or professional land surveyor, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. Applications for certificates of authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum application fee for professional engineers or professional land surveyors seeking to be licensed by an eight (8) hour or longer examination shall be an amount equal to the amount charged the board by the entity preparing the examination, plus an administrative fee not to exceed ~~fifty~~ one hundred dollars (~~$50.~~$100). The total application fee shall accompany the application. ~~In addition to the application fee, a certificate fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.~~

The maximum application fee for an applicant who seeks a certificate as an engineer-in-training or land surveyor-in-training shall be an amount equal to the amount charged the board by the entity preparing the examination, plus an administrative fee not to exceed ~~twenty-five~~ fifty dollars (~~$25~~$50.00). The application fee shall accompany the application. ~~In addition to the application fee, a certificate fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.~~

The maximum application fee for corporations seeking a certificate of authorization shall be two hundred dollars ($200). The application fee shall accompany the application. ~~In addition to the application fee, a certificate fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.~~

Separate application fees shall accompany all applications for each of the four (4) classes of examinations: professional land surveyor, engineer-in-training, land surveyor-in-training and professional engineer.

The amount of the registration fee or certificate fee shall be fixed by the board prior to June 30th of any year and shall continue in force until changed. ~~Said fees shall not be subject to change except at the beginning of each fiscal year.~~

Should the board deny the issuance of a certificate of registration or authorization to any applicant, the fee deposited shall be retained as an application fee.

SECTION 9. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations will be given in two (2) sections and may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Fundamentals of Engineering -- The examination consists of an eight (8) hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-

in-training certificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The examination consists of a minimum of an eight (8) hour test period on applied engineering. Passing this examination qualifies the examinee for registration as a professional engineer, provided he has met the other requirements for registration required by this chapter.

(c) Fundamentals of Land Surveying -- The examination consists of an eight (8) hour test period on the fundamentals of land surveying. Passing this examination qualifies the examinee for a land surveyor-in-training certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Land Surveying -- The examination consists of a minimum of an eight (8) hour test period on applied land surveying. Passing this examination qualifies the examinee for registration as a professional land surveyor, provided he has met the other requirements for registration required by this chapter.

(3) A candidate failing all or part of the examination may apply for reexamination, which may be granted upon payment of a fee equal to the total application fee for the ~~first~~ required examination. In the event of a second failure, the examinee shall be required to appear before the board or a member thereof to submit evidence of having acquired the necessary additional knowledge to warrant assignment to a third examination.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying. They ~~shall~~ may be published in brochure form and be available to any person interested in being registered as a professional engineer or as a professional land surveyor.

SECTION 10. That Section 54-1215, Idaho Code, be, and the same is hereby amended to read as follows:

54-1215. CERTIFICATES -- SEALS. (1) The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter, and an enrollment certificate shall be issued to those who qualify as engineers-in-training and land surveyors-in-training. In the case of a registered professional engineer, the certificate shall authorize the practice of "professional engineering," and in the case of a registered professional land surveyor the certificate shall authorize the practice of "professional land surveying." Certificates of registration shall show the full name of the registrant, shall give a serial registration number, and shall be signed by the chairman and the secretary of the board under seal of the board.

(2) The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all the rights, privileges and responsibilities of a registered professional engineer or of a registered professional land surveyor, provided that said certificate of registration has not expired or has not been suspended or revoked.

(3) Each registrant hereunder shall, upon registration, obtain a seal, the use and design of which are described below. It shall be unlawful for any person to affix or to permit his seal and signature to be affixed to any documents after the certificate of the registrant named thereon has expired or has been suspended or revoked, unless said certificate shall have been renewed, reinstated, or reissued, or for the purpose of aiding or abetting any other person to evade or attempt to evade any portion of this chapter.

(a) The seal may be a rubber stamp, crimp or electronically generated image. Whenever the seal is applied, the registrant's written signature and date shall be adjacent to or across the seal. No further words or wording is required. A facsimile signature generated by any method will not be acceptable.

(b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency.

(c) The seal, signature and date shall be placed on all original documents. The application of the registrant's seal, signature and date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed by the registrant or registrants responsible for each sheet. In the case of a firm, partnership or corporation, each plan or drawing sheet shall be sealed and signed by the registrant or registrants involved. The principal in responsible charge shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in paragraph (b) of this subsection, distributed for informational uses such as for bidding purposes or working copies, may be issued with the registrant's seal and a notice that the original document is on file with the registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications and like documents need bear the seal, signature and date of the registrant.

(d) The seal and signature shall be used by registrants only when the work being stamped was under the registrant's responsible charge.

(e) In the case of a temporary permit issued to an engineering registrant of another state, the registrant shall use his state of registration seal and shall affix his signature to all his work performed in this state under the terms of the temporary permit.

(f) The design of the seal shall be as determined by the board.~~;~~ ~~however, the following minimum information shall be on the seal:~~

~~The words "State of Idaho"~~
~~The registrant's name~~
~~The registrant's registration number~~
~~The words "Professional Engineer"~~
~~or "Professional Land Surveyor"~~

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this chapter, an enrollment certificate or card as an engineer-in-training or land surveyor-in-

training, which indicates that his name has been recorded as such in the board office. The engineer-in-training or land surveyor-in-training enrollment card does not authorize the holder to practice as a professional engineer or a professional land surveyor.

SECTION 11. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of certificates of registration for professional engineers and land surveyors, expiration shall be on the last day of the month during which the registrant was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years, and shall become invalid on that date unless renewed. During the first year of biennial renewals, those persons born in odd-numbered calendar years shall be invoiced for two (2) years of renewal and those persons born in even-numbered calendar years shall be invoiced for one (1) year of renewal. Certificates of authorization for corporations shall expire on the last day of the month of July following issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person registered and every corporation certified under this chapter, of the date of the expiration of said certificate of registration or certificate of authorization and the amount of the fee that shall be required for its renewal. Such notice shall be mailed to the last known address of the registrant or corporation at least one (1) month in advance of the date of the expiration of said certificate or authorization. Renewal may be effected at any time in the appropriate year during the month in which the registrant was born or during the month of July in the case of corporations, by the payment of a renewal fee to be fixed by the board at not ~~less--than--three--dollars ($3.00)---nor~~ more than ~~seventy-five~~ one hundred fifty dollars ($~~7~~15.00). The failure on the part of any registrant or certificate holder to renew his or its certificate ~~annually~~ biennially in the month in which they were born or in the month of July in the case of corporations, as required above shall not deprive such person or corporation of the right of renewal, but the fee to be paid for the renewal of a certificate after the month in which it is due shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each ~~year~~ biennium delinquent, but in no event more than ~~one~~ three hundred ~~fifty~~ dollars ($~~15~~300). Any work performed after a registration or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the registration or certificate of authorization had not expired, but the registrant or certificate holder shall be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates of enrollment for engineers-in-training and land surveyors-in-training, expiration shall be on the last day of the month during which the certificate holder

was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years. During the first year of biennial renewals, those persons born in odd-numbered calendar years shall be invoiced for two (2) years of renewal and those persons born in even-numbered calendar years shall be invoiced for one (1) year of renewal. The notification to holders of certificates of enrollment shall be processed as prescribed above for registrants except that the ~~annual~~ biennial renewal fee shall not be ~~less than--two--dollars--($2.00)--nor~~ more than ~~fifteen~~ thirty dollars (~~$15~~30.00). The failure on the part of any holder of a certificate of enrollment to effect renewal shall not invalidate his status as an engineer-in-training or land surveyor-in-training, but his name shall, after ninety (90) days, be removed from the board's current mailing list.

SECTION 12. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any ~~person~~ affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the rules of professional responsibility for professional engineers, professional land surveyors and corporations with certificate of authorization against any individual registrant or against any corporation holding a certificate of authorization or against a person applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive ~~secretary~~ director of the board. The executive ~~secretary~~ director of the board may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six (6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such individual registrant or corporation holding a certificate of authorization at least thirty (30) days before the date fixed for the hearing. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after such hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed two thousand dollars ($2,000) for deposit in the general account of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's certificate of registration or a corporation's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing educa-

tion courses as may be prescribed by the board.

(5) The board shall have jurisdiction over registrants whose licenses are not current provided the action relates to services performed when the license was current and valid.

SECTION 13. That Section 54-1222, Idaho Code, be, and the same is hereby amended to read as follows:

54-1222. VIOLATIONS AND PENALTIES -- PROSECUTION OF OFFENSES. Any person who shall practice, or offer to practice, professional engineering or professional land surveying in this state without being registered in accordance with the provisions of this ~~act~~ chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration or practice at any time during a period the board has suspended or revoked his certificate of registration, or any person who shall violate any of the provisions of this ~~act~~ chapter, shall be guilty of a misdemeanor.

Legal counsel selected by the board, or the attorney general of this state or anyone designated by him may act as legal advisor of the board. It shall be the duty of the attorney general of this state to enforce the provisions of this ~~act~~ chapter and to prosecute any person violating the same. The attorney general shall be reimbursed by the board for any fees and expenses incurred by the attorney general in representing the board.

SECTION 14. 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. In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, safety or environment through the provision of engineering services, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt the provision of engineering services.

SECTION 15. That Section 54-1224, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Section 54-1226, Idaho Code, be, and the same is hereby amended to read as follows:

54-1226. SEPARABILITY. If any provision of this ~~act~~ chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ~~act~~ chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this ~~act~~ chapter are declared to be severable.

SECTION 17. That Section 54-1229, Idaho Code, be, and the same is hereby amended to read as follows:

54-1229. LEGAL SURVEY OF LAND. No survey of land, or plat or subdivision shall be legal unless made by or under the responsible charge of a professional land surveyor.

All land surveys made under the authority of the state, or of any ~~county,-town,-city-or-village--within~~ political subdivision of the state, must be performed by a professional land surveyor.

SECTION 18. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 290
(H.B. No. 397)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2108, IDAHO CODE, TO PROVIDE THAT APPLICATIONS FOR A LICENSE SHALL BE ACCOMPANIED BY PROOF OF ELIGIBILITY FOR A BOND TO BE EXECUTED BY A QUALIFIED SURETY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the operating area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed.

(b) Applications shall be made to and filed with the board and, unless arrangements have been made otherwise with the board, accompanied by proof of eligibility for a bond payable to the person or persons employing the licensee and in a form approved by the board in the sum of ten thousand dollars ($10,000) for outfitters, to be executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the

board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.
2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.
3. The license fee for resident and nonresident outfitters shall be three hundred dollars ($300); the license fee for a designated agent as defined in section 36-2102(b), Idaho Code, shall be one hundred twenty dollars ($120); and the license fee for resident and nonresident guides shall be ninety-five dollars ($95.00). A penalty fee in the amount of fifty dollars ($50.00) may be charged in addition to the regular outfitter's license fee for any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A seventy-five dollar ($75.00) fee shall be charged for every amendment to an outfitter's license other than an incidental amendment, and a ten dollar ($10.00) fee shall be charged for every incidental amendment to an outfitter's license and every amendment to a guide's license.
4. A one-time application fee for outfitters not to exceed four hundred dollars ($400), a one-time application fee for designated agents not to exceed fifty dollars ($50.00), and a one-time application fee for guides not to exceed ten dollars ($10.00) shall be established annually by the board and shall be used for application related expenses. The board shall establish by rule a policy to refund unused application fees.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 291
(H.B. No. 400)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-201, IDAHO CODE, TO PROVIDE THAT WATER MAY BE USED AT ANY TIME, WITH OR WITHOUT A WATER RIGHT, FOR FIREFIGHTING PURPOSES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 42-201, Idaho Code, be, and the same is hereby amended to read as follows:

42-201. WATER RIGHTS ACQUIRED UNDER CHAPTER -- ILLEGAL APPLICATION OF WATER. (1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.

(2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

(3) Notwithstanding the provisions of subsection (2) of this section, water may be used at any time, with or without a water right, to extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 292
(H.B. No. 404, As Amended)

AN ACT

RELATING TO DISPLACED HOMEMAKERS; AMENDING SECTION 39-5002, IDAHO CODE, TO REVISE THE DEFINITION OF THE TERM DISPLACED HOMEMAKER AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 39-5002, Idaho Code, be, and the same is hereby amended to read as follows:

39-5002. DEFINITIONS. For purposes of this chapter:

(~~a~~1) "Displaced homemaker" means a person who:

(~~1~~a) 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~~ but who has lost the primary source of economic support and who must gain employment skills in order to earn a living; or

(b) Is a single parent with primary financial and custodial responsibility for supporting dependent children and who must gain employment skills in order to earn a living.

(~~b~~2) "Administrator" means the administrator of the division of professional-technical education.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 293
(H.B. No. 417, As Amended)

AN ACT

RELATING TO EXEMPTIONS FROM DISCLOSURE OF PUBLIC RECORDS; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM DISCLOSURE FOR RECORDS ALLOWING LOCATION OF PARTIES TO CHILD SUPPORT SERVICES IN CASES OF DOMESTIC VIOLENCE 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 9-340C, Idaho Code, 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.

(~~18~~9) 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.

(20) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 294
(H.B. No. 419, As Amended, As Amended)

AN ACT

RELATING TO SUPPORT OF CHILDREN OR SPOUSE; AMENDING SECTION 18-401, IDAHO CODE, TO INCREASE THE AGE OF REQUIRED SUPPORT TO EIGHTEEN YEARS, TO PROVIDE GENDER NEUTRAL REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 18-401, Idaho Code, be, and the same is hereby amended to read as follows:

18-401. DESERTION AND NONSUPPORT OF CHILDREN OR ~~WIFE~~ SPOUSE. Every person who~~,~~:

(1~~.~~) Having any child under the age of ~~sixteen~~ eighteen (16~~8~~) years dependent upon him or her for care, education or support, deserts such child in any manner whatever, with intent to abandon it;

(2~~.~~) ~~Wilfully~~ Willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or children, or ward or wards; provided however, that the practice of a parent or guardian who chooses for his child treatment by prayer or spiritual means alone shall not for that reason alone be construed to be a violation of the duty of care to such child;

(3~~.~~) Having sufficient ability to provide for ~~his--wife's~~ a spouse's support, or who is able to earn the means for such ~~wife's~~ spouse's support, who ~~wilfully~~ willfully abandons and leaves ~~his--wife~~ a spouse in a destitute condition, or who refuses or neglects to provide such ~~wife~~ spouse with necessary food, clothing, shelter, or medical attendance, unless by ~~her~~ the spouse's misconduct he or she is justified in abandoning him or her;

Shall be guilty of a felony and shall be punishable by a fine of not more than five hundred dollars ($500), or by imprisonment for not to exceed fourteen (14) years, or both.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 295
(H.B. No. 432)

AN ACT

RELATING TO COMMERCIAL FERTILIZERS; REPEALING CHAPTER 6, TITLE 22, IDAHO CODE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 22, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE FOR ADMINISTRATION BY THE DEPARTMENT OF AGRICULTURE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ADOPTION OF RULES, TO PROVIDE FOR REGISTRATION OF PRODUCTS, TO PROVIDE FORMULAS, TO PROVIDE THAT LABELS WITH CERTAIN INFORMATION ARE REQUIRED, TO PROVIDE INSPECTION FEES, TO PROVIDE FOR TONNAGE REPORTS, TO PROVIDE FOR INSPECTION AND SAMPLING, TO PROVIDE PENALTIES, TO PROVIDE FOR ASSESSMENT OF PENALTIES, TO PROHIBIT MISBRANDING, TO PROHIBIT ADULTERATION, TO PROVIDE FOR PUBLICATION OF INFORMATION, TO PROVIDE FOR ISSUANCE AND ENFORCEMENT OF STOP SALE ORDERS, TO PROVIDE FOR COMPLAINTS FOR SEIZURE OF FERTILIZER AND HEARINGS, TO PROVIDE VIOLATIONS, TO PROVIDE REMEDIES FOR VIOLATIONS, TO PROVIDE FOR USE OF FUNDS RECEIVED, TO PROVIDE FOR COOPERATION WITH OTHER GOVERNMENTAL AGENCIES, TO PROVIDE THAT ENACTMENT DOES NOT AFFECT EXISTING LIABILITY, TO PROVIDE THAT THE CHAPTER DOES NOT APPLY TO WHOLESALE TRANSACTIONS AND TO PROVIDE SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 6, Title 22, 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 6, Title 22, Idaho Code, and to read as follows:

CHAPTER 6
COMMERCIAL FERTILIZERS

22-601. TITLE. This chapter shall be known as the "Idaho Fertilizer Act of 2000."

22-602. ADMINISTRATION. The Idaho department of agriculture, hereinafter referred to as the "department," shall administer this chapter.

22-603. DEFINITIONS. When used in this chapter:

(1) "Brand" means a term, design, or trademark used in connection with one (1) or several grades of fertilizer.

(2) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(3) "Composting" means the controlled aerobic degradation of organic waste materials. Natural decay of organic waste under uncontrolled conditions is not composting.

(4) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity.

(5) "Department" means the Idaho state department of agriculture or its authorized representative.

(6) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend fertilizer, or to offer for sale, sell, barter or otherwise supply fertilizer in this state.

(7) "Distributor" means any person who distributes.

(8) "Fertilizer" means any substance containing one (1) or more recognized plant nutrient which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, and includes limes and gypsum. It does not include unmanipulated animal manure and vegetable organic waste-derived material, or biosolids regulated under the code of federal regulations, 40 CFR 503, as amended.

(a) "Bulk fertilizer" means a fertilizer distributed in a nonpackaged form.

(b) "Customer formula fertilizer" means a mixture of fertilizer or materials of which each batch is mixed according to the specific instructions of the final purchaser.

(c) "Fertilizer material" means a fertilizer which either:

(i) Contains important quantities of no more than one (1) of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5) and potash (K_2O), or

(ii) Has eighty-five percent (85%) or more of its plant nutrient content present in the form of a single chemical compound, or

(iii) Is derived from a plant or animal residue or byproduct or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(d) "Micronutrient fertilizer" means a fertilizer that contains valuable concentrations of micronutrients, but does not contain valuable concentrations of total nitrogen (N), available phosphate (P_2O_5), soluble potash (K_2O), calcium (Ca), magnesium (Mg), or sulfur (S).

(e) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(f) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(g) "Specialty fertilizer" means a fertilizer distributed for nonfarm use.

(h) "Waste derived fertilizer" includes any commercial fertilizer

derived from an industrial byproduct, coproduct or other material that would otherwise be disposed of if a market for reuse were not an option, but does not include fertilizers derived from biosolids or biosolid products regulated under the code of federal regulations, 40 CFR 503, as amended.

(9) "Grade" means the percentage of total nitrogen, available phosphate, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. Provided however, that specialty fertilizers may be guaranteed in fractional units of less than one percent (1%) of total nitrogen, available phosphate, and soluble potash: provided further, that bone meal and similar materials may be guaranteed in fractional units.

(10) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed, for a total nitrogen, available phosphate, or soluble potash fertilizer, in the following order and form:

(a) Total nitrogen ..... %
Available phosphate ..... %
Soluble potash ..... %

(b) Any fertilizer intended for agricultural use with a total nitrogen, available phosphate, or soluble potash guarantee shall contain five percent (5%) or more of available nitrogen, phosphate, or potash, singly, collectively, or in combination.

(c) For unacidulated mineral phosphatic materials and basic slag, the guaranteed analysis shall contain both total and available phosphate and the degree of fineness. For bone, tankage, and other organic phosphatic materials, the guaranteed analysis shall contain total and available phosphate.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, international (AOAC); and the minimum percentage of material that will pass respectively a one hundred (100) mesh, sixty (60) mesh, and ten (10) mesh sieve.

(e) The guarantees for nutrients other than total nitrogen, available phosphate and soluble potash shall be expressed in the form of the element. The source (oxides, salts, chelates, etc.) of such other nutrients may be required to be stated on the application for registration and shall be included on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department. Other guarantees shall not be included with the guarantee for nutrients, but shall be listed separately as "nonnutrient substances." When any plant nutrients or other substances or compounds are guaranteed they shall be subject to inspection and analysis in accordance with the methods and rules prescribed by the department.

(f) In a fertilizer with the principal constituent of calcium sulfate (gypsum), the percentage of calcium sulfate ($CaSO_4 2H_2O$) shall be given along with the percentage of total sulfur (S).

(11) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer.

(12) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(13) "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, and television and radio announcements used in promoting the sale of such fertilizer.

(14) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium carbonate ($CaCO_3$), calcium hydroxide ($Ca(OH)_2$), calcium oxide (CaO), magnesium carbonate ($MgCO_3$), magnesium hydroxide ($Mg(OH)_2$) or magnesium oxide (MgO), singly or combined.

(15) "Manipulation" means actively processed or treated in any manner.

(16) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(17) "Micronutrient" means boron (B), chlorine (Cl), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), sodium (Na), and zinc (Zn).

(18) "Official sample" means any sample or fertilizer taken by the director or his authorized agent and designated as "official" by the department.

(19) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(20) "Percent" or "percentage" means the percentage by weight.

(21) "Person" means an individual, partnership, association, firm or corporation.

(22) "Primary nutrient" means total nitrogen, available phosphate, and soluble potash.

(23) "Production" means to compound or fabricate a fertilizer through a physical or chemical process. Production does not include mixing, blending, or repackaging fertilizer products.

(24) "Registrant" means the person who registers fertilizer under the provisions of this act.

(25) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

22-604. ADOPTION OF RULES. The department shall administer, enforce, and carry out the provisions of this chapter and may adopt rules necessary to carry out its purposes including, but not limited to, the proper use, handling, transportation, storage, display, distribution, analysis, and disposal of fertilizers and their containers. The adoption of rules is subject to public hearing as prescribed by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

22-605. REGISTRATION OF PRODUCTS. (1) Each brand and separately identifiable fertilizer product under each brand shall be registered before being distributed in this state. Companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "grades" on the brand registration application form. The application for registration

shall be submitted to the department on forms furnished by the department, and shall be accompanied by a fee of twenty-five dollars ($25.00) per brand and twenty-five dollars ($25.00) per separately identifiable fertilizer product, under each brand, if sold in packages of twenty-five (25) pounds or less. Upon approval by the department, a certificate of registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

(a) The brand name;

(b) Declaration of guaranteed analysis of formulations to be sold;

(c) The name and address of the registrant;

(d) The sources from which the guaranteed plant nutrients are derived; and

(e) A label or labels meeting the requirements of section 22-607, Idaho Code.

(2) A distributor is not required to register any brand of fertilizer that is already registered under this chapter.

(3) A distributor is not required to register a customer-formula fertilizer; provided, that each shall be distributed under a registered brand.

(4) If an application for renewal of the brand registration provided for in this section is not filed before January 1 of any one (1) year, a penalty of ten dollars ($10.00) shall be assessed after February 1 of that year and added to the original fee and shall be paid by the applicant before the renewal brand registration is issued; provided, that the penalty shall not apply if the applicant furnished an affidavit that he has not distributed this brand subsequent to the expiration of his prior registration.

(5) The department shall examine the fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application, information and appropriate labels are in proper form and contain all the required information, the fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant. The department may refuse to register or, cancel the registration, of any fertilizer product which would be in violation of any provision of this chapter.

(6) In reviewing the fertilizer product registration application, the department may consider experimental data, manufacturers' evaluations, data from agricultural experiment stations' product review evaluations, and other authoritative sources to substantiate labeling claims. The data shall be from statistically designed and analyzed trials representative of the soil, crops, and climatic conditions found in the northwestern area of the United States.

(7) In determining whether approval of a label statement or guarantee of an ingredient is appropriate, the department may require the submission of a written statement describing the methodology of laboratory analysis utilized, the source of the ingredient material, and any reference material relied upon to support the label statement or guarantee of ingredient.

(8) Any waste-derived fertilizer distributed as a single ingredient product or blended with other fertilizer ingredients must be iden-

tified as "waste-derived fertilizer" by the registrant in the application for registration.

(9) The registrant of a waste-derived fertilizer shall state in the application for registration the levels of nonnutritive metals including, but not limited to, arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb) and selenium (Se). The registrant shall provide a laboratory report or other documentation verifying the levels of the nonnutritive metals in the waste-derived fertilizer.

22-606. FORMULAS. The department may require submission of the complete formula of any fertilizer and the source of all ingredients if it is deemed necessary for the registration of any fertilizer product or the administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section 9-340D(1) or (2), Idaho Code.

22-607. LABELS -- INFORMATION REQUIRED. (1) Any fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in a clearly legible and conspicuous form the following information:

(a) The net weight;

(b) The brand and grade;

(c) The name and address of the registrant, or manufacturer, or both; and

(d) The sources from which the guaranteed plant nutrients are derived.

(2) In the case of bulk shipments, this information in written or printed form, shall accompany delivery and be supplied to the purchaser.

(3) Each delivery of a customer-formula fertilizer shall contain those ingredients specified by the purchaser. The ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of six (6) months and shall be available to the department upon request; provided, that each delivery shall be accompanied by either a statement, invoice, delivery slip, or label if bagged, containing the following information:

(a) The net weight;

(b) The brand;

(c) The guaranteed analysis or evidence of grade which may be stated to the nearest tenth of a percent or to the next lower whole number;

(d) The name and address of the registrant or manufacturer, or both;

(e) The name and address of the purchaser; and

(f) The sources from which the guaranteed plant nutrients are derived.

22-608. INSPECTION FEES. (1) There shall be paid to the department for all fertilizers sold or distributed in this state in quantities of more than twenty-five (25) pounds an inspection fee at the rate of fifteen cents (15¢) per ton.

(2) Every registrant who distributes fertilizer in the state

shall file with the department a semiannual statement for the reporting period setting forth the number of net tons of each fertilizer so distributed in this state during such period. The statement is due on or before thirty (30) days following the close of the filing period. Upon filing the statement, the registrant shall pay the inspection fee at the rate provided in this section. If the tonnage report is not filed and the inspection fee is not paid within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the amount due, or twenty-five dollars ($25.00), whichever is greater, shall be assessed against the registrant and added to the amount due.

(3) When more than one (1) person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered or who has distributed the fertilizer to a nonregistrant, dealer, or consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment is made by a prior distributor of the fertilizer. The registrant has the ultimate responsibility for the payment of inspection fees.

(4) Records of the number of net tons of each fertilizer so distributed in this state shall be maintained for a period of five (5) years. The director shall have the right to examine such records to verify the reported tonnage of fertilizer distributed in this state.

(5) A minimum inspection fee shall be five dollars ($5.00) per reporting period.

(6) On individual packages of fertilizer containing twenty-five (25) pounds or less there shall be paid, in lieu of the inspection fee, an annual registration fee of twenty-five dollars ($25.00) for each separately identifiable product of each brand sold or distributed. Where a person distributes fertilizer in packages of twenty-five (25) pounds or less and in packages of over twenty-five (25) pounds, the annual fee shall apply only to that portion distributed in packages of twenty-five (25) pounds or less.

(7) Fees so collected shall be used for the payment of the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this chapter.

22-609. TONNAGE REPORTS. (1) The registrant distributing or selling fertilizer to a nonregistrant or consumer shall furnish to the department a report showing the amount (in tons) of each grade of fertilizer, and the form in which the fertilizer was distributed (dry or liquid). In the case of fertilizer sold to an intermediate distributor, the registrant or distributor shall list the name, address, telephone number, and amount (in tons) of each fertilizer product sold to each intermediate distributor.

(2) Information furnished to the department under this section is exempt from disclosure under section 9-340D(1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

22-610. INSPECTION -- SAMPLING. (1) The department shall inspect, sample, analyze, and test fertilizers distributed within this state, at a time and place and to the extent the department deems necessary, to determine whether the fertilizers comply with this chapter. The department may stop any commercial vehicle transporting fertilizers on

the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department may also, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources including, but not limited to, the association of American plant food control officials (AAPFCO) and the association of official analytical chemists, international (AOAC).

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in section 22-603(18), Idaho Code, and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the department shall forward the results of the analysis to the distributor and manufacturer, and to the purchaser upon request. Upon written request and within thirty (30) days of the results of analysis, the department shall furnish to the distributor and/or manufacturer a portion of the sample concerned.

(5) If analyses of samples made by the department indicate deficiencies in the fertilizer examined, below guaranteed analysis, and in excess of the tolerances specified by rules promulgated under this chapter, the department shall immediately notify the manufacturer and/or distributor of the fertilizer of the results of the analyses. The manufacturer or seller of the fertilizer may, upon written request, obtain from the department a portion of the sample(s) in question. If he fails to agree with the analyses of the department, he may request an umpire who shall be one (1) of a list of not less than three (3) public analysts of recognized ability in fertilizer analyses, who shall be named by the department. The umpire analyses shall be made at the expense of the manufacturer or seller requesting the same. If the umpire agrees more closely with the department, the figures of the department shall be considered correct. If the umpire agrees more closely with the figures of the manufacturer or distributor, then the figures of the manufacturer or distributor shall be considered correct.

(6) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

22-611. PENALTIES. (1) If the analysis shows that any fertilizer deviates from the guaranteed analysis in any plant nutrient, micronutrient, or in total nutrients, a penalty shall be assessed in favor of the department at the rate of three (3) times the value of the deficiency or twenty-five dollars ($25.00), whichever is greater, when the deviation exceeds the tolerances established by rules promulgated under this chapter.

(2) All penalties assessed under this section or any rule hereunder on any one (1) fertilizer, represented by the sample analyzed, shall be paid to the department within three (3) months after the date

of notice from the department to the registrant. The department shall deposit the amount of the penalty into the "commercial feed and fertilizer fund."

(3) Nothing contained in this section or any rule hereunder shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) of this section.

(4) Penalties payable as provided for in subsections (1) and (2) of this section or any rule hereunder shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying the penalties.

(5) Penalties for short weights, both packaged and bulk, shall be assessed at the rate of three (3) times the invoiced value if the deficiency exceeds the tolerances established by rule.

22-612. ASSESSMENT OF PENALTIES. For the purpose of initially determining the commercial values to be applied under section 22-611, Idaho Code, the department shall determine from the registrant's sales invoices the values per pound, charged for total nitrogen, available phosphoric acid, soluble potash, and other plant nutrients. The values so determined shall be used in determining and assessing penalties.

22-613. MISBRANDING. No person shall distribute a misbranded fertilizer. A fertilizer is misbranded if:

(1) The labeling is false or misleading;

(2) It is distributed under the name of another fertilizer product;

(3) It is not labeled as required in section 22-607, Idaho Code, and in accordance with rules prescribed under this chapter; or

(4) It purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by rule of the department. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of American plant food control officials (AAPFCO).

22-614. ADULTERATION. No person shall distribute an adulterated fertilizer product. A fertilizer is adulterated if:

(1) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or, if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label;

(2) Its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) It contains unwanted crop seed or weed seed.

22-615. PUBLICATION OF INFORMATION. The department shall publish at least annually and in a form it deems proper: the total tonnage of fertilizer distributed, the number of total official samples analyzed

and the number of deficient official samples analyzed, and any other information the department deems fit.

22-616. "STOP SALE" ORDERS. The department may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any fertilizer and hold the fertilizer, or order it held, at a designated place when the department finds the fertilizer is being offered for sale in violation of this chapter, until the law has been complied with and the fertilizer is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. The owner or custodian of any fertilizer that has been issued a "stop sale, use, or removal" order shall remedy the violations within ninety (90) days, unless the department grants a written extension. The department shall release the fertilizer so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

22-617. COMPLAINT FOR SEIZURE -- HEARING. Any fertilizer that does not comply with this chapter is subject to seizure on complaint of the department to a court of competent jurisdiction in the geographic area in which the fertilizer is located. If the court finds the fertilizer to be in violation of this chapter and orders the condemnation of the fertilizer, the fertilizer shall be disposed of in any manner consistent with the quality of the fertilizer and the laws of the state; provided, that in no instance shall the disposition of the fertilizer be ordered by a court of competent jurisdiction without first giving the claimant an opportunity to apply to the court for release of the fertilizer or for permission to process or relabel the fertilizer to bring it into compliance with this chapter.

22-618. VIOLATIONS. It is unlawful for any person to:

(1) Distribute a misbranded fertilizer;

(2) Fail, refuse or neglect to place upon or attach to each container of distributed fertilizer a label containing the information required by this chapter;

(3) Fail, refuse or neglect to deliver to a purchaser of bulk fertilizer a statement containing the information required by this chapter;

(4) Distribute a fertilizer which has not been registered with the department;

(5) Distribute a fertilizer containing viable seeds unless serving a desirable purpose and appropriately labeled;

(6) Distribute an adulterated fertilizer;

(7) Distribute a fertilizer weighing less than that which it is purported to weigh;

(8) Distribute a fertilizer different from the guaranteed analysis purported on the label; or

(9) Fail or refuse to provide, keep or maintain records and information as required by this chapter.

22-619. REMEDIES FOR VIOLATIONS. (1) Any person convicted of violating any of this chapter or the rules promulgated thereunder or who

impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the director or a duly authorized agent from the performance of their duty in connection with this chapter, is guilty of a misdemeanor and shall be fined not more than five hundred dollars ($500) for the first violation, and not more than one thousand five hundred dollars ($1,500) for a subsequent violation. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis signed by the director or his duly authorized agent shall be accepted as prima facie evidence of the composition.

(2) Any person who violates or fails to comply with this chapter or any rules promulgated thereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than five hundred dollars ($500) 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, chapter 52, title 67, Idaho Code. If the director is unable to collect the 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 director 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.

(3) Nothing in this chapter requires the director or a duly authorized representative to report minor violations of the chapter for prosecution, or for the institution of seizure proceedings, when the director believes that the public interest will be best served by a suitable notice of warning in writing.

(4) Each prosecuting attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the director reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the director.

(5) The director may apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

22-620. USE OF FUNDS RECEIVED. All moneys received by the director from the registration of various brands of fertilizers and from the payment to him of moneys derived from the registration and inspection fees charged on such fertilizers, and moneys collected for a violation(s) of this chapter or rules promulgated thereunder, shall be paid into the state treasury and placed in a fund to be known as the "commercial feed and fertilizer fund." Moneys in the commercial feed and fertilizer fund are continuously appropriated for the purposes of carrying out the provisions of this chapter.

22-621. COOPERATION WITH OTHER GOVERNMENTAL AGENCIES. The director may cooperate with and enter into agreements with other governmental agencies, whether of this state, other states, or agencies of the federal government, and with private associations, in order to carry out the purposes of this chapter.

22-622. NO AFFECT ON EXISTING LIABILITY. The enactment of this chapter does not terminate or modify any civil or criminal liability which already exists on July 1, 2000.

22-623. NOT APPLICABLE TO WHOLESALE TRANSACTIONS. Nothing in this chapter restricts or precludes sales or exchanges of fertilizers to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or prevents the free and unrestricted shipments of fertilizer to manufacturers or manipulators who have registered their products as required by this chapter.

22-624. SEVERABILITY. If any clause, sentence, paragraph, or part of this chapter is judged invalid by any court of competent jurisdiction, the judgment shall not affect, impair, or invalidate the remainder of the chapter, but shall be confined in its operation to the clause, sentence, paragraph, or part of the chapter directly involved in the controversy in which the judgment has been rendered.

SECTION 3. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 296
(H.B. No. 442)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5309C, IDAHO CODE, TO ALLOW TEMPORARY PAY GRADES TO BE USED TO RETAIN QUALIFIED EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 <u>or retain</u> qualified personnel in a particular classification, upon petition of the appointing authority to the administrator containing acceptable reasons therefor, a higher temporary pay grade may be authorized by the 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 subsection (b) of this section; however, such in-grade advancement shall not be construed as a vested right. The department director shall designate, upon agreement with the employee, whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the supervisor and the departmental director to effect the evaluation prescribed in subsection (b) of this section on an evaluation form approved by the administrator for that purpose.

(iii) In addition to pay increases authorized in paragraph (ii) 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 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 297
(H.B. No. 458, As Amended)

AN ACT

RELATING TO CONFIDENTIALITY OF TAX INFORMATION; AMENDING SECTION 63-3076, IDAHO CODE, TO MORE SPECIFICALLY DEFINE THE SCOPE OF CONFIDENTIAL TAX INFORMATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3077, IDAHO CODE, TO MORE SPECIFICALLY DEFINE INFORMATION WHICH MAY BE DISCLOSED AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-915, IDAHO CODE, TO PROVIDE A CRIMINAL OFFENSE OF AN ASSAULT OR BATTERY UPON A MEMBER, EMPLOYEE OR AGENT OF THE STATE TAX COMMISSION.

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

SECTION 1. That Section 63-3076, Idaho Code, be, and the same is hereby amended to read as follows:

63-3076. PENALTY FOR DIVULGING INFORMATION. ~~Except as provided in section 63-3045B, Idaho Code~~ In regard to the administration of the taxes imposed by this chapter or by any other statute to which this section and section 63-3077, Idaho Code, expressly apply:

(~~a~~1) No state tax commissioner, deputy, or any clerk, agent, contractor or employee, or any centralized state computer facility employee or any person formerly employed in any such position shall knowingly divulge or make known to any person in any manner any tax return or tax information whatsoever obtained directly or indirectly by him in the discharge of his duties, ~~or permit any income return or copy thereof, or any paper or book so obtained, to be seen or examined by any person~~ except as provided by ~~law; provided, that~~ statute, court order or rules of the state tax commission promulgated under this section or section 63-3077, Idaho Code.

(2) ~~I~~In any action or proceeding brought for the collection, remission, cancellation or refund of the whole or any part of a tax imposed under the provisions of this ~~act~~ chapter, or for enforcing the penalties prescribed for making false or fraudulent returns, any and all information contained in such returns and tax information may be furnished or made accessible to the officers or representatives of the state or county charged with the duty of investigating, prosecuting or defending the same~~, under such rules and regulations as the state tax commission shall prescribe~~; and all such returns and tax information and the statements and correspondence relating thereto may be produced

in evidence in any action or proceeding, civil or criminal, directly pertaining to such returns or the tax imposed on the basis of such return. In addition, the state tax commission may provide information in its possession to a law enforcement agency or prosecutor pursuant to the investigation or prosecution of an offense under section 18-915, 18-1353, 18-1353A, 18-1354, 18-1355 or 18-6710, Idaho Code, when the victim of such an offense is, or at the time of the action was, a member, employee or agent of the state tax commission.

(~~b~~3) A copy of all or any portion of a federal return, or information reflected on such federal return, which may be attached to an Idaho return, or otherwise come into the possession of any commissioner, deputy, clerk, agent, contractor or employee, or any employee of a centralized state computer facility, shall not be disclosed in any manner whatsoever other than as authorized by ~~the preceding~~ this ~~subsection~~.

(~~c~~4) Any officer, agent, clerk, contractor or employee ~~violating~~ who knowingly violates any of the provisions of this section shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or by imprisonment for not more than five (5) years. Such officer, agent, clerk, contractor or employee upon such conviction shall also forfeit his office, ~~or~~ employment or contract and shall be incapable of holding any public office in this state for a period of two (2) years thereafter. Nothing in this subsection shall limit the state tax commission's ability to take disciplinary actions authorized in chapter 53, title 67, Idaho Code.

(5) As used in this section and section 63-3077, Idaho Code, the term:

(a) "Return" means any of the following whether required, provided for, or permitted by any statute administered by the state tax commission that is filed with the state tax commission by, for, or with respect to any person:

(i) Any tax or information return;

(ii) Declaration of estimated tax;

(iii) Claim for refund;

(iv) Any amendment or supplement thereto, including supporting schedules, attachments or lists that are supplemental to, or part of, the return.

(b) "Tax information" means:

(i) A taxpayer's identity;

(ii) The nature, source or amount of a taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments or tax payments;

(iii) The status of the processing or investigation of the taxpayer's liability;

(iv) Any other data received by, recorded by, prepared by, furnished to or collected by the state tax commission with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person pursuant to the laws administered by the state tax commission for any tax, penalty, interest, fine, forfeiture, other imposition or offense;

(v) Any part of a written determination, or documents relating to a written determination, that is not open to public inspection; and

(vi) Information filed with, or furnished to, the state tax commission by or for the taxpayer to whom the information relates that is not otherwise public information.

SECTION 2. That Section 63-3077, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (~~a~~1) The state tax commission, under such rules as it may prescribe, may ~~permit, notwithstanding the provisions of this act as to secrecy,~~ disclose tax returns or tax information to:

(a) ~~T~~the commissioner of internal revenue of the United States or his delegate or the financial management services of the department of the treasury of the United States; or

(b) ~~T~~the proper officer of any state imposing a tax ~~on or according to income~~ similar to a tax to which this section applies or the multistate tax commission or its delegate ~~to inspect the income tax returns~~ or the governing entity of the international fuels tax agreement or its delegate;

of any taxpayer making or who may be required to make returns, ~~under this act,~~ with the state tax commission or may furnish to such officer or his authorized representative an abstract or copy of any ~~income~~ tax return or ~~any matter contained in any affidavit, statement, or certificate made or filed in connection with any return or any tax or credit claimed as an offset against any~~ tax information or any information disclosed by the report of any audit or investigation relating to ~~the income or tax of~~ any taxpayer; but such permission shall be granted or information furnished to such officer or his representatives only if the statutes of the United States or such other state, as the case may be, grant substantially similar privileges to the ~~proper officer of this state charged with the administration of this act~~ state tax commission.

(~~b~~2) Notwithstanding the provisions of this ~~act~~ chapter as to secrecy, any duly constituted committee of either branch of the state legislature shall have the right to inspect returns upon request.

(~~c~~3) Nothing in this ~~act~~ chapter shall prohibit a taxpayer, or his authorized representative, upon proper identification, from inspecting or ~~copying~~ obtaining a copy of his own ~~income~~ tax returns or tax information or authorizing, in writing, the disclosure of information to a third party.

(~~d~~4) Any resident or part-year resident individual taxpayer making an income tax return, ~~whether accrual or cash basis,~~ shall furnish the state tax commission with the location of any residential property owned by the taxpayer and occupied by the taxpayer as his primary dwelling place on the first day of January of the year following the year to which the tax return relates. The state tax commission is hereby authorized and empowered to deliver to the county assessor of any county of the state of Idaho information relating to a taxpayer's place of residence or domicile. The information may be used by county assessors and boards of equalization to assist in determin-

ing the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code. Information disclosed to county officials under this subsection may be used only to determine the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code, and is not otherwise subject to public disclosure.

(e5) The state tax commission additionally is authorized to utilize any centralized state computer facility.

(6) Nothing in this section or section 63-3076, Idaho Code, shall require the state tax commission to disclose information not required to be disclosed under the provisions of sections 9-335 through 9-348, Idaho Code, or prevent the state tax commission from disclosing the current validity of any permit or license issued by the state tax commission or information that is otherwise publicly available.

SECTION 3. That Section 18-915, Idaho Code, be, and the same is hereby amended to read as follows:

18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT. Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the department of correction, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, officer of the state department of law enforcement, fireman, social caseworkers or social work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the department of health and welfare, emergency medical technician-ambulance certified by the department of health and welfare, advanced emergency medical technician and EMT-paramedic certified by the state board of medicine, a member, employee or agent of the state tax commission, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section.

(c) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility,

a teacher at a detention facility or a juvenile probation officer engaged in the performance of his duties, and the victim is engaged in the performance of his duties, the offense shall be a felony punishable by imprisonment in the state prison for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

Approved April 14, 2000.

CHAPTER 298
(H.B. No. 461)

AN ACT

RELATING TO RULES OF THE WATER RESOURCE BOARD GOVERNING MINE TAILINGS STRUCTURES; AMENDING SECTION 42-1714, IDAHO CODE, TO PROVIDE FOR THE WATER RESOURCE BOARD TO ADOPT RULES PROVIDING FOR THE OWNER TO FILE A PLAN AND A BOND OR OTHER ACCEPTABLE SURETY TO ASSURE ABANDONMENT OF A MINE TAILINGS IMPOUNDMENT STRUCTURE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 42-1714, Idaho Code, be, and the same is hereby amended to read as follows:

42-1714. RULES. ~~AND REGULATIONS.~~ The water resource board shall adopt and revise from time to time such rules ~~and regulations and issue general orders~~ as may be necessary for carrying out the provisions of sections 42-1710 through 42-1721, Idaho Code. ~~Rules and regulations--governing mine tailings slurry impoundment structures will be prepared within a period not to exceed two (2) years--by--a--committee composed--of--department of water resources personnel and, in an advisory capacity, representatives of--owners--of--such--impoundments~~ The rules governing mine tailings and impoundment structures shall require the owner to provide an abandonment plan to assure that the site will be in a safe maintenance-free condition upon completion of the mining operation. The rules shall also require the owner to provide to the director a bond or other acceptable surety adequate to complete the abandonment plan if the owner abandons the site without conforming to the plan. The amount of the bond shall be determined by the director and shall be established to avoid duplication with sureties deposited with other governmental agencies. In lieu of any surety required hereunder, the owner may deposit cash and governmental securities with the director in an amount equal to that of the required surety on conditions as prescribed in the rules.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 299
(H.B. No. 481, As Amended)

AN ACT

RELATING TO CONVERSION INTO A DOMESTIC MUTUAL INSURER; AMENDING SECTION 41-3102A, IDAHO CODE, TO PROVIDE THAT A DOMESTIC MUTUAL INSURER WHICH HAS CONVERTED FROM A COUNTY MUTUAL INSURER SHALL BE SUBJECT TO THE SAME REQUIREMENTS AND SHALL HAVE THE SAME RIGHTS AS A LIKE DOMESTIC INSURER TRANSACTING LIKE KINDS OF INSURANCE EXCEPT THAT PRIOR TO JUNE 30, 2004, SURPLUS AS REGARDS POLICYHOLDERS MAY BE MAINTAINED AT A LEVEL EQUAL TO FIFTY PERCENT NET WRITTEN PREMIUM IN THE CALENDAR YEAR PRECEDING, WITH A MINIMUM SET AT ONE MILLION DOLLARS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-3102A, Idaho Code, be, and the same is hereby amended to read as follows:

41-3102A. CONVERSION INTO DOMESTIC MUTUAL. (1) A county mutual insurer upon affirmative vote of not less than two-thirds (2/3) of its members who vote on such conversion, pursuant to due notice, and the approval of the director of the terms therefor, may be converted to a domestic mutual insurer.

(2) A domestic mutual insurer which has converted from a county mutual insurer shall be subject to the same requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance, except that~~:~~

~~(a)~~ p~~P~~rior to ~~January 1, 2000~~ June 30, 2004, surplus as regards policyholders may be maintained at a level equal to ~~seventy-five~~ fifty percent (~~75~~50%) net written premium in the ~~twelve (12) months~~ calendar year preceding, with a minimum set at one million dollars ($1,000,000).

~~(b) Prior to January 1, 2000, such mutual insurer shall fulfill the deposit requirement of section 41-316A, Idaho Code, by depositing cash or securities eligible for deposit under section 41-803, Idaho Code, in an amount equal to one-half (1/2) net written premium in the twelve (12) months preceding, with a minimum set at five hundred thousand dollars ($500,000).~~

~~(c) A domestic mutual insurer who converts from a county mutual insurer after January 1, 1994, shall be subject to the surplus and deposit requirements as set forth in paragraphs (2)(a) and (2)(b) of this section, for a period of up to six (6) years after conversion.~~

(3) The director shall not approve any plan for such conversion which is inequitable to members.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 300
(H.B. No. 485, As Amended)

AN ACT

RELATING TO STATE ADMINISTRATIVE FACILITIES; AMENDING CHAPTER 57 TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5709A, IDAHO CODE, TO PROVIDE WHEN A STATE AGENCY DECLARES THAT A STATE ADMINISTRATIVE FACILITY IS NOT NEEDED OR IS UNSUITABLE FOR THEIR PURPOSES, IT SHALL TRANSFER CUSTODY AND CONTROL AND TITLE TO THE STATE BOARD OF EXAMINERS WHO SHALL TRANSFER AUTHORITY FOR THE DISPOSITION OF THE PROPERTY TO THE DEPARTMENT OF ADMINISTRATION, TO PROVIDE PROCEDURES AND TO PROVIDE A DEFINITION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 67-5709A, Idaho Code, and to read as follows:

67-5709A. SALE, TRANSFER OR DISPOSITION OF STATE ADMINISTRATIVE FACILITIES. The provisions of sections 58-331 through 58-335, Idaho Code, shall not apply to state administrative facilities in the custody, or control of the state of Idaho. When a state agency declares that a state administrative facility is not needed or is unsuitable for its purposes, custody and control shall be transferred to the state board of examiners, which shall immediately transfer authority for the disposition of the property to the department of administration which shall send a notice to all state agencies and institutions that the property is available for other state use. Any state agency interested in leasing or buying the property shall notify the department of administration within the time the department specifies.

If no state agency or institution is interested, the department shall obtain an appraisal and commence procedures to sell the property for the highest price possible. All proceeds from the sale or lease of administrative facilities acquired by the department of administration pursuant to this section, other than proceeds required by law to be deposited in a special fund, less the department of administration's cost of selling or leasing, shall be deposited into the permanent building fund for the purpose of holding such proceeds. Such proceeds in the permanent building fund acquired pursuant to this section may be expended pursuant to appropriation.

As used in this section, "state administrative facility" shall mean any real property and improvements, including administrative office buildings, structures and parking lots, used by any state agency to assist it in its operation as a state agency. State administrative facilities shall not include the real property or improvements owned or occupied by a state agency where such ownership, operation or occupying is a function of the agency's purpose, such as real property and improvements, other than the administrative office buildings, structures and parking lots described above, under the jurisdic-

tion and control of the Idaho transportation department, the department of fish and game, the department of parks and recreation and the department of lands.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 301
(H.B. No. 486)

AN ACT

RELATING TO FACILITIES NEEDS PLANNING; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5708B, IDAHO CODE, TO PROVIDE FOR FIVE YEAR FACILITIES NEEDS PLANS BY STATE AGENCIES AND TO REQUIRE THE REPORT OF SUCH NEEDS AT THEIR BUDGET HEARINGS, TO PROVIDE STANDARDS FOR THE SPACE USAGE, TO DEFINE TERMS AND TO PROVIDE RULES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 67-5708B, Idaho Code, and to read as follows:

67-5708B. FACILITIES NEEDS PLANNING. All state agencies shall prepare and maintain a five (5) year facilities needs plan and report such projected facilities needs at their annual budget hearings. State agencies shall prepare such five (5) year plan utilizing guidelines for facilities needs planning established by the department of administration. Any state agency that has unused, underused or available building space shall notify the department of administration and seek opportunities to co-occupy those facilities or any newly acquired or leased facilities with other state agencies.

Each state agency shall provide a copy of its facilities needs plan report to the department of administration. The department of administration shall prepare a five (5) year statewide facilities needs plan incorporating the facilities needs plans of the state agencies and report such facilities needs in its annual budget hearings.

For purposes of this section, the term "state agency" shall mean all state departments, agencies and institutions, excluding state institutions of higher education. For purposes of this section, the term "facilities needs" shall mean the state agency's need to own, operate or occupy real property and improvements including administrative office buildings, structures and parking lots, to assist it in its operation as a state agency. Facilities needs shall not include the ownership, operation or occupying of real property or improvements by a state agency where such ownership, operation or occupying is a function of the agency's purpose, such as real property and improve-

ments, other than administrative office buildings, structures and parking lots described above under the jurisdiction and control of the Idaho transportation department, the department of fish and game, the department of parks and recreation and the department of lands.

The department may promulgate rules and prescribe necessary procedures to implement the provisions of this section.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 302
(H.B. No. 491, As Amended)

AN ACT

RELATING TO MOTOR FUELS TAXES; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2406A, IDAHO CODE, TO PROVIDE A CREDIT AGAINST TAXES AS AN INCENTIVE TO FILE MOTOR FUEL DISTRIBUTOR'S REPORTS AND PAYMENT OF TAXES ELECTRONICALLY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. FINDINGS AND STATEMENT OF INTENT BY THE LEGISLATURE. The legislature finds that the use of electronic media for filing the motor fuel distributor reports required by Section 63-2406, Idaho Code, and for payment of motor fuels taxes will improve the administration of these taxes by reducing costs for both the state and licensed distributors and by contributing to improved enforcement and collection of the taxes. The incentives provided by this act are intended to encourage the use of electronic filing of reports and payment of motor fuels taxes. The legislature intends the incentives as part of the necessary costs of collection and administration of motor fuels taxes.

SECTION 2. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2406A, Idaho Code, and to read as follows:

63-2406A. INCENTIVE FOR ELECTRONIC FILING OF DISTRIBUTOR'S REPORTS AND PAYMENT OF TAXES. (1) A qualified licensed distributor who, on or before December 31, 2003, receives approval from the commission to file electronically the reports required by section 63-2406, Idaho Code, and who pays taxes due under this chapter by electronic funds transfer, whether or not required to use electronic funds transfer, shall be entitled to a one-time, nonrefundable credit in the amount of two thousand five hundred dollars ($2,500).

(2) A "qualified licensed distributor" is a licensed distributor who, over the six (6) months immediately preceding the month in which

the distributor may claim the credit provided in this section averaged in excess of fifty thousand (50,000) gallons each month of:

(a) Motor fuel received, plus

(b) Motor fuel shipped or delivered within a refinery or pipeline terminal or from a refinery or pipeline terminal to another refinery or pipeline terminal.

(3) The credit may be claimed on the first motor fuel distributor's report filed entirely by an electronic filing media approved by the commission if all associated amounts due are remitted by electronic funds transfer. In the case of a motor fuel distributor who, prior to the effective date of this act, began filing its motor fuel distributor's reports entirely by an electronic filing media approved by the commission and paid all associated amounts due remitted by electronic funds transfer, the credit may be claimed on the first motor fuel distributor's report filed after the effective date of this act. Unused credit may be carried over to succeeding returns until fully applied against taxes due.

(4) If a distributor who has received all or part of the credit permitted by this section fails to file its distributor's report electronically or fails to remit any amount due by electronic funds transfer for three (3) or more months in any twelve (12) month period without due cause, the commission shall recapture the previously allowed credit. The commission may, within the time permitted for adjustment of the return on which the credit was claimed, collect the recaptured credit in the same manner as a deficiency in tax.

SECTION 3. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 303
(H.B. No. 493)

AN ACT

RELATING TO THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 40-510, IDAHO CODE, TO PROVIDE THAT CERTAIN INDIVIDUALS APPOINTED AND EMPLOYED BY THE IDAHO TRANSPORTATION BOARD SHALL HAVE LIMITED PEACE OFFICER AUTHORITY FOR THE ENFORCEMENT OF MOTOR VEHICLE LAWS RELATED TO MOTOR CARRIERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 estab-

lish 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) Sections 63-2438, 63-2440, 63-2441 and 63-2443, Idaho Code; and

(f) Section 67-2901A, 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 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 14, 2000.

CHAPTER 304
(H.B. No. 495)

AN ACT

RELATING TO CHANGE OF ADDRESS FOR MOTOR VEHICLE DRIVER'S LICENSES, REGISTRATION CARDS AND IDENTIFICATION CARDS; AMENDING SECTION 49-320, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO NOTIFY THE DEPARTMENT OF A CHANGE OF ADDRESS; AMENDING SECTION 49-421, IDAHO CODE, TO REQUIRE THAT A CHANGE OF ADDRESS SHALL BE REPORTED WITHIN THIRTY DAYS FOLLOWING THE CHANGE AND TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO NOTIFY THE DEPARTMENT OF A CHANGE OF ADDRESS; AMENDING SECTION 49-2444, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 79, LAWS OF 1999, SECTION 21, CHAP-

TER 81, LAWS OF 1999, AND SECTION 3, CHAPTER 317, LAWS OF 1999, TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO NOTIFY THE DEPARTMENT OF A CHANGE OF ADDRESS; AMENDING SECTION 49-2444, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 79, LAWS OF 1999, SECTION 21, CHAPTER 81, LAWS OF 1999, SECTION 3, CHAPTER 317, LAWS OF 1999, AND SECTION 4, CHAPTER 318, LAWS OF 1999, TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO NOTIFY THE DEPARTMENT OF A CHANGE OF ADDRESS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-320, Idaho Code, be, and the same is hereby amended to read as follows:

49-320. NOTICE OF CHANGE OF ADDRESS. It is the responsibility of every licensed driver and every person applying for a driver's license to keep a current address on file with the department.

(1) Whenever any person after applying for or receiving a driver's license shall move from the address shown in the application or in the driver's license issued, that person shall, within thirty (30) days, notify the department in writing of the old and new addresses.

(2) Whenever any statute or rule requires a driver to receive notice of any official action with regard to the person's driver's license or driving privileges taken or proposed by a court or the department, notification by certified mail at the address shown on the application for a driver's license or at the address shown on the driver's license or at the address given by the driver, shall constitute all the legal notice that is required.

(3) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (1) of this section.

SECTION 2. That Section 49-421, Idaho Code, be, and the same is hereby amended to read as follows:

49-421. REGISTRATION CARDS. (1) Upon the registration of a vehicle, the registering agency shall issue to the owner, as defined in section 49-116(3), Idaho Code, a registration card which shall contain the date issued, the registration number assigned the owner and to the vehicle, the name and address of the owner, a description of the registered vehicle, identification number and any other information the department may require.

(2) The owner, upon receiving the registration card, shall sign in the space provided upon the card as proof of compliance with the insurance requirements of section 49-1229, Idaho Code.

(3) Upon a change of address the registrant shall report such change to the county assessor or the department within ~~ten~~ thirty (~~10~~30) days following the change of address.

(4) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (3) of this section.

SECTION 3. That Section 49-2444, Idaho Code, as amended by Section 2, Chapter 79, Laws of 1999; Section 21, Chapter 81, Laws of 1999; and Section 3, Chapter 317, Laws of 1999; 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 any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

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 a 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. 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 identi-

fication 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 thirty (30) 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.

(9) The department may issue a no-fee identification card to an individual whose driver's license has been cancelled and voluntarily surrendered as provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains cancelled.

(10) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (6) of this section.

SECTION 4. That Section 49-2444, Idaho Code, as amended by Section 2, Chapter 79, Laws of 1999; Section 21, Chapter 81, Laws of 1999; Section 3, Chapter 317, Laws of 1999; and Section 4, Chapter 318, Laws of 1999; 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 a 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 any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

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 a four-year 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 current 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. 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 issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth 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, 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 thirty (30) 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.

(9) The department may issue a no-fee identification card to an individual whose driver's license has been cancelled and voluntarily surrendered as provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains cancelled.

(10) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (6) of this section.

SECTION 5. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 305
(H.B. No. 516)

AN ACT

RELATING TO DISPOSAL OF SURPLUS PROPERTY OF THE STATE OF IDAHO; AMENDING SECTION 58-331, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE DISPOSAL OF SURPLUS REAL PROPERTY; AMENDING SECTION 58-332, IDAHO CODE, TO REVISE THE PROCEDURE UTILIZED BY THE STATE BOARD OF LAND COMMISSIONERS FOR THE DISPOSAL OF SURPLUS REAL PROPERTY OF THE STATE OF IDAHO; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 58-331, Idaho Code, be, and the same is hereby amended to read as follows:

58-331. DESIGNATION OF SURPLUS REAL PROPERTY. Real property of the state of Idaho, the use of which by any department, officer, board, commission or other administrative agency of the state shall be terminated by law, and real property in the custody and control of any such agency which the agency shall declare to be no longer useful to or usable by it, shall be deemed surplus, and, except as set forth in section 67-5709A, Idaho Code, custody and control thereof shall thereupon be vested in and title be transferred to the state board of land commissioners, subject to disposition by said board in accordance with the provisions of this act.

SECTION 2. That Section 58-332, Idaho Code, be, and the same is hereby amended to read as follows:

58-332. DISPOSAL OF SURPLUS REAL PROPERTY. (1) Upon transfer to it of such surplus real property the state board of land commissioners shall ascertain if such property is suitable for other state use, and if it ~~determines--that--suitable-use-can-be-had~~ is, then control and custody thereof shall be relinquished by ~~said~~ the board to the agency ~~by-whom-it-shall-determine-the-best-use-can-be-made;-if-no-such-use-be determined,-then-the-state-board-of-land-commissioners-shall-either-by public--sale,--after--notice--by--publication-for-four-(4)-consecutive weeks-in-a-newspaper-published-in-the-county-in-which-the-property--is situate,--sell--the-same-to-the-highest-and-best-bidder-upon-terms-and conditions-to-be-determined-by-the-board-and-specified-in--the--notice of--sale;--or-if-the-property-is-suitable-for-use-by-any-tax-supported agency-or-unit-of-the-state-of-Idaho-or-the-United-States--other--than the--state--of--Idaho--or--its--agencies,--may,--by-negotiated-sale-or exchange,-transfer-or-exchange-such-property-with--such--tax-supported agency--or-unit~~ which can make best use of the property. Such disposition may be by negotiated sale or exchange; provided, however, that such negotiated sales, transfers, or exchanges shall be for adequate and valuable consideration.

(2) If no state agency acquires the surplus property, the board may dispose of the surplus property to any tax-supported agency or unit of the state of Idaho or the United States other than the state of Idaho or its agencies. Such disposition may be by negotiated sale or exchange; provided however, that such negotiated sales, transfers or exchanges shall be for adequate and valuable consideration.

(a) In the event of ~~any~~ such contemplated sale, transfer or exchange the state board of land commissioners shall cause to be published a notice of such contemplated sale, transfer or exchange, setting out in full the description of the property concerned, both as to what is being offered and what is to be received, and the proposed use of the property by the tax-supported unit which proposes to acquire such property.

(b) Such notice shall be published in a newspaper published in the county in which the property is situate for four (4) consecutive weeks prior to a certain fixed date therein, designating a time and place for public hearing in the matter.

(c) The state board of land commissioners shall determine ~~within ten-(10)-days~~ at the next regularly scheduled meeting subsequent to such hearing as to acceptance or rejection of such proposed

sale, transfer or exchange, and if accepted, the tax-supported unit shall thereafter have sixty (60) days in which to accept or reject the proffer, following such decision.

(d) If such negotiations fail, then the property may be subject to public sale as ~~hereinabove~~ set forth in this section.

(3) If no tax-supported agency or unit of the state of Idaho or the United States acquires the surplus property, the state board of land commissioners may offer at public sale, after notice of publication for four (4) consecutive weeks in a newspaper published in the county in which the property is situate, and sell the same to the highest and best bidder upon terms and conditions to be determined by the board and specified in the notice of sale. If the property does not sell at public auction, the board may have the property appraised and enter into negotiations with any party(s) to effect disposition of the property for adequate and valuable consideration. Sale may be by any method that will help dispose of the property including, but not limited to, direct negotiations with interested parties, use of advertising, hiring real estate agents and public auction.

(4) In all cases, the compensation received by the board for the sale of surplus property shall be returned to the agency which declared the property surplus to be placed in such account as may be appropriate. The board may deduct the costs of the sale from any proceeds before transmitting the proceeds back to the agency which declared the property surplus.

SECTION 3. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 306
(H.B. No. 518)

AN ACT

RELATING TO THE YOUTH PROGRAMS FUND; AMENDING CHAPTER 22, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-2228, IDAHO CODE, TO AUTHORIZE CREATION OF THE YOUTH PROGRAMS FUND, TO DESIGNATE THE PURPOSES OF THE FUND AND TO AUTHORIZE MONEYS FOR DEPOSIT IN THE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 22, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-2228, Idaho Code, and to read as follows:

31-2228. YOUTH PROGRAMS FUND. The sheriff of each county is authorized to create a self-perpetuating youth programs fund for use in implementation of prevention and early intervention programs for at-risk youth in the county, including but not limited to: (1) provid-

ing mentoring programs, (2) creating safe places and structured activities in nonschool hours, (3) fostering good health, (4) developing effective education opportunities for marketable career skills, and (5) providing an opportunity for youth to give back to their community. Proceeds from the fee imposed pursuant to section 49-418B, Idaho Code, transferred to the county, shall be deposited to the fund. In addition, the sheriff may accept gifts and donations from individuals and private organizations or foundations, or appropriations from public entities. The fund shall be subject to yearly audit authorized by the board of county commissioners.

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

Approved April 14, 2000.

CHAPTER 307
(H.B. No. 523)

AN ACT

RELATING TO MEMBERS OF THE COMMISSION ON THE ARTS; AMENDING SECTION 67-5603, IDAHO CODE, TO PROVIDE THE TERMS OF THE MEMBERS OF THE COMMISSION ON THE ARTS SHALL BE EXTENDED TO JUNE 30 OF THE YEAR THEIR TERM EXPIRES AND WHEN A MEMBER'S TERM EXPIRES, THE GOVERNOR SHALL APPOINT A MEMBER FOR A FOUR YEAR TERM, WHICH SHALL BE FROM JULY 1 TO JUNE 30 FOUR CALENDAR YEARS LATER AND TO PROVIDE THAT A VACANCY SHALL BE FILLED FOR THE REMAINDER OF THE TERM; DECLARING AN EMERGENCY AND PROVIDING APPLICATION TO MEMBERS OF THE COMMISSION ON THE ARTS WHOSE TERM WOULD EXPIRE ON APRIL 1, 2000.

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

SECTION 1. That Section 67-5603, Idaho Code, be, and the same is hereby amended to read as follows:

67-5603. TERMS OF MEMBERS -- APPOINTMENT OF OFFICERS -- SERVICE OF MEMBERS -- COMPENSATION. The term of office of each member shall be four (4) years; ~~provided, however that of the members appointed during or after June, 1991, the governor may appoint for a term of less than four (4) years so that not more than four (4) terms expire in any one (1) year~~ provided that all members' terms shall be extended to June 30 of the year their terms expire. When a member's term expires, the governor shall appoint a member for a four (4) year term which shall be from July 1 to June 30 four (4) calendar years later. A vacancy shall be filled for the remainder of the term. The governor shall designate a chairman and a vice-chairman from the members of the commission to serve as such at the pleasure of the governor. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the commission shall be compensated as provided by section 59-509(b), 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; provided that members of the Commission on the Arts whose term would expire on April 1, 2000, may continue to serve until July 1, 2000, and shall be eligible to be reappointed by the Governor.

Approved April 14, 2000.

CHAPTER 308
(H.B. No. 524)

AN ACT

RELATING TO TOWING OF MOTOR VEHICLES; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807A, IDAHO CODE, TO PROVIDE THAT A TOWING FIRM CALLED TO THE SCENE OF AN ACCIDENT OR DISABLED VEHICLE SHALL REMOVE THE VEHICLE AS DIRECTED BY AN AUTHORIZED OFFICER OR AS REQUESTED BY THE OWNER OR AUTHORIZED AGENT, TO PROHIBIT COLLECTION OF CERTAIN FEES IF THE VEHICLE IS REMOVED OTHER THAN AS SO DIRECTED OR IF THE TOWING FIRM REFUSES TO RELEASE THE VEHICLE TO THE OWNER FOR ANY REASON OTHER THAN THE OWNER'S REFUSAL TO PAY LAWFUL FEES.

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

SECTION 1. That Chapter 18, 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 49-1807A, Idaho Code, and to read as follows:

49-1807A. UNAUTHORIZED REMOVAL OF VEHICLE -- REFUSAL TO RELEASE VEHICLE. Any towing firm, employee or agent thereof called to the scene of an accident or disabled vehicle by an authorized officer and requested to remove a vehicle, shall remove the vehicle and take it to the nearest garage or other place of safety as directed by the officer or, except as otherwise provided in this chapter, shall take the vehicle to such place as the owner or his authorized agent may reasonably request. The towing firm, employee or agent shall not be entitled to recover any storage, impound fees or other fees, except the scheduled tow fee, if the firm, employee or agent:

(1) Removes the vehicle to a place other than as directed by the officer or as reasonably requested by the owner or his authorized agent; or

(2) After removing the vehicle, refuses to release the vehicle to the owner or his authorized agent for any reason other than the refusal of the owner or authorized agent to pay the fees to which the towing firm is lawfully entitled. The refusal of the owner or his authorized agent to pay fees to which the towing firm, employee or agent is not entitled pursuant to this subsection, shall not be cause for the towing firm, employee or agent to refuse to release the vehicle.

Approved April 14, 2000.

CHAPTER 309
(H.B. No. 531)

AN ACT

RELATING TO SALES AND USE TAX; AMENDING SECTION 63-3622O, IDAHO CODE, TO INCLUDE THE IDAHO WOMEN'S AND CHILDREN'S ALLIANCE WITHIN THE DEFINITION OF A HEALTH-RELATED ENTITY AND TO MAKE A TECHNICAL CORRECTION.

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

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

63-3622O. 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 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, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other 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, 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, and the Idaho Women's and Children's Alliance, 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.

(k) "Agency of the state of Idaho" shall mean 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 exemptions granted by subsection (1) of this section do 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 April 14, 2000.

CHAPTER 310
(H.B. No. 542)

AN ACT

RELATING TO CRIMINAL HISTORY CHECKS FOR EMPLOYEES OF PAROCHIAL SCHOOLS; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-130A, IDAHO CODE, TO PROVIDE FOR CRIMINAL HISTORY CHECKS FOR PRIVATE OR PAROCHIAL SCHOOL EMPLOYEES OR CONTRACTORS UPON REQUEST; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-130A, Idaho Code, and to read as follows:

33-130A. CRIMINAL HISTORY CHECKS FOR PRIVATE OR PAROCHIAL SCHOOL EMPLOYEES OR CONTRACTORS. If requested by the principal or governing board of a private or parochial school, the department of education, through the cooperation of the department of law enforcement, shall establish a system to obtain a criminal history check on employees of the school or persons entering into contracts with the school. The criminal history check and fees shall be as provided in section 33-130, Idaho Code.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 311
(H.B. No. 544)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-1426, IDAHO CODE, TO PROVIDE THAT PERSONS HAVE THIRTY DAYS FROM THE DATE OF LAST PUBLICATION OF THE NOTICE OF ENLARGEMENT OF A WATER RIGHT TO FILE A PETITION WITH THE DEPARTMENT OF WATER RESOURCES TO ASSERT ANY CLAIMED INJURY FROM THE ENLARGEMENT.

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

SECTION 1. That Section 42-1426, Idaho Code, be, and the same is hereby amended to read as follows:

42-1426. ENLARGEMENTS -- WAIVER OF MANDATORY PERMIT REQUIREMENTS. (1) Legislative findings regarding enlargements:

(a) The legislature finds that prior to the commencement of the Snake River basin adjudication and subsequent to the mandatory permit system provided in sections 42-201 and 42-229, Idaho Code, persons entitled to the use of water or owning any land to which water has been made appurtenant by decree, license or constitutional appropriation have, through water conservation and other means, enlarged the use of said water without increasing the rate of diversion and without complying with the mandatory permit system adopted by the legislature. Enlargements have been done with the knowledge of other water users, and water has been distributed based upon the right as enlarged. Junior water users made appropriations based upon a water system that reflected these enlarged uses. Thus, the legislature further finds and declares that it is in the public interest to waive the mandatory permit requirements for these enlargements in use prior to the commencement of a general adjudication, so long as such enlargements in use did not increase the rate of diversion of the original water right or exceed the rate of diversion for irrigation provided in section 42-202, Idaho Code, after the enlargement of use, and the enlargement of use did not reduce the quantity of water available to other water rights existing on the date of the enlargement in use.

(b) The legislature further finds that it is in the public interest to waive certain statutory provisions for the appropriation of water that has been diverted and applied to beneficial use to insure the economic and agricultural base in the state of Idaho as it existed on the date of the commencement of the Snake River basin adjudication and to maintain historic water use patterns existing on that date.

(2) The mandatory permit requirements of sections 42-201 and/or

42-229, Idaho Code, are waived, and a new water right may be decreed for the enlarged use of the original water right based upon the diversion and application to beneficial use, with a priority date as of the date of completion of the enlargement of use for any enlargement occurring on or before November 19, 1987; provided however, that the rate of diversion of the original water right and the separate water right for the enlarged use, combined, shall not exceed the rate of diversion authorized for the original water right; and further provided, that the enlargement in use did not injure water rights existing on the date of the enlargement of use. An enlargement may be decreed if conditions directly related to the injury can be imposed on the original water right and the new water right that mitigate any injury to a water right existing on the date of enactment of this act. If injury to a water right later in time cannot be mitigated, then the new right for the enlarged use shall be advanced to a date one (1) day later than the priority date for the junior water right injured by the enlargement. It is further provided that any such enlargement of use allowed in a general adjudication shall not constitute an abandonment or forfeiture of the original water right to the extent of current use.

(3) The director shall publish a notice of enlargement of water right for all water rights recommended under this section. The notice shall contain a summary of the notice of claim and shall be published in the same manner as notices for applications to appropriate water in section 42-203A, Idaho Code. Any person who has filed an application for a water right prior to the enactment of this act or who has been issued a permit for a water right prior to enactment of this act but who has not filed a claim in an adjudication shall have ~~one-hundred twenty-(120)~~ thirty (30) days from the date of last publication of the notice of enlargement of a water right under this section to file a petition with the department of water resources to assert any claimed injury from the enlargement. No appeal of the determination of the department shall be allowed. If the applicant or permittee is dissatisfied with the determination of the department on any claim of injury, the sole remedy is to intervene in the general adjudication and assert their claim of injury in an objection to the water right.

Approved April 14, 2000.

CHAPTER 312
(H.B. No. 554, As Amended)

AN ACT

RELATING TO HORSE OWNERS; AMENDING SECTION 25-2510, IDAHO CODE, TO PROVIDE FOR A REFERENDUM TO DETERMINE WHETHER HORSE OWNERS SUPPORT AN INCREASE FROM ONE DOLLAR TO THREE DOLLARS IN THE PER HEAD ASSESSMENT FOR FUNDING THE IDAHO HORSE BOARD, TO PROVIDE REQUIREMENTS FOR A REFERENDUM TO DETERMINE WHETHER THE ASSESSMENT TO FUND THE IDAHO HORSE BOARD SHOULD CONTINUE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-2505, IDAHO CODE, TO PROVIDE THE

ASSESSMENT PER HORSE SHALL BE THREE DOLLARS AND TO PROVIDE THAT THE ASSESSMENT SHALL REVERT TO ONE DOLLAR IF SO VOTED AT THE REFERENDUM.

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

SECTION 1. That Section 25-2510, Idaho Code, be, and the same is hereby amended to read as follows:

25-2510. REFERENDUM FOR HORSE OWNERS. (1) ~~After five (5)~~ Within three (3) years from ~~the effective date of this section~~ July 1, 2000, a referendum shall be held to determine if horse owners favor an increase from one dollar ($1.00) to three dollars ($3.00) in the ~~continuation of the~~ mandatory ~~provisions~~ assessment prescribed in section 25-2505, Idaho Code. The question shall be submitted to all horse owners who had a brand inspection the year prior to the referendum. ~~The brand board shall provide a ballot at the time of the brand inspection.~~ Horse owners who have been issued a lifetime brand inspection ~~subsequent to the effective date of this amendment~~ after July 1, 2000, are also eligible to participate in the referendum and may do so by requesting a ballot from the Idaho horse board. Voting shall be by secret ballots upon which the words "Do you favor ~~the continuation of a~~ the increase from one dollar ($1.00) to three dollars ($3.00) in the mandatory assessment to fund the Idaho Horse Board?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the proposition which the voter favors. If a majority of the referendum vote is in favor of ~~continuing~~ the mandatory ~~program~~ assessment of three dollars ($3.00), the provisions of section 25-2505, Idaho Code, shall be extended indefinitely or until such time that the horse board deems it necessary to hold another referendum on the issue. If a majority of the referendum vote is against the three dollar ($3.00) assessment provided in section 25-2505, Idaho Code, the assessment shall revert to one dollar ($1.00) on the date the director of the department of agriculture announces the results of the referendum.

(2) After five (5) years from the effective date of the referendum required in ~~the provisions of~~ subsection (1) of this section, and every five (5) years thereafter, a referendum on the continuation of the mandatory assessment to fund the Idaho horse board may be held at the petition of horse owners, or at the request of the Idaho horse board. The question shall be submitted to all horse owners who paid an assessment the year before the referendum and by owners who hold a lifetime brand inspection issued since July 1, 1993. The question shall be submitted by secret ballots upon which the words, "Do you favor the continuation of a mandatory assessment to fund the Idaho Horse Board?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the question which the voter favors. If a majority of the referendum vote is in favor of continuing the mandatory assessment, all of the provisions of chapter 25, title 25, Idaho Code, shall continue. If a majority of the referendum vote is against continuing the mandatory assessment, the assessment imposed in section 25-2505, Idaho Code, shall cease to be mandatory on the date the director of

the department of agriculture announces the results of the referendum vote. The procedures necessary to initiate a referendum under ~~the provisions of~~ this subsection are as follows:

(a) A referendum shall be held if the Idaho department of agriculture receives a petition requesting such a referendum signed by ten percent (10%) or more of horse owners who have had a brand inspection, in either of the two (2) immediate past years; or

(b) A referendum shall be held if the Idaho department of agriculture receives a written request for such referendum from the Idaho horse board.

(3) ~~(a)~~ Any referendum ~~shall be conducted only among owners who paid an assessment the year prior to the referendum and by owners who hold a lifetime brand inspection issued since 1993.~~ held pursuant to subsections (1) and (2) of this section shall be conducted as follows:

(~~b~~a) Any referendum must be supervised by the Idaho department of agriculture.

(~~c~~b) Any referendum shall be held, and the result determined and declared by the director of the department of agriculture, and recorded in the office of the secretary of state.

(~~d~~c) Notice of any referendum must be given by the Idaho horse board in a manner determined by it. The ballots must be prepared by the Idaho horse board and forwarded to eligible owners. ~~as prescribed in subsection (1) of this section.~~ Returned ballots shall be delivered to the Idaho department of agriculture, main office, Boise, Idaho~~, on or before July 20 of the year of the referendum~~.

(~~e~~d) The Idaho horse board shall pay the costs of any referendum.

SECTION 2. That Section 25-2505, Idaho Code, be, and the same is hereby amended to read as follows:

25-2505. ASSESSMENTS -- COLLECTION. (1) There is hereby levied and imposed upon all horses an assessment of ~~not more than one~~ three dollars ($~~1~~3.00) per head to be paid by the owner. The assessment shall revert to one dollar ($1.00) if the referendum held as provided in section 25-2510(1), Idaho Code, results in a majority vote opposing the three dollar ($3.00) assessment. A reversion to a one dollar ($1.00) assessment shall be effective on the date the director of the department of agriculture announces, as provided in section 25-2510, Idaho Code, that the referendum resulted in a majority vote opposing the three dollar ($3.00) assessment.

(2) The assessment levied and imposed in this section shall be collected on all brand inspections completed on horses in the state of Idaho.

(3) The state brand inspector shall collect the assessment in addition to, at the same time, and in the same manner as the fee charged for state brand inspections. The assessment so collected belongs to and shall be paid to the Idaho horse board, either directly or later by remittance together with a report detailing collection of the assessment. The board shall reimburse the state brand inspector for the reasonable and necessary expenses incurred for such collection, in an amount determined by the board and the inspector.

Approved April 14, 2000.

CHAPTER 313
(H.B. No. 545)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-248, IDAHO CODE, TO EXTEND THE TIME PERIODS FOR FILING CERTAIN INFORMATION WITH THE DEPARTMENT OF WATER RESOURCES, TO EXTEND THE TIME PERIOD FOR LATE FILING FEES, TO PROVIDE THAT THE DIRECTOR MAY WAIVE LATE FILING FEES FOR GOOD CAUSE, TO PROVIDE THAT FILING AN APPLICATION TO CHANGE A WATER RIGHT IN CERTAIN CIRCUMSTANCES SHALL BE DEEMED COMPLIANCE, TO PROVIDE FILING FEES, TO PROVIDE A PROCEDURE FOR RECEIVING NOTICE OF CERTAIN ACTIONS AFFECTING A WATER RIGHT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-248, Idaho Code, be, and the same is hereby amended to read as follows:

42-248. NOTIFICATION OF CHANGE ~~OF~~ IN OWNERSHIP OF A WATER RIGHT OR CHANGE OF ADDRESS OF A WATER RIGHT ~~HOLDER~~ OWNER -- NOTICE OF ACTION AFFECTING A WATER RIGHT. (1) All persons owning or claiming ownership of a right to use the water of this state, whether the right is represented by decree of the court, by claim to a water right filed with the department of water resources or by permit or license issued by the director of the department of water resources, shall provide notice to the department of water resources of any change in ownership of any part of the water right or of any change in the owner's mailing address, either of which occurs after ~~July 1, 1996~~ June 30, 2000. Notice shall be provided within one hundred twenty (120) days of any change using forms acceptable to the director. Any notice received by the department of water resources more than one hundred twenty (120) days after the change in ownership or mailing address has occurred shall be accompanied by a late filing fee. The late filing fee shall be one hundred dollars ($100). The director may waive the late filing fee or a portion thereof for good cause.

(2) All persons owning or claiming ownership of a right to use the water of this state that is evidenced by a water right recorded with the department of water resources prior to ~~July 1, 1996~~ June 30, 2000, and for which a claim to water right, with current ownership and mailing address, is not on file with the department of water resources in the Snake River Basin Adjudication, Twin Falls Civil Case No. 39576, shall verify with the department that the ownership and mailing address information in the department's records is correct. Any incorrect ownership or mailing address shall be corrected by the owner or claimant of the water right by ~~June 30, 1998~~ July 1, 2002, using forms acceptable to the director. Any mailing address or ownership corrections required by this subsection received by the department of water resources after ~~June 30, 1998~~ July 1, 2002, shall be subject to the late filing fee described in subsection (1) of this section. The director may waive the late filing fee or a portion thereof for good cause.

(3) The director of the department of water resources will be deemed to have provided notice concerning any action by the director affecting a water right or claim if a notice of the action is mailed to the address and owner of the water right shown in the records of the department of water resources at the time of mailing the notice.

(4) ~~Subsections--(1)--and-(2)-of-this-section-shall-apply-only-in areas-of-the-state-for-which-a-general-adjudication-pursuant-to--chapter--14,--title--42,-Idaho-Code,-is-commenced-or-completed-on-or-after January-1,-1980.~~ Compliance with section 42-1409(6), Idaho Code, shall be deemed to be compliance with this section. The filing of an application to change a water right under the provisions of section 42-211 or section 42-222, Idaho Code, showing a change in address of the owner of the right, and accompanied by evidence documenting any change in ownership of the water right, shall be deemed compliance with this section.

(5) A filing fee of twenty-five dollars ($25.00) per right shall accompany a notice of change of ownership of a water right, provided that the fee shall be one hundred dollars ($100) per right if a request is made to change the department's records to reflect a division in the ownership of the water right resulting from a division in the ownership of the place of use under the water right. A notice of change of ownership of all or part of a water right shall be accompanied by evidence showing the basis for the change in ownership, and how the right is divided if the change divides the right among multiple owners.

(6) Any person having a security interest in a water right and desiring to be notified by the department regarding the filing of a change in ownership of that water right or of any proposed or final action to amend, transfer or otherwise modify that water right shall make the request upon a form provided by the department accompanied by a fee of twenty-five dollars ($25.00) per right. The request shall be accompanied by evidence of the security interest including the expiration date of the security interest or other date defining the end of the period for which notification is requested. The request for notification shall expire at the end of the requested notification period unless renewed on a form provided by the department and accompanied by a renewal fee of twenty-five dollars ($25.00) per right. The holder of a security interest requesting notification under this subsection shall provide notice to the department within sixty (60) days if the security interest is terminated prior to the end of the requested notification period.

Approved April 14, 2000.

CHAPTER 314
(H.B. No. 547, As Amended)

AN ACT

RELATING TO NONPROFIT HOSPITAL SALES AND CONVERSIONS; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 48, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS AND

INTENT, TO PROVIDE DEFINITIONS, TO PROVIDE NOTICE TO THE ATTORNEY GENERAL, TO PROVIDE FOR ATTORNEY GENERAL REVIEW AND TIME PERIODS, TO PROVIDE FOR PUBLIC MEETINGS, NOTICE AND TIME, TO PROVIDE NONPROFIT HOSPITAL CONVERSION TRANSACTION REVIEW ELEMENTS, TO PROVIDE FOR RULEMAKING AND CONSEQUENCES OF REFUSAL TO PROVIDE INFORMATION, TO PROVIDE FOR CONTRACTS WITH AGENCIES AND CONSULTANTS, REIMBURSEMENTS FOR COSTS AND EXPENSES OF REVIEW, TO PROVIDE FOR PUBLIC RECORDS, TO PROVIDE FOR PENALTIES AND REMEDIES, TO PROVIDE FOR THE PROHIBITION OF ANY PRIVATE BENEFIT FROM THE ACQUISITION OF A NONPROFIT HOSPITAL AND TO PROVIDE FOR THE APPLICATION OF THE ACT.

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

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 15, Title 48, Idaho Code, and to read as follows:

CHAPTER 15
IDAHO NONPROFIT HOSPITAL SALE OR CONVERSION ACT

48-1501. LEGISLATIVE FINDINGS AND INTENT. (1) Nonprofit hospitals hold assets in charitable trust, and are dedicated to the specific charitable purposes set forth in the articles of incorporation of the nonprofit corporations or governing papers of the nonprofit entities operating such hospitals. Nonprofit hospitals have a substantial and beneficial effect on the provision of health care to the people of Idaho, providing as part of their charitable mission free or low-cost health care.

(2) The attorney general is entrusted by law to bring actions on behalf of the public in the event of a breach of the charitable trust, pursuant to section 67-1401, Idaho Code.

(3) This act shall be cited as the "Nonprofit Hospital Sale or Conversion Act."

48-1502. DEFINITIONS. As used in this act:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in any week of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or requiring care because of old age, or a place devoted primarily to providing, for not less than twenty-four (24) hours in any week, of obstetrical or other medical or nursing care for two (2) or more nonrelated individuals.

(2) "Nonprofit hospital" means any hospital, including hospitals owned by corporations, that is organized as a nonprofit concern, however structured or created. The term also includes entities owned, governed or controlled by a nonprofit hospital. The term does not include hospitals which are operated by a governmental unit.

(3) "Nonprofit hospital conversion transaction" means:

(a) The sale, transfer, lease, exchange, optioning, or conveyance of the lesser of thirty million dollars ($30,000,000) or forty percent (40%) of the assets of a nonprofit hospital to an entity

or person other than a nonprofit entity or an entity controlled by the nonprofit hospital; or

(b) The transfer of control or governance of the lesser of thirty million dollars ($30,000,000) or forty percent (40%) of the assets of a nonprofit hospital to an entity or person other than a nonprofit entity or an entity controlled by the nonprofit hospital.

(c) "Nonprofit hospital conversion transaction" does not include contracts, in the usual course of business, between the nonprofit hospital and another entity:

(i) For the provision of services to the nonprofit hospital;

(ii) For the sale of equipment; or

(iii) For the leasing of space.

(d) Beginning on July 1, 2001, and each July 1 thereafter, the sums of thirty million dollars ($30,000,000) referenced in subsections (3)(a) and (3)(b) of this section, shall increase or decrease in accordance with the percentage amount change in the hospital services component of the consumer price index as published by the bureau of labor statistics of the United States department of labor.

(4) "Person" means any individual, partnership, trust, estate, corporation, association, joint venture, joint stock company, insurance company or other organization.

(5) "Charitable trust interest" shall mean those factors specifically listed in section 48-1506, Idaho Code.

48-1503. NOTICE TO THE ATTORNEY GENERAL. (1) Any nonprofit hospital shall be required to provide written notice to the attorney general prior to entering into any nonprofit hospital conversion transaction.

(2) In addition to identifying the parties to the nonprofit hospital conversion transaction and the general terms of the transaction, the notice to the attorney general provided for in this section shall include and contain relevant information related to the review factors set forth in section 48-1506, Idaho Code.

(3) This chapter shall not apply to a nonprofit hospital if the attorney general has given the nonprofit hospital a written waiver of this chapter as to the nonprofit hospital conversion transaction.

48-1504. ATTORNEY GENERAL REVIEW AND WRITTEN OPINION -- TIME PERIODS -- EXTENSION -- DISTRICT COURT REVIEW. (1) No nonprofit hospital conversion transaction may close or be consummated until the time periods, as provided in this section, have expired.

(2) Within ninety (90) days of receipt of a written notice as required by section 48-1503, Idaho Code, the attorney general shall review the proposed nonprofit hospital conversion transaction and notify the nonprofit hospital in writing of his opinion. The attorney general shall review the nonprofit hospital conversion transaction to determine if it is in the charitable trust interest. In making his determination, the attorney general shall be guided by the factors set forth in section 48-1506, Idaho Code. Upon application by the attorney general, the district court may extend this period for an additional sixty (60) day period, provided the extension is necessary to obtain

necessary and relevant information pursuant to section 48-1507(2) or 48-1508(1), Idaho Code.

(3) If the attorney general, in his written opinion, opposes the proposed nonprofit hospital conversion transaction, the parties to the transaction may not close or consummate the transaction for fourteen (14) days after the attorney general's opinion has been issued to allow the attorney general, in his discretion, to file suit seeking to block the transaction.

(4) If the attorney general files a lawsuit seeking to block the nonprofit hospital conversion transaction, the district court shall review, de novo, the transaction to determine if it is in the charitable trust interest. In making this determination, the district court shall use the factors set forth in section 48-1506, Idaho Code. Neither a positive nor a negative finding with regard to one (1) or more of the factors listed in section 48-1506, Idaho Code, shall necessarily mean that the nonprofit hospital conversion transaction is or is not in the charitable trust interest.

48-1505. PUBLIC MEETINGS -- NOTICE OF TIME AND PLACE. (1) Prior to issuing any written opinion pursuant to section 48-1504, Idaho Code, the attorney general may conduct one (1) or more public meetings, one (1) of which, if held, shall be held in the county where the nonprofit hospital's assets to be transferred are located.

(2) If a party to the intended nonprofit hospital conversion transaction requests the hearing be conducted by a hearing officer outside the attorney general's office, a hearing officer, mutually agreed upon by the parties to the conversion transaction and the attorney general, shall be selected.

(3) At the public meeting, the attorney general or hearing officer shall hear comments from interested persons desiring to make statements regarding the proposed nonprofit hospital conversion transaction.

(4) The attorney general shall cause timely written notice to be provided regarding the time and place of the meeting through publication in one (1) or more newspapers of general circulation in the affected community, to the county board of supervisors, and if applicable, to the city council of the city where the nonprofit hospital's assets to be transferred are located.

(5) If a hearing officer is used, the parties to the nonprofit hospital conversion transaction shall pay the costs of the hearing officer.

48-1506. NONPROFIT HOSPITAL CONVERSION TRANSACTION REVIEW ELEMENTS. In reviewing a proposed nonprofit hospital conversion transaction, the attorney general (and the district court as necessary and applicable), shall consider:

(1) Whether the nonprofit hospital will receive fair market value for its charitable trust assets;

(2) Whether the fair market value of the nonprofit hospital's assets to be transferred has been affected by the actions of the parties in a manner that improperly causes the fair market value of the assets to decrease;

(3) Whether the proceeds of the proposed nonprofit hospital con-

version transaction will be used consistent with the trust under which the assets are held by the nonprofit hospital and whether the proceeds will be controlled as funds independently of the acquiring or related entities;

(4) Whether the governing body of the nonprofit hospital exercised due diligence in deciding to dispose of the nonprofit hospital's assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition;

(5) Whether the nonprofit hospital conversion transaction will result in improper private inurement to any person as set forth in section 48-1511, Idaho Code; and

(6) Whether the terms of any management or services contract negotiated in conjunction with the proposed nonprofit hospital conversion transaction are reasonable.

48-1507. RULES -- AUTHORITY TO ADOPT -- INFORMATION REQUESTS -- CONSEQUENCES OF REFUSAL TO PROVIDE INFORMATION. (1) The attorney general may adopt such rules, pursuant to chapter 52, title 67, Idaho Code, as the attorney general deems appropriate or necessary to implement this chapter.

(2) The attorney general may request that the nonprofit hospital giving notice under section 48-1503, Idaho Code, in addition to providing information related to the review factors set forth in section 48-1506, Idaho Code, provide other information which the attorney general reasonably deems necessary and relevant to review the nonprofit hospital conversion transaction.

(3) If the nonprofit hospital declines to provide the information requested by the attorney general in subsection (2) of this section, the attorney general may apply to the court for an order requiring the disclosure of the information, which shall be granted if found to be necessary and relevant.

48-1508. CONTRACTS WITH AGENCIES AND CONSULTANTS -- REIMBURSEMENT FOR COSTS AND EXPENSES OF REVIEW -- FAILURE TO PAY. (1) Within the time periods designated in section 48-1504, Idaho Code, the attorney general may do any of the following to assist in the review of the proposed nonprofit hospital conversion transaction described in section 48-1503, Idaho Code:

(a) Contract with, consult, and receive advice from any agency of the state or the United States on such terms and conditions the attorney general deems appropriate; or

(b) In the attorney general's sole discretion, contract with such experts or consultants the attorney general deems appropriate to assist the attorney general in reviewing the proposed nonprofit hospital conversion transaction.

(2) Any costs incurred by the attorney general pursuant to this section shall not exceed an amount that is reasonable and necessary to conduct the review of the proposed nonprofit hospital conversion transaction. The attorney general shall be exempt from the provisions of any applicable state laws regarding public bidding procedures for purposes of entering into contracts pursuant to this section.

(3) The attorney general, after reviewing the nonprofit hospital conversion transaction, may submit a claim to the board of examiners

for reimbursement of his reasonable costs and expenses incurred in reviewing the transaction. Upon submission of a claim from the attorney general, the board of examiners may authorize the issuance of deficiency warrants for the purpose of reimbursing the attorney general reasonable and actual costs, but not attorney's fees, associated with actions taken pursuant to this chapter. Deficiency warrants authorized by the board of examiners under this section shall not exceed one hundred thousand dollars ($100,000) for reimbursement of all claims as a result of the attorney general's review of a transaction under this chapter. Upon authorization of deficiency warrants by the board of examiners in accordance with the provisions of this section, the state controller shall, after notice to the state treasurer, draw deficiency warrants in the authorized amounts against the general account.

48-1509. PUBLIC RECORDS. All documents submitted to the attorney general by any person, including nonprofit hospital entities giving notice under section 48-1503, Idaho Code, in connection with the attorney general's review of the proposed nonprofit hospital conversion transaction pursuant to this chapter shall be deemed records contained in court files of judicial proceedings, as provided for in section 9-340A(2), Idaho Code, and shall only be subject to public disclosure, pursuant to a public document request, in the same manner as set forth in that section.

48-1510. PENALTIES -- REMEDIES. (1) In his discretion, the attorney general may apply to the district court for an order voiding any nonprofit hospital conversion transaction entered into in violation of the notice and disclosure requirements of section 48-1503(1), Idaho Code. Each member of the governing boards and the chief executive officers of the parties to the nonprofit hospital conversion transaction may be subject to a civil penalty of up to ten thousand dollars ($10,000) for knowingly failing to notify the attorney general of the nonprofit hospital conversion transaction, or for violating the provisions of section 48-1511, Idaho Code, as applicable. The amount of any civil penalty shall be determined by the district court in the county in which the nonprofit hospital's assets to be transferred are located. No such penalty may be imposed under this section merely because the attorney general files suit under section 48-1504, Idaho Code, or because the district court enters an order that the nonprofit hospital conversion transaction at issue is not in the charitable trust interest. The attorney general shall institute proceedings to impose such a penalty.

(2) Nothing in this chapter shall be construed to limit the common law authority of the attorney general regarding charitable trusts and charitable assets in this state. The provisions of this chapter are in addition to, and not a replacement for, any other actions which the attorney general may take under either the common law or statutory law, including rescinding the nonprofit hospital conversion transaction, granting injunctive relief or any combination of these and other remedies available under common law or statutory law.

48-1511. PRIVATE BENEFIT. No person who is an officer, director, board member or other fiduciary of a nonprofit hospital shall receive anything of value, beyond ordinary compensation, that relates to a nonprofit hospital conversion transaction described in this act and is of such a character as to have the appearance of an improper influence on the person with respect to the person's duties; provided however, that an officer or employee of the nonprofit hospital may accept a job with, perform duties for, and receive ordinary compensation from, the purchasing or converting entity. Any person who violates the provisions of this section shall, in addition to being subject to the provisions of section 48-1510, Idaho Code, forfeit the items of value received in violation of this section.

48-1512. APPLICATION OF ACT. This act applies to all acquisitions, the consummation of which occurs after the effective date of this act.

Approved April 14, 2000.

CHAPTER 315
(H.B. No. 561)

AN ACT

RELATING TO MOTORCYCLES AND ALL-TERRAIN VEHICLES; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM THE REQUIREMENT TO OBTAIN A MOTORCYCLE ENDORSEMENT WHEN OPERATING MOTORCYCLES ON SPECIALLY DESIGNATED HIGHWAYS ON PUBLIC LAND; AMENDING SECTION 49-402, IDAHO CODE, TO REQUIRE REGISTRATION FEES FOR MOTORCYCLES OPERATED ON PUBLIC HIGHWAYS AND FOR MOTORCYCLES AND ALL-TERRAIN VEHICLES OPERATED OFF THE PUBLIC HIGHWAYS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-426, IDAHO CODE, TO PROVIDE EXEMPTIONS FROM OPERATING FEES FOR MOTORCYCLES AND ALL-TERRAIN VEHICLES USED ON UNPAVED HIGHWAYS AND SPECIALLY DESIGNATED HIGHWAYS ON PUBLIC LAND, TO PROVIDE FOR APPLICATION OF CERTAIN CRIMINAL LAWS AND MOTOR VEHICLE LAWS, TO PROVIDE THAT POLITICAL SUBDIVISIONS OF THE STATE MAY ADOPT ORDINANCES DESIGNATING CERTAIN HIGHWAYS UPON WHICH UNREGISTERED ALL-TERRAIN VEHICLES AND MOTORCYCLES MAY BE OPERATED AND TO PROVIDE THAT COSTS RELATING TO POSTING OF SIGNS ARE ELIGIBLE FOR REIMBURSEMENT THROUGH THE MOTORBIKE RECREATION ACCOUNT; AND AMENDING SECTION 67-7122, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF ALL-TERRAIN VEHICLES OR MOTORCYCLES USED OFF HIGHWAYS OR ON SPECIALLY DESIGNATED HIGHWAYS, TO PROVIDE AN EXEMPTION, TO PROVIDE A REFERENCE TO MOTORBIKE/ATV REGISTRATION STICKERS, TO PROVIDE THE EFFECTIVE PERIOD OF THE REGISTRATION STICKERS, TO PROVIDE REFERENCES TO ALL-TERRAIN VEHICLES AND MOTORBIKES, TO PROVIDE AN EXEMPTION FROM STANDARD MOTOR VEHICLE REGISTRATION FOR ALL-TERRAIN VEHICLES AND MOTORBIKES USED ON CERTAIN HIGHWAYS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-302, Idaho Code, be, and the same is hereby amended to read as follows:

49-302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from licensing if driving privileges are not suspended, cancelled, revoked, disqualified, denied or refused:

(1) Any person while driving or operating any farm tractor or implement of husbandry when incidentally operated on a highway.

(2) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

(a) Controlled and operated by a farmer, including operation by employees or family members; and

(b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and

(c) Not used in the operations of a common or contract motor carrier; and

(d) Used within one hundred fifty (150) miles of the person's farm.

(3) Any person is exempt from obtaining a class A, B or C driver's license for the operation of commercial motor vehicles which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulations.

(4) Any person is exempt from obtaining a class A, B or C license to operate a commercial vehicle which is exclusively used to transport personal possessions or family members for nonbusiness or recreational purposes.

(5) A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.

(6) A nonresident who is at least fifteen (15) years of age and who has in his possession a valid driver's license with a motorcycle endorsement or who has a valid motorcycle driver's license issued to him in his home state or country may operate a motorcycle in Idaho with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

(7) A nonresident who has in his immediate possession a valid commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho.

(8) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.

(9) Any active duty military personnel, active duty U.S. coast guard personnel, and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a com-

mercial driver's license to operate military vehicles. This exemption does not apply to U.S. reserve technicians.

(10) Any person with a valid driver's license issued in their name is exempt from the requirement to obtain a motorcycle endorsement on the license when operating a motorcycle on highways or sections of highways designated for unregistered motorcycle use under section 49-426(3), Idaho Code.

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 shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

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 motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an ~~ATV~~ all-terrain vehicle or motorcycle 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) and (3), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in ~~that~~ subsections (2) and (3) of section 49-426, Idaho Code.

(3) 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.

(4) Registration fees shall not be subject to refund.

(5) 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.

(6) 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, 49-417A, 49-417B, 49-418A, 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 as specified by law for each program.

SECTION 3. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-

wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles and all-terrain vehicles~~,--as--defined-in-section-67-7101,-Idaho Code,~~ need not be registered under the provisions of this chapter ~~while~~ if they are:

(a) B~~b~~eing used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles and all-terrain vehicles used for this purpose shall meet the requirements of section 49-619, Idaho Code; or

(b) Used exclusively on unpaved highways located on state public lands or federal public lands which are not part of the highway system of the state of Idaho, a county, highway district or city, provided the registration requirements of section 49-402 or section 67-7122, Idaho Code, are met.

(3) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances designating highways or sections of highways under its jurisdiction upon which unregistered all-terrain vehicles and motorcycles may be operated. No controlled access highways shall be designated under this subsection. The requirements of title 18 and chapters 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of any unregistered motorcycle and all-terrain vehicle upon such designated highways. Costs related to the posting of signs on such designated highways or sections of highways indicating the ordinance are eligible for reimbursement through the motorbike recreation account created in section 67-7126, Idaho Code.

SECTION 4. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. (1) ~~Commencing--January--1,--1987--and-o~~On or before January 1 of each ~~subsequent~~ year, the owner of any all-terrain vehicle or motorbike as defined in section 67-7101, Idaho Code, used off public highways or on highways designated as prescribed in section 49-426(3), Idaho Code, but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes, shall register that vehicle at any vendor authorized by the department. A fee of ten dollars ($10.00) shall be charged for each registration, which fee includes a one dollar and fifty cent ($1.50) vendor fee. At the time of sale from any dealer, each motorbike or all-terrain vehicle sold to an Idaho resident, but excluding those vehicles to be used exclusively on private land for agricultural use or used exclusively for snow removal purposes, must be registered before it leaves the premises. Application blanks and stickers shall be supplied by the department and the registration sticker shall be issued to the person making application for registration. The vendor issuing the registration sticker shall, upon receipt of the application in approved form, issue to the applicant ~~an--off-highway--vehicle~~ motorbike/ATV sticker and

shall note the number of the sticker in his records and shall supply a duplicate copy of the application form, noting the number of the sticker issued, to the department. All stickers which are issued shall be in force through ~~January--1~~ December 31 of the ~~following~~ issued year. All registration stickers shall be renewed by the owner of the ~~off-highway--vehicle~~ all-terrain vehicle or motorbike in the same manner provided for in the initial securing of the same. The issued sticker shall be placed upon the ~~off-highway-vehicle~~ all-terrain vehicle or motorbike in such a manner that it is completely visible and shall be kept in a legible condition at all times.

(2) For operation of an all-terrain vehicle or motorbike on the public highways, the vehicle shall also be registered pursuant to the provisions of section 49-402, Idaho Code, except for those highways defined in section 49-426, Idaho Code.

Approved April 14, 2000.

CHAPTER 316
(H.B. No. 572)

AN ACT

RELATING TO THE STATE PURCHASING LAW; AMENDING SECTION 67-5716, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5717, IDAHO CODE, TO PROVIDE A PURCHASING PREFERENCE FOR RECYCLED PAPER PRODUCTS; AMENDING SECTION 67-2349, IDAHO CODE, TO PROVIDE A PURCHASING PREFERENCE FOR RECYCLED PAPER PRODUCTS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-5716, Idaho Code, be, and the same is hereby amended to read as follows:

67-5716. DEFINITIONS OF TERMS. (1) Acquisition. The process of procuring or purchasing property by the state of Idaho.

(2) Procurement. Obtaining property for state use by lease, rent, or any manner other than by purchase or gift.

(3) Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property.

(4) Goods. Items of personal property, not qualifying as equipment, parts or supplies.

(5) Services. Personal services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding is not prohibited or made impractical by statute, rules or generally accepted ethical practices.

(6) Parts. Items of personal property acquired for repair or replacement of unserviceable existing items.

(7) Supplies. Items of personal property having an expendable quality or during its normal use is consumed and which requires or

suggests acquisition in bulk.

(8) Equipment. Items of personal property which have a normal useful life expectancy of two (2) or more years.

(9) Component. An item of property normally assembled with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities.

(10) Vendor. A person or entity capable of supplying property to the state.

(11) Bidder. A registered vendor who has submitted a bid on a specific item or items of property to be acquired by the state.

(12) Lowest responsible bidder. The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

(13) Contractor. A bidder who has been awarded an acquisition contract.

(14) Registered vendor. A qualified vendor registered with the administrator of the division of purchasing.

(15) Agency. All officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the ~~lieutenant-governor~~ lieutenant governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction.

(16) Bid. A written offer to perform a contract to purchase or supply property or services in response to an invitation for bid or request for proposal.

(17) Recyclable. Materials that still have useful physical, chemical or biological properties after serving their original purposes and can, therefore, be reasonably reused or recycled for the same or other purposes.

(18) Recycled-content product. A product containing postconsumer waste and/or secondary waste as defined in this section.

(19) Postconsumer waste. A finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item.

(20) Secondary waste. Fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value and may include a postconsumer waste.

SECTION 2. That Section 67-5717, Idaho Code, be, and the same is hereby amended to read as follows:

67-5717. POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF PURCHASING. The administrator of the division of purchasing:

(1) Shall acquire, according to the provisions of this chapter, all property for state agencies;

(2) Shall acquire all property, unless excepted, by competitive

bid, and shall specifically require competitive bids for property to be rented, leased or purchased through a deferred payment plan;

(3) Shall determine, based upon the requirements contained in the specification and matter relating to responsibility, the lowest responsible bidder in all competitively bid acquisition contracts;

(4) Shall enter into all contracts and agreements, and any modifications thereto, for the acquisition of any and all property in behalf of and in the name of the state;

(5) Shall, when economically feasible and practical, consolidate requisitions and acquire property in amounts as large as can be efficiently managed and controlled;

(6) May, in the evaluation of paper product bids, give those items that meet the recycled content standards as specified by the administrator a five percent (5%) purchasing preference. As such, those qualifying paper products may be considered to cost five percent (5%) less when choosing the lowest responsible bidder;

(7) May appoint a deputy, who shall have power to act for him and in his place while absent, which deputy shall be bonded to the state of Idaho as prescribed by chapter 8, title 59, Idaho Code;

(~~7~~8) May require from any contractor the submission of a performance bond for such sum as will, in the opinion of the administrator, guarantee the faithful performance of such contract, and the amount and requirement therefor shall be set out in the specifications;

(~~8~~9) May enter into open contracts for the acquisition of property commonly used by the various agencies, based upon actual or estimated requirements;

Unless an acquiring agency can show a substantial difference between the required capabilities and the capabilities provided by such property available on open contract, all agencies must utilize such property available on such contracts and failure to comply with this provision will subject the officers responsible for the acquisition to the penalties set forth in this chapter;

(~~9~~10) May enter into contracts, including leases and rentals, for periods of time exceeding one (1) year provided that such contracts contain no penalty to or restriction upon the state in the event cancellation is necessitated by a lack of financing for any such contract or contracts;

(~~10~~11) Is authorized and empowered to formulate rules in the conduct of the office of the division of purchasing, subject to the approval of the director of the department of administration;

(~~11~~12) In accordance with established rules of the division, may accept competitive sealed proposals and enter into negotiations for acquisitions for which competitive sealed bidding is not practicable or advantageous to the state;

(~~12~~13) May inspect property delivered by a contractor to determine whether it meets minimum bid specifications;

(~~13~~14) May classify, after review with the various agencies, the requirements of the state for all property which may be acquired and adopt standards of quality for property, and establish standard specifications for acquisition. Each standard specification shall, until revised or rescinded, apply alike in terms and effect to each future acquisition of the classified property.

SECTION 3. That Section 67-2349, Idaho Code, be, and the same is hereby amended to read as follows:

67-2349. PREFERENCE FOR IDAHO SUPPLIERS AND RECYCLED PAPER PRODUCTS FOR PURCHASES. (1) To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract for purchase of any materials, supplies, services or equipment, the bidder domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible bidder domiciled in Idaho as would be required for such an Idaho domiciled bidder to succeed over the bidder domiciled outside Idaho on a like contract being let in his domiciliary state.

For the purposes of this section, any bidder domiciled outside the boundaries of the state of Idaho may be considered as an Idaho domiciled bidder, provided that there exists for a period of one (1) year preceding the date of the bid a significant Idaho economic presence as defined herein. A significant economic presence shall consist of the following:

(a) That the bidder maintain in Idaho fully staffed offices, or fully staffed sales offices or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses or other necessary related property; and

(b) If a corporation be registered and licensed to do business in the state of Idaho with the office of the secretary of state.

(2) In the evaluation of paper product bids, those items that meet recycled content standards may be given not more than a five percent (5%) purchasing preference. As such, those qualifying paper products may be considered to cost five percent (5%) less when choosing the lowest responsible bidder.

SECTION 4. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 317
(H.B. No. 573)

AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING SECTION 31-3502, IDAHO CODE, TO SPECIFY THAT AN INDIVIDUAL MUST BE A RESIDENT OF THE STATE OF IDAHO FOR ELIGIBILITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3504, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR A UNIFORM APPLICATION OF COUNTY MEDICAL INDIGENT ASSISTANCE; AMENDING SECTION 31-3505, IDAHO CODE, TO GOVERN FILING REQUIREMENTS FOR AN APPLICATION FOR NECESSARY MEDICAL SERVICES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3506, IDAHO CODE, TO CLARIFY

DETERMINATION OF THE OBLIGATED COUNTY WHEN STATE RESIDENCY REQUIREMENTS HAVE BEEN MET; AND AMENDING SECTION 31-3509, IDAHO CODE, TO SPECIFY TIME REQUIREMENTS GOVERNING REIMBURSEMENT BY MEDICAL PROVIDERS WHEN A PAYMENT IS RECEIVED FROM OTHER RESOURCES.

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

SECTION 1. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. Nothing in this definition shall prevent the board of county commissioners and administrator from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care costs program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(2) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Applicant" means any person who is or may be requesting financial assistance under this chapter.

(5) "Reimbursement rates" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" means the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(6) "Board" means the board of county commissioners.

(7) "Obligated persons" means those persons who are legally responsible for an applicant.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.

(10) "Catastrophic health care costs" means all necessary medical expenses for services which are incurred by a recipient for which the reimbursement rate exceeds in aggregate the sum of ten thousand dollars ($10,000) in any twelve (12) consecutive month period.

(11) "Recipient" means an individual determined eligible for necessary medical services under this chapter.

(12) "Resident" means a person with a home, house, place of abode,

place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

(a) Correctional facilities;

(b) Nursing homes or residential care facilities;

(c) Other medical facility or institution.

(13) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care.

(14) "Provider" means any person, firm, or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services as it appears on an application for assistance pursuant to this chapter.

(15) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient.

(16) "Clerk" means the clerk of the board or his or her designee.

(17) "Resources" means all property, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, all forms of public assistance, crime victim's compensation, worker's compensation, veterans benefits, medicaid, medicare and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services over a period of up to three (3) years. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on the applicant or obligated persons' residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(18) A. "Necessary medical services" means a requested or provided medical service required in order to identify or treat a medically indigent person's health condition, illness or injury and is:

(a) Consistent with the symptoms, diagnosis or treatment of the medical indigent's condition, illness or injury;

(b) In accordance with generally accepted standards of medical or surgical practice then prevailing in the community where the services were provided;

(c) Furnished on an outpatient basis whenever it is safe, efficient and reasonable to do so;

(d) Not provided primarily for the convenience of the medically indigent person or the provider;

(e) The standard, most economical service or item that can

safely, reasonably and ethically be provided.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles; and

(g) Services provided by, or available to an applicant from state, federal and local health programs.

Provided however, each board may determine, by ordinance or resolution duly adopted in its county, to include as necessary medical services additional services not covered in this section. Necessary medical services provided by this option shall not be paid by the catastrophic health care costs program, and shall remain the liability of the respective county.

SECTION 2. That Section 31-3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-3504. APPLICATION FOR FINANCIAL ASSISTANCE. (1) An applicant requesting assistance under this chapter ~~from the state or any county in this state~~ shall complete a written application on a uniform form agreed to by the Idaho association of counties and the Idaho hospital association. ~~prior to June 30, 1996.~~ The truth of the matters contained in the application shall be sworn to by the applicant. The application shall be signed by the applicant or on the applicant's behalf and filed in the clerk's office.

(2) If a third party application is filed, the application shall be as complete as practical and presented in the same form and manner as set forth above.

(3) Follow-up necessary medical services based on a treatment plan, for the same condition, preapproved by the board, may be provided for a maximum of six (6) months from the date of the original application without requiring an additional application; however, a request for additional treatment not specified in the approved treatment plan shall be filed with the clerk ten (10) days prior to receiving services. Beyond the six (6) months, requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services and an updated application may be requested by the board.

(4) Upon application for financial assistance pursuant to this chapter an automatic lien shall attach to all real and personal property of the applicant and on insurance benefits to which the applicant may become entitled. The lien shall also attach to any additional resources to which it may legally attach not covered above. The lien created by this section may be, in the discretion of the board, perfected as to real property and fixtures by recording, in any county recorder's office in this state in which the applicant and obligated party own property a notice of application for medical indigency bene-

fits on a uniform form agreed to by the Idaho association of counties and the Idaho hospital association, ~~prior to June 30, 1996,~~ which form shall be recorded as provided herein within thirty (30) days from receipt of an application, and such lien, if so recorded, shall have a priority date as of the date the necessary medical services were provided. The lien created by this section may also be, in the discretion of the board, perfected as to personal property by filing with the secretary of state within thirty (30) days of receipt of an application, a notice of application in substantially the same manner as a filing under chapter 9, title 28, Idaho Code, except that such notice need not be signed and no fee shall be required, and, if so filed, such lien shall have the priority date as of the date the necessary medical services were provided. An application for assistance pursuant to this chapter shall waive any confidentiality granted by state law to the extent necessary to carry out the intent of this section.

SECTION 3. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. TIME AND MANNER OF FILING APPLICATIONS AND REQUESTS. ~~Applicants~~ Applications and requests for necessary medical services shall be filed with the clerk according to the following time limits. Filing is complete upon receipt by the clerk.

(1) An application for nonemergency necessary medical services shall be filed ten (10) days prior to receiving services from the provider.

(2) An application for emergency necessary medical services shall be made any time within thirty-one (30~~1~~) days ~~following~~ beginning with the first day of the provision of necessary medical services from the provider or in the case of hospitalization, thirty-one (30~~1~~) days ~~from~~ beginning with the date of admission.

(3) Requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services.

(4) (a) A delayed application for necessary medical services may be filed up to one hundred eighty (180) days ~~after~~ beginning with the first day of the provision of necessary medical services on condition that the provider and/or applicant demonstrates that an application or claim for social security, third party insurance, medicaid, medicare, crime victims compensation, and/or worker's compensation was timely filed within ninety (90) days ~~following~~ beginning with the first day of the provision of necessary medical services from the provider or, in the case of hospitalization, ninety (90) days ~~from~~ beginning with the date of admission.

(b) In the event that a county determines that a different county is the obligated county, an application may be filed ~~within thirty (30) days~~ in the other county within thirty (30) days of the date of the initial county denial.

SECTION 4. That Section 31-3506, Idaho Code, be, and the same is hereby amended to read as follows:

31-3506. OBLIGATED COUNTY. The county obligated for payment shall be determined as follows:

(1) The obligated county for payment of pharmaceuticals for noninstitutionalized individuals shall be the county where the applicant currently resides.

(2) The obligated county for payment of necessary medical services for medical indigent individuals shall be as follows:

(a) The last county in which the applicant or head of household has maintained a residence for six (6) consecutive months or longer within the past five (5) years preceding application shall be obligated. If the applicant or head of household maintains another residence in a different county or state for purposes of employment, the county where the family residence is maintained shall be deemed the applicant's or head of household's place of residence.

(b) If an individual has not resided in any county for a period of six (6) months within the five (5) years preceding incurrence of medical costs for which counties have a responsibility in whole or in part, then the county where the applicant maintained a residence for at least thirty (30) days immediately preceding such incurrence shall be the obligated county.

(c) Active military duty, or being admitted as a patient in a hospital, nursing home, other medical facility or institution, shall not change the obligated county. The county obligated shall remain the same county that would have been obligated prior to institutionalization as above described.

(d) For full-time students at public institutions of higher learning, the obligated county shall be the county of residence of the applicant unless an obligated person, for whom the applicant is claimed as a dependent, resides in another county or state.

(e) If an individual has not resided in any county for a consecutive period of thirty (30) days but has resided in the state of Idaho for a consecutive period of thirty (30) days then the county where the individual last resided prior to receiving medical services shall be the obligated county.

SECTION 5. That Section 31-3509, Idaho Code, be, and the same is hereby amended to read as follows:

31-3509. COLLECTIONS BY PROVIDERS. Providers making claims for necessary medical services of medically indigent persons shall make all reasonable efforts to determine liability for the account so incurred from any available insurance or other sources available for payment of such expenses prior to submitting the bill to the county for payment. In the event that a provider has been notified that an individual qualifies for approval of benefits, such provider(s) shall submit a bill to third party insurance, medicaid, medicare, crime victims compensation and/or worker's compensation for payment within thirty (30) days of such notice. In the event any payments are thereafter received for charges which have been paid by a county and/or the

administrator pursuant to the provisions of this chapter, said sums up to the amount actually paid by the county and/or the administrator shall be paid over to such county and/or administrator within sixty (60) days of receiving such payment from other resources.

Approved April 14, 2000.

CHAPTER 318
(H.B. No. 585)

AN ACT

RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE BOARD; AMENDING SECTION 54-1914, IDAHO CODE, TO PROVIDE ADDITIONAL DISCIPLINARY ACTIONS THE BOARD MAY TAKE AGAINST LICENSEES AND APPLICANTS WHO COMMIT OR ARE FOUND GUILTY OF SPECIFIED ACTS OR OMISSIONS; AMENDING SECTION 54-1920, IDAHO CODE, TO INCREASE THE PENALTIES IMPOSED AGAINST PERSONS ACTING IN THE CAPACITY OF A PUBLIC WORKS CONTRACTOR WITHOUT A LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4508, IDAHO CODE, TO PROVIDE ADDITIONAL DISCIPLINARY ACTIONS THE BOARD MAY TAKE AGAINST PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSEES OR HOLDERS OF CERTIFICATES OF AUTHORITY WHO ARE FOUND TO BE IN VIOLATION OF CERTAIN CONDITIONS SPECIFIED IN LAW; AMENDING SECTION 54-4513, IDAHO CODE, TO PROVIDE PENALTIES FOR ACTING IN THE CAPACITY OF A PUBLIC WORKS CONSTRUCTION MANAGER WITH A LICENSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1914, Idaho Code, be, and the same is hereby amended to read as follows:

54-1914. DISCIPLINARY PROCEEDINGS. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any contractor within the state and may reclassify, retype, place on probation, impose an administrative fine not to exceed five thousand dollars ($5,000) per violation, impose the administrative costs of bringing the action before the board including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one (1) or more of the following acts or omissions:

(a) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor.

(b) Diversion of funds or property received under express agreement for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purpose, with intent to defraud or deceive creditors or the owner.

(c) Willful departure from or disregard of, plans or specifica-

tions in any material respect, and prejudicial to another, without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications.

(d) Willful or deliberate disregard and violation of valid building laws of the state, or of any political subdivision thereof, or of the safety laws or labor laws or compensation insurance laws of the state.

(e) Misrepresentation of a material fact by an applicant in obtaining a license.

(f) Aiding or abetting an unlicensed person to evade the provisions of this act or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate or otherwise, of an unlicensed person with the intent to evade the provisions of this act.

(g) Failure in any material respect to comply with the provisions of this act.

(h) Acting in the capacity of a contractor under any license issued hereunder except: (1) in the name of the licensee as set forth upon the license, or (2) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this act.

(i) Knowingly accepting a bid from, or entering into a contract with another contractor for a portion of a public works project if at that time such contractor does not possess the appropriate license to do that work as provided in this act.

(j) Willful failure or refusal without legal excuse on the part of a licensee as a contractor to finish a construction project or operation with reasonable diligence, causing material injury to another.

(k) Willful or deliberate failure by any licensee, or agent or officer thereof, to pay any moneys when due, for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient funds therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased; or denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer, or other person, any discount upon such indebtedness or with intent to hinder, delay or defraud the person to whom such indebtedness is due.

SECTION 2. That Section 54-1920, Idaho Code, be, and the same is hereby amended to read as follows:

54-1920. PENALTIES. Any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization acting in the capacity of a public works contractor within the meaning of this act, without a license as herein provided, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine ~~of~~ not to exceed ~~three--hundred~~ five thousand dollars ($~~3~~5,000) or by imprisonment in the county jail for a term not to exceed ~~six-(6)-months~~ one (1) year or by both such fine

and imprisonment, at the discretion of the court. The same penalties shall apply, upon conviction to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership, or other organization consenting to, participating in, or aiding or abetting any such violation of this act.

Every public officer who knowingly lets a public contract to any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization who does not hold a license as required by the provisions of this act shall be guilty of a misdemeanor and upon conviction, punishable as provided in this section, unless, however, there be no qualified bidder willing to undertake the public works covered by the contract. No person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this act without alleging and providing that he was a duly licensed contractor at all times during the performance of such act or contract.

SECTION 3. That Section 54-4508, Idaho Code, be, and the same is hereby amended to read as follows:

54-4508. DISCIPLINARY PROCEEDINGS. (1) The board shall have the authority to deny or refuse to renew a license or certificate of authority, suspend or revoke a license, impose an administrative fine not to exceed five thousand dollars ($5,000) per violation, impose the administrative costs of bringing the action before the board including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, or impose probationary conditions on the holder of a license or certificate of authority, upon the following grounds:

(a) Fraud or deception in the procurement of a license or certificate of authority or in the taking of an examination required under the provisions of this chapter;

(b) Incompetence in the performance of a construction manager's duties;

(c) Fraud or deceit in the performance of a construction manager's duties; or

(d) Willful violation of the provisions of this chapter or the rules promulgated by the board.

(2) Proceedings which may result in the suspension or revocation of a license or certificate of authority, or the imposition of probationary or other disciplinary conditions on the holder of a license or certificate of authority, shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code; provided however, that the suspension of a certificate of authority, upon the notification by its holder that the construction manager it has designated to the board no longer is a principal or employee of the firm, shall not be required to be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code.

(3) The board may, by rule, provide for the reinstatement of suspended or revoked licenses upon such terms as it may impose.

SECTION 4. That Section 54-4513, Idaho Code, be, and the same is hereby amended to read as follows:

54-4513. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment, at the discretion of the court.

SECTION 5. This act shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 319
(H.B. No. 586)

AN ACT

RELATING TO ACTIVITIES IN PROXIMITY TO HIGH VOLTAGE OVERHEAD LINES; AMENDING SECTION 55-2401, IDAHO CODE, TO FURTHER DEFINE TERMS; AND AMENDING SECTION 55-2403, IDAHO CODE, TO REQUIRE NOTIFICATION IN WRITING AND TO CLARIFY TIME REQUIREMENTS.

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

SECTION 1. That Section 55-2401, Idaho Code, be, and the same is hereby amended to read as follows:

55-2401. DEFINITIONS. As used in this chapter:

(1) "Authorized person" means:

(a) An employee of a public utility, or a contractor or subcontractor or employee of a contractor or subcontractor of a public utility, which produces, transmits or delivers electricity, while the employee is working within the scope of his employment with or for the public utility;

(b) An employee of a public utility which provides and whose work relates to communication services or an employee of a state, county or municipal agency which has authorized circuit construction on or near the poles or structures of a public utility, while the employee is working within the scope of his employment;

(c) An employee of an industrial plant whose work relates to the electrical system of the industrial plant, while the employee is working within the scope of his employment;

(d) An employee of a cable television or communication services company or an employee of a contractor of a cable television or communication services company, if specifically authorized by the owner of the poles to make cable television or communication services attachments, while the employee is working within the scope of his employment; or

(e) An employee or agent of a state, county or municipal agency

which has or whose work relates to overhead electrical lines or circuit construction or conductors on poles or structures of any type, while the employee is working within the scope of his employment.

(2) "Contractor" means any person, sole proprietorship, partnership, joint venture, corporation, or other business entity ~~qualified to~~ doing business in the state of Idaho which contracts, subcontracts or otherwise agrees or undertakes to perform any function or activity upon any land, building, highway, waterway or other premises.

(3) "High voltage" means voltage in excess of six hundred (600) volts measured between conductors or between a conductor and the ground.

(4) "Overhead line" means all electrical conductors installed above ground.

(5) "Person" means any individual or ~~natural person~~ business entity of any kind.

(6) "Public utility" means any publicly, cooperatively or privately owned utility which owns or operates a high voltage overhead line.

SECTION 2. That Section 55-2403, Idaho Code, be, and the same is hereby amended to read as follows:

55-2403. ACTIVITY IN CLOSE PROXIMITY TO LINES -- CLEARANCE ARRANGEMENTS WITH PUBLIC UTILITY -- PAYMENT. (1) If any contractor desires to temporarily carry on any function, activity, work or operation in closer proximity to any high voltage overhead line than permitted in this chapter, or in such proximity that the function, activity, work or operation could possibly come within closer proximity than permitted in this chapter, the contractor responsible for performing the work shall promptly notify the public utility owning or operating the high voltage overhead line in writing. The contractor may perform the work only after making mutually agreeable arrangements with the public utility owning or operating the line, including coordination of work and construction schedules. Arrangements may include placement of temporary mechanical barriers to separate and prevent contact between material, equipment or persons and the high voltage overhead lines, temporary deenergization and grounding, or temporary relocation or raising of the high voltage overhead lines. A written agreement identifying the arrangements and the payment to be made therefor, if any, as provided in subsection (2) of this section shall be executed by the parties.

(2) The public utility may, in conformance with its then current practice, require the contractor responsible for performing the work in the vicinity of the high voltage overhead lines to pay any actual expenses of the public utility in providing arrangements for ~~clearances~~ work in close proximity to the overhead lines. The public utility is not required to provide the arrangements for ~~clearances~~ work in close proximity to the overhead lines until a written agreement for payment has been made. The public utility may require payment in advance. Any surplus amounts paid to the utility shall be refunded.

(3) The public utility shall make arrangements ~~for clearances~~ to accommodate activity in proximity to overhead lines in accordance with

the agreement of the parties. Where a date certain for completion of the clearance arrangements is not otherwise specified in the agreement, the arrangements must be completed within a reasonable time with consideration to all existing circumstances. However, any delay in completing the arrangement shall not excuse nor authorize the person, contractor or subcontractor to undertake to perform work in closer proximity to high voltage overhead lines than is provided herein, until such time as the arrangements have been completed.

(4) The public utility may deny any request for clearances which in the judgment of the utility may jeopardize the performance, integrity, reliability or stability of the utility's electrical system or any electrical system with which it is interconnected.

Approved April 14, 2000.

CHAPTER 320
(H.B. No. 589)

AN ACT

RELATING TO TRANSITIONAL OWNERSHIP DOCUMENTS OF MOTOR VEHICLES; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 49-527, 49-528, 49-529 AND 49-530, IDAHO CODE, TO PROVIDE THE PURPOSE OF TRANSITIONAL OWNERSHIP DOCUMENTS, TO PROVIDE CIRCUMSTANCES UNDER WHICH A TRANSITIONAL OWNERSHIP DOCUMENT IS ACCEPTABLE AS AN OWNERSHIP RECORD, TO PROVIDE CIRCUMSTANCES FOR MANDATORY REJECTION OR INVALIDATION OF A TRANSITIONAL OWNERSHIP DOCUMENT BY THE TRANSPORTATION DEPARTMENT AND TO PROVIDE CIRCUMSTANCES FOR DISCRETIONARY REJECTION OF A TRANSITIONAL OWNERSHIP DOCUMENT; AMENDING SECTION 49-121, IDAHO CODE, TO PROVIDE A DEFINITION OF "TRANSITIONAL OWNERSHIP DOCUMENT"; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE A FEE FOR RECORDING A TRANSITIONAL OWNERSHIP DOCUMENT, TO PROVIDE FOR PORTIONS OF FEES TO GO TO THE COUNTY ASSESSOR OR SHERIFF AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 49-425 AND 49-1817, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 5, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 49-527, 49-528, 49-529 and 49-530, Idaho Code, and to read as follows:

49-527. PURPOSE OF TRANSITIONAL OWNERSHIP DOCUMENT. The purpose of a transitional ownership document is to enable security interest to be perfected in a timely manner when the primary ownership document is not available. The transitional ownership document serves to perfect a lien against creditors or subsequent purchasers.

(1) To perfect a security interest the transitional ownership document must be received by the department or agent within twenty (20) days of the date of sale. To determine the twenty (20) days,

exclude the first day (i.e., date of sale) and count each calendar day thereafter. If the twentieth day falls on a weekend or holiday it is not counted, the last date the temporary ownership document will be acceptable is bumped to the next department or agent working day.

(2) The lien will be perfected as of the date and time of filing consistent with section 49-510, Idaho Code.

(3) The transitional ownership document is not intended to supersede the requirements of section 49-504, Idaho Code, but rather to provide an alternative method of lien perfection.

(4) Once a temporary ownership document has been filed with the department or agent, the primary ownership document must be received by the department or agent within ninety (90) calendar days from the date of the security agreement or contract. To determine ninety (90) days, exclude the first day (i.e., day of sale) and count each calendar day thereafter. If the ninetieth day falls on a weekend or holiday, the last date the temporary ownership document may be used to determine date of security interest perfection is bumped to the next department or agent working day.

49-528. CIRCUMSTANCES UNDER WHICH TRANSITIONAL OWNERSHIP DOCUMENT ACCEPTABLE AS OWNERSHIP DOCUMENT. A transitional ownership document is acceptable as an ownership document only if the primary ownership document:

(1) Is not in the possession of the selling dealer, new security interest holder or the agent of either at the time the transitional ownership document is submitted to the department; and

(2) To the best of the knowledge of the selling dealer, security interest holder or agent, will not be available for submission to the department within twenty (20) days of the date of sale or if no sale is involved, within the date of a security agreement or contract.

49-529. MANDATORY REJECTION OR INVALIDATION OF TRANSITIONAL OWNERSHIP DOCUMENT BY DEPARTMENT. The transportation department shall reject, return or subsequently invalidate a transitional ownership document if:

(1) More than twenty (20) days have elapsed between the date of sale, or if no sale is involved, more than twenty (20) days have elapsed between the date the contract or security interest being perfected was signed and the date the transitional ownership document is received by the department;

(2) The transitional ownership document does not contain all of the information contained in section 49-121(7), Idaho Code;

(3) It is determined that persons named on the transitional ownership document as having a security interest did not have a security interest on the date the transitional ownership document was received;

(4) It is determined the person who submitted the transitional ownership document made false statements in completing the transitional ownership document;

(5) The department does not receive the primary ownership document from the date of sale within ninety (90) days of the date of sale or if no sale is involved, within ninety (90) days from the date the security agreement or contract was signed;

(6) The security interest holder or person submitting the transi-

tional ownership document elects to retain, requests it be returned or requests that the transitional ownership document be withdrawn; or

(7) The information on or in the transitional ownership document has been changed or altered in a manner that is not acceptable to the department.

49-530. DISCRETIONARY REJECTION OR INVALIDATION OF DOCUMENT BY DEPARTMENT. The transportation department may reject, return or subsequently invalidate a transitional ownership document if it is determined that:

(1) Title is to be issued to someone other than the person shown on the transitional ownership document;

(2) Interests reflected on the primary ownership document or in information submitted in conjunction with that document conflict with the interests as reflected on the transitional ownership document;

(3) The person submitting the transitional ownership document has failed to submit the nonrefundable fee required by section 49-202(e), Idaho Code; or

(4) A copy of the application for certificate of title is not attached as required by the department.

SECTION 2. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS -- T.

(1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations.

(2) "Tires" means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility Trailer", section 49-122, Idaho Code)

(7) "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within twenty (20) days, and contains all of the following:

(a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;

(b) The name and address of each owner of the vehicle;
(c) The name and address of each security interest holder;
(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;
(e) The vehicle identification number;
(f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and
(g) Any other information the department may require for its records.

(8) "Transportation"," for the purposes of chapter 22 of this title, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(~~8~~9) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(~~9~~10) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

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

(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(~~10~~11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 3. 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 recording a transitional ownership document, in addition to any other fee required by this section.....$15.00

(f) For furnishing a replacement of any receipt of registration $3.00

(~~f~~g) For furnishing copies of 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~~h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour ... $10.00

(~~h~~i) Placing "stop" cards in vehicle registration or title files, each $12.00

(~~i~~j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(~~j~~k) 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~~l) For all replacement registration stickers, each $1.00

(~~l~~m) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $10.00

(~~m~~n) For all sample license plates, each $12.00

(~~n~~o) For filing release of liability statements $2.00

(~~o~~p) 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~~g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (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, and four dollars ($4.00) as provided in subsection (2)(g), to the county assessor or sheriff 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~~k) 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~~p) 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 requests revocation, or whenever an interstate carrier's 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 dissemi-

nate 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 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 consti-

tute 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 4. That Section 49-425, Idaho Code, be, and the same is hereby amended to read as follows:

49-425. LOST CERTIFICATE OR LICENSE PLATE -- DUPLICATES. In the event that any license plate or registration card issued pursuant to the provisions of this chapter shall be lost, mutilated, or become illegible, the person to whom the plate or registration card is issued shall make immediate application for and obtain a duplicate or replacement upon furnishing information of fact satisfactory to the department and upon payment of the required fees. The fee for duplicate or replacement plates is provided in section 49-450 and section 49-202(2)(~~e~~f), Idaho Code, for a replacement registration card.

SECTION 5. That Section 49-1817, Idaho Code, be, and the same is hereby amended to read as follows:

49-1817. FEE TO ACCOMPANY INFORMATION REQUEST. Upon the filing of a request for title and registration information on an abandoned vehicle, the department shall receive a fee in accordance with section 49-202(2)(~~f~~g), Idaho Code.

SECTION 6. This act shall be in full force and effect on and after January 1, 2001.

Approved April 14, 2000.

CHAPTER 321
(H.B. No. 591, As Amended, As Amended in the Senate)

AN ACT

RELATING TO IMMUNITY OF FOOD DONORS AND FOOD BANKS; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-339, IDAHO CODE, TO PROVIDE THAT IT SHALL NOT BE NEGLIGENCE FOR A FOOD DONOR TO DONATE FOOD APPARENTLY FIT FOR HUMAN CONSUMPTION, TO PROVIDE FACTORS THAT INDIVIDUALLY DO NOT ESTABLISH NEGLIGENCE, TO PROVIDE THAT A FOOD BANK SHALL NOT BE FOUND NEGLIGENT OR LIABLE FOR DAMAGES FOR FOOD IT DISTRIBUTES IF CERTAIN CONDITIONS ARE MET, TO PROVIDE THAT IT SHALL NOT BE NEGLIGENCE FOR A FOOD BANK TO DISTRIBUTE FOOD APPARENTLY FIT FOR HUMAN CONSUMPTION, TO PROVIDE FACTORS THAT INDIVIDUALLY DO NOT ESTABLISH NEGLIGENCE, AND TO PROVIDE LIMITATIONS.

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 5-339, Idaho Code, and to read as follows:

5-339. IMMUNITY OF FOOD DONOR AND FOOD BANK. (1) It shall not be negligence for a donor of food to donate food apparently fit for human consumption at the time of its donation solely because:

(a) The label on the food is missing or the food is otherwise misbranded; or

(b) The food, if offered for sale commercially, would not be readily marketable because of appearance or grade, or because it is surplus.

(2) A food bank that receives and distributes food apparently fit for human consumption shall not be found negligent or liable for damages caused by food it distributes if:

(a) The food bank inspects the food received in a reasonable manner and finds it to be apparently fit for human consumption at the time of distribution;

(b) The food bank has no actual or constructive knowledge at the time the food is distributed that it is adulterated, tainted, contaminated, or would be harmful to the health or well-being of an individual consuming it; and

(c) The injury or death is not proximately caused by the misconduct of the food bank.

(3) It shall not be negligence for a food bank to distribute food apparently fit for human consumption at the time of its distribution solely because:

(a) The label on the food is missing or the food is otherwise misbranded; or

(b) The food, if offered for sale commercially, would not be readily marketable because of appearance or grade, or because it is surplus.

(4) For purposes of this section:

(a) "Donor" includes a person, farmer, rancher, retailer, slaughterhouse under state supervision, freight company, distributor, wholesaler, meat processor, seafood processor, or similar entity, and a person who acts in a commercial capacity as a manufacturer, packer, processor, bottler, or similar entity, even if that activity is the person's primary activity.

(b) "Food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(c) "Food bank" means a nonprofit organization that operates principally to collect, inspect, and salvage donated food for free distribution either to needy persons or to nonprofit organizations for free distribution to needy persons. In this paragraph, "nonprofit organization" means an organization recognized by the state or federal government as a nonprofit organization.

(5) This section does not apply to donations of wild game meat to charitable institutions. Liability and immunity for donations of wild game meat to charitable institutions shall be determined according to section 5-338, Idaho Code.

Approved April 14, 2000.

CHAPTER 322
(H.B. No. 593)

AN ACT

RELATING TO THE FIREFIGHTERS' RETIREMENT FUND; AMENDING SECTION 72-1444, IDAHO CODE, TO PROVIDE FOR THE PURCHASE OF CERTAIN SERVICE CREDITS FOR BREAKS IN SERVICE RESULTING FROM TERMINATIONS DUE TO REDUCTIONS IN WORK FORCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1444, Idaho Code, be, and the same is hereby amended to read as follows:

72-1444. REFUND TO FIREFIGHTER TERMINATING EMPLOYMENT -- REPAYMENT ON REEMPLOYMENT -- CONVERSION OF CONTRIBUTIONS -- PURCHASE OF SERVICE CREDITS. (1) If the employment of a paid firefighter, irrespective of date of hire, as defined in this chapter, is terminated

for any reason prior to the completion of twenty (20) years of service, and he cannot qualify for benefits under any other provision of this chapter, he shall be entitled to receive at the time of said termination one hundred percent (100%) of his accumulated contributions. If such firefighter is subsequently reemployed as a paid firefighter with duties which involve or are incidental to ~~fire-fighting~~ fire-fighting, he may reinstate his previous credited service by repaying to the retirement fund the full amount of his accumulated contributions provided such repayment includes payment of interest as determined by the board.

(2) In lieu of withdrawing his accumulated contributions as provided in subsection (1) of this section, a paid firefighter may elect to convert his accumulated contributions to an equivalent benefit entitlement under the provisions of chapter 13, title 59, Idaho Code, as if such contributions had been made by the firefighter at the contribution rate of a paid firefighter under the provisions of chapter 13, title 59, Idaho Code; this conversion will normally result in a higher "years of service" factor than the firefighter actually served under the provisions of chapter 14, title 72, Idaho Code. It is legislative intent that this is precisely the effect to be achieved.

(3) No paid firefighter may elect to proceed under the provisions of subsection (2) until he has been personally interviewed and advised by the director of the public employee retirement system, or his designee, on the choices available. The firefighter may be accompanied during such interview by any person of his choice.

(4) Paid firefighters who did not participate as a member of the system between January 1, 1978, and December 31, 1981, because of termination from employment due to reductions in work force may purchase service credits for all or part of that period. The cost of such service credit shall be the full actuarial cost as determined by the board and shall be paid in full prior to the effective date of retirement. The employer may elect, but is not required, to participate in purchasing service credit under this section. In no event shall the retirement system be liable for payment of any such costs. Terminations from employment due to a reduction in work force are limited to terminations that resulted from the elimination of a position due to budgetary constraints.

Approved April 14, 2000.

CHAPTER 323
(H.B. No. 612)

AN ACT

RELATING TO THE IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION; AMENDING SECTION 41-4303, IDAHO CODE, TO BROADEN THE APPLICATION OF THE ACT; AMENDING SECTION 41-4308, IDAHO CODE, AND TO REVISE THE CONTRACTUAL OBLIGATIONS OF THE INSOLVENT INSURER FOR WHICH THE ASSOCIATION BECOMES OR MAY BECOME LIABLE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-4303, Idaho Code, be, and the same is hereby amended to read as follows:

41-4303. APPLICATION OF ACT. (1) This act shall apply to direct life insurance policies, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at any time. Covered policies shall include annuities owned by a trust for a money purchase pension plan, profit sharing plan, 401(k) thrift plan or any other defined contribution plan, and annuities owned by a custodian of an individual retirement account.

(2) This act shall not apply to:

(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

(b) That portion or part of any policy or contract under which the risk is borne by the policyholder;

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(d) Any such policy or contract issued by a reciprocal insurer, mutual benefit association, fraternal benefit society, hospital and medical service corporation, health maintenance organization, or self-funded health care plan; or

(e) Any unallocated annuity contract, including an annuity owned by a defined benefit pension plan or trust.

SECTION 2. That Section 41-4308, Idaho Code, be, and the same is hereby amended to read as follows:

41-4308. POWERS AND DUTIES OF THE ASSOCIATION. In addition to the powers and duties enumerated in other sections of this act:

(1) If a domestic insurer is an impaired insurer, the association may, subject to any conditions imposed by the association, other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the director:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of residents of the impaired insurers;

(b) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are proper to effectuate and assure payment of the contractual obligations to residents of the impaired insurer pending action under ~~subsection~~ paragraph (a) ~~above~~ of this section;

(c) Loan money to the impaired insurer.

(d) This chapter shall provide coverage for the policies and contracts specified in subsection (1) of this section, for persons who are not residents, but only under the following conditions:

(i) The insurers which issued such policies or contracts are domiciled in this state; and

(ii) The director has determined that by statute, similar protection is not available for such nonresidents as that provided in this chapter for residents of this state.

(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of residents of the insolvent insurer;

(b) Assume payment of the contractual obligations to residents of the insolvent insurer; and,

(c) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

(d) This chapter shall provide coverage for the policies and contracts specified in subsection (2) of this section, for persons who are not residents, but only under the following conditions:

(i) The insurers which issued such policies or contracts are domiciled in this state; and

(ii) The director has determined that by statute, similar protection is not available for such nonresidents as that provided by this chapter for residents of this state.

(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of residents;

(b) Assure payment of the contractual obligations of the insolvent insurer to residents; and

(c) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

Provided, however, that this subsection shall not apply where the director has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this act for residents of this state.

(4) (a) In carrying out its duties under subsections (2) and (3) of this section, permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:

(i) Finds that the amounts which can be assessed under this act are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest; and

(ii) Approves the specific policy liens or contract liens to be used.

(b) Before being obligated under subsections (2) and (3) of this section, the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of cash or policy loan values and such temporary moratoriums and liens may be imposed if they are approved by the court.

(5) If the association fails to act within a reasonable period of

time as provided in subsections (2) and (3) of this section, the director shall have the powers and duties of the association under this act with respect to insolvent insurers.

(6) The association may render assistance and advice to the director upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(7) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this act. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

(8) (a) Any person receiving benefits under this act shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this act whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this act upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this act.

(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be ~~as--great as-but-no-greater-than~~ the lesser of:

(a) ~~T~~the contractual obligations ~~of~~ for which the insolvent insurer would have been liable in the absence of an insolvency; or

(b) ~~U~~unless such obligations are reduced as permitted by subsection (4) of this section, ~~but~~ the aggregate liability of the association shall not exceed the following per policy:

(i) ~~O~~one hundred thousand dollars ($100,000) in net cash surrender in net cash withdrawal values for life insurance, or three hundred thousand dollars ($300,000) in life insurance death benefits;

(ii) Three hundred thousand dollars ($300,000) in disability insurance claims or benefit payments, or one hundred thousand dollars ($100,000) in net cash surrender and net cash withdrawal values for disability benefits;

(iii) Three hundred thousand dollars ($300,000) of annuity benefit payments for annuities for which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten (10) years, have begun to be paid on or before the date of the impairment or insolvency, or one hundred thousand dollars ($100,000) in annuity net cash surrender or net cash withdrawal values; or

(iv) Where no coverage limit has been specified for a cov-

ered policy or benefit, the coverage limit shall be three hundred thousand dollars ($300,000).

(c) In no event shall the association be liable to expend more than three hundred thousand dollars ($300,000) in the aggregate for all benefits, including cash values, with respect to any one (1) life.

(10) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this act;

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 41-4309, Idaho Code;

(c) Borrow money to effect the purposes of this act. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary to handle the financial transactions of the association and to perform such other functions as become necessary or proper under this act;

(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(f) Take such legal action as may be necessary to avoid payment of improper claims;

(g) Exercise, for the purposes of this act and to the extent approved by the director, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

Approved April 14, 2000.

CHAPTER 324
(H.B. No. 613)

AN ACT

RELATING TO THE MANUFACTURED HOME SETUP CODE; REPEALING SECTION 44-2206, IDAHO CODE.

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

SECTION 1. That Section 44-2206, Idaho Code, be, and the same is hereby repealed.

Approved April 14, 2000.

CHAPTER 325
(H.B. No. 617)

AN ACT

RELATING TO THE NAMES OF BUSINESS ENTITIES FILED WITH THE SECRETARY OF STATE; AMENDING SECTION 30-1-1422, IDAHO CODE, TO REQUIRE THAT THE NAME OF A CORPORATION REINSTATED AFTER DISSOLUTION BE DISTINGUISHABLE FROM THE NAMES OF OTHER BUSINESS ENTITIES ORGANIZED OR AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING SECTION 30-1-1506, IDAHO CODE, TO REQUIRE THAT FOREIGN CORPORATIONS USE NAMES DISTINGUISHABLE FROM OTHER BUSINESS ENTITIES; AMENDING SECTION 30-3-121, IDAHO CODE, TO REQUIRE THAT FOREIGN NONPROFIT CORPORATIONS USE NAMES DISTINGUISHABLE FROM OTHER BUSINESS ENTITIES; AMENDING SECTION 53-3-303, IDAHO CODE, AS ADDED BY SECTION 2, CHAPTER 65, LAWS OF 1998, TO REQUIRE THAT PARTNERSHIPS USE NAMES DISTINGUISHABLE FROM OTHER BUSINESS ENTITIES; AMENDING SECTION 53-643C, IDAHO CODE, TO REQUIRE THAT THE NAME OF A LIMITED LIABILITY COMPANY REINSTATED AFTER DISSOLUTION BE DISTINGUISHABLE FROM OTHER BUSINESS ENTITIES; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 30-1-1422, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1422. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A corporation administratively dissolved under section 30-1-1421, Idaho Code, may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must:

(a) Recite the name of the corporation at the time of its dissolution and the date of its incorporation;

(b) State that the corporation applies for reinstatement;

(c) ~~If--the-corporation's-name-or-one-deceptively-similar-thereto has-been-appropriated-by-another-entity-whose-organizational-documents-are-filed-with-the-secretary-of-state,-be-accompanied-either by-a-consent-to-the-use-of-a-deceptively-similar-name-executed--by the-other-entity-or-by-articles-of-amendment-by-which-the-corporation--adopts--a--new--name--which--complies--with~~ State that the corporation's proposed name satisfies the requirements of section 30-1-401, Idaho Code; and

(d) Be accompanied by a current annual report, appointment of registered agent or articles of amendment to extend the corporate existence, as appropriate to the reason for administrative dissolution.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the dissolution and prepare a certificate of reinstatement that recites the fact and effective date of the reinstatement, file a copy thereof and return the original to the corporation.

(3) When the reinstatement is effective, it relates back to and

takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 2. That Section 30-1-1506, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1506. CORPORATE NAME OF FOREIGN CORPORATION. (1) If the corporate name of a foreign corporation does not satisfy the requirements of section 30-1-401, Idaho Code, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state must either:

(a) ~~May a~~Add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or

(b) ~~May u~~Use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the corporate name, including a fictitious name, of a foreign corporation must ~~not~~ be ~~the same as or deceptively similar to~~ distinguishable upon the records of the secretary of state from:

(a) The name of any corporation, limited liability company, limited partnership or limited liability partnership organized under the laws of this state or authorized to transact business in this state;

(b) A reserved or registered name for a corporation, limited liability company or limited partnership; or

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(3) A foreign corporation may apply to the secretary of state for authorization to use in this state a name which is ~~deceptively similar to the name of another corporation, limited liability company, limited partnership or limited liability partnership which is organized under the laws of this state or which is authorized to transact business in this~~ not distinguishable upon the records of the secretary of state from the name of any other legal entity whose organizational documents are filed with the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The other entity consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A foreign corporation may use in this state a name which is the same as the name, including the fictitious name, of another domestic or foreign corporation or limited liability company organized under the laws of this state or authorized to transact business in this state, if the foreign corporation:

(a) Has been formed by reorganization of the other entity; or

(b) Has acquired all or substantially all of the assets, including the name, of the other entity.

(5) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of section 30-1-401, Idaho Code, it may not transact business in this state under the changed name, and it shall adopt a name satisfying the requirements of section 30-1-401, Idaho Code, and obtain an amended certificate of authority under section 30-1-1504, Idaho Code.

SECTION 3. That Section 30-3-121, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-121. CORPORATE NAME OF FOREIGN CORPORATION. (1) If the corporate name of a foreign corporation does not satisfy the requirements of section 30-3-27, Idaho Code, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, may use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized in subsections (3) and (4) of this section, the corporate name, including a fictitious name, of a foreign corporation must ~~not~~ be ~~the same as, or deceptively similar to~~ distinguishable upon the records of the secretary of state from:

(a) The corporate name of a nonprofit or business corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under section 30-3-28 or 30-3-29, Idaho Code; and

(c) The fictitious name of another foreign business or nonprofit corporation authorized to transact business in this state.

(3) A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation, incorporated or authorized to transact business in this state, that is not distinguishable upon the records of the secretary of state from the name applied for. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(5) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of section 30-3-27, Idaho Code, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of section 30-3-27, Idaho Code, and obtains an amended certificate of authority under section 30-3-119, Idaho Code.

SECTION 4. That Section 53-3-303, Idaho Code, as added by Section 2, Chapter 65, Laws of 1998, be, and the same is hereby amended to read as follows:

53-3-303. STATEMENT OF PARTNERSHIP AUTHORITY. (a) A partnership may file a statement of partnership authority, which:

(1) Must include:

(i) The name of the partnership which shall not include words of organization which deceptively imply that the partnership is a different kind of legal entity and ~~shall not~~ must be ~~the same as or deceptively similar to~~ distinguishable upon the records of the secretary of state from the name of any other legal entity whose organizational documents are filed with the secretary of state, unless such other entity consents in writing to the use of the name;

(ii) The street address of its chief executive office and of one (1) office in this state, if there is one;

(iii) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subsection (b) of this section; and

(iv) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership; and

(2) May state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(b) If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on request for good cause shown, and shall be authorized to accept service of process on behalf of the partnership.

(c) If a filed statement of partnership authority is executed pursuant to section 53-3-105(b), Idaho Code, and states the name of the partnership but does not contain all of the other information required by subsection (a) of this section, the statement nevertheless operates with respect to a person not a partner as provided in subsections (d) and (e) of this section.

(d) A grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed

statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(e) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a statement containing the limitation has been filed in the office of the secretary of state.

(f) Except as otherwise provided in subsections (d) and (e) of this section and sections 53-3-704 and 53-3-805, Idaho Code, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

SECTION 5. That Section 53-643C, Idaho Code, be, and the same is hereby amended to read as follows:

53-643C. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A limited liability company administratively dissolved under section 53-643B, Idaho Code, may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must:

(a) Recite the name of the limited liability company at the time of its dissolution and the date of its organization;

(b) State that the limited liability company applies for reinstatement;

(c) ~~If the limited liability company's name or one deceptively similar thereto has been appropriated by another entity whose organizational documents are filed with the secretary of state, be accompanied either by a consent to the use of a deceptively similar name executed by the other entity or by articles of amendment by which the limited liability company adopts a new name which complies with~~ State that the proposed name of the limited liability company satisfies the requirements of section 53-602, Idaho Code; and

(d) Be accompanied by a current annual report or appointment of registered agent, as appropriate to the reason for administrative dissolution.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the dissolution and prepare a certificate of reinstatement that recites the fact and effective date of the reinstatement, file a copy thereof and return the original to the limited liability company.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 6. Sections 1, 2, 3 and 5 of this act shall be in full force and effect on and after July 1, 2000; and Section 4 of this act shall be in full force and effect on and after January 1, 2001.

Approved April 14, 2000.

CHAPTER 326
(H.B. No. 620)

AN ACT

RELATING TO LIMITED PARTNERSHIPS, AMENDING SECTION 53-204, IDAHO CODE, TO ALLOW A LIMITED PARTNERSHIP TO CHANGE ITS REGISTERED AGENT BY FILING A FORM WITH THE SECRETARY OF STATE; AMENDING SECTION 53-209, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A LIMITED PARTNERSHIP FILE AN AMENDMENT TO ITS ORGANIZATIONAL DOCUMENT IN ORDER TO CHANGE ITS REGISTERED AGENT; AND AMENDING SECTION 53-262, IDAHO CODE, TO DELETE THE FEE FOR CHANGE IN REGISTERED AGENT AND TO CLARIFY LANGUAGE.

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

SECTION 1. That Section 53-204, Idaho Code, be, and the same is hereby amended to read as follows:

53-204. REGISTERED AGENT. Each limited partnership shall continuously maintain in this state a registered agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation or limited liability company, or a foreign corporation or limited liability company authorized to do business in this state. There shall be no fee for the filing of a change in name or address of a registered agent for either a domestic limited partnership or a foreign limited partnership. The filing of any change in name or address shall be on a form prescribed by the secretary of state.

SECTION 2. That Section 53-209, Idaho Code, be, and the same is hereby amended to read as follows:

53-209. AMENDMENT TO CERTIFICATE. (a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state on a form prescribed by the secretary of state. The certificate shall set forth:

(1) The name of the limited partnership;

(2) The date of filing the certificate; and

(3) The amendment to the certificate.

(b) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

(1) The admission of a new general partner;

(2) The withdrawal of a general partner;

(3) The continuation of the business under section 53-244, Idaho Code, after an event of withdrawal of a general partner~~; or~~

~~(4) A change of the name or address of the registered agent.~~

(c) A general partner who becomes aware that any material statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any material respect, shall promptly amend the certificate.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

(e) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.

SECTION 3. That Section 53-262, Idaho Code, be, and the same is hereby amended to read as follows:

53-262. FILING FEES. The secretary of state shall charge and collect for:

(a) Filing a certificate of limited partnership, one hundred dollars ($100); ~~if typed on the standard form, or one hundred twenty dollars ($120) if not typed or if attachments are included;~~

(b) Filing a certificate of amendment or a restated certificate of limited partnership, thirty dollars ($30.00);

(c) Filing a certificate of cancellation, thirty dollars ($30.00);

(d) Filing a judicial decree of amendment or cancellation, thirty dollars ($30.00);

(e) Filing an application for registration as a foreign limited partnership, one hundred dollars ($100); ~~if the form is typed and has no attachments, and otherwise one hundred twenty dollars ($120);~~

(f) Filing a certificate of change or correction of an application for registration of a foreign limited partnership, thirty dollars ($30.00);

(g) ~~Filing a statement of change of registered agent of a foreign limited partnership or its address, twenty dollars ($20.00);~~

~~(h)~~ Filing an application for withdrawal of a foreign limited partnership from the state, twenty dollars ($20.00);

(~~i~~h) Filing an application for a name reservation, or transfer thereof, twenty dollars ($20.00);

(~~j~~i) Filing any other statement, twenty dollars ($20.00);

(~~k~~j) Filing any document relating to a limited partnership, when the filing party requires the evidence thereof to be returned within eight (8) working hours, a surcharge of twenty dollars ($20.00);

(k) Filing any nontyped limited partnership document which requires a fee, a surcharge of twenty dollars ($20.00).

Approved April 14, 2000.

CHAPTER 327
(H.B. No. 621)

AN ACT

RELATING TO INFRACTION VIOLATIONS OF THE MOTOR VEHICLE CODE; AMENDING SECTION 49-236, IDAHO CODE, TO IMPOSE INFRACTION PENALTIES FOR VIOLATIONS OF CHAPTER 3, TITLE 49, IDAHO CODE, OTHER THAN SECTIONS 49-301, 49-316, 49-331 AND 49-332, IDAHO CODE, AND CHAPTER 4, TITLE 49, IDAHO CODE; AMENDING SECTION 49-301, IDAHO CODE, TO PROVIDE THAT A VIOLATION OF THE SECTION SHALL BE A MISDEMEANOR; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR AN INFRACTION

PENALTY; AMENDING SECTION 49-331, IDAHO CODE, TO REMOVE LANGUAGE IMPOSING MISDEMEANOR PENALTIES FOR VIOLATIONS OF CHAPTER 3, TITLE 49, IDAHO CODE; AND AMENDING SECTION 49-1501, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A UNIFORM CITATION FOR INFRACTION VIOLATIONS OF CHAPTERS 3 AND 4, TITLE 49, IDAHO CODE.

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

SECTION 1. That Section 49-236, Idaho Code, be, and the same is hereby amended to read as follows:

49-236. PENALTIES. (1) It is a misdemeanor for any person to violate any of the provisions of this title except the provisions of chapter 3, other than sections 49-301, 49-316, 49-331 and 49-332, Idaho Code, chapter 4 and chapters 6 through 9 of this title, unless otherwise specifically provided.

(2) It is an infraction for any person to violate any of the provisions of chapters 3, 4 and 6 through 9 of this title unless otherwise specifically provided.

(3) Any offense punishable by imprisonment in the state penitentiary is a felony.

(4) Punishments shall be as provided in sections 18-111, 18-112, 18-113 and 18-113A, Idaho Code, unless otherwise specifically provided.

(5) Whenever a person is arrested for any violation of the provisions of this title declared to be a felony, he shall be dealt with in like manner as upon arrest for the commission of any other felony.

(6) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code.

SECTION 2. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a valid Idaho driver's license. No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements. No person shall operate a motor vehicle in violation of any valid restriction identified on or attached to, his valid driver's license. No person shall receive a class D driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, or any identification cards issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess a driver's license or any identification cards. No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(2) Any holder of a class A, B or C commercial driver's license

issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.

A violation of this section is a misdemeanor.

SECTION 3. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue an instruction permit for the type of vehicle(s) the person will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days. That person must be accompanied by an adult driver who holds a driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. Any person applying for an instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) Any person who has reached the age of eighteen (18) years may apply for a class A, B or C instruction permit.

(c) On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicle operators.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be cancelled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a

driver training course. The certified copy of his birth certificate shall be required before a driver's license or instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle riders knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an ~~misdemeanor~~ infraction. The department shall cancel the permit whether or not such violation results in conviction of the ~~misdemeanor~~ infraction.

SECTION 4. That Section 49-331, Idaho Code, be, and the same is hereby amended to read as follows:

49-331. UNLAWFUL USE OF DRIVER'S LICENSE. It is a misdemeanor for any person:

(1) To display or cause or permit to be displayed or have in his possession any mutilated or illegible, cancelled, revoked, suspended, disqualified, fictitious or fraudulently altered driver's license;

(2) To lend his driver's license to any other person or knowingly permit the use of his driver's license by another;

(3) To display or represent as one's own a driver's license not issued to him;

(4) To fail or refuse to surrender to the department, upon its lawful demand, any driver's license which has been suspended, revoked, disqualified or cancelled;

(5) To use a false or fictitious name in any application for a driver's license, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in any application;

(6) To permit any unlawful use of a driver's license issued to him; or

(7) To manufacture, produce, sell, offer for sale or transfer to another person any document purporting to be a certificate of birth or driver's license.~~;--or~~

~~(8)--To-do-any-act-forbidden-or-fail-to-perform-any-act--specified in-this-chapter.~~

In addition to the misdemeanor penalties that may be imposed for violation of the provisions of paragraphs (1) through (7) of this section, the court upon conviction may enter an order directing the department to suspend the driver's license, a permit to drive, privileges or any nonresident's driving privileges for a period of ninety

(90) days. 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.

SECTION 5. That Section 49-1501, Idaho Code, be, and the same is hereby amended to read as follows:

49-1501. INFRACTION CITATION -- ISSUANCE. A peace officer or authorized employee of the Idaho transportation department may issue an Idaho uniform citation for any infraction ~~specified in~~ violation of the provisions of chapters 3, 4 and 6 through 9 of this title, or any other section of this title for which an infraction penalty is specifically provided, in which he shall certify that he has reasonable grounds to believe and does believe, that the person cited committed the infraction contrary to law.

Approved April 14, 2000.

CHAPTER 328
(H.B. No. 622)

AN ACT

RELATING TO BAIL IN CRIMINAL CASES; AMENDING SECTION 19-2923, IDAHO CODE, TO PROVIDE THAT CASH BAIL POSTED IN A CASE MAY BE USED TO SATISFY FINES, FEES AND COSTS THAT HAVE BEEN IMPOSED IN THAT CASE OR WHICH HAVE BEEN IMPOSED AGAINST THE DEFENDANT IN ANY OTHER CRIMINAL ACTION.

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

SECTION 1. That Section 19-2923, Idaho Code, be, and the same is hereby amended to read as follows:

19-2923. DEPOSIT APPLIED TO PAYMENT OF FINES, FEES AND COSTS. When the money has been deposited, if it remains on deposit at the time of the judgment, ~~for the payment of a fine,~~ the clerk must, under the direction of the court, apply the money in satisfaction ~~thereof,~~ of fines, fees and costs imposed in the case and fines, fees and costs which have been imposed against the defendant in any other criminal action, and after satisfying the fines, fees and costs, must refund the surplus, if any, to the party posting the deposit.

Approved April 14, 2000.

CHAPTER 329
(H.B. No. 624)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE THAT A JUVENILE WHO COMMITS A CRIME OF A SEXUAL NATURE MAY BE PLACED ON FORMAL PROBATION UP TO HIS TWENTY-FIRST BIRTHDAY.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile on formal probation for a period not to exceed the juvenile's twenty-first birthday if the court finds that the juvenile has committed a crime of a sexual nature;

(b) Sentence the juvenile to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if

committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(d) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No juvenile who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile is an habitual status offender;

(f) Commit the juvenile to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile's driver's license. The juvenile may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(j) The court may make any other reasonable order which is in the best interest of the juvenile or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(k) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(m) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile and/or parents reside if different than the county where the juvenile was charged and found to

have committed the unlawful or criminal act, for the entry of a dispositional order;

(n) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile and the community;

(o) The court shall assess a twenty dollar ($20.00) charge against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the juvenile corrections account which is created in section 20-542, Idaho Code;

(p) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter;

(q) Commit the juvenile to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile's twenty-first birthday, unless extended jurisdiction is necessary to complete the competency development and accountability goals of the department;

(r) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile resides or is committed, or by an appointed agent. When committing a juvenile to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code.

(4) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

Approved April 14, 2000.

CHAPTER 330
(H.B. No. 625, As Amended)

AN ACT

RELATING TO THE ENFORCEMENT AND COLLECTION OF FINES AND OTHER AMOUNTS ORDERED BY A COURT IN CRIMINAL CASES; AMENDING CHAPTER 47, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4708, IDAHO CODE, TO PROVIDE THAT THE COURTS MAY ENTER INTO CONTRACTS WITH PRIVATE ENTITIES FOR THE COLLECTION OF UNPAID DEBTS OWED TO COURTS IN CRIMINAL CASES.

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

SECTION 1. That Chapter 47, 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 19-4708, Idaho Code, and to read as follows:

19-4708. COLLECTION OF DEBTS OWED TO COURTS -- CONTRACTS FOR COLLECTION. (1) The clerks of the district court, with the approval of the administrative district judge, may enter into contracts in accordance with this section for collection services for debts owed to courts. The cost of collection shall be paid by the defendant as an administrative surcharge when the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section.

(2) As used in this section:

(a) "Contracting agent" means a person, firm or other entity who contracts to provide collection services.

(b) "Cost of collection" means the fee specified in contracts to be paid to or retained by a contracting agent for collection services.

(c) "Debts owed to courts" means any assessment of fines, court costs, surcharges, penalties, fees, moneys expended in providing counsel and other defense services to indigent defendants or other charges which a court judgment has ordered to be paid to the court in criminal cases, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law.

(3) The supreme court may adopt rules as deemed appropriate for the administration of this section, including procedures to be used in the negotiation and execution of contracts pursuant to this section, procedures to be followed by courts which utilize collection services under such contracts, and procedures for the compromise of debts owed to courts in criminal cases.

(4) Each contract entered into pursuant to this section shall specify the scope of work to be performed and provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the cost of collection, and shall not exceed thirty-three percent (33%) of the amount collected. The cost of collection shall be deducted from the amount collected but shall not be deducted from the debts owed to courts.

(5) Contracts entered into shall provide for the payment of any amounts collected to the clerk of the district court for the court in which the debt being collected originated after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the district court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

(6) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract, the clerk shall then distribute the amounts collected in accordance with the law.

Approved April 14, 2000.

CHAPTER 331
(H.B. No. 626, As Amended)

AN ACT

RELATING TO DUTIES OF THE SHERIFF; AMENDING SECTION 31-2202, IDAHO CODE, TO DESCRIBE DUTIES OF THE SHERIFF CONCERNING PROTECTION FROM OMNIVORES OR CARNIVORES.

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

SECTION 1. That Section 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The policy of the state of Idaho is that the primary duty of enforcing all penal provisions and statutes of the state is vested with the sheriff of each county as provided in section 31-2227, Idaho Code. The sheriff shall perform the following:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

5. Command the aid of as many inhabitants of the county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail and the prisoners therein.

7. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

8. Serve all process and notices in the manner prescribed by law.

9. Certify under his hand upon process or notices the manner and time of service, or, if he fails to make service, the reasons of his failure, and return the same without delay.

10. Perform such other duties as are required of him by law.

11. Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the department of law enforcement and he shall also notify the director of the department of law enforcement of any and all cars recovered.

12. At the specific request of the governor or his designated agent prevent the unauthorized importation of wild omnivores or carnivores capable of causing injury to people or their property.

13. Work in his county with the Idaho state department of law enforcement in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;

(b) Safeguard and protect the surface and other physical portions of the state highways;

(c) 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;

(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks and make investigations relative thereto;

(e) Use whatever force is necessary to protect the public from wild or domestic omnivores or carnivores in a manner that is consistent with 50 C.F.R. section 17.84(i).

134. Work in his county with the Idaho transportation department to give examinations for and sell drivers' licenses and identification cards.

145. Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

Approved April 14, 2000.

CHAPTER 332
(H.B. No. 628)

AN ACT

RELATING TO THE BOARD OF MEDICINE; AMENDING SECTION 54-1806A, IDAHO CODE, TO PROVIDE A COMMITTEE ON PROFESSIONAL DISCIPLINE WITHIN THE BOARD OF MEDICINE, TO PROVIDE POWERS AND DUTIES OF THE COMMITTEE, TO PROVIDE MEMBERSHIP AND TO PROVIDE FOR RULES; AMENDING SECTION 54-1806, IDAHO CODE, TO PROVIDE THAT THE BOARD OF MEDICINE SHALL HAVE AUTHORITY TO HIRE OR APPOINT EMPLOYEES AND ADOPT RULES, TO DELETE REFERENCE TO THE BOARD OF PROFESSIONAL DISCIPLINE, TO

REVISE THE AUTHORITY FOR THE BOARD TO REQUEST SUBPOENAS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1814, IDAHO CODE, TO DELETE A CITATION AND TO PROVIDE FOR RULES; AMENDING SECTION 54-3914, IDAHO CODE, TO DELETE A CITATION AND TO PROVIDE FOR RULES; REPEALING SECTION 54-1841, IDAHO CODE; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE THAT THE RECORDS OF CERTAIN BOARD OF MEDICINE PROCEEDINGS AND ANY COMMITTEE OF THE BOARD BE EXEMPT FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

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

SECTION 1. That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806A. MEDICAL DISCIPLINARY ENFORCEMENT. The board of medicine ~~is authorized to~~ shall create a ~~board--of~~ committee on professional discipline ~~and--to--delegate--to--it--its--role--and-authority-in-the enforcement-and-supervision-of~~ which shall have the authority under the direct supervision and control of the board to conduct professional disciplinary enforcement investigations under this chapter and particularly under sections 54-1810 and 54-1814, Idaho Code, ~~including without--limitation--the--power-to-make-rules-and-to-provide-forms-and procedures-therefor,-to-the-full-extent-that-the-board-of-medicine--is authorized--or-empowered-to-act;-such-board-of~~ and to recommend appropriate action to the board with respect thereto. The committee on professional discipline~~,-however,-shall-not-act-or-be-authorized--to--act in--connection--with--licensing-of-applicants,-except-as-respects-proceedings-for-reinstatement-following-voluntary--surrender--of--license while---under--investigation--or--prosecution--for--conduct--allegedly improper,--or--following--restriction,--suspension--or--revocation--of license-in-the-state-of-Idaho-or-under-any-other-duly-constituted-medical-licensing-authority-of-any-other-state-or-territory-of-the-United States-or-of-any-other-nation.-By-its-order-therefor,-the-state~~ shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. The board ~~of medicine~~ shall provide as follows respecting ~~a-board-of~~ the committee on professional discipline: ~~created-under-this-chapter:~~

(1) Membership. ~~Said--board~~ The committee shall consist of five (5) members appointed by the board. ~~of-medicine.~~ Initially, it shall consist of the members of the board of professional discipline as it is constituted on the effective date of this act who shall serve on the committee on professional discipline until the expiration of their current terms. Thereafter, it shall consist of ~~two~~ four (~~2~~4) members licensed to practice medicine and surgery in the state of Idaho, two (2) of whose terms shall expire at midnight~~,~~ on June 30~~,-1979;-and-two (2)--members-licensed-to-practice-medicine-and-surgery-in-the-state-of Idaho,-whose-terms-shall-expire-midnight,-June-30,-1978~~ in each of two (2) successive years, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire at midnight~~,~~ on June 30~~,-1977.-Subsequent-terms-of-all-members--appointed~~

~~shall~~ in the year in which no physician member's term shall expire. All terms of appointment shall be for three (3) years. ~~so--that--there shall-be-a-rotation-of-membership-of-a-portion-of-the-said-board,-each year;--provided,--the--board--of--medicine--may,--in--its--discretion, reappoint-members-and-may-but-need-not-appoint-members-of-the-board-of medicine-itself-to-any-or-all-of-the-positions-of-membership-upon-said board--initially--and/or--from-time-to-time-as-vacancies-occur.-Subsequent-appointees-to-the-board-shall-have-the--qualifications--required of-the-original-appointees.~~ No member of the committee on professional discipline may be appointed after the effective date of this act to serve more than two (2) terms (which shall include terms served on the board of professional discipline prior to the effective date of this act).

(2) Chairman. The board of medicine shall designate one (1) member of the ~~board-of-professional-discipline~~ committee as its chairman~~, and--he~~ who shall serve and function in that capacity for one (1) year or until ~~his~~ a successor is duly appointed, whichever is later.

(3) Quorum. Three (3) members shall constitute a quorum though no meeting of ~~said-board~~ the committee shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.

(4) Compensation. Members of the committee shall be compensated as provided by section 59-509(n), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on ~~said board-or-acting-on-its-behalf~~ the committee.

(5) Conflicts and Disqualification. Members shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(6) Additional Powers of ~~Board-of~~ the Committee on Professional Discipline. In addition to its other powers, the ~~board-of-professional-discipline~~ committee shall be empowered and authorized:

(a) To recommend to the board that it be authorized by the board to initiate or commence proceedings, studies or investigations, ~~on its-own-motion-and-initiative-or-to-proceed-on-the-request-or-complaint--of--any--person,-whether-formally-or-informally-stated-and whether-or--not--verified;--provided,--it--may--impose--reasonable requirements--respecting-the-form,-content-and-sufficiency-of-complaints-invoking-its-jurisdiction.~~

~~(b)--T~~to investigate or inquire into misconduct or unprofessional behavior~~,--whether-real,-apparent-or-merely-suspected;~~ and to recommend that the board take such action with respect thereto as it deems best in the interest of the public and justice~~.~~, and

~~(c)--To-retain-and-appoint-staff~~ to obtain the assistance of staff and legal counsel hired by the board of medicine to administer, process and assist in ~~the~~ its work. ~~assigned-it-under-this-chapter or-by-the-board-of-medicine,--including,--as--deemed--appropriate, legal--counsel--to--assist--in--presentation--of-matters-before-it and/or-to-advise-it-on-matters-of-law.~~

(~~d~~b) To recommend to the board that it be authorized by the board

to appoint hearing officers or hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to ~~it~~ the committee in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the ~~disciplinary~~ board directs, composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. All investigations and ~~p~~Proceedings ~~before such~~ of the committee and any hearing officers or hearing committees~~, and before said board, except as otherwise provided or may be inconsistent with the clear intent or conflicting specific provisions of this act,~~ shall be conducted as provided by rules adopted by the board of medicine pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code~~; provided, there shall be no hearings de novo on appellate review as a matter of right~~.

(~~c~~e) To ~~make~~ recommend findings respecting matters coming before it or before any hearing committee or authorized hearing officer acting on its behalf, and to ~~make~~ recommend conclusions and ~~enter~~ orders for the consideration of the board dispositive of such proceedings~~,~~. The committee may make recommendations for the consideration of the board and the board is authorized to enter appropriate orders and take appropriate action including, without limitation, disciplinary orders as provided ~~in and~~ by ~~the~~ Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.

(~~f~~d) To recommend that the board reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(~~g~~e) To recommend that the board accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.

(~~h~~f) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed physician and surgeon incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether heretofore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.

(~~i~~g) To recommend that the board provide by order ~~in-general and/or-in-particular~~ for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled ~~on--due--motion-and-notice~~ to appear and show cause why such order should not apply in his or her case.

(~~j~~h) To ~~provide~~ recommend that the board adopt rules to provide for and permit the committee to conduct informal proceedings ~~and to-provide-rules-and-practices~~ to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.

(7) ~~Substitution-of-Board-of-Professional-Discipline--in--Matters of-Discipline-and-Self-Policing.--From-and-after-the-effective-date-of the--board--of-medicine-creating-and-establishing-the-board-of-professional-discipline,-references-in-the--laws--of--the--state--of--Idaho, including-the-medical-practice-act,-this-chapter-and-the-Idaho-Code-in general,--to--the--board--shall,--when-concerned-with-matters-of-self-policing-or-professional-discipline-within-the-medical-profession,--be deemed--and--construed--to--be-references-to-the-board-of-professional discipline.~~

~~(8)~~ Openness. ~~Except-as-specifically-otherwise--ordered--in--the interest--of--justice--or--the-public-health,-hearings-and-proceedings before-the-board-of-professional-discipline-shall-be-open-in-all-cases in-which-the-board-has-determined-that-there-is-probable-cause-to-proceed-to-formal-hearing;-provided,-as--respects--reprimands--for--minor misconduct,--proceedings--shall--be-subject-to-disclosure-according-to chapter-3,-title-9,-Idaho-Code,-unless--the--respondent--physician--in writing--rejects--the-reprimand-within-ten-(10)-days-of-the-order-providing-therefor,-in-which-cases-said-matters-shall-promptly-be-set-for hearing-and-such-proceedings-and-hearings-thereafter-shall--be--public and--open--unless,-as-hereinabove-authorized,-the-board-for-good-cause otherwise-orders-and-directs.-Determination--that--there--is--probable cause--to--proceed--may-be-made-informally-by-the-chairman-and-also-by written-expression-of-a-majority-of-the-members-of-the-board--of--professional--discipline.--The--determination--that-there-is-not-probable cause-to-proceed-shall-be-made-in-writing-and-a-copy-forwarded-to-such person-whose-complaint-may-have-initiated-or--commenced--the--proceedings,--which--person--shall-have-standing-to-request-en-banc-review-of such-determination-by-the-entire-committee-which-shall-have--jurisdiction--to--reverse-or-affirm-such-determination-as-in-its-discretion-it deems-in-the-interest-of-justice-and-the--public--health.~~ All formal hearings conducted by the board or by the committee under the board's direction and control shall be open to the public. Formal dispositions or other formal actions taken by the board under sections 54-1806 and 54-1806A, Idaho Code, also shall be public. Proceedings, studies and investigations which do not result in formal hearings, formal dispositions or other formal actions by the board shall be conducted in private and shall remain confidential.

(~~9~~8) Voluntary Restriction of Licensure. A physician may request in writing to the board ~~of-professional-discipline~~ or the committee a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, ~~it-is-granted-the-authority-in-such-cases~~ to attach conditions to

the licensure of the physician to practice medicine. ~~within--specified limitations.~~ The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the medical practice act if in the interest of justice it determines that such voluntary proceedings have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the medical practice act or by rule of the board; ~~of-professional-discipline~~ provided~~;~~ also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.

(~~10~~9) Adjudication of Discipline or Exoneration. ~~At-the-conclusion-of-the-proceedings-t~~The board ~~of--professional--discipline~~ shall make a determination of the merits of all proceedings, studies and investigations and, if grounds therefor are found to exist, may issue its order:

(a) Revoking the respondent physician's license to practice medicine;

(b) Suspending or restricting the respondent physician's license to practice medicine;

(c) Imposing conditions or probation upon the respondent physician and requiring rehabilitation planning, commitment and conditions upon such respondent physician's licensure;

(d) Imposing an administrative fine not to exceed ten thousand dollars ($10,000) for each count or offense; and/or

(e) Assessing costs and attorney's fees against the respondent physician for any investigation and/or administrative proceeding.

If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof.

(1~~1~~0) Temporary Suspension or Restriction Pending Final Order. The board ~~of-professional-discipline~~ may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this chapter, ~~or-the-medical-practice-act;~~ but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings. Thereafter the physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, ~~of~~

~~professional-discipline,~~ which petition shall be set for prompt hearing before ~~said~~ the board or~~,-if-necessary-and-if-requested-by-the affected-respondent-physician-in-the-interest-of-early--consideration, before~~ a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendations. The board, consistent with due process and the rules adopted by the board pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.

(1~~2~~1) Judicial Review. All final decisions by the board ~~of-professional-discipline~~ shall be subject to judicial review pursuant to the procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.

(1~~3~~2) Protected Action and Communication. There shall be no liability on the part of and no action for damages against:

(a) Any member of the board, ~~of~~ the committee on professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of ~~said~~ the board or the committee under this chapter when acting without malice and in the reasonable belief that such action is warranted; or

(b) Any person providing information or testimony to the ~~said~~ board, the committee, or ~~its~~ their staff or officials without malice and in the reasonable belief that such information is accurate.

SECTION 2. That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.

(2) Establish pursuant to the administrative procedure~~s~~ act rules ~~and-regulations~~ for administration of this chapter, including rules ~~and--regulations~~ governing all activities of persons employed as physician's assistants by persons licensed to practice medicine in this state. The board shall adopt rules pursuant to the administrative procedure act establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when the board has authorized the committee to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or its staff before the initiation of formal disciplinary proceedings by the board.

(3) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.

(4) The board~~,-the-board-of-professional-discipline-or-its--hearing-officer~~ shall have the power in any disciplinary proceeding pursu-

ant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner ~~provided by law in civil cases~~ consistent with rules adopted by the board pursuant to the administrative procedure act, and upon a determination that there is good cause the board shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may ~~desire~~ deem appropriate at any hearing. ~~and f~~For that purpose the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records ~~of~~ or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board to compel compliance with the subpoena by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena upon making application to the board therefor.

(5) Seek injunctive relief prohibiting the unlawful practice of medicine.

(6) Make and enter into contracts.

(7) Operate, manage, superintend and control the licensure of physicians.

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.

(9) Perform such other duties as set forth in the laws of this state.

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.

(11) Provide for reasonable fees through rules ~~and regulations~~ for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.

(12) Prepare an annual report.

SECTION 3. That Section 54-1814, Idaho Code, be, and the same is hereby amended to read as follows:

54-1814. GROUNDS FOR MEDICAL DISCIPLINE. Every person licensed to practice medicine, licensed to practice as a physician assistant or registered as an extern, intern or resident in this state is subject to discipline by the board pursuant to the procedures ~~and powers~~ set forth in ~~section 54-1806A, Idaho Code,~~ this chapter and rules promulgated pursuant thereto upon any of the following grounds:

(1) Conviction of a felony, or a crime involving moral turpitude, or the entering of a plea of guilty or the finding of guilt by a jury or court of commission of a felony or a crime involving moral turpitude.

(2) Use of false, fraudulent or forged statements or documents, diplomas or credentials in connection with any licensing or other requirements of this act.

(3) Practicing medicine under a false or assumed name in this or any other state.

(4) Advertising the practice of medicine in any unethical or unprofessional manner.

(5) Knowingly aiding or abetting any person to practice medicine who is not authorized to practice medicine as provided in this chapter.

(6) Performing or procuring an unlawful abortion or aiding or abetting the performing or procuring of an unlawful abortion.

(7) The provision of health care which fails to meet the standard of health care provided by other qualified physicians in the same community or similar communities, taking into account his training, experience and the degree of expertise to which he holds himself out to the public.

(8) Division of fees or gifts or agreement to split or divide fees or gifts received for professional services with any person, institution or corporation in exchange for referral.

(9) Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.

(10) Inability to obtain or renew a license to practice medicine, or revocation of, or suspension of a license to practice medicine by any other state, territory, district of the United States or Canada, unless it can be shown that such action was not related to the competence of the person to practice medicine or to any conduct designated herein.

(11) Prescribing or furnishing narcotic or hallucinogenic drugs to addicted persons to maintain their addictions and level of usage without attempting to treat the primary condition requiring the use of narcotics.

(12) Prescribing or furnishing narcotic, hypnotic, hallucinogenic, stimulating or dangerous drugs for other than treatment of any disease, injury or medical condition.

(13) Failure to safeguard the confidentiality of medical records or other medical information pertaining to identifiable patients, except as required or authorized by law.

(14) The direct promotion by a physician of the sale of drugs, devices, appliances or goods to a patient that are unnecessary and not medically indicated.

(15) Abandonment of a patient.

(16) Willfully and intentionally representing that a manifestly incurable disease or injury or other manifestly incurable condition can be permanently cured.

(17) Failure to supervise the activities of externs, interns, residents, nurse practitioners, certified nurse-midwives, clinical nurse specialists, or physician assistants.

(18) Practicing medicine when a license pursuant to this chapter

is suspended, revoked or inactive.

(19) Practicing medicine in violation of a voluntary restriction or terms of probation pursuant to this chapter.

(20) Refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment, or infirmity.

(21) Commission of any act constituting a felony or commission of any act constituting a crime involving moral turpitude.

(22) Engaging in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient.

SECTION 4. That Section 54-3914, Idaho Code, be, and the same is hereby amended to read as follows:

54-3914. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS -- POWERS AND DUTIES. (1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for registration under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The board of athletic trainers shall conduct examinations of all applicants for registration and make recommendations to and consult with the board concerning issuance of registrations, revocation of registrations and rules ~~and regulations~~ to be promulgated under this chapter.

(2) The board shall, upon recommendation of the board of athletic trainers, adopt rules ~~and regulations,~~ pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, regulations relating to professional registration and to the establishment of ethical standards of practice, disciplinary proceedings, registration suspension proceedings, or registration revocation proceedings for persons registered to practice as an athletic trainer in this state.

(3) The board of athletic trainers shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Every person registered as an athletic trainer in Idaho shall be subject to discipline pursuant to the powers set forth in ~~section 54-1806A, Idaho Code~~ this chapter and the rules of the board of medicine promulgated pursuant thereto.

SECTION 5. That Section 54-1841, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 9-340C, Idaho Code, 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, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the bBoard of ~~professional--discipline reprimands--by--informal--admonition~~ medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to ~~subsection (6)(f) of section 54-1806A~~ chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(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.

(1~~8~~9) 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 7. This act shall be in full force and effect on and after July 1, 2000, and the Board of Medicine is directed to begin rulemaking pursuant to Chapter 52, Title 67, Idaho Code, as required by Section 54-1806(2), Idaho Code. Until such rules are final, the Idaho Rules of Administrative Procedure of the Attorney General to the extent they are not inconsistent with rules already adopted by the Board of Medicine, shall be the rules of practice and procedure for the Board of Medicine.

Approved April 14, 2000.

CHAPTER 333
(H.B. No. 630)

AN ACT

RELATING TO RETURNS REQUIRED TO BE FILED WITH THE DEPARTMENT OF LAW ENFORCEMENT BY LICENSED BEER AND WINE DEALERS, BREWERS AND WHOLESALERS; AMENDING SECTION 23-1006, IDAHO CODE, TO REQUIRE RETURNS TO BE FILED MONTHLY; AMENDING SECTION 23-1314, IDAHO CODE, TO REQUIRE RETURNS TO BE FILED MONTHLY.

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

SECTION 1. That Section 23-1006, Idaho Code, be, and the same is hereby amended to read as follows:

23-1006. RECORDS AND RETURNS OF LICENSEES -- INVESTIGATIONS AND EXAMINATIONS. Every licensed dealer, brewer and wholesaler shall have, and notify the director of, a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of beer within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the vendee, and shall so keep such record of each such sale or import for a period of four (4) years thereafter. Such licensee shall, on or before the 15th day of ~~April, July, October and January~~ <u>each month,</u> make a return to the director of the amount of beer sold in, and imported by him into, the state of Idaho for the preceding ~~calendar quarter~~ <u>month,</u> which shall be upon forms furnished by the

director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with, or violating, this act and whether or not all taxes and license fees provided for by this act are being fully paid. The director shall have the right at any time to make an examination of each dealer's, brewer's and wholesaler's books, records and premises, make an inventory and otherwise check the accuracy of such returns, and investigate for any violation of this act, and file, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by, a dealer, brewer, wholesaler or retailer shall constitute consent to, and be authority for, entry by the director, or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

SECTION 2. That Section 23-1314, Idaho Code, be, and the same is hereby amended to read as follows:

23-1314. RECORDS OF WINERIES, IMPORTERS AND DISTRIBUTORS -- CONTENTS -- REPORTS -- CONTENTS -- INSPECTION OF RECORDS, INVENTORY, AND PROPERTY. Every winery, distributor and importer shall have, and notify the director, of a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of wine within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the purchaser, and shall so keep such record of each such sale or import for a period of four (4) years thereafter. Such licensee shall, on or before the fifteenth day of ~~April, July, October and January~~ each month, make a return to the director of the amount of wine sold in, and imported by him into, the state of Idaho for the preceding ~~calendar quarter~~ month, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with this act and whether or not all taxes and fees provided for by this act are being fully paid. The director shall have the right at any time to make an examination of each winery, distributor's and importer's books, records and premises, and such other matters as may assist him in verifying the accuracy of such returns, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by a winery, distributor, importer or retailer shall constitute consent to, and be authority for, entry by the director or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

Approved April 14, 2000.

CHAPTER 334
(H.B. No. 631, As Amended)

AN ACT

RELATING TO VIOLATIONS OF LAWS GOVERNING ALCOHOLIC BEVERAGES; AMENDING SECTION 23-949, IDAHO CODE, TO PROVIDE FURTHER DEFINITION OF POSSESSION OF ALCOHOL BY A PERSON UNDER TWENTY-ONE YEARS OF AGE.

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

SECTION 1. That Section 23-949, Idaho Code, be, and the same is hereby amended to read as follows:

23-949. PERSONS NOT ALLOWED TO PURCHASE, POSSESS, SERVE, DISPENSE, OR CONSUME BEER, WINE OR OTHER ALCOHOLIC LIQUOR. It is unlawful for a~~Any~~ person under the age of twenty-one (21) years ~~who--shall~~ to purchase, attempt to purchase, possess, serve, dispense, or consume beer, wine or other alcoholic liquor; ~~shall-be-guilty-of-a-misdemeanor punishable-according-to-the-schedule-set-out-in-section-18-1502,-Idaho Code;~~ provided, however, that any person who is nineteen (19) years of age or older may sell, serve, possess and dispense liquor, beer or wine in the course of his employment in any place as defined in section 23-942, Idaho Code, or other place where liquor, beer or wine are lawfully present so long as such place is the place of employment for such person under twenty-one (21) years of age.

For purposes of this section, a person shall also be deemed to "possess" alcohol that has been consumed by the person, without regard to the place of consumption.

Any person violating the provisions of this section shall be guilty of a misdemeanor punishable in accordance with the schedule set forth in section 18-1502, Idaho Code.

Approved April 14, 2000.

CHAPTER 335
(H.B. No. 636)

AN ACT

RELATING TO GOVERNANCE OF SCHOOLS; AMENDING SECTION 33-512, IDAHO CODE, TO DELETE "NONINSTRUCTIONAL" FROM RECESS TIME AS IT RELATES TO THE OPTION OF A LOCAL SCHOOL BOARD OF TRUSTEES TO APPROVE A REDUCTION IN ANNUAL INSTRUCTIONAL HOUR REQUIREMENTS AS ALLOWED BY LAW, AND MAINTAINING THE RESTRICTION THAT RECESS TIME SHALL NOT BE INCLUDED IN THE REDUCTION.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section

33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check. Such employees shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous three (3) years. If the district next employing the substitute still elects to require another criminal history check within the three (3) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost.

16. Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

Approved April 14, 2000.

CHAPTER 336
(H.B. No. 639)

AN ACT

RELATING TO THE ELECTION OF COMMISSIONERS OF A FIRE PROTECTION DISTRICT; AMENDING SECTION 31-1410, IDAHO CODE, TO PROVIDE FOR ELECTION OF COMMISSIONERS EVERY YEAR FOR THREE YEARS WITH NO ELECTION TO BE HELD IN THE FOURTH YEAR, TO PROVIDE FOR ELECTIONS FOLLOWING ORGANIZATION OF A FIRE PROTECTION DISTRICT AND TO PROVIDE FOR CONVERSION TO THE REVISED ELECTION PROCESS BY AN EXISTING FIRE PROTECTION DISTRICT.

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

SECTION 1. That Section 31-1410, Idaho Code, be, and the same is hereby amended to read as follows:

31-1410. ELECTION OF COMMISSIONERS. (1) On the first Tuesday following the first Monday of November, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Every ~~alternate~~ year thereafter, one (1) ~~or two--(2)~~ commissioners shall be elected, ~~in the manner following:~~ except for the fourth year when no election of a fire commissioner shall occur. The board of fire protection commissioners shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of chapter 14, title 34, Idaho Code. At their meeting next preceding such election, the board of fire protection commissioners shall divide the district into three (3) subdistricts as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one (1), two (2) and three (3). Thereafter, at the January meeting of the board of fire protection commissioners preceding any regularly scheduled election, such subdistricts shall be revised but, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. At the first election following organization of a fire protection district the commissioners from fire protection subdistricts one (1) shall be elected to a term of one (1) year, the commissioner from subdistrict ~~and~~ two (2) shall be elected ~~for~~ to a terms ~~of four~~ two (~~4~~2) years, and the commissioner from fire protection subdistrict three (3) shall be elected ~~for~~ to a term of ~~two~~ three (~~2~~3) years; thereafter the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law, shall be held in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

(2) Upon the unanimous agreement of the existing board of commissioners, a fire protection district may elect to convert to the election of commissioners as provided in subsection (1) of this section. The conversion process shall occur in the following manner: the commissioner representing subdistrict one (1) shall be elected to a four (4) year term upon the expiration of the existing term; the commissioner representing subdistrict two (2) shall be elected to a four (4) year term upon expiration of the existing term; and the commissioner representing subdistrict three (3) shall serve one (1) additional year of the existing term and shall then be elected to a four (4) year term. Every year thereafter one (1) commissioner shall be elected, except for the fourth year when no election shall be held.

(3) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The results of any election for fire protection district commissioner shall be certified to the county clerk of the county or counties in which the district is located.

Approved April 14, 2000.

CHAPTER 337
(H.B. No. 640)

AN ACT
RELATING TO DISPOSAL OF PROPERTY BY FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1417A, IDAHO CODE, TO INCREASE THE VALUE OF REAL AND PERSONAL PROPERTY BEFORE AN APPRAISAL AND SALE BY BID NEEDS TO OCCUR.

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

SECTION 1. That Section 31-1417A, Idaho Code, be, and the same is hereby amended to read as follows:

31-1417A. PROCEDURE FOR SALE, CONVEYANCE AND DISPOSITION OF PROPERTY. Real or personal property of a fire protection district may be sold, conveyed, and disposed of by its board of commissioners whenever the board finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

(a) If in the opinion of the board, any such personal property does not exceed five thousand dollars ($5,00~~0~~00) in value, the same may be sold without independent appraisal, notice, or competitive bids.

(b) All such real property, and any such personal property exceeding five thousand dollars ($5,00~~0~~00) in value, shall be appraised by three (3) disinterested residents of the county in which the district is located, who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice.

(c) Due notice of sale shall be accomplished if the notice shall describe the property to be sold (legal description, if real property), state the appraised value thereof (by separate items, if so appraised), and specify the time, place, and conditions of sale.

(d) Said notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than ten (10) days preceding the day of sale.

(e) If such property is sold on terms, the board may contract for the sale of the same for a period of years not exceeding ten (10) years, with an annual rate of interest on all deferred payments not to exceed six percent (6%) per annum. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held a record

title to the property so sold. The board shall have authority to cancel any contract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total period of years shall not exceed ten (10) years.

(f) Upon final payment pursuant to the sale of such real property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed to the purchaser, and upon the accomplishment of the sale of such personal property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate bill of sale to the purchaser.

Approved April 14, 2000.

CHAPTER 338
(H.B. No. 647, As Amended)

AN ACT

RELATING TO LIENS ON CROPS; AMENDING SECTION 45-308, IDAHO CODE, TO EXTEND THE TIME PERIODS FOR FILING NOTICES OF CLAIMS OF LIENS FOR FARM LABOR AND FOR PROVIDING SEED TO A PRODUCER; AND AMENDING SECTION 45-310, IDAHO CODE, TO EXTEND THE TIME PERIOD IN WHICH A NOTICE OF CLAIM OF LIEN FOR FARM LABOR REMAINS IN EFFECT AND TO AUTHORIZE EXTENDING THE LIEN.

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

SECTION 1. That Section 45-308, Idaho Code, be, and the same is hereby amended to read as follows:

45-308. NOTICE OF CLAIM OF LIEN. (1) A claimant must file with the secretary of state a notice of claim of lien between thirty (30) days before and ~~ninety~~ one hundred twenty (~~9~~120) days after completion of his labor for or providing seed to the producer. If a notice of claim of lien is filed before completion of the labor or delivery of the seed, there must exist a written or verbal contract for such labor or seed.

(2) The notice of claim of lien must include:

(a) The nature of the lien (farm laborer's or seed);

(b) The name and address of the producer;

(c) The name and address of the claimant;

(d) The county or counties where the crop or crops covered by the lien are grown;

(e) The type(s) of crop (name of commodity) to which the lien applies;

(f) The crop year of the crop(s) to which the lien applies;

(g) Such other information as the secretary of state shall by administrative rule require; and

(h) The amount of claim exclusive of interest.

(3) The notice of claim of lien shall be signed by the claimant, his agent, or his attorney-in-fact, and the signer shall certify to the truth of the claim. Notarization is not required.

(4) The notice of claim of lien shall be filed on a standard form prescribed by the secretary of state.

(5) A claimant shall give written notice of the claim to the producer.

SECTION 2. That Section 45-310, Idaho Code, be, and the same is hereby amended to read as follows:

45-310. DURATION OF LIEN. (1) A notice of claim of lien for farm labor remains in effect for ~~six~~ twelve (6~~1~~2) months from the date of filing. The notice of claim of lien may be extended for six (6) months by filing a notice of extension of claim of lien. The notice of extension shall contain such information as the form prescribed by the secretary of state shall require, and shall be filed within sixty (60) days prior to the lapse of the original twelve (12) month period.

(2) A notice of claim of lien for seed remains in effect for sixteen (16) months from the date of filing. If a crop subject to a lien for seed is not harvested within ten (10) months after the date of filing, the notice of claim of lien may be extended for six (6) months by filing a notice of extension of claim of lien. The notice of extension shall contain such information as the form prescribed by the secretary of state shall ~~by administrative rule~~ require, and shall be filed within sixty (60) days prior to the lapse of the original sixteen (16) month period.

(3) Civil action to enforce a lien on crops shall be commenced within the periods set forth in subsections (1) and (2) of this section.

Approved April 14, 2000.

CHAPTER 339
(H.B. No. 648, As Amended)

AN ACT

RELATING TO THE IDAHO AGRICULTURAL COMMODITY DEALER ACT; AMENDING SECTION 45-1802, IDAHO CODE, TO PROVIDE FOR CREATION OF LIENS WITH AGRICULTURAL COMMODITY PRODUCERS AND AGRICULTURAL COMMODITY DEALERS; AMENDING SECTION 45-1804, IDAHO CODE, TO PROVIDE THAT LIENS SHALL BE EFFECTIVE FOR ONE YEAR IF PROPERLY FILED WITH THE SECRETARY OF STATE AND TO PROVIDE FOR ENTRY OF NOTICE INTO A SEARCHABLE DATABASE; AMENDING SECTION 45-1807, IDAHO CODE, TO PROVIDE FOR FILING OF NOTICE OF DISCHARGE WITH THE SECRETARY OF STATE WITHIN THIRTY DAYS OF A WRITTEN REQUEST AND TO PROVIDE DAMAGES; AMENDING SECTION 45-1808, IDAHO CODE, TO PROVIDE A FORM FOR FILING AND FEES; AND AMENDING CHAPTER 18, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-1810, IDAHO CODE, TO PROVIDE FOR A TRANSITION FROM COUNTY FILING TO FILING WITH THE SECRETARY OF STATE.

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

SECTION 1. That Section 45-1802, Idaho Code, be, and the same is hereby amended to read as follows:

45-1802. LIEN CREATED -- WHO MAY HAVE. An agricultural commodity producer or an agricultural commodity dealer who sells an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product ~~until payment is made in full~~ as provided in section 45-1804, Idaho Code. The lien created in this chapter may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.

SECTION 2. That Section 45-1804, Idaho Code, be, and the same is hereby amended to read as follows:

45-1804. DURATION OF LIEN -- NOTICE OF LIEN. (1) The lien ~~created~~ provided for by section 45-1802, Idaho Code, remains in effect for a period of ~~not more than ninety (90) days~~ one (1) year after the date of attachment except as provided in subsections (2) and (3) of this section.

(2) The lien ~~created~~ provided for by section 45-1802, Idaho Code, ~~may extend for a period of six (6) months from the date the lien attaches if all of the following are completed by the agricultural commodity dealer or producer or his authorized attorney or agent~~ is created if a written notice of lien, on a form prescribed by the secretary of state, is filed with the secretary of state by the agricultural commodity producer or the agricultural commodity dealer within ninety (90) days after the date of attachment. The form for the notice of lien shall require the following information:

(a) ~~Filing with the county recorder of the county where the purchaser of the agricultural commodities maintains its headquarters or main place of business in Idaho, a written notice of lien, signed and verified by the agricultural commodity producer or the agricultural commodity dealer or his authorized attorney or agent and containing:~~

~~1.~~ A ~~true~~ statement of the ~~demand of~~ amount claimed by the agricultural commodity producer or agricultural commodity dealer after deducting all credits and offsets;

(b) The name, address and signature of the agricultural commodity producer or agricultural commodity dealer claiming the lien;

~~2.~~(c) The name and address of the person who purchased the agricultural product from the agricultural commodity producer or agricultural commodity dealer;

~~3.~~(d) A description of the agricultural product charged with the lien including crop year;

~~4. A statement that the amount claimed is a true and bona fide existing debt as of the date of filing of the notice of lien;~~ and

~~5.~~(e) Such other information as the ~~county recorder~~ form prescribed by the secretary of state may require.

(3) ~~A lien extended for a period of six (6) months under subsection (2) of this section may be extended for an additional six (6)~~

~~months-by-completing-the-requirements-of--subsection--(2)(a)--of--this section--prior--to-the-expiration-of-the-lien~~ The notice of lien shall be entered in a searchable database maintained by the secretary of state.

SECTION 3. That Section 45-1807, Idaho Code, be, and the same is hereby amended to read as follows:

45-1807. FILING NOTICE OF DISCHARGE. (1) If a notice of lien is filed pursuant to section 45-1804, Idaho Code, and the lienholder subsequently receives full payment, the lienholder shall file with the ~~proper-county-recorder~~ secretary of state a notice of discharge, signed by the lienholder, declaring that full payment has been received and that the lien is discharged.

(2) Upon receiving the notice, the ~~county-recorder~~ secretary of state shall enter it in ~~the book~~ a searchable database kept to record such liens.

(3) If a lienholder, after receiving full payment, fails to file a notice of discharge of the lien within ~~ten~~ thirty (~~10~~30) days after being requested in writing to do so, he is liable to the purchaser of the agricultural product for ~~all-actual-damages-caused-by-the-failure to-file-the-notice-of-discharge~~ damages in the amount of three hundred dollars ($300).

SECTION 4. That Section 45-1808, Idaho Code, be, and the same is hereby amended to read as follows:

45-1808. FORM OF FILING WITH ~~COUNTY-RECORDER~~ SECRETARY OF STATE -- FEES. The ~~county-recorder~~ secretary of state shall prescribe the form of the filing provided for by sections 45-1804 and 45-1807, Idaho Code. The ~~county--recorder-shall-set-the~~ fee for the filing provided for by section 45-1804, Idaho Code~~.--Such--fee--shall--not--exceed--the expense--of--the--county-recorder-of-providing-the-service-required-by this-chapter~~ shall be five dollars ($5.00). The fee for searching the database maintained by the secretary of state pursuant to this chapter shall be five dollars ($5.00). There shall be no fee for filing a notice of discharge pursuant to section 45-1807, Idaho Code.

SECTION 5. That Chapter 18, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-1810, Idaho Code, and to read as follows:

45-1810. TRANSITION FROM COUNTY FILING TO FILING WITH THE SECRETARY OF STATE. All liens created by this chapter on and after July 1, 2000, shall be filed with the secretary of state. All rights and duties obtained by secured parties pursuant to this chapter before July 1, 2000, shall remain in effect; provided, that liens created by this chapter before July 1, 2000, that are properly filed in the office of the county recorder before that date shall remain in effect and may be extended or renewed in the county beyond July 1, 2000.

Approved April 14, 2000.

CHAPTER 340
(H.B. No. 650, As Amended, As Amended in the Senate)

AN ACT

RELATING TO BINGO; AMENDING SECTION 67-7702, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-7703, IDAHO CODE, TO PROVIDE FOR A BINGO-RAFFLE ADVISORY BOARD; AMENDING SECTION 67-7704, IDAHO CODE, TO PROVIDE FOR APPOINTMENT AND QUALIFICATIONS OF MEMBERS OF THE BINGO-RAFFLE ADVISORY BOARD; AMENDING SECTION 67-7705, IDAHO CODE, TO PROVIDE FOR A QUORUM, MEETINGS, MINUTES AND COMPENSATION OF THE BINGO-RAFFLE ADVISORY BOARD; AMENDING SECTION 67-7706, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE BINGO-RAFFLE ADVISORY BOARD; AMENDING SECTION 67-7707, IDAHO CODE, TO PROVIDE THAT NO PERSON UNDER THE AGE OF EIGHTEEN MAY PLAY BINGO IN GAMES WHERE A CASH PRIZE IS OFFERED OR IN GAMES WHERE THE PRIZE EXCEEDS TWENTY-FIVE DOLLARS IN VALUE FOR MERCHANDISE; AMENDING SECTION 67-7709, IDAHO CODE, TO MAKE AN ARITHMETIC CORRECTION AND TO INCREASE THE AMOUNT OF GROSS REVENUES RECEIVED BY A CHARITABLE ORGANIZATION FROM BINGO BEFORE A CHARITABLE ORGANIZATION NEEDS TO PROVIDE THE STATE LOTTERY WITH AN AUDIT; AMENDING SECTION 67-7710, IDAHO CODE, TO PROVIDE THAT A PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL LOCATED IN THIS STATE MAY HAVE UNLIMITED RAFFLES IN A YEAR, TO REVISE THE MAXIMUM AGGREGATE VALUE OF A CASH PRIZE FOR A DUCK RACE AND TO INCREASE THE AMOUNT OF GROSS REVENUES RECEIVED BY A CHARITABLE ORGANIZATION FROM THE OPERATION OF RAFFLE EVENTS BEFORE IT NEEDS TO PROVIDE AN AUDIT TO THE STATE LOTTERY; AMENDING SECTION 67-7711, IDAHO CODE, TO PROVIDE A CORRECT STATUTORY CITATION AND TO CLARIFY THAT EXEMPT PERSONS, CHARITABLE OR NONPROFIT ORGANIZATIONS DO NOT RECEIVE A LICENSE FROM THE STATE LOTTERY; AMENDING SECTION 67-7713, IDAHO CODE, TO PROVIDE WHEN A CHARITABLE OR NONPROFIT ORGANIZATION OPERATING A BINGO GAME OR RAFFLE SHALL BE REQUIRED TO OBTAIN A LICENSE; AND AMENDING SECTION 67-7715, IDAHO CODE, TO PROVIDE FOR A FIVE HUNDRED DOLLAR LICENSE FEE.

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

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

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

(1) "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game.

(a) Upon approval by the <u>bingo-raffle</u> advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

(b) ~~Two-part disposable cards may be used if the following conditions are met:~~

~~(i) The cards are printed on two-part, self-duplicating paper that provides for an original and a duplicate copy;~~

~~(ii) Players shall mark their numbers on each card in a dis-~~

~~tinct,--clear,--and-legible-manner-prior-to-separation-of-the duplicate-and-original-cards.-Operators-shall--establish--and set--forth--in--plain-view-house-rules-setting-out-any-conditions-by-which-an-entry-may--be--added,--deleted--or--changed prior-to-separation.-Any-changes-must-be-verified-by-a-worker authorized-by-the-bingo-manager.~~

~~(iii)-The--player--retains--and-plays-the-duplicate-copy.-All winning-cards-and-their-duplicate-copies-shall-be-retained-by the-operator-as-a-part-of-its-daily-bingo-records.~~

~~(c)--Upon-approval-by-the-bingo-advisory-board,--bingo--games--may also--include--bonanzas--and--other--approved-blackout-games~~ Card-minding devices are prohibited. Autodaubing features are prohibited.

(~~d~~c) Bingo shall not include "instant bingo" which is a game of chance played by the selection of one (1) or more prepackaged bingo cards, with the winner determined by the appearance of a preprinted winning designation on the bingo card.

(2) "Bingo-raffle advisory board" means a board of six (6) persons chosen by the governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho.

(3) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo or raffle game.

(4) "Commission" means the Idaho state lottery commission as defined in section 67-7404, Idaho Code.

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

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

(7) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code, or an unincorporated association recognized under chapter 7, title 53, Idaho Code.

(8) "Organization" means a charitable organization or a nonprofit organization.

(9) "Raffle" means a game in which the prize is won by random

drawing of the name or number of one (1) or more persons purchasing chances.

(10) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.

(11) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

(12) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.

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

67-7703. BINGO-RAFFLE ADVISORY BOARD ESTABLISHED. There is established the bingo-raffle advisory board, which is responsible for making recommendations for the improvement of bingo and raffle operations and regulation to the state lottery commission, the governor and the legislature, including recommendations for administrative rules.

SECTION 3. That Section 67-7704, Idaho Code, be, and the same is hereby amended to read as follows:

67-7704. BINGO-RAFFLE ADVISORY BOARD -- MEMBERS -- APPOINTMENT -- QUALIFICATIONS. The bingo-raffle advisory board shall consist of six (6) members appointed by the governor and confirmed by the senate. Members shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of bingo and raffle operations. Members appointed by the governor shall serve at the pleasure of the governor, and must be residents over twenty-five (25) years of age who have experience in administrating, conducting or regulating bingo operations. There shall be one (1) member from each of the following six (6) districts initially established as follows:

District No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

District No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

District No. 3. The counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Payette, Owyhee, Valley and Washington.

District No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

District No. 5. The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

District No. 6. The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

The terms of appointed members of the bingo-raffle advisory board shall ~~expire as designated by the governor at the time of appointment. The first six (6) members shall be appointed for staggered terms.~~ be

three (3) years, except that the members first appointed shall be those serving as members of the bingo advisory board on July 1, 2000, each to hold office for the balance of his or her term for which appointed which shall be as follows:

The terms of the members from District No. 1 and District No. 4 shall expire the first Monday of January 2001.

The terms of the members from District No. 2 and District No. 5 shall expire the first Monday of January 2002.

The terms of the members from District No. 3 and District No. 6 shall expire the first Monday of January 2003. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A vacancy of the board shall be filled in the same manner as regular appointments are made, and the term shall be for the unexpired portion of the regular term. No member of the board shall have a direct or indirect pecuniary interest in any contract or agreement entered into by the board. No more than three (3) members of the board shall belong to the same political party.

SECTION 4. That Section 67-7705, Idaho Code, be, and the same is hereby amended to read as follows:

67-7705. QUORUM -- MEETINGS -- MINUTES -- COMPENSATION. A majority of the qualified membership of the bingo-raffle advisory board is a quorum. The advisory board may not act unless at least four (4) members agree. The advisory board shall meet at least three (3) times per year, and may meet more often as it deems necessary. Written notice of the time and place of each meeting shall be given to each board member. The advisory board shall select or elect one (1) of its members to be chairman, one (1) of its members to be vice-chairman and one (1) of its members to be secretary. The secretary of the advisory board shall promptly send the lottery commission a certified copy of the minutes of each meeting of the advisory board. The minutes shall include a copy of the current recommendations of the board, including recommended administrative rules. Members of the bingo-raffle advisory board shall receive compensation as provided in section 59-509(b), Idaho Code. Members are entitled to reimbursement for reasonable travel expenses incurred in the performance of their duties as a member, as provided by law.

SECTION 5. That Section 67-7706, Idaho Code, be, and the same is hereby amended to read as follows:

67-7706. BINGO-RAFFLE ADVISORY BOARD -- POWERS -- DUTIES. The bingo-raffle advisory board shall review the operation and regulation of bingo games and raffle events in Idaho, and shall make recommendations to the state lottery commission regarding, but not limited to, the following issues:

(1) The issuances of licenses for the operation of bingo ~~sessions and~~ games and raffle events, including the denial, suspension or revocation of licenses;

(2) The collection of fees, penalties, fines and other moneys from organizations conducting or applying to conduct bingo ~~sessions or~~ games and/or raffle events;

(3) The maintenance by bingo operators of records and the efficacy of the statutes and rules requiring maintenance of records;

(4) The recordation and reporting of income from bingo games and raffle events to the state lottery commission, and the efficacy of the statutes and rules governing recordation and reporting;

(5) The efficacy and profitability of income and expenditure limits placed on organizations, by statute or rule, operating bingo ~~sessions or~~ games and/or raffle events in the state;

(6) The type, scope, manner, and frequency of bingo ~~sessions or~~ games and/or raffle events conducted in Idaho, and the efficacy of the statutes or rules governing those considerations;

(7) Possible cooperative agreements with county, city, and other local and state agencies that would enhance the safety and profitability of bingo ~~sessions and~~ games and/or raffle events;

(8) Possible written agreements or contracts with other states or any agency or contractor of another state for the operation and promotion of joint bingo games and/or raffle events that would enhance the safety and profitability of bingo and raffle operations in Idaho;

(9) What rules should be promulgated by the state lottery commission to ensure the safe, orderly and trustworthy operation of bingo games and/or raffle events in Idaho.

The bingo-raffle advisory board shall, at least twice a year, report to the state lottery commission addressing the operations and activities of the advisory board and the major issues facing bingo operators in the state. A final annual report shall be provided to the governor, the lottery commission, the president pro tempore of the senate and the speaker of the house of representatives of the Idaho legislature.

SECTION 6. That Section 67-7707, Idaho Code, be, and the same is hereby amended to read as follows:

67-7707. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS. (1) It is lawful for a charitable or nonprofit organization to conduct bingo sessions or games in accordance with the provisions of this chapter and the rules of the state lottery commission. Any charitable or nonprofit organization, any member of a charitable or nonprofit organization, or any person that conducts a bingo session or game in violation of any provision of this chapter or the rules of the state lottery commission may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a bingo session or game in violation of the provisions of this chapter or the rules of the state lottery commission may be charged under the gambling laws contained in chapter 38, title 18, Idaho Code. Violations will be prosecuted by the county prosecuting attorney.

(2) No person under the age of eighteen (18) may play bingo ~~for a cash prize or~~ in games where a cash prize is offered or where the prize exceeds twenty-five dollars ($25.00) in value for merchandise. No person under the age of eighteen (18) may play bingo in any game operated by a licensed charitable or nonprofit organization.

SECTION 7. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS. (1) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds. Any proceeds available in the account after payment of the above expenses shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection. All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than fifteen percent (15%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is utilized for prizes on the bingo game. Two hundred fifty dollars ($250) or one-tenth of one percent (.001%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo session. Such wages shall be part of the fifteen percent (15%) gross revenues used for administrative expenses. An organization requesting an exemption from the disbursement percentages provided in this subsection for administrative costs may request an exemption from the state lottery commission.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following infor-

mation:

(a) The number of bingo sessions conducted or sponsored by the licensed organization;

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

(c) The gross revenues of each bingo session;

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

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

(f) The amount paid to the charitable organization;

(g) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and

(h) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100).

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

(4) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(5) Every charitable or nonprofit organization whose annual gross revenues exceed ~~one~~ two hundred ~~fifty~~ thousand dollars ($~~1~~200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 8. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES AND DUCK RACES. (1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable organization per year, provided that this limitation shall not apply to

public or private elementary or secondary schools located in this state.

~~(3)~~ The maximum aggregate value of cash prize(s) that may be offered or paid for any one (1) raffle, which is not a duck race, is one thousand dollars ($1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum aggregate value of the cash prize(s) is one thousand dollars ($1,000). There shall be no limit on the maximum of value for merchandise used as a prize in a duck race if the merchandise is not redeemable for cash.

(~~4~~3) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the charitable organization for charitable, religious, educational, civic or other nonprofit purposes.

(~~5~~4) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

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

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

(c) The gross revenues of each raffle;

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

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

(f) The amount paid to the charitable organization;

(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission.

(~~6~~5) Every charitable or nonprofit organization whose annual gross revenues exceed ~~one~~ two hundred ~~fifty~~ thousand dollars ($~~1~~5200,000) from the operation of raffle events shall provide the state lottery with a copy of an annual ~~report~~ audit of the raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 9. That Section 67-7711, Idaho Code, be, and the same is hereby amended to read as follows:

67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organization not exempt pursuant to section 67-7714~~3~~, Idaho Code, desiring to operate bingo sessions or games or charitable raffles shall make application for a license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application

if it determines that the applicant has not met requirements imposed in this act and rules promulgated pursuant to this act. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization, except those exempt pursuant to section 67-7713, Idaho Code, shall operate or conduct a bingo session or game or charitable raffle until it has received a license from the state lottery. The license shall expire one (1) year after the date it was issued. A copy of the license shall be furnished to the county sheriff of the county or the chief of police of the city in which the licensee intends to operate a bingo session or game or sell charitable raffle tickets before a bingo session or game or a charitable raffle is conducted by the licensee.

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

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

(b) The name, home address, date of birth, driver's license number and social security number of each of the person or persons responsible for managing the bingo session or game or raffle;

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

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to chapter 3, title 30, Idaho Code, establishing the organization's good standing in the state; and

(iii) In the case of unincorporated nonprofit associations operating pursuant to chapter 7, title 53, Idaho Code, a statement meeting the requirements of section 53-710, Idaho Code, for appointing an agent for service of process.

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

(3) The operation of bingo sessions or games or charitable raffles shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the organization. If the governing body has not appointed a special committee, the members of the governing body shall be held responsible for the conduct of the bingo sessions or games or raffles. No directors or officers of an organization or persons related to them either by marriage or blood

within the second degree shall receive any compensation derived from the proceeds of a bingo session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo session or raffle on the organization's behalf. However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo sessions, the charitable or nonprofit organization may participate in that contract or agreement.

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

(5) The organization may apply for the license to coincide with the organization's fiscal year.

SECTION 10. That Section 67-7713, Idaho Code, be, and the same is hereby amended to read as follows:

67-7713. EXEMPTION FROM LICENSURE REQUIREMENTS. A charitable or nonprofit organization conducting a bingo game shall not be required to obtain a license~~, file reports or pay fees pursuant to this chapter if the organization conducts a bingo game and the maximum prize offered or paid for any one (1) game of bingo does not exceed two hundred fifty dollars ($250) and the maximum amount of prizes, in cash and/or merchandise at fair market value offered during any one (1) session of bingo does not exceed~~ if the gross annual bingo sales are less than ten thousand dollars ($10,000) and/or if the aggregate total amount for prize(s) offered, in cash or merchandise, for any one (1) session, is less than one thousand dollars ($1,000). A charitable or nonprofit organization conducting a raffle shall not be required to obtain a license~~, file reports or pay fees pursuant to this chapter if the organization conducts a raffle in which~~ if the gross annual raffle sales are less than ten thousand dollars ($10,000) and/or if the maximum aggregate ~~amount~~ value of ~~prizes does not~~ merchandise does not exceed one thousand dollars ($1,000). ~~in cash or if merchandise used as a prize or prizes does not have a maximum fair market value in excess of five thousand dollars ($5,000).~~

SECTION 11. That Section 67-7715, Idaho Code, be, and the same is hereby amended to read as follows:

67-7715. VENDORS -- LICENSING -- FEES. (1) No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any gaming device, equipment or material, in this state or for use in this state, without first obtaining a vendor's license from the state lottery commission. Vendor licenses shall not be issued by the state lottery except respecting devices, equipment or material designed and permitted to be used in connection with activities authorized under this chapter. Provided however, that this licensing requirement shall apply only insofar as the state lottery commission has adopted rules implementing it as to particular categories of gaming devices and related material and equipment.

(2) Any person or entity that manufactures, sells, distributes, furnishes or supplies any gaming device, equipment or material, in this state or for use in this state shall make application for a vendor license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met the requirements imposed in this act and rules promulgated pursuant to this act. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When the license application is approved by the state lottery, the state lottery shall issue a license to the applicant.

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

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated.

(b) The locations or persons with which the applicant will provide any gaming device, equipment or material in this state or for use in this state.

(4) Any licensee under this section shall submit an annual revenue report to the Idaho lottery commission within thirty (30) days of the end of the licensed year on the prescribed forms provided by the Idaho lottery commission.

(5) Each applicant shall pay annually to the state lottery a nonrefundable license fee of ~~two~~ five hundred dollars ($~~2~~500) which shall be due upon submission of the application.

(6) Any license issued pursuant to this chapter shall be suspended or revoked by the state lottery if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter, particularly those in section 67-7712, Idaho Code, or any rule of the lottery commission.

Approved April 14, 2000.

CHAPTER 341
(H.B. No. 652)

AN ACT

RELATING TO COURSES OF INSTRUCTION; AMENDING SECTION 33-1602, IDAHO CODE, TO REQUIRE THAT INSTRUCTION IN CITIZENSHIP SHALL BE GIVEN IN ALL ELEMENTARY AND SECONDARY SCHOOLS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1602, Idaho Code, be, and the same is hereby amended to read as follows:

33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS -- NATIONAL ANTHEM -- "AMERICA~~.~~" -- CITIZENSHIP. ~~a.~~(1) Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given~~;~~.

~~b.~~(2) Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

(3) Instruction in citizenship shall be given in all elementary and secondary schools. Citizenship instruction shall include lessons on the role of a citizen in a constitutional republic, how laws are made, how officials are elected, and the importance of voting and of participating in government. Such instruction shall also include the importance of respecting and obeying statutes which are validly and lawfully enacted by the Idaho legislature and the congress of the United States.

Approved April 14, 2000.

CHAPTER 342
(H.B. No. 654, As Amended)

AN ACT

RELATING TO RECORDS OF THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 9-337, IDAHO CODE, TO DEFINE "INDEPENDENT PUBLIC BODY CORPORATE AND POLITIC" AND TO PROVIDE PROPER TERMINOLOGY IN THE DEFINITIONS OF "CUSTODIAN," "INVESTIGATORY RECORD," "PUBLIC OFFICIAL" AND "PUBLIC RECORD"; AMENDING SECTIONS 9-338 AND 9-339, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 9-340C, IDAHO CODE, TO SPECIFY RECORDS OF THE IDAHO HOUSING AND FINANCE ASSOCIATION AS AN INDEPENDENT PUBLIC BODY CORPORATE AND POLITIC WHICH ARE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 9-340D, IDAHO CODE, TO EXPAND THE LIST OF PRODUCTION RECORDS WHICH ARE EXEMPT FROM DISCLOSURE AND TO INCLUDE RECORDS SUBMITTED TO OR OTHERWISE OBTAINED BY AN INDEPENDENT PUBLIC BODY CORPORATE AND POLITIC AND TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTIONS 9-341 AND 9-342, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 9-343, 9-346, 9-347 AND 9-348, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 67-5241, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 67-6226, IDAHO CODE, TO REAFFIRM THAT THE ASSOCIATION IS NOT A STATE OR LOCAL AGENCY FOR PURPOSES OF LAW AND TO DELETE PROVISIONS RELATIVE TO PUBLIC DISCLOSURE OF ITS RECORDS.

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

SECTION 1. That Section 9-337, Idaho Code, be, and the same is hereby amended to read as follows:

9-337. DEFINITIONS. As used in sections 9-337 through 9-347, Idaho Code:

(1) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(2) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency or independent public body corporate and politic, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(3) "Independent public body corporate and politic" means the Idaho housing and finance association as created in chapter 62, title 67, Idaho Code.

(4) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(~~4~~5) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency or independent public body corporate and politic pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority. ~~over.~~

(~~5~~6) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(~~6~~7) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(~~7~~8) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(~~8~~9) "Public agency" means any state or local agency as defined in this section.

(~~9~~10) "Public official" means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.

(~~10~~11) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

(~~11~~12) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia.

(1~~2~~3) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

SECTION 2. That Section 9-338, Idaho Code, be, and the same is hereby amended to read as follows:

9-338. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or independent public body corporate and politic or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) The custodian shall make no inquiry of any person who applies for a public record, except to verify the identity of a person requesting a record in accordance with section 9-342, Idaho Code, to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 9-348, Idaho Code, or as otherwise provided by law. The person may be required to make a written request and provide their name, a mailing address and telephone number. [The custodian shall make no inquiry of any person who applies for a public record, except that the person may be required to make a written request and provide a mailing address and telephone number, and except as required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.]

(5) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(6) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(7) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency or independent public body corporate and politic having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(8) (a) A public agency or independent public body corporate and politic or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law. The actual cost shall not include any administrative or labor costs resulting from locating and providing a copy of the public record; provided however, that a public agency or independent public body corporate and politic or public official may establish a fee to recover the actual labor cost associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or

(ii) The request includes records from which nonpublic information must be deleted; or

(iii) The actual labor associated with locating and copying documents for a request exceeds two (2) person hours.

(b) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or independent public body corporate and politic or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;

(ii) The standard cost, if any, for selling the same information in the form of a publication.

The custodian may require advance payment of the cost of copying. Any money received by the public agency or independent public body corporate and politic shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund.

(c) The public agency or independent public body corporate and politic may not charge any cost or fee for copies or labor when the requester demonstrates either:

(i) The inability to pay; or

(ii) That the public's interest or the public's understanding of the operations or activities of government or its records would suffer by the assessment or collection of any fee.

(9) A public agency or independent public body corporate and politic shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(10) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from disclosing statistical information that is not descriptive of an identifiable person or persons.

SECTION 3. That Section 9-339, Idaho Code, be, and the same is hereby amended to read as follows:

9-339. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS. (1) A public agency or independent public body corporate and politic shall

either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency or independent public body corporate and politic that a longer period of time is needed to locate or retrieve the public records, the public agency or independent public body corporate and politic shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request.

(2) If the public agency or independent public body corporate and politic fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency or independent public body corporate and politic denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or independent public body corporate and politic or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency or independent public body corporate and politic has reviewed the request or shall state that the public agency or independent public body corporate and politic has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so.

SECTION 4. That Section 9-340B, Idaho Code, 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(56), 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.

(11) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the department of law enforcement. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

SECTION 5. That Section 9-340C, Idaho Code, 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 or independent public body corporate and politic 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 or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic 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 or independent public body corporate and politic 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, findings, determinations and decisions 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.

(18~~9~~) 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.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure

does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association 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, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

SECTION 6. That Section 9-340D, Idaho Code, be, and the same is hereby amended to read as follows:

9-340D. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) Trade secrets including those contained in response to public agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(2) Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency or independent public body corporate and politic.

(4) Any estimate prepared by a public agency or independent public body corporate and politic that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not

limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(7) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(8) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho canola and rapeseed commission and pertaining to the individual production records of canola or rapeseed growers.

(11) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency or independent public body corporate and politic.

(12) Records of laboratory test results provided by or retained by the Idaho food quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in

any enforcement proceeding.

(13) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency as defined in section 9-803, Idaho Code, which are claimed to be confidential business information.

(15) Computer programs developed or purchased by or for any public agency or independent public body corporate and politic for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsections (1)(a) through (f) of section 9-335, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

SECTION 7. That Section 9-341, Idaho Code, be, and the same is hereby amended to read as follows:

9-341. EXEMPT AND NONEXEMPT PUBLIC RECORDS TO BE SEPARATED. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public agency or independent public body corporate and politic shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make the nonexempt material available for examination, provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

SECTION 8. That Section 9-342, Idaho Code, be, and the same is hereby amended to read as follows:

9-342. ACCESS TO RECORDS ABOUT A PERSON BY A PERSON. (1) A person may inspect and copy the records of a public agency or independent public body corporate and politic pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency or independent public body corporate and politic shall either:

(a) Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 9-343 and 9-344, Idaho Code, and the court may award reasonable costs and attorney's fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review otherwise exempt investigatory records of a public agency or independent public body corporate and politic if the investigation is ongoing, information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable or the information relates to adoption records or information which is otherwise exempt from disclosure by statute.

SECTION 9. That Section 9-343, Idaho Code, be, and the same is hereby amended to read as follows:

9-343. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS -- RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency or independent public body corporate and politic to make the information available for public inspection in accordance with the provisions of this act. The petition contesting the public agency's or independent public body corporate and politic's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency or independent public body corporate and politic. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency or independent public body corporate and politic shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this act shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and

rules of evidence and of discovery governing such proceedings.

SECTION 10. That Section 9-346, Idaho Code, be, and the same is hereby amended to read as follows:

9-346. IMMUNITY. No public agency or independent public body corporate and politic, public official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record governed by the provisions of this chapter if the public agency or independent public body corporate and politic, public official or custodian acted in good faith in attempting to comply with the provisions of this chapter.

SECTION 11. That Section 9-347, Idaho Code, be, and the same is hereby amended to read as follows:

9-347. AGENCY GUIDELINES. By January 1, 1991, every state agency or independent public body corporate and politic shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency or independent public body corporate and politic, the custodian, and the physical location of such documents.

SECTION 12. That Section 9-348, Idaho Code, be, and the same is hereby amended to read as follows:

9-348. PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS -- PENALTY. (1) Except as provided in subsections (2), (3), (4), (5), (6), (7) and (8) of this section, in order to protect the privacy of those who deal with public agencies or an independent public body corporate and politic:

(a) No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency or independent public body corporate and politic may be used as a mailing list or a telephone number list except by the agency or independent public body corporate and politic or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public

records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) This section does not apply to lists to be used to give notice required by any statute, ordinance, rule, law or by any governing agency.

(9) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars ($1,000) which shall be paid into the general account.

SECTION 13. That Section 67-5241, Idaho Code, be, and the same is hereby amended to read as follows:

67-5241. INFORMAL DISPOSITION. (1) Unless prohibited by other provisions of law:

(a) an agency or a presiding officer may decline to initiate a contested case;

(b) any part of the evidence in a contested case may be received in written form if doing so will expedite the case without substantially prejudicing the interests of any party;

(c) informal disposition may be made of any contested case by negotiation, stipulation, agreed settlement, or consent order. Informal settlement of matters is to be encouraged;

(d) the parties may stipulate as to the facts, reserving the right to appeal to a court of competent jurisdiction on issues of law.

(2) An agency or a presiding officer may request such additional information as required to decide whether to initiate or to decide a contested case as provided in subsection (1) of this section.

(3) If an agency or a presiding officer declines to initiate or decide a contested case under the provisions of this section, the agency or the officer shall furnish a brief statement of the reasons for the decision to all persons involved. This subsection does not apply to investigations or inquiries directed to or performed by law enforcement agencies defined in section 9-337(~~5~~6), Idaho Code.

(4) The agency may not abdicate its responsibility for any informal disposition of a contested case. Disposition of a contested case as provided in this section is a final agency action.

SECTION 14. That Section 67-6226, Idaho Code, be, and the same is hereby amended to read as follows:

67-6226. ~~DISCLOSURE--OF--RECORDS~~ NON-AGENCY STATUS. It is recognized that the association is not, and has not been since its inception, a state or local agency for purposes of Idaho law. ~~including chapter 3, title 9, Idaho Code. Therefore, in order to assure reasonable public disclosure of its records, the association shall prepare and maintain a written policy, acceptable in form and content to the governor, providing for the disclosure of its records to the public. Prior to such policy or any amendments thereto becoming effective, the association shall submit the same to the governor for his written approval.~~

Approved April 14, 2000.

CHAPTER 343
(H.B. No. 661)

AN ACT

RELATING TO THE COUNCIL ON DOMESTIC VIOLENCE; AMENDING SECTION 39-5201, IDAHO CODE, TO CLARIFY LEGISLATIVE POLICY; AMENDING SECTION 39-5202, IDAHO CODE, TO PROVIDE A REFERENCE TO THE COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE; AMENDING SECTION 39-5203, IDAHO CODE, TO CHANGE THE NAME OF THE COUNCIL ON DOMESTIC VIOLENCE TO THE IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE AND TO CLARIFY THE ROLE OF THE COUNCIL; AMENDING SECTION 39-5207, IDAHO CODE, TO PROVIDE FOR AN ADMINISTRATOR; AMENDING SECTION 39-5208, IDAHO CODE, TO CLARIFY THAT THE COUNCIL SHALL RECEIVE GRANT APPLICATIONS FOR PROJECTS FOR VICTIMS OF DOMESTIC VIOLENCE AND CERTAIN OTHER CRIMES; AMENDING SECTION 39-5209, IDAHO CODE, TO PROVIDE RULEMAKING AUTHORITY GOVERNING ADDITIONAL GRANT PROGRAMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-5210, IDAHO CODE, TO CLARIFY APPLICATION TO DOMESTIC VIOLENCE GRANTS; AMENDING SECTION 39-5211, IDAHO CODE, TO PROVIDE A REFERENCE TO DOMESTIC VIOLENCE GRANTS; AND AMENDING SECTION 39-5212, IDAHO CODE, TO PROVIDE A REFERENCE TO THE IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE.

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

SECTION 1. That Section 39-5201, Idaho Code, be, and the same is hereby amended to read as follows:

39-5201. DECLARATION OF POLICY. The legislature finds that domestic violence is an issue of growing concern. Research findings show that domestic violence constitutes a significant percentage of homicides, aggravated assaults, and assaults and batteries in the United States. Domestic violence is a disruptive influence on personal and community life and is often interrelated with a number of other family problems and stresses. Refuge for victims of domestic violence is

essential to provide protection to victims from further abuse and physical harm. Refuge provides temporary safety and resources to victims who may not have access to such things if they remain in abusive situations.

It is the purpose of the legislature in the adoption of this chapter to provide funding for projects in the several areas of the state for the purpose of aiding victims of domestic violence ~~by providing them a place to escape the destructive environment~~ and other crimes.

It is understood that the intention of the provisions of this chapter is not to supersede the authority or responsibilities of agencies of state government responsible for providing services to persons pursuant to the child protective act, crime victims compensation act or adult protective provisions in the Idaho Code.

SECTION 2. That Section 39-5202, Idaho Code, be, and the same is hereby amended to read as follows:

39-5202. DEFINITIONS. As used in this chapter:

(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 one who is related by blood, marriage, or who resides or has resided with or has been married to the person committing the domestic violence.

(3) "Safe house" means a place available on an as needed basis for temporary residence to victims of domestic violence and their children.

(4) "Refuge" means a place available on a twenty-four (24) hour, seven (7) days a week basis, to provide temporary residence to victims of domestic violence and their children.

(5) "Crisis line" means an emergency twenty-four (24) hour telephone service staffed by persons able to provide information and referral to community services.

(6) "Council" means the Idaho council on domestic violence and victim assistance created in section 39-5203, Idaho Code.

SECTION 3. That Section 39-5203, Idaho Code, be, and the same is hereby amended to read as follows:

39-5203. COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE. (1) The Idaho council on domestic violence and victim assistance is hereby established. The council shall be the advisory body for programs and services affecting victims of domestic violence and other crimes in Idaho.

(2) For budgetary purposes and for administrative support purposes, the council shall be assigned, by the governor, to a department or office within the state government.

SECTION 4. That Section 39-5207, Idaho Code, be, and the same is hereby amended to read as follows:

39-5207. ORGANIZATION OF COUNCIL -- EMPLOYMENT OF NECESSARY PERSONNEL. (1) The council shall annually designate one (1) of its mem-

bers to serve as chairman and one (1) member to serve as vice chairman, who shall act as chairman in the chairman's absence. The chairman shall call meetings as provided in the rules of the council.

(2) The council shall adopt and amend rules governing its proceedings, activities and organization including, but not limited to, provisions governing a quorum, procedure, frequency and location of meetings, and establishment, functions and membership of council committees.

(3) The council may employ and shall fix the compensation, subject to provisions of chapter 53, title 67, Idaho Code, of such personnel as may be necessary including, but not limited to, an ~~part-time~~ administrator, who shall be designated as the executive director of the council and who shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

SECTION 5. That Section 39-5208, Idaho Code, be, and the same is hereby amended to read as follows:

39-5208. RESPONSIBILITIES AND DUTIES. The council shall:

(1) Establish standards for projects applying for grants from the council under this chapter;

(2) Disseminate information on availability of funds and the application process;

(3) Receive grant applications for the development and establishment of projects for victims of domestic violence and certain other crimes;

(4) Distribute funds after approval of projects meeting council standards;

(5) Assess, review and monitor the services and programs being provided for victims of domestic violence and other crimes under this chapter;

(6) Monitor programs and services for victims of domestic violence and other crimes to assure nonduplication of services and to encourage efficient and coordinated use of resources in the provision of services;

(7) Compile data on the services and programs provided to victims of domestic violence and other crimes and the geographic incidence of domestic violence and other crimes in this state; and

(8) Submit annual reports to the governor and the legislature.

SECTION 6. That Section 39-5209, Idaho Code, be, and the same is hereby amended to read as follows:

39-5209. RULES. The council shall promulgate, adopt and amend rules~~, regulations~~ and criteria to implement the provisions of this chapter regarding applications and grants for domestic violence project funding and for funding under any other grant program administered by the council. Such promulgation, adoption and amendment shall be in compliance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 7. That Section 39-5210, Idaho Code, be, and the same is hereby amended to read as follows:

39-5210. ELIGIBLE PROJECTS. To be eligible for domestic violence grants pursuant to this chapter, a project must provide a safe house or refuge and a crisis line, except in the case of a project providing services to batterers. No funds may be granted to batterer programs from the domestic violence project account which are derived from marriage license or divorce fees. Other services which may be provided include, but are not limited to:

(1) Counseling;

(2) Educational services for community awareness, for prevention of domestic violence and for the care, treatment and rehabilitation of parties to domestic violence;

(3) Support groups;

(4) Assistance in obtaining legal, medical, psychological or vocational services.

SECTION 8. That Section 39-5211, Idaho Code, be, and the same is hereby amended to read as follows:

39-5211. QUALIFICATIONS OF APPLICANTS. To qualify for domestic violence grants under the provisions of this chapter, an applicant must:

(1) Propose to operate and provide an eligible project;

(2) Be a private, nonprofit corporation of the state of Idaho, or a public entity of the state of Idaho;

(3) Provide matching moneys equal to twenty-five percent (25%) of the amount of the grant. The applicant may contribute to or provide the required local matching funds. The value of in-kind contributions and volunteer labor from the community may be computed and included as part of the local matching requirement;

(4) Require persons employed by or volunteering services to the project to maintain the confidentiality of any information that would identify individuals served by the project; such information identifying individuals served by the project shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(5) Require victims to reimburse the project monetarily or through volunteer efforts for services provided as they are able to do so. Minimum reimbursement may be established by the council, with a sliding scale of reimbursement based on the victim's ability to pay;

(6) Provide a policy of nondiscrimination in its admissions and provision of services on the basis of race, religion, gender, color, age, marital status, national origin or ancestry.

SECTION 9. That Section 39-5212, Idaho Code, be, and the same is hereby amended to read as follows:

39-5212. DOMESTIC VIOLENCE PROJECT ACCOUNT. There is hereby created in the state operating fund the domestic violence project account. Moneys received from the fees imposed by section 39-5213, Idaho Code, and section 39-6312, Idaho Code, shall be credited to the account and shall be perpetually appropriated to the council on domestic violence and victim assistance for grants for domestic violence projects and to meet the costs of maintaining the operation of the council.

Eligible projects shall be given priority by the council based upon an allocation of funds to projects in the seven (7) substate regions established pursuant to section 39-104, Idaho Code, in the proportion that marriage licenses are filed in each region.

Approved April 14, 2000.

CHAPTER 344
(H.B. No. 669)

AN ACT

RELATING TO SAFE SCHOOL FACILITIES AND SCHOOL PLANT FACILITIES RESERVE FUNDS; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSES; AMENDING CHAPTER 8, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-804A, IDAHO CODE, TO PROVIDE THAT SCHOOL PLANT FACILITIES RESERVE FUNDS MAY EXCEED TEN YEARS BUT MAY NOT EXCEED TWENTY YEARS IF A PORTION OR ALL OF THE LEVY IS FOR THE PURPOSE OF ABATING, REPAIRING OR REPLACING AN UNSAFE AND UNHEALTHY PHYSICAL PLANT AND TO PROVIDE THAT ELECTIONS FOR SUCH LEVIES MUST BE HELD ON DATES SET FOR CONSOLIDATED ELECTIONS AS PROVIDED IN SECTION 34-106, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE FINDINGS AND PURPOSES. The Legislature of the State of Idaho finds that:

(1) Idaho banks have established the "Idaho Safe School Facilities Loan Program" ("Program"), of not less than fifty million dollars ($50,000,000) to provide low interest loans to school districts exclusively to abate, repair or replace school facilities that contain unsafe or unhealthy conditions as defined by the Constitution and laws of the state of Idaho;

(2) The repayment of loans from the Program may be from any legal source of revenue available to Idaho school districts including, but not limited to, lottery funds, discretionary funds and School Plant Facilities Reserve Fund levies established pursuant to Section 33-804A, Idaho Code;

(3) It would be in the public interest to extend the maximum length of repayment of the School Plant Facilities Reserve Fund levy and thus reduce the annual payments needed to repay loans made for the purpose of abating, repairing or replacing school facilities that contain unsafe or unhealthy conditions.

SECTION 2. That Chapter 8, 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 33-804A, Idaho Code, and to read as follows:

33-804A. SCHOOL PLANT FACILITIES RESERVE FUND LEVY FOR SAFE SCHOOL FACILITIES. (1) Definition. As used in this section, public school facilities mean the physical plant of improved or unimproved

real property owned or operated by a school district, including school buildings, administration buildings, playgrounds, athletic fields, etc., used by schoolchildren or school district personnel in the normal course of providing a general, uniform and thorough system of public, free common schools, but does not include areas, buildings or parts of buildings closed from or not used in the normal course of providing a general, uniform and thorough system of public, free common schools. The aspects of a safe environment conducive to learning as provided by section 33-1612, Idaho Code, that pertain to the physical plant used to provide a general, uniform and thorough system of public, free common schools are hereby defined as those necessary to comply with the safety and health requirements set forth in this section.

(2) Whenever under applicable law a board of trustees of a school district has identified on the basis of an independent inspection of the district's school facilities that some of those school facilities fail to comply with codes addressing safety and health standards for facilities (including electrical, plumbing, mechanical, elevator, fire safety, boiler safety, life safety, structural, snow loading, and sanitary codes) adopted by or pursuant to the Idaho building code advisory act, chapter 41, title 39, Idaho Code, adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted by rule of the state board of education and applicable to school facilities, and that those school facilities that do not comply with codes addressing unsafe or unhealthy conditions contain unsafe or unhealthy conditions that cannot be abated with the school district's income from current sources, that school district shall be eligible to participate in the Idaho safe schools facilities loan program administered by Idaho banks. Eligibility to participate in the Idaho safe schools facilities loan program shall not affect or disqualify any school district from eligibility to participate in any other program to abate unsafe or unhealthy conditions.

(3) In any school district in which a school plant facilities reserve fund has been created, the period for which the school plant facilities reserve fund levy may be in effect may extend beyond ten (10) years but not to exceed twenty (20) years, provided that:

(a) The board of trustees shall determine that all or a portion of the amount to be collected each year during the period of years in which the levy is collected is made to abate, repair or replace school facilities with unsafe or unhealthy conditions or to repay principal or interest for abatement, repair or replacement of school facilities with unsafe or unhealthy conditions that earlier took place.

(b) The question of the levy to be submitted to the electors of a district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is to be made to abate, repair or replace school facilities for the purpose of providing buildings complying with codes defining safe and healthy conditions as required by applicable law.

(c) The election for such a levy conducted pursuant to this section shall be held on one (1) of the days authorized by section 34-106, Idaho Code.

The provisions of section 33-804, Idaho Code, that are not modified by this section shall apply to levies made pursuant to this section.

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.

Approved April 14, 2000.

CHAPTER 345
(H.B. No. 675, As Amended)

AN ACT

RELATING TO SCHOOL PROPERTY; AMENDING SECTION 33-601, IDAHO CODE, TO REQUIRE APPRAISAL OF REAL PROPERTY PRIOR TO ITS PURCHASE OR DISPOSAL BY THE DISTRICT IN ORDER TO ESTABLISH ITS VALUE, AND TO REQUIRE APPRAISAL OF ANY REAL OR PERSONAL PROPERTY WHICH IS TO BE CONVEYED PURSUANT TO A RESOLUTION OF THE BOARD OF TRUSTEES IN ORDER TO ESTABLISH THE VALUE OF THE PROPERTY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes.

2. To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, no such contract shall be executed which entails the expenditure of fifteen thousand dollars ($15,000) or more without notice first being given by publishing twice in the manner required by subsections g. and h. of section 33-402, Idaho Code, unless in cooperation with the division of purchasing or cooperative agency established pursuant to chapter 23, title 67, and/or sections 33-315 through 33-318, Idaho Code. The board of trustees may let the contract to the lowest responsible bidder, or reject any bid, or reject all bids and publish notice for bids, as before. If, thereafter, no satisfactory bid is received, the board may proceed under its own direction, subject to the approval of the state board of education.

3. To designate and purchase any real property necessary for school purposes or in the operation of the district, ~~the provisions of subsection 2. of this section notwithstanding,~~ or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

4. (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6. of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised ~~by three (3) disinterested residents of the district~~ pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g. and h. of section 33-402, Idaho Code, except that when the appraised value of the property is less than five hundred dollars ($500), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without addi-

tional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than five hundred dollars ($500), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property.

(b) Real and personal property may be exchanged hereunder for other property. ~~if the consideration received by said school district shall be deemed adequate by the board of trustees,~~ p~~P~~rovided, however, that aside from the provisions of this paragraph, ~~hereof,~~ any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph 4.(b), the board shall have the property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real or personal property.

5. To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

6. To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

8. To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

9. If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or prop-

erty, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

Approved April 14, 2000.

CHAPTER 346
(H.B. No. 681)

AN ACT

RELATING TO ASSESSMENT OF DAMAGES IN EMINENT DOMAIN PROCEEDINGS; AMENDING SECTION 7-711, IDAHO CODE, TO REVISE THE FORMULA AND PROCEDURE FOR ASSESSMENT OF DAMAGES WHEN THE DAMAGES ARE TO ANY ESTABLISHED BUSINESS OF MORE THAN FIVE YEARS' STANDING, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE THAT PLAINTIFF'S GOOD FAITH IN FAILING TO OFFER COMPENSATION FOR BUSINESS DAMAGES SHALL NOT BE CONTESTED AT HEARING IF THE DEFENDANT HAS NOT GIVEN NOTICE OF ITS INTENT TO CLAIM BUSINESS DAMAGES PRIOR TO THE DATE OF FILING THE MOTION THAT INITIATES THE PROCEEDING.

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

SECTION 1. That Section 7-711, Idaho Code, be, and the same is hereby amended to read as follows:

7-711. ASSESSMENT OF DAMAGES. The court, jury or referee must hear such legal testimony as may be offered by any of the parties to the proceedings, and thereupon must ascertain and assess:

1. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein; if it consists of different parcels, the value of each parcel and each estate or interest therein shall be separately assessed. For purposes of ascertaining the value of the property, the assessed value for property tax purposes shall be used as the minimum amount for damages unless the court, jury or referee finds the property has been altered substantially.

2. If the property sought to be condemned constitutes only a part of a larger parcel~~,~~: (a) the damages which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff; and (b) the damages to any business qualifying under this subsection having more than five (5) years' standing which the taking of a portion of the property and the construction of the improvement in the manner proposed by the plaintiff may reasonably cause. The business must be owned by the party whose lands are being condemned or be located upon adjoining lands owned or held by such party. Business damages under this subsection shall not be awarded if the loss can reasonably be prevented by a relocation of the business or by taking steps that a reasonably pru-

dent person would take, or for damages caused by temporary business interruption due to construction; and provided further that compensation for business damages shall not be duplicated in the compensation otherwise awarded to the property owner for damages pursuant to subsections (1) and (2) (a) of section 7-711, Idaho Code.

(i) If the business owner intends to claim business damages under this subsection, the owner, as defendant, must submit a written business damage claim to the plaintiff within ninety (90) days after service of the summons and complaint for condemnation. The plaintiff's initial offer letter or accompanying information must expressly inform the defendant of its rights under this subsection, and must further inform the defendant of its right to consult with an attorney.

(ii) The defendant's written claim must be sent to the plaintiff by certified mail, return receipt requested. Absent a showing of a good faith justification for the failure to submit a business damage claim within ninety (90) days, or an agreed extension by the parties, the court shall strike the defendant's claim for business damages in any condemnation proceeding.

(iii) The business damage claim must include an explanation of the nature, extent, and monetary amount of such claimed damages and must be prepared by the owner, a certified public accountant, or a business damage expert familiar with the nature of the operations of the defendant's business. The defendant shall also provide the plaintiff with copies of the defendant's business records that substantiate the good faith offer to settle the business damage claim. The business damage claim must be clearly segregated from the claim for property damages pursuant to subsections (1) and (2)(a) of section 7-711, Idaho Code.

(iv) As used in this subsection, the term "business records" includes, but is not limited to, copies of federal and state income tax returns, state sales tax returns, balance sheets, and profit and loss statements for the five (5) years preceding which are attributable to the business operation on the property to be acquired, and other records relied upon by the business owner that substantiate the business damage claim.

(v) The plaintiff's good faith in failing to offer compensation for business damages shall not be contested at a possession hearing held pursuant to section 7-721, Idaho Code, if the defendant has not given notice of its intent to claim business damages prior to the date of filing of the motion that initiates the proceeding under that section.

3. Separately, how much the portion not sought to be condemned, and each estate or interest therein, will be specially and directly benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the damages assessed, under ~~paragraph~~ subsection 2. of this section, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value.

4. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad,

and the cost of cattle guards where fences may cross the line of such railroad.

5. As far as practicable, compensation must be assessed for each source of damages separately.

6. If the property sought to be condemned is private real property actively devoted to agriculture, the damages which will accrue because of the costs, if any, of farming around electrical transmission line structure(s) for a transmission line with a capacity in excess of two hundred thirty (230) KV (kilovolts). If the property sought to be condemned has been the subject of a previous condemnation proceeding or proceedings for electrical transmission line structure(s) and at the time of condemnation the field holds other electrical transmission line structure(s), such evidence of costs referred to above may also include the cumulative effects, if any, of conducting farming operations around other electrical transmission line structure(s) in the same field, whether such structure(s) are of the condemner or not.

Approved April 14, 2000.

CHAPTER 347
(H.B. No. 688)

AN ACT

RELATING TO COUNTY FAIR BOARDS; AMENDING SECTION 22-202, IDAHO CODE, TO INCREASE THE POPULATION THRESHOLD FROM SEVENTY-FIVE THOUSAND PERSONS TO TWO HUNDRED THOUSAND PERSONS 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 22-202, Idaho Code, be, and the same is hereby amended to read as follows:

22-202. HEARING OF OBJECTIONS -- ORDER CREATING BOARD -- APPOINTMENT AND SELECTION OF MEMBERS. The board shall meet on the day fixed, at which time any voter or taxpayer residing within the county may appear and object to the form of the petition, the genuineness of the signatures, or may make any other objection as to the legality of the proceedings of the board; or, any pertinent objection or objections to the creation of the county fair board.

After hearing and considering the objections, if any, made to the proceedings or to the creation of a county fair board, the board shall, if it deems it for the best interests of the county that a county fair be conducted by the county, create a county fair board by an order duly spread upon its minutes.

(A) If the board in a county with a population of ~~seventy-five~~ two hundred thousand (~~75~~200,000) persons or less orders the creation of a county fair board, it shall immediately appoint either five (5) or seven (7) persons to membership thereof, and shall fix the place within the county at which such fair shall be held, and make its

action a matter of record. The members shall as nearly as possible be selected from the different industries and localities of the county. If seven (7) persons are appointed on January 18, 1988, appointments shall be made as follows: four (4) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be made for terms of four (4) years. Appointments shall expire on the third Monday in January.

If five (5) persons are appointed on January 18, 1988, appointments shall be made as follows: three (3) members shall be appointed for a term of two (2) years and two (2) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be made for terms of three (3) years. Appointments shall expire on the third Monday in January. Any vacancy occurring on such county fair board shall be filled by appointment by the county commissioners at their first regular meeting after the occurrence of such vacancy.

(B) In a county with a population of ~~seventy-five~~ two hundred thousand one (~~75~~200,001) or more persons, the board, if it orders the creation of a county fair board, shall immediately appoint either five (5) or seven (7) persons to membership thereon, in the manner provided herein.

If seven (7) persons are appointed on January 17, 1977, appointments shall be made as follows: four (4) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be made for terms of four (4) years. Appointments shall expire on the third Monday in January.

If five (5) persons are appointed on January 17, 1977, appointments shall be made as follows: three (3) members shall be appointed for a term of two (2) years and two (2) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be made for terms of three (3) years. Appointments shall expire on the third Monday in January.

County fair boards created after the effective date of this act shall be appointed for staggered terms assuming that the appointments are made on the third Monday in January.

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

Approved April 14, 2000.

CHAPTER 348
(H.B. No. 689)

AN ACT

RELATING TO HEALTH-RELATED ENTITIES EXEMPT FROM SALES TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO THE AMERICAN HEART ASSOCIATION AND SPECIAL OLYMPICS IDAHO.

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

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

63-3622O. 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 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, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other 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~~ American 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 Idaho, 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.

(k) "Agency of the state of Idaho" shall mean 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 exemptions granted by subsection (1) of this section do 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 April 14, 2000.

CHAPTER 349
(H.B. No. 690)

AN ACT

RELATING TO PROMOTER SPONSORED EVENTS FOR PURPOSE OF THE SALES AND USE TAX; AMENDING SECTION 63-3620C, IDAHO CODE, TO PROVIDE THAT UNDER NO CIRCUMSTANCES, SHALL AN OPERATOR OR A PROMOTER BE RESPONSIBLE FOR SALES OR USE TAX NOT REMITTED BY A RETAILER AT A PROMOTER SPONSORED EVENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3620C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620C. PROMOTER SPONSORED EVENTS. (1) The operator or promoter contracting with persons for participation in a promoter sponsored event, as a prerequisite to renting or leasing space to any person for conducting business as a retailer on any premises owned or controlled by that operator or promoter, shall obtain:

(a) Written evidence that the retailer holds a valid seller's permit issued pursuant to this chapter or will apply to the state tax commission for a regular or temporary seller's permit; or

(b) A written statement from the retailer that the retailer is not offering for sale any item that is taxable under this chapter or is otherwise not required to hold a valid seller's permit.

(2) Such written evidence or statements shall be in such form and contain such information as the state tax commission shall require, and shall include the retailer's taxpayer identification number. The operator or promoter shall submit the documents to the state tax commission within ten (10) days following the beginning of the event.

(3) (a) The state tax commission may appoint a sponsor or promoter as its agent for issuing temporary seller's permits to participants in the event and for accounting for such permits.

(b) A sponsor or promoter appointed to issue temporary permits

under this subsection shall be entitled to a credit or refund of income or franchise taxes imposed under chapter 30, title 63, Idaho Code, in the amount of one dollar ($1.00) for each such temporary permit issued by the sponsor or promoter during the taxable year.

(4) Any operator or promoter of a promoter sponsored event who fails to comply with this section may be subject to a minimum penalty of fifty dollars ($50.00) per event and twenty-five dollars ($25.00) for each seller over two (2) sellers for whom such records required by subsection (1) of this section are not obtained, but not to exceed one thousand dollars ($1,000) for each such event. Under no circumstances, shall an operator or a promoter be responsible for sales or use tax not remitted by a retailer at a promoter sponsored event.

(5) The penalties provided in subsection (4) of this section shall not apply:

(a) Unless the state tax commission shall have previously given notice to the operator or promoter or its officer, agent or employee, by certified mail, of the requirements of this section and of a violation of this section by the operator or promoter or its officer, agent or employee; or

(b) If the operator or promoter shows that such failure was due to reasonable cause and not to willful neglect.

(6) The state tax commission shall give notice of any penalty provided in this section and it shall assess such penalties in the manner provided for deficiencies of tax.

(7) "Promoter sponsored event," as used in this section, means a swap meet, flea market, gun show, fair or similar activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business; or any event at which two (2) or more persons offer tangible personal property or services for sale or exchange and at which a fee is charged for the privilege of offering the services or displaying the property for sale or exchange; or at which a fee is charged to prospective buyers for admission to the area where the property or services are offered or displayed for sale or exchange.

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

Approved April 14, 2000.

CHAPTER 350
(H.B. No. 692, As Amended)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5338, IDAHO CODE, TO PROVIDE PAID LEAVE FOR AN EMPLOYEE WHO IS A CERTIFIED DISASTER SERVICES VOLUNTEER TO PERFORM CERTAIN VOLUNTEER SERVICES.

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

SECTION 1. That Chapter 53, 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 67-5338, Idaho Code, and to read as follows:

67-5338. RED CROSS DISASTER SERVICES. An employee of the state of Idaho, who is a certified disaster service volunteer, shall be granted paid leave for an aggregate of up to one hundred twenty (120) work hours, consecutively or nonconnectively, in any twelve (12) month period to participate in disaster relief services for the American red cross. Such leave shall be limited to services related to a disaster of level III, or higher, upon the declaration of the governor or the president of the United States, and shall be in the state of Idaho or a state contiguous to the state of Idaho. The request shall be in writing from an official of the American red cross for such employee's services. Leave for disaster services shall be in addition to other paid leave or vacation time provided to employees. Part-time employees shall be entitled to leave under this section based on the proportion they work of a forty (40) hour week.

Approved April 14, 2000.

CHAPTER 351
(H.B. No. 693)

AN ACT

RELATING TO THE IMPORTATION AND SALE OF CIGARETTES WITHIN THE STATE OF IDAHO; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 63-2523, 63-2524, 63-2525, 63-2526, 63-2527, 63-2528 AND 63-2529, IDAHO CODE, TO PROHIBIT THE SALE, DISTRIBUTION, ACQUISITION, OWNING, POSSESSION OR TRANSPORTATION OF CIGARETTES WITHIN THE STATE OF IDAHO WHICH ARE INTENDED ONLY FOR EXPORT FROM THE UNITED STATES OR WHICH DO NOT COMPLY WITH FEDERAL LAW REGARDING WARNINGS, OTHER INFORMATION REQUIRED BY FEDERAL LAW, FEDERAL TRADEMARK AND COPYRIGHT LAWS OR FOR WHICH THE LIST OR LISTS OF INGREDIENTS ADDED TO TOBACCO HAVE NOT BEEN SUBMITTED TO THE SECRETARY OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES AS REQUIRED BY FEDERAL LAW AND TO PROHIBIT THE ALTERATION OF THE PACKAGE OF CIGARETTES PRIOR TO SALE OR DISTRIBUTION TO OBSCURE OR CONCEAL CERTAIN NOTICES, HEALTH WARNINGS OR OTHER INFORMATION REQUIRED BY FEDERAL LAW, TO PROVIDE FOR CERTAIN DOCUMENTATION TO BE PROVIDED TO THE IDAHO STATE TAX COMMISSION RELATING TO ALL CIGARETTES IMPORTED INTO THE UNITED STATES WHICH ARE SOLD OR DISTRIBUTED WITHIN THE STATE OF IDAHO, TO PROVIDE CRIMINAL PENALTIES FOR VIOLATION OF THE ACT, TO PROVIDE FOR ENFORCEMENT AND ADMINISTRATIVE SANCTIONS BY THE IDAHO STATE TAX COMMISSION, TO DECLARE CERTAIN CIGARETTES TO CONSTITUTE CONTRABAND AND TO PROVIDE FOR SEIZURE AND DESTRUCTION OF CERTAIN CIGARETTES, TO PROVIDE FOR ADMINISTRATION BY THE STATE TAX COMMISSION, TO DEFINE TERMS AND TO PROVIDE APPLICABILITY; AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Chapter 25, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 63-2523, 63-2524, 63-2525, 63-2526, 63-2527, 63-2528 and 63-2529, Idaho Code, and to read as follows:

63-2523. PROHIBITIONS. It shall be unlawful for any person:

(1) To sell or distribute in this state; to acquire, hold, own, possess or transport, for sale or distribution in this state; or to bring into this state for sale or distribution in this state:

(a) Any cigarettes the package of which:

(i) Bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States including, but not limited to, labels stating "For Export Only," "U.S. Tax-Exempt," "For Use Outside U.S." or similar wording; or

(ii) Does not comply with:

1. All requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States including, but not limited to, the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. section 1333; and

2. All federal trademark and copyright laws;

(b) Any cigarettes imported into the United States in violation of 26 U.S.C. section 5754 or any other federal law, or implementing federal regulations;

(c) Any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(d) Any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. section 1335a;

(2) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice described in subparagraph (1)(a)(i) of this section;

(b) Any health warning that is not specified in, or does not conform with the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. section 1333; or

(3) To affix any stamp required pursuant to chapter 25, title 63, Idaho Code, to the package of any cigarettes described in subsection (1) of this section or altered in violation of subsection (2) of this section.

63-2524. DOCUMENTATION. On and after January 1, 2001, on or before the twentieth day of each month, every wholesaler shall file

with the state tax commission, for all cigarettes imported into the United States to which the wholesaler has affixed Idaho state cigarette tax stamps in the preceding month:

(1) A copy of:

(a) The permit issued pursuant to the Internal Revenue Code, 26 U.S.C. section 5713, to the importer of such cigarettes allowing such person to be an importer of such cigarettes; and

(b) The customs form containing, with respect to such cigarettes, the internal revenue tax information required by the U.S. bureau of alcohol, tobacco and firearms.

(2) A statement signed by the wholesaler, in such form as the commission shall prescribe, which shall be treated as confidential by the commission and exempt from disclosure under the Idaho public records law, which statement shall show the quantity of each brand and brand style of such imported cigarettes, the supplier of such imported cigarettes, and the person or persons, if any, to whom such imported cigarettes have been conveyed for resale. The wholesaler shall file an additional statement, which shall not be confidential nor exempt from disclosure under the Idaho public records law, identifying the brand and brand style of all imported cigarettes sold by such wholesaler during the preceding month.

(3) In addition, the wholesaler shall, on or before the twentieth day of each month, file with the state tax commission a statement, in such form as the commission shall prescribe, signed by an officer of the manufacturer or importer, certifying that the manufacturer or importer has, with respect to such imported cigarettes to which the wholesaler has affixed Idaho state cigarette tax stamps during the preceding month, complied with:

(a) The package health warning and ingredient reporting requirements of the federal cigarette labeling and advertising act, 15 U.S.C. sections 1333 and 1335a, with respect to such cigarettes; and

(b) Chapter 78, title 39, Idaho Code, including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of that chapter.

63-2525. CRIMINAL PENALTIES. Any person that violates or fails to comply with any of the provisions of this chapter or rules promulgated pursuant thereto shall be punishable by a fine of not to exceed one thousand dollars ($1,000), or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

63-2526. ADMINISTRATIVE SANCTIONS. (1) The state tax commission may revoke or suspend the permit issued to any person pursuant to chapter 25, title 63, Idaho Code, in accordance with procedures set forth in the Idaho administrative procedure act. The state tax commission may, in addition to the suspension or revocation of such permit, assess a civil penalty to be paid by such permittee in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars ($5,000), upon finding a violation of any of the provisions of this chapter by such permittee. Assessment of a civil penalty hereunder shall be made in the same manner as provided in section 63-2516, Idaho Code, for

assessing a tax under this chapter.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of the provisions of this chapter, shall be deemed contraband under section 63-2513, Idaho Code, and shall be subject to seizure and forfeiture as provided therein. Provided however, notwithstanding the provisions of section 63-2515, Idaho Code, all such cigarettes so seized and forfeited shall be destroyed and shall not be subject to resale. Such cigarettes shall be deemed contraband whether the violation of this chapter is knowing or otherwise.

63-2527. GENERAL PROVISIONS. (1) It shall be the duty of the state tax commission to administer the provisions of this chapter.

(2) For the purpose of administering the provisions of this chapter, the state tax commission may share information with, and request information from, any federal agency and any agency of any other state or any local agency thereof.

(3) In addition to any other remedy provided by law, any person may bring an action for appropriate injunctive or other equitable relief for a violation of this chapter; actual damages, if any, sustained by reason of the violation; and, as determined by the court, interest on the damages from the date of the complaint, taxable costs, and reasonable attorney's fees. If the court finds that the violation is flagrant, it may increase recovery to an amount not in excess of three (3) times the actual damages sustained by reason of the violation.

63-2528. DEFINITIONS. The definitions set forth in section 63-2502, Idaho Code, shall apply to the provisions of this chapter. In addition, as used in this act:

(1) "Commission" means the Idaho state tax commission.

(2) "Importer" means any person in the United States to whom nontaxpaid cigarettes manufactured in a foreign country, Puerto Rico, the Virgin Islands or a possession of the United States are shipped or consigned; any person who removes cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings cigarettes into the United States.

(3) "Manufacturer" means any person who manufactures cigarettes by any method of preparing, processing or manipulating tobacco, except for his own personal consumption or use.

(4) "Person" means an individual, partnership, corporation or any other business or legal entity.

63-2529. APPLICABILITY. (1) This act does not apply to:

(a) Cigarettes imported or brought into the United States for personal use; or

(b) Cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. section 1555(b) and any implementing regulations. Provided however, that this chapter shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

(2) The penalties provided in this chapter are in addition to any other penalties imposed under other law.

SECTION 2. SEVERABILITY. If any part or parts of this act shall be adjudged by the courts to be unconstitutional or invalid, the same shall not affect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid.

Approved April 14, 2000.

CHAPTER 352
(H.B. No. 678)

AN ACT

RELATING TO PUBLIC SCHOOL BUILDING SAFETY; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 80, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A DECLARATION OF PURPOSE, TO DESCRIBE THE SCOPE, TO PROVIDE DEFINITIONS, TO CREATE THE IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE AND TO PROVIDE FOR THE MEMBERSHIP AND APPOINTMENT OF THE COMMITTEE MEMBERS AND ORGANIZATION AND REIMBURSEMENT OF EXPENSES, TO PROVIDE FOR DEVELOPMENT BY THE COMMITTEE OF THE IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE AND TO PROVIDE FOR AN INTERIM CODE, TO PROVIDE POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY, TO PROVIDE ADDITIONAL DUTIES OF THE ADMINISTRATOR AND TO PROVIDE PROCEDURES IF HE IDENTIFIES AN IMMINENT SAFETY HAZARD, TO PROVIDE THAT THE ADMINISTRATOR MAY SEEK AN INJUNCTION UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR APPEALS TO THE BUILDING CODE ADVISORY BOARD, TO ADDRESS VIOLATIONS AND TO PROVIDE A REMEDY FOR A WILFUL VIOLATION AND TO PROVIDE SEVERABILITY; AMENDING SECTION 39-4113, IDAHO CODE, TO REMOVE THE EXEMPTION FROM CONSTRUCTION PLAN REVIEWS FOR SCHOOL DISTRICTS AND TO REQUIRE THAT SCHOOL CONSTRUCTION OR REMODELING PROJECTS BE INSPECTED BY CERTIFIED BUILDING INSPECTORS OR LICENSED ARCHITECTS OR ENGINEERS; DECLARING AN EMERGENCY FOR SECTION 39-8005, IDAHO CODE, AND SECTION 39-8006, IDAHO CODE, AS ENACTED BY SECTION 1 OF THIS ACT; AND PROVIDING AN EFFECTIVE DATE FOR THE REMAINING PROVISIONS OF SECTION 1 OF THIS ACT AND FOR SECTION 2 OF THIS ACT.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 80, Title 39, Idaho Code, and to read as follows:

CHAPTER 80
Uniform Public School Building Safety

39-8001. SHORT TITLE. This act, comprised of Sections 39-8001, 39-8002, 39-8003, 39-8004, 39-8005, 39-8006, 39-8007, 39-8008, 39-8009, 39-8010, 39-8011 and 39-8012, Idaho Code, shall be known and may be cited as the "Idaho Uniform School Building Safety Act."

39-8002. DECLARATION OF PURPOSE. The purpose of this act is to assure the safety of children and others who use Idaho's public schools by providing for a uniform school building safety code to apply to school buildings and by establishing procedures for achieving compliance with the code.

39-8003. SCOPE. This act shall apply to all facilities, existing now or constructed in the future, that are owned, leased or used for educational purposes by public school districts receiving state funding. The authority granted under this act shall not prohibit local governments from acting to enforce applicable building and fire codes.

39-8004. DEFINITIONS. As used in this act:

(1) "Administrator" means the administrator of the division of building safety or his designated representative.

(2) "Day" shall mean a calendar day unless otherwise specified.

(3) "Imminent safety hazard" means a condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building.

(4) "Licensed professional" means a person licensed by the state of Idaho as an architect or an engineer.

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

39-8005. IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE CREATED -- APPOINTMENT -- TERMS -- QUORUM -- MEETINGS -- COMPENSATION. There is hereby created within the office of the superintendent of public instruction the Idaho uniform school building safety code committee, hereafter referred to as the committee. The committee shall consist of nine (9) members and shall include one (1) representative from each of the following: the office of the superintendent of public instruction; the division of building safety; the department of administration; and the insurance industry, appointed by the department of insurance. The governor shall appoint three (3) members as follows: one (1) representative of local school boards; one (1) representative of school superintendents and a chairman, all of whom shall serve at his pleasure. The committee shall also include two (2) members of the Idaho legislature, one (1) appointed by the president pro tempore of the senate and one (1) appointed by the speaker of the house of representatives. A majority of the membership of the committee is a quorum. Upon completion of development of the Idaho uniform school safety code provided for in section 39-8006, Idaho Code, the committee shall meet at least annually to review and make any necessary revisions to the Idaho uniform school safety code. Each member of the committee shall be reimbursed for expenses as provided by section 59-509(b), Idaho Code, for each day spent in attendance at meetings of the committee.

39-8006. COMMITTEE TO DEVELOP IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE -- INTERIM CODE. (1) The committee shall develop the Idaho uniform school building safety code to be adopted by rule of the administrator pursuant to section 39-8007, Idaho Code. The Idaho uniform school building safety code shall address elements of the national codes identified in section 39-4109, Idaho Code, and rule of the state board of education at IDAPA 08.02.02.130.

(2) Until the Idaho uniform school building safety code is adopted by rule pursuant to section 39-8007, Idaho Code, the national codes adopted under section 39-4109, Idaho Code, and rule of the state board of education at IDAPA 08.02.02.130 shall serve as the interim Idaho uniform school building safety code.

39-8007. POWERS AND DUTIES OF THE ADMINISTRATOR. (1) The administrator shall enforce the provisions of this chapter in cooperation with the superintendent of public instruction, the department of administration, and the building code advisory board.

(2) The administrator shall promulgate rules necessary to carry out the provisions of this chapter. Such rules shall be promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code.

(3) The administrator shall establish a program for the timely review of all public school construction plans as required by section 39-4113(4), Idaho Code.

(4) Upon request, the administrator shall provide training to school districts on the Idaho uniform school building safety code.

39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION -- POSTING. (1) The administrator shall have authority to enter all public school facilities covered by this chapter at reasonable times and inspect such facilities for compliance with the Idaho uniform school building safety code.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard, he shall notify in writing the district superintendent, principal, board member, or other person in charge.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall immediately notify the department of administration and request that the department of administration designate a licensed professional to independently evaluate the condition prior to taking any action or issuing any report under this chapter. The department of administration shall, within two (2) working days, designate a licensed professional to independently evaluate the condition identified. That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the director of the department of administration of its conclusions.

(4) If the department of administration agrees with the determination of the administrator that a condition identified constitutes an imminent safety hazard, the department of administration shall, within three (3) working days, so notify the administrator in writing.

(5) Upon receipt of such notification in writing, the administrator shall immediately serve, or cause to be served, written notice or

order upon the district superintendent, principal, board member or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the district superintendent, principal, board member, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the district superintendent, principal, board member, or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area. The district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(6) The administrator shall follow up on the district's progress in addressing any identified imminent safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(7) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

39-8009. INJUNCTION. Upon failure of the district superintendent, principal, board member, or other person in charge to comply with the requirements stated in any notice or order relating to an imminent safety hazard, the administrator may maintain an action in the name of the state of Idaho to enjoin the district superintendent, principal, board member or other person in charge from acting in violation of such notice or order or from doing any action that interferes with the administrator carrying out his statutory duties. Such action shall be brought in the district court in which said acts are claimed to have been committed by filing a verified complaint setting forth said act. The court, if satisfied from such complaint or affidavits that the act complained of has been or is being committed and will persist, may issue a temporary writ without notice or bond enjoining the defendant from the commission of such act pending final disposition of the cause. The cause shall proceed as in other causes for injunction. If, at the trial, the commission of said act by the defendant be established and the court further finds it probable that the defendant will continue in such act or similar acts, the court shall enter a decree enjoining said defendant from committing said or similar acts.

39-8010. APPEAL TO BUILDING CODE ADVISORY BOARD. (1) The Idaho building code advisory board shall, within ten (10) days after receipt of notice for an appeal, hear such appeal brought before it by a

school district affected by any finding pursuant to this chapter that there exists in a school building a violation of the uniform school building safety code, provided however, that an appeal brought pursuant to this section shall not affect the ability of the administrator to obtain an injunction pursuant to section 39-8009, Idaho Code. Such hearing shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) The board shall provide reasonable interpretations of the codes enumerated in this chapter.

(3) Within ten (10) days of the conclusion of the hearing, the board shall render its findings and decisions in writing to the state superintendent of public instruction, the director of the department of administration, the administrator of the division of building safety and the appealing district.

39-8011. VIOLATIONS. (1) If a school district, the district superintendent, principal, board member, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction, with the concurrence of the state board of education, shall withhold such ensuing apportionments as are reasonably necessary to make corrective repairs to address the identified imminent safety hazard.

(2) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

39-8012. SEVERABILITY. If any portion of this act, or the application of any provision of this act to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

SECTION 2. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(4) ~~Except--as--hereinafter-provided,-e~~Each school district shall submit to the ~~department-of-labor-and-industrial-services~~ division of building safety a set of working drawings and specifications for new school buildings and additions or alterations to existing buildings

which are estimated to cost in excess of twenty-five thousand dollars ($25,000). The ~~department~~ division will review the plans for compliance with the current editions of the codes specified in section 39-~~4109~~8006, Idaho Code. These plans must be approved before the school district may advertise for bids. ~~A school district proposing a construction project which would otherwise be subject to plan review under this subsection shall be exempt from the provisions of this subsection if the project is located within the jurisdiction of a local government which has adopted the codes enumerated in section 39-4109, Idaho Code, and if the plans are reviewed by plan examiners certified by the international conference of building officials~~ Once plans are reviewed and approved by the division of building safety pursuant to this section, no material change can be made to such plans without review and approval of such change by the division of building safety. To assure that building inspections are conducted statewide for all school construction or remodeling governed by this chapter, building inspections shall be performed by Idaho certified building inspectors or licensed architects or engineers either employed by or contracted to local jurisdictions.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 39-8005, Idaho Code, and Section 39-8006, Idaho Code, as enacted by Section 1 of this act, shall be in full force and effect on and after its passage and approval. The remaining provisions of Section 1 of this act, and Section 2 of this act, shall be in full force and effect on and after July 1, 2000.

Approved April 14, 2000.

CHAPTER 353
(S.B. No. 1509)

AN ACT

RELATING TO THE IDAHO BOARD OF PHARMACY; AMENDING SECTION 54-1716, IDAHO CODE, TO PROVIDE THAT THE BOARD'S CHIEF CONTROLLED SUBSTANCE INVESTIGATOR IS A NONCLASSIFIED EMPLOYEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1716, Idaho Code, be, and the same is hereby amended to read as follows:

54-1716. EMPLOYEES. (1) The board of pharmacy may, in its discretion, employ persons in addition to the executive director in such other positions or capacities as it deems necessary to the proper conduct of board business and to the fulfillment of the board's responsibilities as defined by this act.

(2) The employees of the board other than the executive director and the board's chief controlled substance investigator under chapter 27, title 37, Idaho Code, shall be classified employees and shall

receive, as compensation, an annual salary payable on regular pay periods, the amount of which shall be determined by the personnel commission classification and compensation plan set forth in section 67-5309, Idaho Code, and reimbursement for all expenses incurred in connection with performance of their official duties.

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

Approved April 14, 2000.

CHAPTER 354
(S.B. No. 1515, As Amended, As Amended)

AN ACT

RELATING TO EMINENT DOMAIN; AMENDING CHAPTER 7, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-711A, IDAHO CODE, TO PROVIDE REQUIRED DUTIES OF A STATE OR LOCAL UNIT OF GOVERNMENT OR PUBLIC UTILITY THAT IS BEGINNING NEGOTIATIONS TO ACQUIRE A PARCEL OF REAL PROPERTY IN FEE SIMPLE UNDER THE STATE'S EMINENT DOMAIN LAW, TO PROVIDE A FORM TO ADVISE RIGHTS OF PROPERTY OWNERS, TO PRODUCE A METHOD OF DELIVERY OF SUCH FORMS AND TO PROVIDE APPLICATION.

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

SECTION 1. That Chapter 7, Title 7, Idaho Code, be, and the same hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-711A, Idaho Code, and to read as follows:

7-711A. ADVICE OF RIGHTS FORM -- RIGHTS WHEN CONDEMNING AUTHORITY ACQUIRES PROPERTY. Whenever a state or local unit of government or a public utility is beginning negotiations to acquire a parcel of real property in fee simple, the condemning authority shall provide the owner of the property a form containing a summary of the rights of an owner of property to be acquired under this chapter. If the condemning authority does not supply the owner of the real property with this form, there will be a presumption that any sale or contract entered into between the condemning authority and the owner was not voluntary and the condemning authority may be held responsible for such relief, if any, as the court may determine to be appropriate considering all of the facts and circumstances. The form shall contain substantially the following:

(1) The (name of entity allowed to use eminent domain proceedings pursuant to chapter 7, title 7, Idaho Code) has the power under the constitution and the laws of the state of Idaho and the United States to take private property for public use. This power is generally referred to as the power of "eminent domain" or condemnation. The power can only be exercised when:

(a) The property is needed for a public use authorized by Idaho law;

(b) The taking of the property is necessary to such use;

(c) The taking must be located in the manner which will be most compatible with the greatest public good and the least private injury.

(2) The condemning authority must negotiate with the property owner in good faith to purchase the property sought to be taken and/or to settle with the owner for any other damages which might result to the remainder of the owner's property.

(3) The owner of private property to be acquired by the condemning authority is entitled to be paid for any diminution in the value of the owner's remaining property which is caused by the taking and the use of the property taken proposed by the condemning authority. This compensation, called "severance damages," is generally measured by comparing the value of the property before the taking and the value of the property after the taking. Damages are assessed according to Idaho Code.

(4) The value of the property to be taken is to be determined based upon the highest and best use of the property.

(5) If the negotiations to purchase the property and settle damages are unsuccessful, the property owner is entitled to assessment of damages from a court, jury or referee as provided by Idaho law.

(6) The owner has the right to consult with an appraiser of the owner's choosing at any time during the acquisition process at the owner's cost and expense.

(7) The condemning authority shall deliver to the owner, upon request, a copy of all appraisal reports concerning the owner's property prepared by the condemning authority. Once a complaint for condemnation is filed, the Idaho rules of civil procedure control the disclosure of appraisals.

(8) The owner has the right to consult with an attorney at any time during the acquisition process. In cases in which the condemning authority condemns property and the owner is able to establish that just compensation exceeds the last amount timely offered by the condemning authority by ten percent (10%) or more, the condemning authority may be required to pay the owner's reasonable costs and attorney's fees. The court will make the determination whether costs and fees will be awarded.

(9) The form contemplated by this section shall be deemed delivered by United States certified mail, postage prepaid, addressed to the person or persons shown in the official records of the county assessor as the owner of the property. A second copy will be attached to the appraisal at the time it is delivered to the owner.

(10) If a condemning authority desires to acquire property pursuant to this chapter, the condemning authority or any of its agents or employees shall not give the owner any timing deadline as to when the owner must respond to the initial offer which is less than thirty (30) days. A violation of the provisions of this subsection shall render any action pursuant to this chapter null and void.

(11) Nothing in this section changes the assessment of damages set forth in section 7-711, Idaho Code.

Approved April 14, 2000.

CHAPTER 355
(S.B. No. 1517, As Amended)

AN ACT
RELATING TO CRIMES AGAINST IRRIGATION WORKS; AMENDING SECTION 18-4308, IDAHO CODE, TO PROVIDE THAT PERSONS WHO RELOCATE OR BURY A LATERAL DITCH CONTRARY TO THE SECTION ARE GUILTY OF A MISDEMEANOR.

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

SECTION 1. That Section 18-4308, Idaho Code, be, and the same is hereby amended to read as follows:

18-4308. CHANGE OF LATERAL DITCH OR BURIED IRRIGATION CONDUIT. Where any lateral ditch has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said lateral ditch or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such lateral ditch or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the ditch owner, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the ditch owner.

In the event that the ditch, lateral, buried irrigation conduit, or canal is owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, the written permission of the entity must first be obtained before a ditch, lateral, buried irrigation conduit, or canal is changed or placed in buried pipe by the landowner.

While a ditch owner shall have no right to relocate his ditch on the property of another without permission, a ditch owner shall have the right to place his ditch in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but not to exceed five (5) days after the start of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the

route of the ditch, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the ditch owner.

No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch in pipe shall record the location and specifications of the buried irrigation conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation entity that supplies water to the ditch, with a copy of such location and specifications and the construction plans utilized. The irrigation entity shall keep and maintain such records and have them available for the public.

Any person or persons who relocate or bury a lateral ditch contrary to the provisions of this section shall be guilty of a misdemeanor.

Approved April 14, 2000.

CHAPTER 356
(S.B. No. 1519)

AN ACT

RELATING TO AGGRAVATED DRIVING UNDER THE INFLUENCE; AMENDING SECTION 18-8006, IDAHO CODE, TO INCREASE THE MAXIMUM SENTENCE FOR AGGRAVATED DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES.

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

SECTION 1. That Section 18-8006, Idaho Code, be, and the same is hereby amended to read as follows:

18-8006. AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other than himself in committing a violation of the provisions of section 18-8004(1)(a) or (1)(c), Idaho Code, is guilty of a felony, and upon conviction:

(a) Shall be sentenced to the state board of correction for not to exceed ~~five (5)~~ ten (10) years, provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court;

and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall be ordered by the court to pay restitution in accordance with chapter 53, title 19, Idaho Code.

(2) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

Approved April 14, 2000.

CHAPTER 357
(S.B. No. 1521)

AN ACT

RELATING TO THE DEPARTMENT OF PARKS AND RECREATION; AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4239, IDAHO CODE, TO GIVE THE DIRECTOR OF THE DEPARTMENT OF PARKS AND RECREATION AUTHORITY TO ISSUE UNIFORM CITATIONS FOR CERTAIN VIOLATIONS ON DEPARTMENT PROPERTIES, TO PROVIDE FOR DELEGATION OF AUTHORITY AND TO PROVIDE FOR DEVELOPMENT OF A TRAINING COURSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4239, Idaho Code, and to read as follows:

67-4239. ENFORCEMENT AUTHORITY. (1) The director of the department of parks and recreation may issue Idaho uniform citations, as provided for by the rules of the court for the magistrates division of the district court and the district court, to violators of title 67, chapters 42 (state parks), 70 (safe boating act), 71 (recreational activities) and 75 (marine sewage disposal act), Idaho Code, and rules adopted under those chapters, within properties owned and managed by the department. The director may delegate this authority to qualified employees of the department.

(2) The department of parks and recreation shall develop, with the guidance and approval of the peace officers standards and training academy, an appropriate training course for employees applicable to issuing citations as authorized and delegated in this section. The director shall ensure, before delegating authority under this section, that employees successfully complete the training course.

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

Approved April 14, 2000.

CHAPTER 358
(S.B. No. 1525)

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING SECTION 18-918, IDAHO CODE, TO CLARIFY THAT A HOUSEHOLD MEMBER WHO COMMITS A BATTERY AND WILLFULLY AND UNLAWFULLY INFLICTS A TRAUMATIC INJURY UPON ANOTHER HOUSEHOLD MEMBER IS GUILTY OF A FELONY AND TO REQUIRE THAT COUNSELING AND TREATMENT OF OFFENDERS BE CONDUCTED ACCORDING TO STANDARDS ESTABLISHED OR APPROVED BY THE COUNCIL ON DOMESTIC VIOLENCE; AND DECLARING AN EMERGENCY.

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

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

18-918. DOMESTIC VIOLENCE. (1) For the purpose of this section, "household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(2) As used in this section, "traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

(3) Any household member who commits a battery, as defined in section 18-903, Idaho Code, and willfully and unlawfully inflicts a traumatic injury upon any other household member is guilty of a felony.

(4) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(5) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

(6) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars ($10,000) or by both fine and imprisonment.

(7) (a) Upon a first conviction, the crime of misdemeanor domestic assault or battery is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Upon a second conviction,

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

(b) The maximum penalties provided in this section shall be doubled where the act of domestic assault or battery for which the person is convicted or pleads guilty took place in the presence of a child. For purposes of this section, "in the presence of a child" means in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic assault or battery. For purposes of this section, "child" means a person under sixteen (16) years of age.

(8) (a) Any person who pleads guilty or is found guilty of a violation of this section shall undergo, at the person's own expense, an evaluation by a person, agency or organization approved by the court in accordance with subsection (c) of this section to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment. Such evaluation shall be completed prior to the sentencing date if the court's list of approved evaluators, in accordance with subsection (c) of this section, contains evaluators who are able to perform the evaluation prior to the sentencing dates. If the evaluation recommends counseling or other treatment, the evaluation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding

is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such counseling or treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation or a comparable program. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) Each judicial district shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as provided in section 31-3201A(p), Idaho Code.

(d) Counseling or treatment ordered pursuant to this section shall be conducted according to standards established or approved by the Idaho council on domestic violence.

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

Approved April 14, 2000.

CHAPTER 359

(S.B. No. 1529, As Amended, As Amended in the House)

AN ACT

RELATING TO SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION, THE STATE TAX COMMISSION AND THE INDUSTRIAL COMMISSION; AMENDING SECTION 61-215, IDAHO CODE, TO PROVIDE FOR A THREE AND ONE-HALF PERCENT SALARY INCREASE ON JULY 1, 2000; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE A THREE AND ONE-HALF PERCENT SALARY INCREASE ON JULY 1, 2000; AND AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE A THREE AND ONE-HALF PERCENT SALARY INCREASE ON JULY 1, 2000.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. ~~and shall each receive an annual salary as follows:~~ Commencing on July 1, 1999, ~~an~~ the annual salary of members of the public utilities commission shall be seventy-five thousand dollars ($75,000), which amount shall be increased on July 1, 2000, by three and one-half percent (3 1/2%), and shall be paid from sources set by the legislature.

SECTION 2. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties. ~~and shall receive an~~ Commencing on July 1, 1999, the annual salary for members of the state tax commission shall be sixty-five thousand dollars ($65,000), which amount shall be increased on July 1, 2000, by three and one-half percent (3 1/2%).

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. ~~The~~ Commencing July 1, 1999, the annual salary of each member of the industrial commission shall be seventy-three thousand dollars ($73,000), ~~and~~ which amount shall be increased on July 1, 2000, by three and one-half percent (3 1/2%). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

Approved April 14, 2000.

CHAPTER 360
(S.B. No. 1530)

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-227E, IDAHO CODE, TO PROVIDE A LIMITATION ON REIMBURSEMENT FOR TRANSPORTATION OF MEDICAID CLIENTS WHEN THE VEHICLE CONTAINS FIVE OR MORE CLIENTS, TO PROVIDE FOR A WAIVER AND TO PROVIDE FOR LEGAL PROCESSES; AND DECLARING AN EMERGENCY AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-227E, Idaho Code, and to read as follows:

56-227E. TRANSPORTATION OF MEDICAID CLIENTS. When five (5) or more medicaid clients are being transported by a noncommercial transportation provider in a motor vehicle, reimbursement to the driver or the owner of the motor vehicle shall be calculated as though the vehicle contained five (5) clients. If this section creates an undue hardship, the director may, in writing and signed by the director, grant exceptions on a case-by-case basis. Any person receiving reimbursement beyond the amounts allowed in this section shall be subject to the provisions of sections 56-227A through 56-227C, Idaho Code, and the director shall promptly cause such actions to be instituted.

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; provided that the provisions of this act shall be null, void and of no force and effect on and after June 30, 2001.

Approved April 14, 2000.

CHAPTER 361
(S.B. No. 1531, As Amended in the House)

AN ACT

RELATING TO PREMISES LICENSED TO SELL ALCOHOLIC BEVERAGES; AMENDING SECTION 23-944, IDAHO CODE, TO CLARIFY RESTRICTIONS ON PERSONS UNDER THE AGE OF TWENTY-ONE FROM ENTERING AND REMAINING AT CERTAIN LICENSED PREMISES, TO PROVIDE THAT IT IS LAWFUL FOR PERSONS UNDER THE AGE OF TWENTY-ONE YEARS TO ENTER AND REMAIN IN CERTAIN LOCATIONS PROVIDED ACTIVITIES, SHOWS, EXHIBITIONS, PERFORMANCES OR EVENTS ARE LAWFUL 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 23-944, Idaho Code, be, and the same is hereby amended to read as follows:

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(1) upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcohol beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(2) in any building, a part or portions of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein.

(3) in any baseball park, sports arena, convention center, multipurpose arena or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the drink, wine or beer for consumption on the premises or that ~~beer is~~ such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena or fairgrounds so long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code.

(4) upon the premises of any licensed winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that wine is dispensed and served and consumed therein.

(5) upon the licensed premises of a wine retailer, wholly owned

and operated by a licensed winery which retails exclusively the products of that winery.

(6) at a location, other than a liquor, beer, or wine licensed premises, authorized to serve alcohol beverages under a valid alcohol beverage catering permit.

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

Approved April 14, 2000.

CHAPTER 362
(S.B. No. 1534)

AN ACT

RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-213A, IDAHO CODE, TO DELETE REFERENCES TO THE BOARD OF CORRECTION WITH RESPECT TO MEETINGS OF THE COMMISSION AND DISTRIBUTION OF REPORTS.

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

SECTION 1. That Section 20-213A, Idaho Code, be, and the same is hereby amended to read as follows:

20-213A. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings of the commission of pardons and parole shall be held in accordance with the open meeting law as provided in chapter 23, title 67, Idaho Code, except:

(a) Deliberations and decisions concerning the granting, revoking, reinstating or refusing of paroles, or the granting or denying of pardons or commutations, may be made in executive session; and

(b) Votes of individual members in arriving at the parole, pardon or commutation decisions shall not be made public, provided that the commission shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to grant or deny parole, pardon or commutation, by each commission member in each case reviewed by that member shall be produced by the commission. The record produced by the commission pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the governor and the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes. Distribution of the report by a commissioner or an employee of the executive director ~~or board~~ to any person not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any parole, pardon or commutation action

by the commission without reference to the manner in which any member voted, and the commission shall make such information public information.

(4) Nothing contained herein shall prevent ~~a member of the board of correction,~~ the executive director for the commission or designated staff of the executive director from attending any meeting including an executive session of the commission of pardons and parole.

(5) Nothing contained herein shall prevent the governor and chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting including an executive session of the commission of pardons and parole.

Approved April 14, 2000.

CHAPTER 363
(S.B. No. 1535, As Amended in the House)

AN ACT

RELATING TO WATER POLLUTION CONTROL; AMENDING SECTION 39-3626, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO IS AUTHORIZED TO MAKE LOANS AT OR BELOW MARKET INTEREST RATES FOR THE IMPLEMENTATION OF A MANAGEMENT PROGRAM ESTABLISHED UNDER SECTION 319 OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED; AND AMENDING SECTION 39-3627, IDAHO CODE, TO PROVIDE THAT THE BOARD OF HEALTH AND WELFARE, MAY, IN THE NAME OF THE STATE OF IDAHO, ENTER INTO LOAN CONTRACTS WITH APPLICANTS FOR THE IMPLEMENTATION OF NONPOINT SOURCE POLLUTION CONTROL PROGRAMS AND TO PROVIDE THAT TO BE ELIGIBLE FOR A LOAN THE PROJECT PROPOSED BY AN APPLICANT MUST BE CONSISTENT WITH THE STATE NONPOINT SOURCE MANAGEMENT PLAN AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-3626, Idaho Code, be, and the same is hereby amended to read as follows:

39-3626. AUTHORIZATION OF GRANTS AND LOANS -- DESIGNATION OF ADMINISTERING AGENCY -- RESERVATION OF FUNDS FOR OPERATIONS -- CRITERIA -- PRIORITY PROJECTS -- ELIGIBLE PROJECTS. A. The state of Idaho is hereby authorized to make grants and loans at or below market interest rates, as funds are available, to any municipality to assist said municipality in the construction of sewage treatment works. ~~or application of best management practices and to provide for training of treatment plant operating personnel~~ The state of Idaho is hereby also authorized to make loans at or below market interest rates for the implementation of a management program established under section 319 of the federal water pollution control act, as amended.

B. The Idaho board of health and welfare through the department of health and welfare shall be the agency for administration of funds authorized for grants or loans under this act, and may reserve up to

four percent (4%) of the moneys accruing annually to the water pollution control and wastewater facility loan accounts to be appropriated annually for the purpose of operating the water quality programs established pursuant to this chapter. The board may also reserve up to six percent (6%) of the moneys accruing annually to the water pollution control account to be appropriated annually for the purpose of conducting water quality studies including monitoring.

C. In allocating state construction grants and loans under this act, the Idaho board of health and welfare shall give consideration to water pollution control needs and protection of public health.

D. Pursuant to subsection C. of this section the Idaho board of health and welfare shall establish an integrated list of priority municipal sewage facility and nonpoint source pollution control projects.

SECTION 2. That Section 39-3627, Idaho Code, be, and the same is hereby amended to read as follows:

39-3627. PAYMENTS BY STATE BOARD OF HEALTH AND WELFARE -- CONTRACTS WITH MUNICIPALITIES -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. A. The Idaho board of health and welfare may make payments not to exceed ninety percent (90%) of the estimated reasonable cost of an eligible construction project funded by a grant. Payments may be made which are equal to one hundred percent (100%) of the estimated reasonable cost of an eligible construction project funded by a loan.

B. The Idaho board of health and welfare may, in the name of the state of Idaho, enter into contracts with municipalities and any such municipality may enter into a contract with the Idaho board of health and welfare, concerning eligible construction projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of the project as determined by the Idaho board of health and welfare.

2. An agreement by the municipality, binding for the actual service life of the sewage treatment works:

a. To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 39-118, Idaho Code.

b. To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the board of health and welfare.

c. To operate and maintain the sewage treatment works in accordance with applicable provisions and rules of the board.

d. To make available on an equitable basis the services of the sewage treatment works to the residents and commercial and industrial establishments of areas it was designed to serve.

e. To provide for the payment of the municipality's share of the cost of the project when the project is built using grant funds.

f. To develop and to secure the approval of the department

of plans for the operation and maintenance of the sewage treatment works; and of plans and programs for the recovery of the capital costs and operating expenses of the works or system.

g. To allow the board to make loans of up to one hundred percent (100%) and supplemental grants based upon financial capability to a municipality for the estimated reasonable cost of an eligible project, which may include treatment of nondomestic wastewater.

h. To provide for the accumulation of funds through the use of taxing powers, through charges made for services, through revenue bonds, or otherwise, for the purposes of: (1) capital replacement, (2) future improvement, betterment, and extension of such works occasioned by increased wastewater loadings on the works, and (3) establishing a fund dedicated solely to repayment of principal and interest of loans made subsequent to this chapter.

i. To commence annual principal and interest payments not later than one (1) year from the date construction is completed and to provide for full amortization of loans not later than twenty (20) years from the date project construction is completed.

3. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract and/or seek repayment from the municipality of sums already paid pursuant to the contract for noncompliance by the municipality with the terms and conditions of the contract and the provisions of this chapter.

C. The board of health and welfare may, in the name of the state of Idaho, enter into loan contracts with applicants for the implementation of nonpoint source pollution control programs. To be eligible for a loan the project proposed by an applicant must be consistent with the state nonpoint source management plan. Up to five percent (5%) of the total state revolving loan fund may be used for nonpoint source pollution control projects which demonstrate a benefit/nexus to a municipality.

D. The board may adopt rules necessary for the making and enforcing of contracts hereunder and establishing procedures to be followed in applying for state construction grants or loans or training grants herein authorized as shall be necessary for the effective administration of the grants and loans program.

~~D~~E. All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the director.

Approved April 14, 2000.

CHAPTER 364
(S.B. No. 1536)

AN ACT

RELATING TO THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6201, IDAHO CODE, TO INCLUDE ASSISTANCE TO BEGINNING FARMERS AND RANCHERS FOR AGRICULTURAL FACILITIES AS PUBLIC PURPOSES; AMENDING SECTION 67-6205, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6206, IDAHO CODE, TO PROVIDE POWERS RELATING TO THE FINANCING OF AGRICULTURAL FACILITIES; AMENDING SECTION 67-6207A, IDAHO CODE, TO PROVIDE FOR LOANS FOR AGRICULTURAL FACILITIES; AMENDING SECTION 67-6223, IDAHO CODE, TO PROVIDE FOR AUTHORITY TO RECEIVE STATE OR FEDERAL ASSISTANCE FOR AGRICULTURAL FACILITIES AND FOR COOPERATION WITH THE IDAHO DEPARTMENT OF AGRICULTURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6201, Idaho Code, be, and the same is hereby amended to read as follows:

67-6201. PURPOSE. It is hereby declared:

(a) That within the state there is a shortage of safe or sanitary dwelling accommodations available which persons of low incomes can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime, and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities.

(b) That private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary dwellings at prices or rents which persons and families of low income can afford, or to achieve rehabilitation of much of the present low-income housing. It is imperative 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.

(c) That the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist, and the providing of safe and sanitary dwelling accommodations for persons of low incomes (which dwelling-accommodations need not be solely for persons of low incomes in order to avoid concentrations of such persons in specific localities), are public uses, and uses and purposes for which public money may be spent and private property acquired, and are governmental functions.

(d) It is also declared and the legislature hereby finds that charitable, educational, human service, cultural and other purposes

pursued by nonprofit corporations are important public functions and public purposes that should be encouraged and that financing of nonprofit facilities for these purposes should be encouraged, without using state funds or lending the credit of the state, through the issuance of nonrecourse revenue bonds and the lending of the proceeds thereof to nonprofit corporations to promote their purposes.

(e) It is further declared that in this state:

(1) There exists an inadequate supply of funds at interest rates sufficiently low to enable persons engaged in agriculture in this state, particularly beginning farmers and ranchers, to pursue agricultural operations at present levels;

(2) That such inability to pursue agricultural operations lessens the supply of agricultural commodities available to fulfill the needs of the citizens of this state;

(3) That such inability to continue operations decreases available employment in the agricultural sector of the state and results in unemployment and its attendant problems;

(4) That such conditions prevent the acquisition of an adequate capital stock of farm and ranch equipment and machinery, therefore impairing the productivity of agricultural land;

(5) That such conditions are conducive to consolidation of acreage of agricultural land with fewer individuals living and farming and ranching on the traditional family farm and ranch;

(6) That these conditions result in a loss in population, unemployment and movement of persons from rural to urban areas accompanied by added costs to communities for creation of new public facilities and services;

(7) That there have been recurrent shortages of funds from private market sources at reasonable rates of interest;

(8) That these shortages have made the sale and purchase of agricultural land to beginning farmers and ranchers a virtual impossibility in many parts of the state;

(9) That the ordinary operations of private enterprise have not in the past corrected these conditions; and

(10) That a stable supply of adequate funds for agricultural financing is required to encourage beginning farmers and ranchers in an orderly and sustained manner and to reduce the problems described herein.

(f) It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended or granted and that such activities are governmental functions and serve a public purpose in improving or otherwise benefiting the people of this state; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 2. That Section 67-6205, Idaho Code, be, and the same is hereby amended to read as follows:

67-6205. DEFINITIONS. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Association" or "housing association" shall mean the Idaho

housing and finance association created by section 67-6202, Idaho Code.

(b) "Housing project" shall mean any work or undertaking:

(1) ~~t~~To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or

(2) ~~t~~To construct, sell, lease, finance, improve, operate or otherwise provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property which are necessary, convenient or desirable appurtenances, such as, but not limited to, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, and welfare or other purposes; or

(3) ~~t~~To accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, for either single or multi-family housing, the acquisition of property, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration and repair of the buildings and improvements and all other work in connection therewith.

(c) "Governing body" shall mean the city council, board of commissioners, board of trustees or other body having charge of the locality in which the association desires to undertake a housing project.

(d) "Federal government" shall include the United States of America, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(e) "City" shall mean any city in the state of Idaho, including each city having a special charter.

(f) "County" or "counties" shall include all counties in the state of Idaho as designated in chapter 1, title 31, Idaho Code.

(g) "Clerk" shall mean the clerk of the city or county as the case may be or the officer charged with the duties customarily imposed on such clerk.

(h) "Area of operation" shall mean the state of Idaho.

(i) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety, health or morals.

(j) "Person of low-income" means persons deemed by the association, including those defined as "elderly" in the United States Housing Act of 1937 [42 U.S.C., sec. 1437--1437dd], as amended, to require assistance available under this act on account of insufficient personal or family income, to pay the rents or carrying charges required by the unaided operation of private enterprise in providing an adequate supply of decent, safe and sanitary housing and in making such determination the association shall take into consideration, without limitation, such factors as:

(1) ~~t~~The amount of the total income of such persons available for housing needs~~,~~;

(2) ~~t~~The size of the family~~,~~;

(3) ~~t~~The cost and condition of housing facilities available~~,~~;

(4) ~~s~~Standards established for various federal programs determining eligibility based on income of such persons~~,~~; and

(5) ~~t~~The ability of such persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing.

(k) "Bonds," "notes" or "bond anticipation notes," and "obligations" shall mean any bonds, notes, interim certificates, debentures or other evidences of financial indebtedness issued by the association pursuant to this chapter.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature, appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(m) "Housing authority" or "authority" means a housing authority established pursuant to the "housing authorities and cooperation law" constituting chapter 19, title 50, Idaho Code.

(n) "Rent" shall mean the periodic payment made by a person of low-income in a housing project whether such money is being used as rent, or for the development of equity by such person.

(o) "Interim financing" means a short-term construction loan for planning and/or development of residential housing for persons of low-income and other persons which loan shall run until financing can be assumed through other federal, state or private financing.

(p) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, and corporations, cooperatives, and condominiums, approved by the association as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing project, subject to the regulatory powers of the association and other terms and conditions set forth in this chapter. A "housing sponsor" shall be either a "limited profit" sponsor or a "nonprofit" sponsor.

(q) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, and any other financial institution authorized to transact business in the state.

(r) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a lien on property in the state except in the case of loans insured by the federal housing administration or the association and which are made for the rehabilitation or improvement of existing dwellings; in such case the loans need not be secured by an instrument constituting a lien on property in the state.

(s) "Mixed income housing project" means a housing project which contains dwellings occupied or to be occupied by persons of low-income constituting at least twenty percent (20%) of such occupancy.

(t) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and

parking, handling and storage areas, and portions of any of the foregoing and similar ancillary facilities.

(u) "Nonprofit corporation" means a nonprofit corporation organized and operating in accordance with Idaho law or a nonprofit corporation organized and operating in accordance with comparable laws within another state or territory of the United States.

(v) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for a nonprofit purpose of the corporation; provided that facilities for health facilities which may be funded pursuant to chapter 14, title 39, Idaho Code, shall not be included in this definition, except for such health facilities as may be specifically approved by the Idaho health facilities authority.

(w) "Project costs of a nonprofit facility" means costs of:

(1) ~~a~~Acquisition, construction and improvement of any facilities included in a nonprofit facility;

(2) ~~a~~Architectural, engineering, consulting, accounting and legal costs related directly to the development, financing and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility;

(3) ~~f~~Finance costs, including discounts, if any, the costs of issuing bonds, and costs incurred in carrying out any provisions thereof;

(4) ~~i~~Interest during construction and during the six (6) months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(5) ~~t~~The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(6) ~~o~~Other costs incidental to any of the costs listed in this section.

(x) "Agricultural facility or facilities" means land, any building or other improvement thereon or thereto, to be owned by a beginning farmer or rancher and any personal properties deemed necessary or suitable for use, whether or not now in existence in farming or ranching, the production of agricultural commodities, including, without limitation, the products of aquaculture, hydroponics and silviculture, or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by beginning farmers or ranchers as a part of farming or ranching.

SECTION 3. That Section 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. POWERS OF ASSOCIATION. The housing and finance association is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the association; and to make and from time to time

amend and repeal bylaws, rules, not inconsistent with this act, to carry into effect the powers and purposes of the association.

(b) To conduct its operations within any or all of the counties of the state.

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the association under this act, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage lenders to act for and in behalf of the association, with respect to originating or servicing and processing mortgage loans of the association, and to pay the reasonable value of service rendered to the association by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects, nonprofit facilities or any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or nonprofit facilities and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the association against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government or other source for the payment or purchase of any bonds or parts thereof issued by the association, including the power to pay for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the association may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low-income; to make studies and recom-

mendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low-income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with any agencies, organizations and individuals in order to undertake the provision of housing for persons of low-income, ~~or~~ to undertake the provision of nonprofit facilities or agricultural facilities.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low-income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low-income, and/or mixed income housing projects upon the terms and conditions set forth in this act; provided, however, that such loans shall be made only upon the determination by the association that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low-income and/or mixed income housing projects or loans which have been made to persons of low-income for residential housing, upon terms set forth in this act; provided, however, that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low-income, upon terms set forth in this act; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the association, in mortgage loans to persons of low-income or in mortgage loans for housing projects for persons of low-income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the association, provided that the association has determined that such financing is not otherwise available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this act.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this act and in connection therewith, to waive, by resolution or other document of the association, the exemption from federal income taxation of interest on any of the association's obligations under existing or future federal law and to establish, maintain and preserve the association's general obligation rating and any rating on its bonds, notes or other obligations.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the association may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the association pursuant to this act, and to make and publish rules respecting the making and purchase of mortgage loans.

(x) To organize a nonprofit corporation to assist the association in providing for housing projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof.

(aa) To make <u>or purchase</u> secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project costs of any nonprofit facility <u>or agricultural facility,</u> including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for the project costs of a nonprofit facility <u>or agricultural facility;</u> and to charge and collect interest on the loans for the loan payments upon such terms and conditions, including without limitation bond rating and issuance conditions, as the board of commissioners considers advisable which are not in conflict with this chapter.

(bb) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of nonprofit facilities <u>or agricultural facilities</u> or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the association, to secure any loan made by the association and to pledge the revenues and receipts therefrom.

(cc) To issue bonds for the purpose of financing all or part of the project cost on any nonprofit facility or agricultural facility and to secure the payment of the bonds as provided in this chapter.

(dd) To purchase or sell by installment contract or otherwise, and convey all or any part of any nonprofit facility or agricultural facility for such purchase price and upon such terms and conditions as this board of commissioners considers advisable which are not in conflict with this chapter.

(ee) To lease all or any part of any nonprofit facility or agricultural facility for such rentals and upon such terms and conditions, including options to purchase, as the board of commissioners considers advisable and not in conflict with this chapter.

(ff) To construct and maintain one (1) or more nonprofit facilities or agricultural facilities, provided that the association shall not operate any nonprofit facility or agricultural facility as a business other than as lessor, seller or lender. The purchase, holding and enforcing of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of a nonprofit facility or agricultural facility as a business.

(gg) To act as the designated housing resource clearinghouse in the state for matters relating to affordable housing.

(hh) To coordinate the development and maintenance of a housing policy for the state.

SECTION 4. That Section 67-6207A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207A. ADDITIONAL POWERS. In addition to all other powers, the association also shall have the following specific powers:

(a) To make and publish rules respecting making mortgage loans pursuant to this act, the regulations of borrowers, housing sponsors, mortgage lenders, and the construction of ancillary commercial facilities.

(b) To make rules respecting the qualifications for admission to housing projects pursuant to this act.

(c) To invest in, purchase, sell, or to make commitments to purchase, and take assignments from lenders, of notes and mortgages or other obligations evidencing loans for housing projects, ~~or~~ loans for nonprofit facilities or loans for agricultural facilities, at public or private sale, with or without public bidding.

(d) To make loans to mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new mortgage loans for housing projects.

(e) To enter into mortgage insurance agreements with mortgage lenders in connection with the lending of money by such institutions for housing projects.

(f) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the association therein.

SECTION 5. That Section 67-6223, Idaho Code, be, and the same is hereby amended to read as follows:

67-6223. BORROWING POWER -- FINANCIAL ASSISTANCE -- COOPERATION WITH STATE AND FEDERAL GOVERNMENT. In addition to the powers conferred upon the association by other provisions of this act, the association is empowered to administer any other state or federal assistance program including without limitation all tax credit programs and block grants and to borrow money or accept contributions, grants or other financial assistance from the state or federal government for or in aid of any housing project, ~~or~~ nonprofit facility or agricultural facility within its area of operation, to take over or lease or manage any housing project, ~~or~~ nonprofit facility or agricultural facility or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and to make such trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize the association to do any and all things necessary or desirable to secure the financial aid or cooperation of the state or federal government in the undertaking, construction, maintenance or operation of any housing project, ~~or~~ nonprofit facility or agricultural facility by the association. The association is specifically authorized to work with the Idaho department of agriculture in connection with any loan for an agricultural facility and the Idaho department of agriculture shall assist in the provisions of such loans.

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.

Approved April 14, 2000.

CHAPTER 365
(S.B. No. 1542)

AN ACT

RELATING TO THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6205, IDAHO CODE, TO FURTHER DEFINE THE TERM "NONPROFIT FACILITIES" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-6205, Idaho Code, be, and the same is hereby amended to read as follows:

67-6205. DEFINITIONS. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Association" or "housing association" shall mean the Idaho housing and finance association created by section 67-6202, Idaho Code.

(b) "Housing project" shall mean any work or undertaking:

(1) ~~t~~To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or

(2) ~~t~~To construct, sell, lease, finance, improve, operate or otherwise provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property which are necessary, convenient or desirable appurtenances, such as, but not limited to, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, and welfare or other purposes; or

(3) ~~t~~To accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, for either single or multi-family housing, the acquisition of property, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration and repair of the buildings and improvements and all other work in connection therewith.

(c) "Governing body" shall mean the city council, board of commissioners, board of trustees or other body having charge of the locality in which the association desires to undertake a housing project.

(d) "Federal government" shall include the United States of America, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(e) "City" shall mean any city in the state of Idaho, including each city having a special charter.

(f) "County" or "counties" shall include all counties in the state of Idaho as designated in chapter 1, title 31, Idaho Code.

(g) "Clerk" shall mean the clerk of the city or county as the case may be or the officer charged with the duties customarily imposed on such clerk.

(h) "Area of operation" shall mean the state of Idaho.

(i) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety, health or morals.

(j) "Person of low-income" means persons deemed by the association, including those defined as "elderly" in the United States Housing Act of 1937 [42 U.S.C., sec. 1437--1437dd], as amended, to require assistance available under this act on account of insufficient personal or family income, to pay the rents or carrying charges required by the unaided operation of private enterprise in providing an adequate supply of decent, safe and sanitary housing and in making such determination the association shall take into consideration, without limitation, such factors as:

(1) ~~t~~The amount of the total income of such persons available for housing needs~~,~~;

(2) ~~t~~The size of the family~~,~~;

(3) ~~t~~The cost and condition of housing facilities available~~,~~;

(4) ~~s~~Standards established for various federal programs determining eligibility based on income of such persons~~,~~; and

(5) ~~t~~The ability of such persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing.

(k) "Bonds," "notes" or "bond anticipation notes," and "obligations" shall mean any bonds, notes, interim certificates, debentures or other evidences of financial indebtedness issued by the association pursuant to this chapter.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature, appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(m) "Housing authority" or "authority" means a housing authority established pursuant to the "housing authorities and cooperation law" constituting chapter 19, title 50, Idaho Code.

(n) "Rent" shall mean the periodic payment made by a person of low-income in a housing project whether such money is being used as rent, or for the development of equity by such person.

(o) "Interim financing" means a short-term construction loan for planning and/or development of residential housing for persons of low-income and other persons which loan shall run until financing can be assumed through other federal, state or private financing.

(p) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, and corporations, cooperatives, and condominiums, approved by the association as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing project, subject to the regulatory powers of the association and other terms and conditions set forth in this chapter. A "housing sponsor" shall be either a "limited profit" sponsor or a "nonprofit" sponsor.

(q) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, and any other financial institution authorized to transact business in the state.

(r) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a lien on property in the state except in the case of loans insured by the federal housing administration or the association and which are made for the rehabilitation or improvement of existing dwellings; in such case the loans need not be secured by an instrument constituting a lien on property in the state.

(s) "Mixed income housing project" means a housing project which contains dwellings occupied or to be occupied by persons of low-income constituting at least twenty percent (20%) of such occupancy.

(t) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and portions of any of the foregoing and similar ancillary facilities.

(u) "Nonprofit corporation" means a nonprofit corporation organized and operating in accordance with Idaho law or a nonprofit corporation organized and operating in accordance with comparable laws within another state or territory of the United States.

(v) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for a nonprofit purpose of the corporation; provided that facilities for health facilities which may be funded pursuant to chapter 14, title 39, Idaho Code, shall not be included in this definition, except for such health facilities as may be specifically approved by the Idaho health facilities authority. Facilities owned or used, consistent with its nonprofit purpose, by a nonprofit corporation recognized by a state institution of higher education as its college or university foundation shall be considered nonprofit facilities under this chapter.

(w) "Project costs of a nonprofit facility" means costs of:

(1) ~~a~~Acquisition, construction and improvement of any facilities included in a nonprofit facility;

(2) ~~a~~Architectural, engineering, consulting, accounting and legal costs related directly to the development, financing and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility;

(3) ~~f~~Finance costs, including discounts, if any, the costs of issuing bonds, and costs incurred in carrying out any provisions thereof;

(4) ~~i~~Interest during construction and during the six (6) months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(5) ~~t~~The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(6) ~~o~~Other costs incidental to any of the costs listed in this section.

Approved April 14, 2000.

CHAPTER 366
(S.B. No. 1543)

AN ACT

RELATING TO TECHNOLOGICAL INSTRUCTION; AMENDING SECTION 33-1003C, IDAHO CODE, TO EXTEND THE SPECIAL APPLICATION OF THE SCHOOL FOUNDATION PROGRAM FOR TECHNOLOGICAL INSTRUCTION THROUGH SCHOOL YEAR 2000-2001, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1003C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003C. SPECIAL APPLICATION -- TECHNOLOGICAL INSTRUCTION. For the school years 1998-99, ~~and~~ 1999-2000 and 2000-2001, in order to acquire and maintain technology for individualized computer and/or

distance learning programs, a school district may use ~~student's~~ students' documented contact hours on individualized computer education or distance learning programs in determining the district's average daily attendance, whether the student is actually in the computer lab or distance learning center, or has logged on to the computer from another location. A district's technology instruction programs shall be subject to the following provisions:

(1) The certification requirements for an alternative school using the individualized computer education or distance learning program may be met by having a properly certificated teacher available on a consultant tutorial basis. The consultant tutors will be available by telephone, fax, e-mail, or in person at the school site on a daily basis.

(2) Districts claiming average daily attendance pursuant to this section shall submit annual evaluations of the program to the state board of education.

(3) Districts may offer individualized computer education or distance learning programs on a calendar which may differ from the rest of the district's instruction, but in no case may a district claim more average daily attendance for a student than the full-time equivalency of a regular term of attendance for a single student.

(4) Nonalternative high school students may receive individualized computer education or distance learning instruction and credit through an alternative school site.

Approved April 14, 2000.

CHAPTER 367
(S.B. No. 1552)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO CODE, AS AMENDED BY SECTION 1, HOUSE BILL NO. 540, SECOND REGULAR SESSION, FIFTY-FIFTH IDAHO LEGISLATURE TO PROVIDE A SUNSET FOR CERTAIN RECORDS OF THE DEPARTMENT OF CORRECTION FROM BEING EXEMPT FROM DISCLOSURE AND TO PROVIDE THAT RECORDS OF THE COMMISSION OF PARDONS AND PAROLE SHALL BE EXEMPT FROM DISCLOSURE PURSUANT TO CERTAIN STATUTES AND TO PROVIDE THAT RECORDS EXEMPT FROM DISCLOSURE SHALL ALSO INCLUDE THOSE CONTAINING THE NAMES, ADDRESSES AND WRITTEN STATEMENTS OF VICTIMS.

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

SECTION 1. That Section 9-340B, Idaho Code, as amended by Section 1, House Bill No. 540, enacted by the Second Regular Session, 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) Until July 1, 2001, Rrecords 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 and security manuals, plans or codes of county jails and buildings owned or leased by Idaho state government, a county or a city. "Operation manuals" are those internal documents of any state government agency, county or city building or jail that define the procedures utilized to maintain security within the building or jail. "Plans or codes" relate only to those documents, the release of which could jeopardize the safety of workers in those buildings, or adversely affect the public safety.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(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, relat-

ing 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.

(11) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the department of law enforcement. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

Approved April 14, 2000.

CHAPTER 368
(S.B. No. 1553)

AN ACT

RELATING TO PUBLIC RECORDS AND THE CRIMINAL JUSTICE SYSTEM; AMENDING SECTION 9-337, IDAHO CODE, TO DEFINE THE TERM "PRISONER"; AMENDING SECTION 9-342, IDAHO CODE, TO PROVIDE THE RIGHT TO INSPECT AND AMEND RECORDS PERTAINING TO ONESELF DOES NOT INCLUDE THE RIGHT TO REVIEW RECORDS OF A PRISONER MAINTAINED BY THE STATE OR LOCAL AGENCY HAVING CUSTODY OF THE PRISONER OR BY THE COMMISSION OF PARDONS AND PAROLE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-223, IDAHO CODE, TO PROVIDE CERTAIN DESIGNATED REPORTS BE EXEMPT FROM PUBLIC DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 9-337, Idaho Code, be, and the same is hereby amended to read as follows:

9-337. DEFINITIONS. As used in sections 9-337 through 9-347, Idaho Code:

(1) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(2) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(3) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(4) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct which the public agency has regulatory authority or law enforcement authority over.

(5) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(6) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(7) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(8) "Prisoner" means a person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.

(9) "Public agency" means any state or local agency as defined in this section.

(~~9~~10) "Public official" means any state, county, local district or governmental official or employee, whether elected, appointed or hired.

(1~~0~~1) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(1~~1~~2) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia.

(1~~2~~3) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

SECTION 2. That Section 9-342, Idaho Code, be, and the same is hereby amended to read as follows:

9-342. ACCESS TO RECORDS ABOUT A PERSON BY A PERSON. (1) A person may inspect and copy the records of a public agency pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency shall either:

(a) Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 9-343 and 9-344, Idaho Code, and the court may award reasonable costs and attorney's fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review:

(a) O~~o~~therwise exempt investigatory records of a public agency if the investigation is ongoing~~,~~;

(b) I~~i~~nformation that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable; ~~or~~

(c) T~~t~~he information relates to adoption records; ~~or~~

(d) I~~i~~nformation which is otherwise exempt from disclosure by statute or court rule;

(e) Records of a prisoner maintained by the state or local agency having custody of the prisoner or by the commission of pardons and parole.

SECTION 3. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE~~,~~ AND 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 designated report prepared by commission staff or a designated department of correction employee which is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, victim information, designated confidential witness information and criminal history information. 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 April 14, 2000.

CHAPTER 369
(S.B. No. 1556)

AN ACT

RELATING TO THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-715, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF FISH AND GAME MAY MEET AND CONFER WITH GOVERNMENT ENTITIES AND INDIAN TRIBES TO DISCUSS PLANS FOR WOLF REINTRODUCTION OR FOR MONITORING WOLF REINTRODUCTION AND WOLF RECOVERY PROGRAMS, TO PROVIDE THAT THE DEPARTMENT MAY COOPERATE WITH GOVERNMENT ENTITIES AND INDIAN TRIBES REGARDING DAMAGE COMPLAINTS, DEPREDATION AND CONFLICTS REGARDING WOLVES IN THIS STATE AND TO PROHIBIT CERTAIN ACTS BY THE DEPARTMENT OF FISH AND GAME; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-715, Idaho Code, be, and the same is hereby amended to read as follows:

36-715. DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING THE ENDANGERED SPECIES ACT. (1) Since wolf/dog hybridizations are known to exist within Idaho and these hybrids are not protected by the United States endangered species act, a biological evaluation shall be required of the animal to determine species priority before the department of fish and game may take any action in accordance with the United States endangered species act.

(2) The department of fish and game shall not be authorized to expend funds, transfer assets or enter into a cooperative agreement with any agency, department or entity of the United States government concerning wolves unless expressly authorized by state statute except that the department is authorized to provide a representative to participate on the northern rocky mountain wolf recovery team and to participate in activities regarding nuisance wolves, and except that the department is allowed to meet and confer with state, local and federal agencies, departments or entities or federally recognized Indian tribes to discuss those federal or tribal entities' plans for wolf reintroduction or for monitoring wolf reintroduction and wolf recovery programs. Additionally, the department may cooperate with counties, federal agencies, departments or entities or federally recognized Indian tribes regarding damage complaints, depredation, and conflicts regarding wolves in this state. The department of fish and game is not authorized to participate in investigations or enforcement actions involving violations of the final rules of the United States fish and wildlife service or section 9 of the United States endangered species act, as the final rules and section 9 regulate the reintroduction of wolves into central Idaho.

(3) If a wolf is sighted, the burden of proof concerning the reported presence of the wolf within Idaho shall rest with the observer and the department of fish and game shall take no action to enforce the United States endangered species act regarding wolves in absence of that proof.

(4) From the effective date of this act through December 31, 2002, the department of fish and game is authorized to work in conjunction with the wolf oversight committee, as established by the wolf EIS participation plan dated February, 1992, in the development and implementation of an Idaho wolf management plan, provided that:

(a) The department is authorized to work in conjunction with the wolf oversight committee to develop and coordinate wolf management plans with state agency officials of the states of Wyoming and Montana.

(b) Any Idaho wolf management plan so developed by the department and wolf oversight committee shall take into consideration local economies, custom, culture, and private property rights. The department and the wolf oversight committee may consult with federal entities and coordinate with state and local government entities in the development of the plan.

(c) Upon completion of an Idaho wolf management plan, the department and the wolf oversight committee shall provide a report to the senate resources and environment committee and to the house resources and conservation committee and shall provide written copies to all interested parties. When the plan is complete, the speaker of the house of representatives and the president pro tem-

pore of the senate may authorize a joint meeting of the senate resources and environment committee and the house resources and conservation committee to be held during the interim to review the Idaho wolf management plan.

(d) Members of the wolf oversight committee shall serve without compensation, but shall be reimbursed actual expenses for attending meetings of the committee from funds provided by the department of fish and game at prevailing state rates.

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

Approved April 14, 2000.

CHAPTER 370
(S.B. No. 1569, As Amended in the House)

AN ACT

RELATING TO LOTTERIES; AMENDING SECTION 18-4904, IDAHO CODE, TO PROVIDE THAT ASSISTING OR AIDING IN ADVERTISING AN ILLEGAL LOTTERY IS A MISDEMEANOR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-4904, Idaho Code, be, and the same is hereby amended to read as follows:

18-4904. ASSISTING IN LOTTERY. Every person who aids or assists, either by printing, writing, ~~advertising,~~ publishing, or otherwise, in setting up, managing or drawing any lottery, or in selling or disposing of any ticket, chance, or share therein, <u>or in advertising an illegal lottery,</u> is guilty of a misdemeanor.

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

Approved April 14, 2000.

CHAPTER 371
(S.B. No. 1572, As Amended, As Amended)

AN ACT

RELATING TO THE IDAHO LIFE AND HEALTH GUARANTY ASSOCIATION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 41-3931, IDAHO CODE, TO PROVIDE THAT MANAGED CARE ORGANIZATIONS ARE MEMBERS OF THE ASSOCIATION; AMENDING SECTION 41-4302, IDAHO CODE, TO REVISE THE PURPOSE OF THE ACT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION

41-4303, IDAHO CODE, TO PROVIDE COVERAGE FOR MANAGED CARE CONTRACTS OF DISABILITY INSURERS; AMENDING SECTION 41-4308, IDAHO CODE, TO EXCLUDE COVERAGE OF CONTRACTUAL OBLIGATIONS OWED TO NONRESIDENTS UNDER A MANAGED CARE PLAN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4309, IDAHO CODE, TO PROVIDE THAT A MANAGED CARE ORGANIZATION SHALL NOT BE SUBJECT TO A CLASS B OR CLASS C ASSESSMENT FOR ANY DOMESTIC, FOREIGN OR ALIEN INSURER THAT IS DECLARED INSOLVENT BY ANY COURT PRIOR TO JULY 1, 2000 AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that at least one member of the board of directors of the Idaho Life and Health Guaranty Association be a managed care organization on and after July 1, 2000.

SECTION 2. That Section 41-3931, Idaho Code, be, and the same is hereby amended to read as follows:

41-3931. PARTICIPATION IN IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION. ~~BY THE YEAR 2000,~~ (1) ~~By the conclusion of the year 2000,~~ ~~e~~Each organization offering a managed care plan for which a certificate of authority is required under this chapter shall, as a condition of its authority to ~~continue to~~ offer managed care plans in this state, become a member ~~of a~~ insurer of the Idaho life and health insurance guaranty association ~~having as its purpose the protection of all members of the managed care organization in this state against failure by the organization in the performance of its obligations due to impairment or insolvency~~ established under chapter 43, title 41, Idaho Code.

(2) The director may take such actions and promulgate such rules as may be necessary to effectuate the provisions of this section.

SECTION 3. That Section 41-4302, Idaho Code, be, and the same is hereby amended to read as follows:

41-4302. PURPOSE. The purpose of this act is to protect policyowners, insureds, members, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, managed care plans, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of insolvency of the insurer issuing such policies or contracts. To provide this protection~~,~~: (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, to residents~~,~~; (2) members of the association are subject to assessment to provide funds to carry out the purpose of this act~~,~~; and (3) the association is authorized to assist the director in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

SECTION 4. That Section 41-4303, Idaho Code, be, and the same is hereby amended to read as follows:

41-4303. APPLICATION OF ACT. (1) This act shall apply to direct life insurance policies, contractual obligations of managed care plans to members of such plans only, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at any time.

(2) This act shall not apply to:

(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

(b) That portion or part of any policy or contract under which the risk is borne by the policyholder;

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(d) Any such policy or contract issued by a reciprocal insurer, mutual benefit association, fraternal benefit society, hospital and medical service corporation, ~~health maintenance--organization,~~ limited managed care plan, or self-funded health care plan; or

(e) Any unallocated annuity contract.

SECTION 5. That Section 41-4308, Idaho Code, be, and the same is hereby amended to read as follows:

41-4308. POWERS AND DUTIES OF THE ASSOCIATION. In addition to the powers and duties enumerated in other sections of this act:

(1) If a domestic insurer is an impaired insurer, the association may, subject to any conditions imposed by the association, other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the director:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of residents of the impaired insurers;

(b) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are proper to effectuate and assure payment of the contractual obligations to residents of the impaired insurer pending action under ~~subsection~~ paragraph (a) ~~above~~ of this subsection;

(c) Loan money to the impaired insurer.

(d) This chapter shall provide coverage for the policies and contracts specified in subsection (1) of this section, for persons who are not residents, but only under the following conditions:

(i) The insurers which issued such policies or contracts are domiciled in this state; ~~and~~

(ii) The director has determined that by statute, similar protection is not available for such nonresidents as that provided in this chapter for residents of this state; and

(iii) The policy or contract establishing or creating the obligation is not a managed care plan.

(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of residents of the insolvent insurer;

(b) Assume payment of the contractual obligations to residents of the insolvent insurer; and

(c) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

(d) This chapter shall provide coverage for the policies and contracts specified in subsection (2) of this section, for persons who are not residents, but only under the following conditions:

(i) The insurers which issued such policies or contracts are domiciled in this state; ~~and~~

(ii) The director has determined that by statute, similar protection is not available for such nonresidents as that provided by this chapter for residents of this state; and

(iii) The policy or contract establishing or creating the obligation is not a managed care plan.

(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of residents;

(b) Assure payment of the contractual obligations of the insolvent insurer to residents; and

(c) Provide such ~~monies~~ moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

Provided, however, that this subsection shall not apply where the director has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this act for residents of this state.

(4) (a) In carrying out its duties under subsections (2) and (3) of this section, permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:

(i) Finds that the amounts which can be assessed under this act are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest; and

(ii) Approves the specific policy liens or contract liens to be used.

(b) Before being obligated under subsections (2) and (3) of this section the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of cash or policy loan values and such temporary moratoriums and liens may be imposed if they are approved by the court.

(5) If the association fails to act within a reasonable period of time as provided in subsections (2) and (3) of this section, the

director shall have the powers and duties of the association under this act with respect to insolvent insurers.

(6) The association may render assistance and advice to the director upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(7) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this act. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

(8) (a) Any person receiving benefits under this act shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this act whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this act upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this act.

(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer would have been in the absence of an insolvency unless such obligations are reduced as permitted by subsection (4) of this section but the aggregate liability of the association shall not exceed one hundred thousand dollars ($100,000) in cash values, or three hundred thousand dollars ($300,000) for all benefits, including cash values, with respect to any one life.

(10) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this act;

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 41-4309, Idaho Code;

(c) Borrow money to effect the purposes of this act. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary to handle the financial transactions of the association and to perform such other functions as become necessary or proper under this act;

(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(f) Take such legal action as may be necessary to avoid payment of improper claims;

(g) Exercise, for the purposes of this act and to the extent approved by the director, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

SECTION 6. That Section 41-4309, Idaho Code, be, and the same is hereby amended to read as follows:

41-4309. ASSESSMENTS. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at eight percent (8%) per annum on and after the due date.

(2) There shall be three (3) classes of assessments, as follows:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under the authority of subsection (5) of section 41-4312 and of section 41-4315, Idaho Code.

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 41-4308, Idaho Code, with regard to an impaired or insolvent domestic insurer.

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 41-4308, Idaho Code, with regard to an insolvent foreign or alien insurer.

(3) (a) The amount of any class A assessment shall be determined by the board and may be made on a ~~nonprorata~~ <u>non pro rata</u> basis. Such assessment shall be credited against future insolvency assessments. The amount of any class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies.

(b) Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessments bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(c) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account

for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.

(d) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this act. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(e) Notwithstanding any other provision of this section, a managed care organization shall not be subject to a class B or class C assessment for any domestic, foreign or alien insurer that is declared insolvent by any court prior to July 1, 2000.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent (2%) of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this act.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this act, to consider the amount reasonably necessary to meet its assessment obligations under this act.

(8) The association shall issue to each insurer paying an assessment under this act, other than a class A assessment, a certificate of

contribution, in a form prescribed by the director, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the director may approve.

Approved April 14, 2000.

CHAPTER 372
(S.B. No. 1573)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-223, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 549, AS AMENDED, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO FURTHER CLARIFY ATTORNEY FEE OBLIGATIONS WHEN A RECOVERY IS MADE AGAINST A THIRD PARTY.

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

SECTION 1. That Section 72-223, Idaho Code, as amended by House Bill No. 549, As Amended, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

72-223. THIRD PARTY LIABILITY. (1) The right to compensation under this law shall not be affected by the fact that the injury, occupational disease or death is caused under circumstances creating in some person other than the employer a legal liability to pay damages therefor, such person so liable being referred to as the third party. Such third party shall not include those employers described in section 72-216, Idaho Code, having under them contractors or subcontractors who have in fact complied with the provisions of section 72-301, Idaho Code; nor include the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workmen there employed.

(2) Action may be instituted against such third party by the employee, or in event compensation has been claimed and awarded, by the employee and employer jointly, in the employee's name, or, if the employee refuses to participate in such action, by the employer in the employee's name.

(3) If compensation has been claimed and awarded, the employer having paid such compensation or having become liable therefor, shall be subrogated to the rights of the employee, to recover against such third party to the extent of the employer's compensation liability.

(4) Unless otherwise agreed, upon any recovery by the employee against the third party, the employer shall pay or have deducted from its subrogated portion thereof, a proportionate share of the costs and

attorney's fees incurred by the employee in obtaining such recovery unless one (1) or more of the following circumstances exist:

(a) If prior to the date of a written retention agreement between the employee and an attorney, the employer has reached an agreement with the third party, in writing, ~~acknowledging~~ agreeing to pay in full the ~~third-party's obligation to pay the~~ employer's subrogated interest;

(b) If the employee alleges or asserts a position in the third party claim adverse to the employer, then the commission shall have jurisdiction to determine a reasonable fee, if any, for services rendered to the employer;

(c) If there is a joint effort between the employee and employer to pursue a recovery from the third party, then the commission shall have jurisdiction to determine a reasonable fee, if any, and apportion the costs and attorney's fees between the employee and employer.

(5) If the amount recovered from the third party exceeds the amount of the subrogated portion payable to the employer for past compensation benefits paid, then to the extent the employer has a future subrogated interest in that portion of the third party recovery paid to the employee, the employer shall receive a credit against its future liability for compensation benefits. Such credit shall apply as future compensation benefits become payable, and the employer shall reimburse the employee for the proportionate share of attorney's fees and costs paid by the employee in obtaining that portion of the third party recovery corresponding to the credit claimed. The employer shall not be required to pay such attorney's fees and costs related to the future credit prior to the time the credit is claimed. However, the employer and employee may agree to different terms if approved by the industrial commission.

(6) If death results from the injury or occupational disease and if the employee leaves no dependents entitled to benefits under this law, the surety shall have a right of action against the third party for recovery of income benefits, reasonable expenses of medical and related services and burial expense actually paid by the surety and for recovery of amounts paid into the industrial special indemnity account pursuant to section 72-420, Idaho Code, and such right of action shall be in addition to any cause of action of the heirs or personal representatives of the deceased.

(7) All rights and restrictions herein granted to the employer have previously been intended to be, and are hereby expressly granted to the industrial special indemnity account.

Approved April 14, 2000.

CHAPTER 373
(S.B. No. 1576)

AN ACT

RELATING TO THE LEGISLATURE; AMENDING SECTION 67-451, IDAHO CODE, TO PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE

SPEAKER OF THE HOUSE OF REPRESENTATIVES ARE AUTHORIZED TO MAKE EXPENDITURES OUT OF THE LEGISLATIVE ACCOUNT FOR NECESSARY EXPENSES OF THE LEGISLATURE, TO PROVIDE THAT THE SIGNATURE OF THE PRESIDENT PRO TEMPORE OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON ANY VOUCHER OR CLAIM FOR PAYMENT SHALL BE SUFFICIENT AUTHORITY FOR THE STATE CONTROLLER TO PAY, TO PROVIDE FOR DELIVERY OF FINANCIAL REPORTS TO THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-451, Idaho Code, be, and the same is hereby amended to read as follows:

67-451. LEGISLATIVE ACCOUNT CREATED -- DUTIES OF CONTROLLER -- DISBURSEMENTS FROM ACCOUNT -- REPORT OF DISBURSEMENTS. (1) There is hereby created in the state treasury the legislative account. The legislative account shall consist of such moneys as are placed into it by other appropriations, by receipts paid into the legislative account, and the moneys appropriated and transferred into it according to the provisions of this act.

(2) There is hereby appropriated out of the general ~~account~~ fund and transferred into the legislative account, and commencing July 1, 1993, the state controller is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

January 1	$1,175,000
March 1	$1,175,000
June 1	$925,000
September 1	$1,075,000

(3) The ~~presiding officers of each house of the legislature~~ president pro tempore of the senate and the speaker of the house of representatives are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall include, but are not necessarily limited to salaries and wages of officers, members, and employees of the legislature, consultants and other expert or professional personnel, travel expenses of officers, members, and employees of the legislature, other current expenses incurred in any operation or function of the legislature, premiums for life, accidental death and dismemberment, hospital, medical, surgical and major medical insurance for members of the legislature during their terms of office, and for employees of the legislature during the period of their employment, and capital outlay items necessary for any operation or function of the legislature. The signature of ~~a presiding officer~~ the president pro tempore of the senate or the speaker of the house of representatives on any voucher or claim for payment shall be sufficient authority for the state controller to pay the same. Expenses for any interim activity of the legislature or legislators shall be paid in the same manner. Expenses for any interim legislative committees shall be paid in the same manner, if previously

authorized by concurrent resolution.

(4) The state controller is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers may instruct the state controller. A copy of such report must be delivered to the ~~presiding officer of each house of the legislature~~ president pro tempore of the senate and the speaker of the house of representatives and to the governor by no later than the fifth working day of the following month.

Approved April 14, 2000.

CHAPTER 374
(S.B. No. 1581)

AN ACT

CREATING THE LIQUOR WAREHOUSE PURCHASE FUND AND PROVIDING A SUNSET DATE; DIRECTING THE STATE CONTROLLER TO TRANSFER CERTAIN FUNDS; APPROPRIATING MONEYS TO THE LIQUOR DISPENSARY FOR FISCAL YEAR 2003; AND DIRECTING THE LIQUOR DISPENSARY TO EXERCISE THE PURCHASE OPTION ON ITS CENTRAL WAREHOUSE ON A CERTAIN DATE.

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

SECTION 1. There is hereby created in the state treasury the Liquor Warehouse Purchase Fund. This fund shall consist of moneys transferred to the fund pursuant to legislative action, and any interest earned on moneys in the fund shall be credited to the Liquor Control Fund. On June 30, 2003, the State Controller shall transfer any unexpended and unencumbered moneys in the Liquor Warehouse Purchase Fund to the Liquor Control Fund. The Liquor Warehouse Purchase Fund shall cease to exist after June 30, 2003.

SECTION 2. On July 1 of 2000, 2001 and 2002, the State Controller shall transfer $788,900 from the Liquor Control Fund to the Liquor Warehouse Purchase Fund, for a total of $2,366,700.

SECTION 3. There is hereby appropriated to the Office of the Governor for the State Liquor Dispensary the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2002, through June 30, 2003, according to the provisions of Section 4 of this act:

FOR:

Capital Outlay	$2,366,700

FROM:

Liquor Warehouse Purchase Fund	$2,366,700

SECTION 4. The State Liquor Dispensary is hereby directed to exercise the purchase option under the terms of the lease agreement for its central office and warehouse facility on August 1, 2002. This purchase shall be paid for by funds appropriated in Section 3 of this act.

Approved April 14, 2000.

CHAPTER 375
(S.B. No. 1582)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 254, Laws of 1999, there is hereby appropriated to the Office of the Governor for the Military Division the following amounts, to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1999, through June 30, 2000:

BUREAU OF DISASTER SERVICES:

FOR:

Trustee and Benefit Payments	$725,400

FROM:

General Fund	$187,400
Local Highway Distribution Fund (0259-01)	250,000
State Highway Restricted Disaster Fund (0260-06)	288,000
TOTAL	$725,400

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

Approved April 14, 2000.

CHAPTER 376
(H.B. No. 548)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1903, IDAHO CODE, TO INCREASE THE VALUE OF WORK EXEMPT FROM THE PROVISIONS OF THIS CHAPTER.

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

SECTION 1. That Section 54-1903, Idaho Code, be, and the same is hereby amended to read as follows:

54-1903. EXEMPTIONS. This act shall not apply to:

(a) An authorized representative of the United States government, the state of Idaho, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state.

(b) Officers of a court when they are acting within the scope of their office.

(c) Public utilities operating under the jurisdiction of the public utilities commission of the state of Idaho on construction, maintenance and development work incidental to their own business.

(d) The sale or installation of any finished products, materials or articles of merchandise, which are not actually fabricated into and do not become a permanent fixed part of the structure.

(e) Any construction, alteration, improvement or repair of personal property.

(f) Any construction, alteration, improvement or repair carried on within the limits and boundaries of any site or reservation, the title of which rests in the federal government.

(g) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, drainage districts or reclamation districts, except when performed by a person required to be licensed under this act.

(h) Duly licensed architects, civil engineers, and land surveyors when acting solely in their professional capacity.

(i) Any construction, alteration, improvement or repair involving an estimated cost of less than ~~five~~ ten thousand dollars ($~~5~~10,000).

(j) Any construction, operation, alteration or maintenance of a solid waste disposal site including those operated by, for, or at the direction of a city or a county.

(k) Any construction, operation or repair carried on in response to an emergency that has been officially declared by the governor pursuant to the provisions of chapter 10, title 46, Idaho Code, or an emergency that has been declared by a governing body (city or county) in anticipation of a governor's declaration, for a period of time not to exceed seven (7) calendar days.

Approved April 14, 2000.

CHAPTER 377
(H.B. No. 551)

AN ACT

RELATING TO AFFIDAVITS; AMENDING SECTION 55-816, IDAHO CODE, TO PROVIDE ANY AFFIDAVIT AS TO THE IDENTIFICATION OF PLATS OR DESCRIPTIONS OF REAL PROPERTY SIGNED BY THE GRANTOR AND GRANTEE NAMED IN THE DOCUMENT OF TRANSFER WHICH CONTAINS THE DESCRIPTIONS BEING CORRECTED OR IF THE GRANTOR IS NOT AVAILABLE THEN THE AFFIDAVIT MUST BE SIGNED BY THE GRANTEE AND INDEXED UNDER THE NAME OF BOTH THE GRANTOR AND GRANTEE, MAY BE RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY WHEREIN THE REAL PROPERTY IS SITUATE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 55-816, Idaho Code, be, and the same is hereby amended to read as follows:

55-816. AFFIDAVITS. Any affidavit setting forth facts showing or explaining marital status, identity of persons, possession of real property when the title thereof is deraigned through tax deed, delivery of deed by grantor during grantor's lifetime, occupation of real property as a homestead, date of birth, date of death, date of marriage, or place ~~or~~ of residence, with respect to any person mentioned in any recorded instrument affecting title to real property, and also any affidavit as to the identification of plats or descriptions of real property signed by the grantor and grantee named in the document of transfer which contains the descriptions being corrected or, if the grantor is not available, then the affidavit must be signed by the grantee and indexed under the name of both the grantor and grantee, may be recorded in the office of the county recorder of the county wherein the real property is situate; and any such recorded affidavit or the record or certified copy thereof whether heretofore or hereafter recorded shall constitute a part of the record of title to the real property to which it relates and may be received in evidence in any cause affecting the title to such real property, by all courts and all boards, and before all officers, in the state of Idaho as part of such record of title.

Approved April 14, 2000.

CHAPTER 378
(H.B. No. 587)

AN ACT

RELATING TO MORTGAGE GUARANTY INSURANCE; AMENDING SECTION 41-2651, IDAHO CODE, TO REVISE THE DEFINITION OF "AUTHORIZED REAL PROPERTY SECURITY" TO PROVIDE THAT MORTGAGE GUARANTY INSURANCE MAY INSURE INDEBTEDNESS IN AN AMOUNT UP TO ONE HUNDRED PERCENT OF THE FAIR

MARKET VALUE OF THE REAL PROPERTY WHICH IS THE SECURITY FOR THE INDEBTEDNESS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-2651, Idaho Code, be, and the same is hereby amended to read as follows:

41-2651. DEFINITIONS. In this chapter unless context or subject matter otherwise requires:

(1) "Mortgage guaranty insurance" means:

(a) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a residential building or buildings designed for occupancy by not more than four (4) families, or a condominium unit.

(b) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a building or buildings designed for occupancy by five (5) or more families or designed to be occupied for industrial or commercial purposes.

(c) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real property, provided the improvement on such real property is a building or buildings designed to be occupied for industrial or commercial purposes.

(2) "Authorized real property security" for the purposes of paragraphs (a) and (b) of subsection (1) of this section means an amortized note, bond or other evidence of indebtedness, not exceeding ~~ninety-seven-per-cent~~ one hundred percent (~~97~~100%) of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real property; provided:

(a) The real property loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make.

(b) The improvement on such real property is a building or buildings designed for occupancy as specified by paragraphs (a) and (b) of subsection (1) of this section.

(c) The lien on such real property may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no ~~instalment~~ installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way of support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(3) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles or losses.

(4) "Policyholders' surplus" means the aggregate of paid-in capital stock, surplus and contingency reserve.

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

Approved April 14, 2000.

CHAPTER 379
(H.B. No. 751)

AN ACT
APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2001; 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 Self-Governing Agencies 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 30,500	$ 9,500			$ 40,000
II. BOARD OF PHARMACY:					
FROM:					
State Regulatory Fund	$ 439,800	$ 263,200	$ 31,500		$ 734,500
III. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 216,100	$ 205,200	$ 3,800		$ 425,100
IV. BOARD OF DENTISTRY:					
FROM:					
State Regulatory Fund	$ 137,200	$ 125,800	$ 2,000		$ 265,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 184,300	$ 183,300	$ 5,000		$ 372,600
VI. BOARD OF MEDICINE:					
FROM:					
State Regulatory Fund	$ 532,300	$ 631,600	$ 4,700		$1,168,600
VII. BOARD OF NURSING:					
FROM:					
State Regulatory Fund	$ 356,500	$ 308,900	$ 15,100		$ 680,500
VIII. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 722,200	$ 568,200		$ 50,000	$1,340,400
IX. PUBLIC WORKS CONTRACTORS LICENSE BOARD:					
FROM:					
State Regulatory Fund	$ 225,100	$ 97,800	$ 5,000		$ 327,900
X. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 699,600	$ 359,200	$ 21,700		$1,080,500
XI. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 26,200	$ 17,600			$ 43,800
XII. BOARD OF OPTOMETRY:					
FROM:					
State Regulatory Fund	$ 2,500	$ 23,800			$ 26,300
XIII. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 11,200	$ 12,300			$ 23,500
XIV. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 246,000	$ 175,600	$ 11,100		$ 432,700
XV. BOARD OF VETERINARY MEDICINE:					
FROM:					
State Regulatory Fund	$ 89,000	$ 93,600	$ 3,000		$ 185,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XVI. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General Fund	$ 83,100	$ 32,100			$ 115,200
Federal Grant Fund	157,100	48,800		$15,400	221,300
Miscellaneous Revenue Fund	83,300	45,700		10,000	139,000
TOTAL	$ 323,500	$ 126,600		$25,400	$ 475,500
XVII. BOARD OF EXAMINERS:					
FROM:					
General Fund				$ 7,500	$ 7,500
GRAND TOTAL	$4,242,000	$3,202,200	$102,900	$82,900	$7,630,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Self-Governing Agencies listed below is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

State Athletic Commission ..... Zero (0)
Board of Pharmacy ..... Nine and seventy-five hundredths (9.75)
Board of Accountancy ..... Five (5)
Board of Dentistry ..... Two (2)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Board of Medicine ..... Twelve (12)
Board of Nursing ..... Eight (8)
Bureau of Occupational Licenses ..... Seventeen (17)
Public Works Contractors State Licensing Board ..... Five (5)
Idaho Real Estate Commission ..... Sixteen (16)
Professional Geologists Board ..... Sixty-two hundredths (.62)
Board of Optometry ..... Zero (0)
Idaho Certified Shorthand Reporters Board .....
..... Twenty-five hundredths (.25)
Outfitters and Guides Board ..... Five (5)
Board of Veterinary Medicine ..... Two (2)
Commission on Hispanic Affairs ..... Six (6)
Board of Examiners ..... Zero (0)

Approved April 14, 2000.

CHAPTER 380
(H.B. No. 753)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:					
FROM:					
General Fund	$ 417,000	$ 972,900	$10,200		$1,400,100
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General Fund	$ 615,100	$ 61,500	$10,300	$2,060,200	$2,747,100
Unrestricted Current Fund	22,600	8,700		105,000	136,300
TOTAL	$ 637,700	$ 70,200	$10,300	$2,165,200	$2,883,400
III. IDEP DENTAL EDUCATION:					
FROM:					
General Fund	$ 162,600	$ 13,300	$ 6,000	$ 438,500	$ 620,400
Unrestricted Current Fund	76,900				76,900
TOTAL	$ 239,500	$ 13,300	$ 6,000	$ 438,500	$ 697,300
IV. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General Fund				$ 689,100	$ 689,100
V. FAMILY PRACTICE RESIDENCIES:					
FROM:					
General Fund	$ 363,400	$ 101,500	$ 1,500	$ 466,400	$ 932,800
GRAND TOTAL	$1,657,600	$1,157,900	$28,000	$3,759,200	$6,602,700

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, 2000, through June 30, 2001, 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 356, Laws of 1999, for each respective program to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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, 2000, 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, 2000, 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 April 14, 2000.

CHAPTER 381
(H.B. No. 754)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2001; 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 following programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIVISION OF FINANCIAL MANAGEMENT:				
FROM:				
General Fund	$1,879,900	$294,100	$24,400	$2,198,400
Miscellaneous Revenue Fund	23,300	7,500		30,800
TOTAL	$1,903,200	$301,600	$24,400	$2,229,200
II. SILVER VALLEY TRUST FUND:				
FROM:				
Silver Valley Trust Fund	$ 63,600	$200,000		$ 263,600
GRAND TOTAL	$1,966,800	$501,600	$24,400	$2,492,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than twenty-six (26) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 382
(H.B. No. 756)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2001; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2001 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, 2000, 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, 2001, 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 Second Regular Session of the Fifty-fifth Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2001, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-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, 2001, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 14, 2000.

CHAPTER 383
(H.B. No. 758)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 2001.

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, 2000, through June 30, 2001:

FOR:	
Trustee and Benefit Payments	$15,846,800
FROM:	
General Fund	$15,846,800

Approved April 14, 2000.

CHAPTER 384
(H.B. No. 759)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2001; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO COOPERATIVE SERVICE AGENCIES QUALIFYING AND FUNCTIONING AS PROFESSIONAL-TECHNICAL SCHOOLS.

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

SECTION 1. There is hereby appropriated to the State Board for Professional-Technical Education the following amounts, to be expended by the Division of Professional-Technical Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:						
FROM:						
General Fund	$1,429,400	$235,600	$40,000			$ 1,705,000
Federal Grant Fund	209,900	93,400				303,300
TOTAL	$1,639,300	$329,000	$40,000			$ 2,008,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
II. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 220,500	$ 37,600	$ 7,000	$ 9,884,500		$10,149,600
Hazardous Materials/ Waste Enforcement Fund				66,800		66,800
Federal Grant Fund	203,500	15,100		4,386,200		4,604,800
TOTAL	$ 424,000	$ 52,700	$ 7,000	$14,337,500		$14,821,200
III. POSTSECONDARY PROGRAMS:						
FROM:						
General Fund					$31,254,400	$31,254,400
Unrestricted Current Fund					217,000	217,000
TOTAL					$31,471,400	$31,471,400
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:						
FROM:						
General Fund				$ 231,400		$ 231,400
Displaced Homemaker Fund				170,000		170,000
Federal Grant Fund				1,804,600		1,804,600
TOTAL				$ 2,206,000		$ 2,206,000
GRAND TOTAL	$2,063,300	$381,700	$47,000	$16,543,500	$31,471,400	$50,506,900

SECTION 2. There is hereby reappropriated to the State Board for Professional-Technical Education for the Division of Professional-Technical Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 186, Laws of 1999, to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Division of Professional-Technical Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. A cooperative service agency as provided in Section 33-317, Idaho Code, may qualify and function as a professional-technical school provided that the criteria outlined in Section 33-1002G, Idaho Code, and by the State Board for Professional-Technical Education for approval of professional-technical programs have been met. A cooperative service agency operating a professional-technical school meeting requirements of subsections (1), (2) and (3) of Section 33-1002G, Idaho Code, would also be deemed as meeting requirements of subsections (4) and (5) of Section 33-1002G, Idaho Code.

Approved April 14, 2000.

CHAPTER 385
(H.B. No. 760)

AN ACT

RELATING TO JUDGES' RETIREMENT AND JUDICIAL SERVICE AFTER RETIREMENT; REPEALING SECTION 1-2001, IDAHO CODE; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2001, IDAHO CODE, TO PROVIDE FOR THE AGE OF RETIREMENT AND COMPENSATION ON RETIREMENT OF A JUSTICE OR JUDGE; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2001b, IDAHO CODE, TO ALLOW THE CONVERSION OF RETIREMENT COMPENSATION INTO OPTIONAL RETIREMENT ALLOWANCES; REPEALING SECTION 1-2005, IDAHO CODE; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2005, IDAHO CODE, TO PROVIDE FOR JUDICIAL SERVICE BY RETIRED SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES; AMENDING SECTION 1-2009, IDAHO CODE, TO INCREASE THE SPOUSAL BENEFIT, TO PROVIDE AN OPTIONAL RETIREMENT ALLOWANCE TO A SURVIVING SPOUSE OF A DECEASED JUSTICE OR JUDGE WHO WAS NOT RECEIVING RETIREMENT BENEFITS AT THE TIME OF DEATH AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2010, IDAHO CODE, TO PROVIDE THAT COMPENSATION PAID TO AN ANNUITANT SHALL BE INCLUDED IN THE COMPUTATION TO DETERMINE THE AMOUNT OF ANY DEATH BENEFIT THAT IS PAYABLE TO A BENEFICIARY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 1-2221, IDAHO CODE; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2221, IDAHO CODE, TO PROVIDE FOR JUDICIAL SERVICE BY RETIRED MAGISTRATE JUDGES; AND AMENDING SECTION 67-5339, IDAHO CODE, TO ALLOW JUSTICES AND JUDGES WHO RETIRE UNDER THE JUDGES' RETIREMENT SYSTEM TO RECEIVE CREDIT FOR A PERCENTAGE OF UNUSED SICK LEAVE EARNED AFTER JULY 1, 2000, TO PAY PREMIUMS ON STATE GROUP INSURANCE PROGRAMS.

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

SECTION 1. That Section 1-2001, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2001, Idaho Code, and to read as follows:

1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT. (1) Every person who served as a justice of the supreme court or judge of the court of appeals or district judge of the district court and is receiving benefits from the judges' retirement fund for such service, shall be entitled to benefits from the fund according to the formula for calculating such benefits as provided in section 1-2001(2)(a), Idaho Code.

(2) Any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state shall prior to retirement elect in writing to retire under either paragraph (a) or (b) of this subsection. Any person who fails to make the election provided for in this subsection prior to retirement shall receive retirement compensation under the provisions of paragraph (a) of this subsection.

(a) On or after July 1, 2000, any person who has served or who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may leave office or retire and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which he served. The percentage shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, but in any event the total shall not be greater than seventy-five percent (75%) of the current annual compensation of the highest office in which he served, payable in monthly installments on the first day of each month.

(b) On or after July 1, 2000, any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may retire from office and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which he served. The percentage shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, plus two and one-half percent (2 1/2%) multiplied by five (5) years senior judge service but in any event the total shall not be greater than seventy-five percent (75%) of the current annual compensation of the highest office in which he served, payable in monthly installments on the

first day of each month.

(c) A justice or judge electing to retire under paragraph (b) of this subsection shall serve as a senior judge, without compensation other than annual health benefits, for thirty-five (35) days per year for a period of five (5) years. A justice or judge who serves more than thirty-five (35) days per year may carry over the additional days to fulfill the senior judge service obligation in future years. The terms and conditions of such senior judge service shall be as provided under section 1-2005, Idaho Code.

(d) Upon certification from the chief justice that any justice or judge who retired under paragraph (b) of this subsection has failed to perform the senior judge services required under paragraph (c) of this subsection, and has not been relieved of the obligations to perform those services in the manner provided by this subsection, the judges' retirement fund shall recalculate the retirement compensation benefits of the noncomplying justice or judge under paragraph (a) of this subsection, and the noncomplying justice or judge shall thereafter receive only the recalculated amount.

(e) A justice or judge may be relieved of the senior judge service obligation imposed by this subsection if he fails for good cause to complete the obligation. A retired justice or judge who is relieved of the obligation to serve as a senior judge shall continue to receive the retirement allowance provided under paragraph (b) of this subsection.

(f) "Good cause" includes, but is not limited to:

(i) Physical or mental incapacitation of a justice or judge that prevents the justice or judge from discharging the duties of judicial office;

(ii) Failure of the supreme court to assign a senior judge to the requisite amount of senior judge service, whether because of insufficient need for senior judges, a determination by the supreme court that the skills of a senior judge do not match the needs of the courts, clerical mistake or otherwise; or

(iii) Death of a senior judge.

(g) "Good cause" does not include:

(i) A senior judge's refusal, without good cause, to accept senior judge assignments sufficient to meet the required amount; or

(ii) A senior judge's affirmative voluntary act that makes him unqualified to serve as a judge of this state including, but not limited to, failure to maintain a residence within the state, commencing the practice of law other than as a mediator, arbitrator or similar alternative dispute resolution function, acceptance of a position in another branch of state government or political subdivision, or the acceptance of a position in the government of the United States or of another state or nation.

(h) The supreme court may make rules for the implementation of this subsection.

(3) On or after July 1, 2000, each person who has served but is not receiving benefits or who is now serving or who shall hereafter

serve who shall leave office or retire as justice of the supreme court, judge of the court of appeals, or district judge of a district court in this state shall be eligible to receive an annual retirement compensation when such person shall meet one (1) of the following eligibility criteria:

(a) Attaining the age of sixty-five (65) years and having a minimum service of four (4) years;

(b) Attaining the age of sixty (60) years and having a minimum service of ten (10) years;

(c) Attaining the age of fifty-five (55) years and having a minimum service of fifteen (15) years; or

(d) At any age after twenty (20) years of service.

(4) On or after July 1, 2000, each justice or judge who is now serving or who shall hereafter be appointed or elected and who shall retire by reason of disability preventing him from further performance of the duties of his office, after a service in any or all of said courts of four (4) years or more, shall, upon retirement, be entitled to receive and to have paid to him until death an annual retirement compensation equal to five percent (5%) of the current annual compensation of the highest office in which he served, multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service, and equal to two and one-half percent (2 1/2%) of the current annual compensation of the highest office in which he served, multiplied by the remaining number of years served as either justice or judge or both, but such amount of annual retirement compensation shall not exceed seventy-five percent (75%) of the current annual compensation of the highest office in which he served, payable in monthly installments on the first day of each month.

(5) All retirement compensation shall be paid out of the judges' retirement fund, provided however, that a justice or judge who has served less than four (4) years shall be entitled to have refunded to him all contributions made by him to the judges' retirement fund, with six and one-half percent (6 1/2%) interest computed annually but shall not be entitled to any other compensation from the fund.

(6) Notwithstanding any other provision of this section, any person who makes an election to remain in the public employee retirement system of Idaho as provided in section 1-2011, Idaho Code, shall not participate in the judges' retirement fund established in this chapter, but shall continue to participate in the public employee retirement system of Idaho and be governed under the provisions of that system, except as provided in section 1-2005, Idaho Code.

SECTION 3. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2001b, Idaho Code, and to read as follows:

1-2001b. CONVERSION OF RETIREMENT COMPENSATION INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The retirement compensation of a justice or judge who, at the time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such retirement compensation to which the justice or judge would otherwise be entitled under sec-

tion 1-2001, Idaho Code, including the value of the spousal benefit provided by section 1-2009, Idaho Code, provided the spouse is the contingent annuitant. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other retirement compensation and benefits under this chapter, except the death benefit provided by section 1-2010, Idaho Code.

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a justice or judge, upon notification to the supreme court, the justice or judge's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section 1-2001, Idaho Code.

(3) Application for any optional retirement allowance shall be in writing, duly executed and filed with the supreme court. Such application shall contain all information required by the supreme court, including such proofs of age as are deemed necessary by the supreme court.

(4) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the supreme court no later than five (5) business days after the receipt of the first retirement allowance.

(5) Not later than one (1) year after the marriage of a retired justice or judge, the justice or judge may elect option 1 or 2 to become effective one (1) year after the date of such election, provided the justice or judge's spouse is named as a contingent annuitant, and either:

(a) The justice or judge was not married at the time of retirement; or

(b) The justice or judge earlier elected option 1 or 2, having named the justice or judge's spouse as contingent annuitant, and said spouse has died.

(6) Each justice or judge receiving retirement compensation on July 1, 2000, shall have a one-time irrevocable election to name a spouse as a contingent annuitant under subsection (1)(a) of this section.

SECTION 4. That Section 1-2005, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2005, Idaho Code, and to read as follows:

1-2005. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A justice or judge who leaves office or retires from the supreme court, court of appeals or a district court, except a justice or judge retired under the provisions of section 1-2001(4), Idaho Code, may be designated a senior judge of the state of Idaho by the supreme court.

(2) Upon filing with the secretary of state an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge is eligible for temporary assignment by the supreme court to a state court as provided in this subsection, whenever the supreme court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge may sit as a district or magistrate judge of the district court of any county or may sit with the supreme court or court of appeals or may perform such other duties pertaining to the judicial department of government as may be requested.

(3) The assignment of a senior judge shall be made by an order which shall designate the court or duties to which the judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the supreme court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly qualified judge of the court to which the senior judge is assigned.

(5) A senior judge assigned as provided in this section, other than one performing services required by section 1-2001(2)(b), Idaho Code, shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to eighty-five percent (85%) of the daily salary of the highest office in which the senior judge served. However, a retired judge shall not receive for services as a senior judge during any calendar year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the current annual salary of the highest office in which the senior judge served. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled. Such additional compensation above the retirement compensation benefits accruing to such senior judge shall be paid from the general fund in accordance with appropriations provided by the legislature.

(6) A senior judge assigned to a court located outside the county in which the senior judge regularly resides shall receive, in addition to any daily compensation, reimbursement for traveling and subsistence expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must: maintain a residence within the state; not engage in the practice of law other than as a mediator or arbitrator or similar alternate dispute resolu-

tion function; not accept a position in another branch of state government or any political subdivision; not accept a position in the government of the United States or of another state or nation; and take, subscribe and file with the secretary of state, the following oath or affirmation:

"I, ..., do solemnly swear (or affirm, as the case may be) that as a senior judge of the state of Idaho, I will support the Constitution of the United States and the Constitution of the State of Idaho, and that upon hereafter accepting any assignment to serve as a judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability.".

(8) Except as provided in section 1-2001(2)(b), Idaho Code, any period of service rendered by a senior judge shall not in any way be computed for additional retirement benefits, and the state controller shall not receive or deduct any sum for transfer to the judges' retirement fund or to the public employee retirement system of Idaho.

SECTION 6. That Section 1-2009, Idaho Code, be, and the same is hereby amended to read as follows:

1-2009. BENEFIT TO SURVIVING SPOUSE OF JUSTICE OR JUDGE. The legislature hereby finds and declares that the payment of allowances to the surviving spouses of justices of the ~~S~~supreme ~~C~~court, judges of the court of appeals and district judges of the district court of the state of Idaho, serves the public purpose of promoting the public welfare by encouraging experienced jurists to continue their service and that their continued service and increased efficiency will be secured in the expectation that the legislature will fairly provide for their surviving spouses, and that such continued service and increased efficiency of such jurists, secure in this knowledge, will be of substantial benefit to the state.

The surviving spouse, of any justice or judge entitled to benefits under this chapter who dies on or after July 1, 1965, shall receive an allowance from the judges' retirement fund, payable monthly, and as hereinafter provided.

(a) In the case of a justice or judge receiving retirement compensation at the time of death, allowance to his surviving spouse shall commence immediately and be payable to such spouse from such fund in an amount equal to ~~thirty-per-cent~~ fifty percent (~~3~~50%) of the retirement compensation ~~being-paid~~ to which such justice or judge would be entitled under section 1-2001(2), Idaho Code.

(b) In the case of a justice or judge ~~under-the-age-of-sixty-five (65)-years~~ who has service as a justice of the supreme court, judge of the court of appeals or district judge of four (4) years or more and is not receiving retirement compensation at the time of death, commencing immediately, the surviving spouse shall be paid an allowance from such fund in the amount of ~~thirty-per-cent~~ fifty percent (~~3~~50%) of the retirement compensation to which the justice or judge would have been entitled ~~if-then-of-the-age-of-sixty-five-(65)--years~~ under section 1-2001(2)(a), Idaho Code, as if the justice or judge was eligible to retire and had retired immediately before his death.

(c) ~~In-the-case-of-a-justice-or--judge--of--age--sixty-five--(65)~~

~~years--or--older-and-not-receiving-retirement-compensation-at-the-time of-death,-commencing-immediately,-his-surviving-spouse--shall--receive an--allowance--payable--from-the-fund-in-an-amount-equal-to-thirty-per cent-(30%)-of-the-retirement-compensation--to--which--the--justice--or judge-would-have-been-entitled-if-then-retired.~~

~~(d)--Each--justice-or-judge-who-serves-or-has-served-in-office-may at-any-time-prior-to-receiving-retirement-compensation-file-a--written election--with--the-Supreme-Court-to-receive-a-reduced-retirement-compensation-in-the-amount-of-eighty-five-per-cent-(85%)-of--the--retirement--compensation-to-which-the-justice-or-judge-would-have-been-entitled,-and-the-justice-or-judge-having-elected-to--receive--the--lesser retirement--compensation,--at--the--time--of--the-justice's-or-judge's death,-the-allowance-to-a-surviving-spouse-shall-commence--immediately and--be--payable--to--such-spouse-from-such-fund-in-an-amount-equal-to fifty-per-cent-(50%)-of-the-retirement-compensation-to-which-the--justice--or--judge--would--have-been-entitled-prior-to-electing-a-reduced retirement-compensation.~~

~~(e)--The-allowance-to-the-surviving-spouse-shall-be-based-upon-the current-annual-compensation-of-the-office-held-by-the-deceased-justice or-judge,-as-distinguished-from-the-salary-of-the-office-at--the--time of-death-or-retirement.~~ The allowance shall be paid until the death of the surviving spouse.

(d) The surviving spouse of a justice or judge who is not receiving benefits from the judges' retirement fund at the time of the justice's or judge's death may elect to take an optional retirement allowance as a surviving annuitant under option 1 of section 1-2001b(1)(a), Idaho Code. Such optional retirement allowance shall be calculated as if the justice or judge was eligible to retire and had retired immediately before his death.

SECTION 7. That Section 1-2010, Idaho Code, be, and the same is hereby amended to read as follows:

1-2010. DEATH BENEFIT. (1) The death benefit of a deceased justice or judge is the excess, if any, of the justice's or judge's accumulated contributions to the judges' retirement fund, including accrued interest at the rate provided in section 1-2001(5), Idaho Code, over the aggregate of all retirement compensation payments and allowances ever made to the justice, judge, ~~or~~ spouse or annuitant from the judges' retirement fund.

(2) The death benefit is payable, and all other retirement compensation benefits and allowances shall cease, upon the death of the justice, judge, ~~or~~ spouse or annuitant receiving a retirement compensation or allowance.

(3) The death benefit shall be paid to the beneficiary named by the justice or judge in a written designation of beneficiary on file with the ~~S~~supreme ~~C~~court if the beneficiary is surviving at the time the death benefit is payable; otherwise the death benefit shall be paid to the estate of the deceased justice or judge for distribution in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

SECTION 8. That Section 1-2221, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Chapter 22, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2221, Idaho Code, and to read as follows:

1-2221. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A magistrate judge who leaves office or retires from the magistrates division of a district court, except a magistrate judge retired under the provisions of section 59-1352, Idaho Code, may be designated a senior judge of the state of Idaho by the supreme court.

(2) Upon filing with the secretary of state an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge is eligible for temporary assignment, with the consent of the senior judge, by the supreme court to a state court as provided in this subsection, whenever the supreme court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge may sit as a judge of the district court of any county or may sit with the supreme court or court of appeals or may perform such other duties pertaining to the judicial department of government as may be requested.

(3) The assignment of a senior judge shall be made by an order which shall designate the court or duties to which the senior judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the supreme court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the senior judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly qualified judge of the court to which the senior judge is assigned.

(5) A senior judge assigned as provided in this section shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to eighty-five percent (85%) of the daily salary of an active magistrate judge. However, a retired magistrate judge shall not receive for services as a senior judge during any calendar year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the current annual salary of an active magistrate judge. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled. Such additional compensation above the retirement compensation benefits accruing to such senior judge shall be paid from the general fund in accordance with appropriations provided by the legislature.

(6) A senior judge assigned to a court located outside the county in which the senior judge regularly resides shall receive, in addition to any daily compensation, reimbursement for traveling and subsistence expenses necessarily incurred in the performance of duties under the

assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must: maintain a residence within the state; not engage in the practice of law other than as a mediator or arbitrator or similar alternate dispute resolution function; not accept a position in another branch of state government or any political subdivision; not accept a position in the government of the United States or of another state or nation; and take, subscribe and file with the secretary of state, the following oath or affirmation:

"I, ..., do solemnly swear (or affirm, as the case may be) that as a senior judge of the state of Idaho, I will support the Constitution of the United States and the Constitution of the State of Idaho, and that upon hereafter accepting any assignment to serve as a senior judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability.".

(8) Any period of service rendered by a senior judge shall not in any way be computed for additional retirement benefits, and the state controller shall not receive or deduct any sum for transfer to the public employee retirement system of Idaho.

SECTION 10. That Section 67-5339, Idaho Code, be, and the same is hereby amended to read as follows:

67-5339. USE OF UNUSED SICK LEAVE. (1) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. Upon separation from state employment by retirement in accordance with chapter 20, title 1, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 2000, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) of this section, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employee retirement board to pay premiums for such group health, accident, and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be

considered shall be two hundred forty (240) hours;

(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be three hundred (300) hours;

(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be three hundred sixty (360) hours; and

(d) Thereafter, the maximum unused sick leave which may be considered shall be four hundred twenty (420) hours.

(3) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget. The state insurance fund and public health districts shall be considered employers in state government for purposes of participation under this section.

Approved April 14, 2000.

CHAPTER 386
(H.B. No. 761)

AN ACT

RELATING TO THE SALARIES OF JUSTICES, JUDGES AND MAGISTRATES; AMENDING SECTION 1-2222, IDAHO CODE, TO INCREASE THE BASE ANNUAL SALARY OF NONATTORNEY MAGISTRATES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE ANNUAL SALARIES OF JUSTICES AND DISTRICT JUDGES.

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

SECTION 1. That Section 1-2222, Idaho Code, be, and the same is hereby amended to read as follows:

1-2222. SALARY SCHEDULE -- ATTORNEY AND NONATTORNEY MAGISTRATES. The salaries of magistrates of the district court shall be as follows:

(1) Beginning on July 1, 1998, the annual salary of each magistrate who is an attorney shall be seven thousand eight hundred eight dollars ($7,808) less than the annual salary of a district judge. Beginning on July 1, 1999, the annual salary of each magistrate who is an attorney shall be seven thousand one hundred six dollars ($7,106) less than the salary of a district judge. Beginning on July 1, 2000, the annual salary of each magistrate who is an attorney shall be six thousand four hundred four dollars ($6,404) less than the salary of a

district judge. Beginning on July 1, 2001, the annual salary of each magistrate who is an attorney shall be five thousand seven hundred two dollars ($5,702) less than the salary of a district judge. Beginning July 1, 2002, the annual salary of each magistrate who is an attorney shall be five thousand dollars ($5,000) less than the salary of a district judge.

(2) Beginning July 1, 1998, the following schedule is adopted as the base annual salary schedule for all nonattorney magistrates:

STATE OF IDAHO
BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$46,222
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	41,663
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	37,105
Nonattorney Magistrate Judge IV	under 1,750 cases	31,027

Commencing on July 1, 1999, the amount of the base annual salary for all nonattorney magistrates shall be increased by four percent (4%), and again commencing on July 1, 2000, the amount of the base annual salary for all nonattorney magistrates shall be increased by three and one-half percent (3 1/2%).

(3) The administrative director of the courts shall certify annually the case dispositions of each nonattorney magistrate judge and designate the salary classification for each nonattorney magistrate prior to the beginning of each fiscal year. Any increases or decreases in salary as a result of the provisions of this section shall become effective to coincide with the start of the fiscal year.

(4) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, receive an additional seven hundred fifty dollar ($750) longevity increment added to his base salary for each complete five (5) year period of service as a magistrate. No additional longevity increment shall be awarded after the twentieth year of service. For purposes of this subsection, magistrates who entered state service on January 11, 1971, shall receive credit for years of service as a police court judge, city court judge, justice of the peace, or probate judge.

(5) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, and separate and apart from the longevity increment established by subsection (4) of this section, receive an additional jurisdiction credit of thirty percent (30%) of his base salary upon being granted full statutory jurisdiction by the supreme court.

(6) Regardless of any other provision of this section, beginning July 1, 1997, no nonattorney magistrate shall receive an annual salary of more than fifty-five thousand two hundred seventy-six dollars ($55,276), and beginning July 1, 1998, there shall be no maximum salary limitation on nonattorney magistrate salaries.

(7) All nonattorney magistrates are full-time state officers, are required to be available on a twenty-four (24) hour basis to perform

duties incident to their office such as the issuance of search and arrest warrants, and are required to hold such office hours as may be necessary to conduct court business or as required by the supreme court.

SECTION 2. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. Commencing on July 1, 1998, the salary of the justices of the supreme court shall be ninety thousand seven hundred ninety-one dollars ($90,791) per annum, and the salary of the judges of the district courts shall be eighty-five thousand ninety-five dollars ($85,095) per annum. Commencing on July 1, 1999, the annual salaries of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four percent (4%), and again commencing on July 1, 2000, the annual salary of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by three and one-half percent (3 1/2). Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved April 14, 2000.

CHAPTER 387
(H.B. No. 763)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 393,800	$ 307,700	$ 23,300	$ 7,700	$ 732,500
Facilities Maintenance Fund	47,200	104,800			152,000
Agriculture in the Classroom Fund		23,100			23,100
Administration and Accounting Services Fund	548,700	78,800			627,500
TOTAL	$ 989,700	$ 514,400	$ 23,300	$ 7,700	$ 1,535,100
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 711,800	$ 126,600	$ 32,500	$ 368,000	$ 1,238,900
Agricultural Fees - Livestock Disease Control Fund	459,800	256,900	33,000		749,700
Agricultural Fees - Dairy Inspection Fund	694,200	249,000	105,000		1,048,200
Agricultural Fees - Egg Inspection Fund	76,900	24,700			101,600
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200
Federal Grant Fund	40,000	120,000			160,000
Seminars and Publications Fund		115,100			115,100
TOTAL	$ 1,988,700	$ 896,500	$170,500	$ 368,000	$ 3,423,700
III. AGRICULTURAL RESOURCES:					
FROM:					
General Fund	$ 449,700	$ 560,900	$ 7,500		$ 1,018,100
Agricultural Fees - Pesticides Fund	1,032,500	439,600	135,000		1,607,100
Federal Grant Fund	396,300	163,800			560,100
TOTAL	$ 1,878,500	$1,164,300	$142,500		$ 3,185,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 551,900	$ 88,900	$ 65,200	$ 100,000	$ 806,000
Agricultural Inspection Fund	968,700	236,900	5,400		1,211,000
Agricultural Fees - Commercial Feed and Fertilizer Fund	523,400	162,500	9,000		694,900
Agricultural Fees - Honey Advertising Fund	300	6,000			6,300
Federal Grant Fund	36,100	5,300			41,400
TOTAL	$ 2,080,400	$ 499,600	$ 79,600	$ 100,000	$ 2,759,600
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 812,400	$ 204,500	$102,500		$ 1,119,400
Agricultural Inspection Fund	167,500	54,800		$ 3,700	226,000
Agricultural Fees - Organic Food Products Fund	42,200	20,300			62,500
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,695,900	831,100	87,000	456,300	10,070,300
TOTAL	$ 9,718,000	$1,110,700	$189,500	$ 460,000	$11,478,200
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 278,600	$ 209,600	$ 30,000		$ 518,200
Agricultural Inspection Fund	33,600	100			33,700
Agricultural Loans Fund	11,600	15,400		$ 5,200	32,200
Federal Grant Fund				41,100	41,100
Seminars and Publications Fund		231,200			231,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
USDA Publications Fund		62,800			62,800
TOTAL	$ 323,800	$ 519,100	$ 30,000	$ 46,300	$ 919,200
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$ 158,500	$ 158,500
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		102,700	102,900
TOTAL		$ 200		$ 361,200	$ 361,400
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 41,500	$ 5,800			$ 47,300
Agricultural Fees - Sheep Industry Regulation Fund	62,500	28,900			91,400
Sheep and Goat Disease Indemnity Fund		20,000			20,000
TOTAL	$ 104,000	$ 54,700			$ 158,700
GRAND TOTAL	$17,083,100	$4,759,500	$635,400	$1,343,200	$23,821,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy-two and thirty-one hundredths (172.31) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 388
(H.B. No. 764)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2001; 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 Idaho State Police 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,932,400	$ 267,700	$ 90,000		$ 2,290,100
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,674,400	$ 498,700	$ 28,500		$ 2,201,600
Indirect Cost Recovery Fund	62,100				62,100
Idaho Law Enforcement Fund	11,100	68,000			79,100
Peace Officers Fund	700				700
Miscellaneous Revenue Fund		10,300			10,300
Federal Grant Fund	430,300	150,700		$3,585,000	4,166,000
TOTAL	$ 2,178,600	$ 727,700	$ 28,500	$3,585,000	$ 6,519,800
B. INVESTIGATIONS:					
FROM:					
General Fund	$ 4,423,000	$ 1,518,800	$ 348,000		$ 6,289,800
Drug Donation Fund		266,800			266,800
Federal Grant Fund	22,800	499,700			522,500
TOTAL	$ 4,445,800	$ 2,285,300	$ 348,000		$ 7,079,100
C. PATROL:					
FROM:					
General Fund	$ 1,835,100				$ 1,835,100
Idaho Law Enforcement Fund	11,809,600	2,937,000	2,162,000		16,908,600
Hazardous Materials/ Waste Enforcement Fund	115,000	42,200		$ 66,800	224,000
Federal Grant Fund	462,500	1,106,700	300,000		1,869,200
TOTAL	$14,222,200	$ 4,085,900	$2,462,000	$ 66,800	$20,836,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ 739,900	$ 155,200	$ 39,000		$ 934,100
Miscellaneous Revenue Fund	63,300	18,100			81,400
Federal Grant Fund	77,500				77,500
TOTAL	$ 880,700	$ 173,300	$ 39,000		$ 1,093,000
E. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,345,100	$ 594,900	$ 181,700		$ 2,121,700
Idaho Law Enforcement Fund	388,000	85,000	8,000		481,000
Idaho Law Enforcement Telecommunications Fund	246,400	269,900	2,100		518,400
Miscellaneous Revenue Fund	268,800	740,500	75,000		1,084,300
Federal Grant Fund	83,400	17,000			100,400
TOTAL	$ 2,331,700	$ 1,707,300	$ 266,800		$ 4,305,800
F. FORENSIC SERVICES:					
FROM:					
General Fund	$ 1,559,600	$ 523,200	$ 617,200		$ 2,700,000
Miscellaneous Revenue Fund	170,900	257,600			428,500
Federal Grant Fund	28,400	17,000			45,400
TOTAL	$ 1,758,900	$ 797,800	$ 617,200		$ 3,173,900
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 728,700	$ 923,900	$ 116,500	$ 88,300	$ 1,857,400
Miscellaneous Revenue Fund		5,100			5,100
Federal Grant Fund	74,100	476,800		335,000	885,900
TOTAL	$ 802,800	$ 1,405,800	$ 116,500	$ 423,300	$ 2,748,400
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 330,000	$ 309,900			$ 639,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Pari-mutuel Distributions Fund				$ 100,000	100,000
TOTAL	$ 330,000	$ 309,900		$ 100,000	$ 739,900
GRAND TOTAL	$28,883,100	$11,760,700	$3,968,000	$4,175,100	$48,786,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred twenty and eight-tenths (520.8) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 389
(H.B. No. 766)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURE OF FUNDS.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 1,904,200	$ 2,277,800	$ 16,900	$260,000	$ 4,458,900
Fish and Game Set-aside Fund	18,100	22,600			40,700
Fish and Game Depredation Fund		2,000			2,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Expendable Trust Fund		4,500			4,500
Fish and Game Nonexpendable Trust Fund		1,500			1,500
Fish and Game Federal Fund	2,322,600	2,066,400	36,600		4,425,600
TOTAL	$ 4,244,900	$ 4,374,800	$ 53,500	$260,000	$ 8,933,200
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund	$ 6,058,800	$ 1,136,200	$ 66,700		$ 7,261,700
Fish and Game Set-aside Fund		10,300			10,300
Fish and Game Expendable Trust Fund		20,500			20,500
TOTAL	$ 6,058,800	$ 1,167,000	$ 66,700		$ 7,292,500
III. FISHERIES:					
FROM:					
Fish and Game Fund	$ 3,269,100	$ 2,012,800	$ 304,400		$ 5,586,300
Fish and Game Set-aside Fund	125,200	170,500	90,000		385,700
Fish and Game Expendable Trust Fund	207,100	49,700			256,800
Fish and Game Nonexpendable Trust Fund		32,200			32,200
Fish and Game Federal Fund	7,523,300	3,570,400	2,425,900		13,519,600
TOTAL	$11,124,700	$ 5,835,600	$2,820,300		$19,780,600
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$ 2,597,300	$ 2,364,000	$ 30,800		$ 4,992,100
Fish and Game Set-aside Fund	427,000	303,300	67,500		797,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Expendable Trust Fund	296,600	320,700			617,300
Fish and Game Nonexpendable Trust Fund	8,700	1,900			10,600
Fish and Game Federal Fund	2,332,200	936,300	20,000		3,288,500
TOTAL	$ 5,661,800	$ 3,926,200	$ 118,300		$ 9,706,300
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund	$ 1,167,400	$ 463,100	$ 100,000		$ 1,730,500
Fish and Game Set-aside Fund	60,200	115,900			176,100
Fish and Game Expendable Trust Fund		24,600			24,600
Fish and Game Federal Fund	399,700	328,500	4,000		732,200
TOTAL	$ 1,627,300	$ 932,100	$ 104,000		$ 2,663,400
VI. ENGINEERING:					
FROM:					
Fish and Game Fund	$ 731,000	$ 66,700	$ 1,100		$ 798,800
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund	$ 538,100	$ 72,000			$ 610,100
Fish and Game Set-aside Fund	12,500				12,500
Fish and Game Federal Fund	1,270,000	304,800			1,574,800
TOTAL	$ 1,820,600	$ 376,800			$ 2,197,400
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund	$ 387,300	$ 51,300			$ 438,600
Fish and Game Set-aside Fund	34,600	1,965,400	$ 716,100		2,716,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Primary Depredation Fund				$200,000	200,000
Fish and Game Secondary Depredation Fund				200,000	200,000
TOTAL	$ 421,900	$ 2,016,700	$ 716,100	$400,000	$ 3,554,700
GRAND TOTAL	$31,691,000	$18,695,900	$3,880,000	$660,000	$54,926,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred two (502) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that for the period July 1, 2000, through June 30, 2001, the Department of Fish and Game will continue the $150,000 pheasant stocking effort developed in cooperation with local sportsmen's groups.

Approved April 14, 2000.

CHAPTER 390
(H.B. No. 770)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 2001; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Self-Reliance Programs, the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
SELF-RELIANCE PROGRAMS:				
FROM:				
General Fund	$13,838,000	$ 1,766,300	$18,471,300	$ 34,075,600
Cooperative Welfare Fund (Federal)	16,614,700	12,480,000	47,692,800	76,787,500
Cooperative Welfare Fund (Dedicated)	892,000	3,268,500		4,160,500
TOTAL	$31,344,700	$17,514,800	$66,164,100	$115,023,600

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Self-Reliance Programs any unexpended and unencumbered balances of the Cooperative Welfare Fund, as appropriated for the Self-Reliance Programs for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Self-Reliance Programs is hereby authorized to expend all receipts collected in the Self-Reliance Programs as noncognizable funds for the period July 1, 2000, through June 30, 2001.

Approved April 14, 2000.

CHAPTER 391
(H.B. No. 771)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 2001; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:				
FROM:				
General Fund	$ 7,866,700	$ 5,972,900		$13,839,600
Cooperative Welfare Fund (Federal)	5,649,500	11,297,000		16,946,500
Cooperative Welfare Fund (Dedicated)		498,200		498,200
TOTAL	$13,516,200	$17,768,100		$31,284,300
II. INDEPENDENT COMMISSIONS AND COUNCILS:				
A. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
General Fund	$ 8,200			$ 8,200
Domestic Violence Project Fund	131,400	$ 87,500	$ 166,000	384,900
Cooperative Welfare Fund (Federal)	45,100	55,000	2,133,900	2,234,000
Cooperative Welfare Fund (Dedicated)		10,000		10,000
TOTAL	$ 184,700	$ 152,500	$2,299,900	$ 2,637,100
B. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
General Fund	$ 91,900	$ 22,000	$ 11,200	$ 125,100
Cooperative Welfare Fund (Federal)	228,400	83,700	96,100	408,200
Cooperative Welfare Fund (Dedicated)		1,000		1,000
TOTAL	$ 320,300	$ 106,700	$ 107,300	$ 534,300
C. COUNCIL ON THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	$ 102,600	$ 31,500		$ 134,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DIVISION TOTAL	$ 607,600	$ 290,700	$2,407,200	$ 3,305,500
GRAND TOTAL	$14,123,800	$18,058,800	$2,407,200	$34,589,800

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 Indirect Support Services and the Independent Commissions and Councils any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Indirect Support Services and the Independent Commissions and Councils for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. 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 Indirect Support Services and the Independent Commissions and Councils is hereby authorized to expend all receipts collected in Indirect Support Services and the Independent Commissions and Councils as noncognizable funds for the period July 1, 2000, through June 30, 2001.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three thousand thirty-eight and one hundredth (3,038.01) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 14, 2000.

CHAPTER 392
(H.B. No. 772)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 2001; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SUBSTANCE ABUSE PREVENTION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Family and Community Services the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:					
FROM:					
General Fund	$ 7,879,000	$ 1,108,200	$30,100	$ 6,657,700	$ 15,675,000
Cooperative Welfare Fund (Federal)	14,233,400	5,090,500	4,900	9,582,300	28,911,100
Cooperative Welfare Fund (Dedicated)	396,600	805,200			1,201,800
TOTAL	$22,509,000	$ 7,003,900	$35,000	$16,240,000	$ 45,787,900
II. DEVELOPMENTAL DISABILITIES SERVICES:					
FROM:					
General Fund	$10,962,000	$ 1,932,500		$ 3,530,300	$ 16,424,800
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	14,951,500	4,139,800	$10,500	1,960,400	21,062,200
Cooperative Welfare Fund (Dedicated)	1,376,800	124,600		10,400	1,511,800
TOTAL	$27,290,300	$ 6,200,400	$10,500	$ 5,501,100	$ 39,002,300
III. MENTAL HEALTH SERVICES:					
FROM:					
General Fund	$20,743,200	$ 1,610,500		$ 881,600	$ 23,235,300
Alcohol Intoxication Treatment Fund	614,900	249,000		1,718,500	2,582,400
Substance Abuse Treatment Fund				90,000	90,000
State Hospital South Endowment Fund	1,619,000	231,000			1,850,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Hospital North Endowment Fund	312,600	745,200		44,000	1,101,800
Prevention of Minors' Access to Tobacco	24,600	45,400			70,000
Cooperative Welfare Fund (Federal)	1,430,800	4,885,900		6,371,300	12,688,000
Cooperative Welfare Fund (Dedicated)	8,421,500	1,024,400		10,600	9,456,500
TOTAL	$33,166,600	$ 8,791,400		$ 9,116,000	$ 51,074,000
GRAND TOTAL	$82,965,900	$21,995,700	$45,500	$30,857,100	$135,864,200

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Division of Family and Community Services any unexpended and unencumbered balances of the Cooperative Welfare Fund, as appropriated for the Division of Family and Community Services for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Family and Community Services is hereby authorized to expend all receipts collected in the Division of Family and Community Services as noncognizable funds for the period July 1, 2000, through June 30, 2001.

SECTION 5. It is legislative intent that, of the total moneys appropriated for Substance Abuse Prevention in Section 1 of this act for Mental Health Services, $100,000 be used to purchase radio and television advertising, targeted to adolescents, with factual messages concerning alcohol, drugs, and tobacco. At least half of this amount is to be used for messages on alcohol.

Approved April 14, 2000.

CHAPTER 393
(H.B. No. 776)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT REGARDING THE IMPLEMENTATION OF CAPITAL RENOVATION PLANS; 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 186,800	$ 65,900		$ 252,700
Industrial Special Indemnity Fund	142,200	74,100		216,300
Indirect Cost Recovery Fund	665,000	328,800		993,800
Administration and Accounting Services Fund	22,800			22,800
TOTAL	$1,016,800	$ 468,800		$ 1,485,600
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 821,700	$ 364,000	$ 43,300	$ 1,229,000
Administration and Accounting Services Fund	1,434,200	1,084,900	172,500	2,691,600
TOTAL	$2,255,900	$ 1,448,900	$ 215,800	$ 3,920,600
III. PUBLIC WORKS:				
FROM:				
General Fund		$ 424,100	$1,643,800	$ 2,067,900
Permanent Building Fund	$1,293,200	2,199,600	3,371,500	6,864,300
Administration and Accounting Services Fund	1,365,700	3,632,000		4,997,700
TOTAL	$2,658,900	$ 6,255,700	$5,015,300	$13,929,900
IV. PURCHASING:				
FROM:				
General Fund	$ 455,000	$ 163,600	$ 3,800	$ 622,400
Federal Surplus Property Revolving Fund	223,900	246,300	18,400	488,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Administration and Accounting Services Fund	626,600	975,100		1,601,700
TOTAL	$1,305,500	$ 1,385,000	$ 22,200	$ 2,712,700
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 238,000	$ 318,000		$ 556,000
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 58,500			$ 58,500
Administration and Accounting Services Fund	285,000	$ 372,000		657,000
TOTAL	$ 343,500	$ 372,000		$ 715,500
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 221,500	$ 434,300		$ 655,800
Retained Risk Fund	372,300	177,900		550,200
TOTAL	$ 593,800	$ 612,200		$ 1,206,000
VIII. CAPITOL COMMISSION:				
FROM:				
Capitol Endowment Income Fund		$ 134,000	$ 849,000	$ 983,000
GRAND TOTAL	$8,412,400	$10,994,600	$6,102,300	$25,509,300

SECTION 2. It is legislative intent that the Capitol Commission receive approval through the normal appropriations process before proceeding with implementation of any phase of a Capitol renovation plan.

SECTION 3. 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, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 394
(H.B. No. 777)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT IN REPORTING ON OFFENDER ASSESSMENT PROCESS.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 3,080,300	$ 2,210,400	$ 240,200		$ 5,530,900
Parolee Supervision Fund	55,200	14,700	100,000		169,900
Federal Grant Fund		180,500		$901,700	1,082,200
Miscellaneous Revenue Fund	50,200	7,200			57,400
TOTAL	$ 3,185,700	$ 2,412,800	$ 340,200	$901,700	$ 6,840,400
II. PRISONS DIVISION:					
A. PRISONS ADMINISTRATION:					
FROM:					
General Fund	$ 806,200	$ 3,873,900			$ 4,680,100
Miscellaneous Revenue Fund	48,500	99,200			147,700
Federal Grant Fund		990,600			990,600
TOTAL	$ 854,700	$ 4,963,700			$ 5,818,400
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$14,850,000	$ 2,435,500	$ 120,700		$ 17,406,200
Penitentiary Endowment Fund		1,193,900	158,700		1,352,600
Federal Grant Fund		7,000			7,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	279,000	70,300	44,400		393,700
TOTAL	$15,129,000	$ 3,706,700	$ 323,800		$ 19,159,500
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 4,421,200	$ 1,303,100	$ 164,400		$ 5,888,700
Inmate Labor Fund	351,800	341,300	59,300		752,400
Miscellaneous Revenue Fund	85,400	31,800	16,500		133,700
TOTAL	$ 4,858,400	$ 1,676,200	$ 240,200		$ 6,774,800
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,019,700	$ 803,600	$ 130,500		$ 2,953,800
Miscellaneous Revenue Fund	37,600	118,200	9,100		164,900
TOTAL	$ 2,057,300	$ 921,800	$ 139,600		$ 3,118,700
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 4,153,400	$ 1,496,600	$ 228,100		$ 5,878,100
Inmate Labor Fund	703,300	400,200	69,000		1,172,500
Miscellaneous Revenue Fund	43,600	34,900	19,300		97,800
TOTAL	$ 4,900,300	$ 1,931,700	$ 316,400		$ 7,148,400
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,572,900	$ 1,735,500	$ 87,100		$ 8,395,500
Miscellaneous Revenue Fund	39,100	53,600	19,800		112,500
TOTAL	$ 6,612,000	$ 1,789,100	$ 106,900		$ 8,508,000
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,346,900	$ 222,600	$ 23,000		$ 1,592,500
Inmate Labor Fund	322,700	464,300	79,500		866,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund		6,200	3,700		9,900
TOTAL	$ 1,669,600	$ 693,100	$ 106,200		$ 2,468,900
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,862,300	$ 937,000	$ 38,500		$ 3,837,800
Federal Grant Fund		52,300			52,300
Inmate Labor Fund	178,900	21,000	61,900		261,800
Miscellaneous Revenue Fund	153,200	14,800	8,600		176,600
TOTAL	$ 3,194,400	$ 1,025,100	$ 109,000		$ 4,328,500
DIVISION TOTAL	$39,275,700	$16,707,400	$1,342,100		$ 57,325,200
III. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 1,913,200	$ 9,042,100	$ 2,700		$ 10,958,000
Federal Grant Fund	669,500	783,000			1,452,500
Miscellaneous Revenue Fund		66,000			66,000
TOTAL	$ 2,582,700	$ 9,891,100	$ 2,700		$ 12,476,500
IV. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$11,132,800	$ 886,300			$ 12,019,100
Parolee Supervision Fund	1,552,600	695,000			2,247,600
Inmate Labor Fund	135,800	1,473,100	$ 518,700		2,127,600
Miscellaneous Revenue Fund		20,400			20,400
TOTAL	$12,821,200	$ 3,074,800	$ 518,700		$ 16,414,700
V. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$12,403,100	$ 813,500		$13,216,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 847,200	$ 219,700	$ 5,700		$ 1,072,600
Miscellaneous Revenue Fund		20,000			20,000
TOTAL	$ 847,200	$ 239,700	$ 5,700		$ 1,092,600
GRAND TOTAL	$58,712,500	$44,728,900	$3,022,900	$901,700	$107,366,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand three hundred eighty-three and six one-hundredths (1,383.06) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that the Board of Correction shall report back to the Joint Finance-Appropriations Committee at the beginning of the 2001 Legislative Session on the progress of the implementation of the new offender assessment process to be put in place during fiscal year 2001.

Approved April 14, 2000.

CHAPTER 395
(H.B. No. 778)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2001; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Supreme Court, the following amounts, to be expended from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:	
General Fund	$22,346,200
Guardian Ad Litem Fund	474,500
ISTARS Technology Fund	1,807,100
Federal Grant Fund	412,700
Miscellaneous Revenue Fund	305,000
TOTAL	$25,345,500

SECTION 2. There is hereby appropriated $451,200 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 2000, through June 30, 2001.

SECTION 3. It is legislative intent that of the amount appropriated in Section 1 of this act, an amount not to exceed $5,000 may be used in accordance with rules set by the Supreme Court, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,500 of the amount appropriated in Section 1 of this act, may be used in accordance with rules set by the Supreme Court to assist in defraying expenses relating to or resulting from the discharge of the Court of Appeals Judges' official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 14, 2000.

CHAPTER 396
(H.B. No. 779)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES FOR THE DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Special Programs the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General Fund	$ 485,800	$ 70,400			$ 556,200
II. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Fund	$ 709,500	$ 57,100	$ 2,300		$ 768,900
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Fund				$2,509,300	$2,509,300
Federal Grant Fund				186,000	186,000
TOTAL				$2,695,300	$2,695,300
IV. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 466,800	$ 29,600	$20,000		$ 516,400
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 433,100	$ 433,100
VI. IDAHO COUNCIL ON ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 54,800	$ 54,800
GRAND TOTAL	$1,662,100	$157,100	$22,300	$3,183,200	$5,024,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, there is hereby authorized no more than twenty-five and seventy-nine hundredths (25.79) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the Forest Utilization Research Program, Idaho Geological Survey Program and the Idaho Museum of Natural History as specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho and to the State Board of Education for the Forest Utilization Research Program, Idaho Geological Survey Program, Scholarships and Grants Program, Idaho Museum of Natural History, Idaho Small Business Development Centers, and Idaho Council on Economic Education, the unexpended and unencumbered balance of any General Fund appropriation made to each respective program under Section 1, Chapter 185, Laws of 1999, for each respective program to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is zero, the reappropriation in Section 3 is declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 shall be in the proportion that the reappropriation for each respective program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 14, 2000.

CHAPTER 397
(H.B. No. 781)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF DENTISTRY FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 238, Laws of 1999, there is hereby appropriated to the Board of Dentistry in the Department of Self-Governing Agencies the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1999, through June 30, 2000:

BOARD OF DENTISTRY:

FOR:	
Operating Expenditures	$12,000
FROM:	
State Regulatory Fund	$12,000

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

Approved April 14, 2000.

CHAPTER 398
(H.B. No. 782)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2000; REAPPROPRIATING THE UNEXPENDED AND UNENCUMBERED BALANCE FOR THE OFFICE OF PERFORMANCE EVALUATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 224, Laws of 1999, there is hereby appropriated to the Legislative Council for the Office of Performance Evaluations the following amount to be expended from the listed fund for the period July 1, 1999, through June 30, 2000:

LEGISLATIVE COUNCIL:	
General Fund	$600,000

SECTION 2. There is hereby reappropriated to the Legislative Council for the Office of Performance Evaluations any unexpended and unencumbered balance of the appropriation made in Section 1 of this act for the period July 1, 2000, through June 30, 2001.

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

Approved April 14, 2000.

CHAPTER 399
(H.B. No. 783)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2001; AND INCREASING THE LIMIT IN THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to the appropriation provided in House Bill No. 763, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Agriculture 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, 2000, through June 30, 2001:

ANIMAL INDUSTRIES:	
FOR:	
Personnel Costs	$ 90,000
Operating Expenditures	50,000
Capital Outlay	59,000
TOTAL	$199,000
FROM:	
General Fund	$199,000

SECTION 2. In addition to the authorization provided in House Bill No. 763, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, the Department of Agriculture is authorized two full-time equivalent positions for the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act.

Approved April 14, 2000.

CHAPTER 400
(H.B. No. 784)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2001; PRESCRIBING BILLING METHODOLOGIES FOR STATEWIDE ACCOUNTING AND STATEWIDE PAYROLL; REQUIRING CERTAIN PURCHASES BE SUBJECT TO CERTAIN CONDITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING CONDITIONS FOR THE REAPPROPRIATION; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Controller the following amounts, to be expended for the designated programs from the listed funds, for the period July 1, 2000, through June 30, 2001:

I. ADMINISTRATION:	
FROM:	
General Fund	$ 465,000
II. STATEWIDE ACCOUNTING:	
FROM:	
General Fund	$ 2,813,800
III. STATEWIDE PAYROLL:	
FROM:	
General Fund	$ 2,282,500
IV. COMPUTER CENTER:	
FROM:	
Data Processing Services Fund	$ 5,838,000
TOTAL	$11,399,300

SECTION 2. Any other provision of law notwithstanding, the State Controller shall assess state agencies in accordance with the statewide cost allocation plan as described in Section 67-3531, Idaho Code, for Statewide Accounting services and Statewide Payroll services. The State Controller shall issue a single bill for these services. Funds collected shall be placed in the Indirect Cost Recovery Fund. On June 30, 2001, the State Controller shall transfer up to a maximum of $5,733,800 from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 3. Any purchases or obligations involving information technology items for the period July 1, 2000, through June 30, 2001, are to be submitted to and coordinated with the Information Technology Resource Management Council.

SECTION 4. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated, may be used at the discretion of the State Controller to assist in defraying expenses relating to or resulting from the discharge of the State Controller's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 5. There is hereby reappropriated to the State Controller, the unexpended and unencumbered cash balance of any appropriation made to the State Controller for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001.

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

If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is zero, the reappropriation of General Fund money in Section 5 of this act is hereby declared to be null and void.

If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount of General Fund money reappropriated in Section 5 of this act shall be in the proportion that the General Fund reappropriation for the State Controller bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 7. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than one hundred and eighty-five hundredths (100.85) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 401
(H.B. No. 785)

AN ACT
APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Board of Tax Appeals in the Department of Revenue and Taxation the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$258,900
Operating Expenditures	60,600
Capital Outlay	8,500
TOTAL	$328,000
FROM:	
General Fund	$328,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 402
(H.B. No. 788)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2001; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; 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 WATER POLLUTION CONTROL FUND TO THE GENERAL FUND; EXEMPTING THE DEPARTMENT OF ENVIRONMENTAL QUALITY FROM THE TEN PERCENT TRANSFER BETWEEN PROGRAMS LIMITATION; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY FOR SECTION 8 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INEEL OVERSIGHT:					
FROM:					
General Fund	$ 183,300	$ 18,900			$ 202,200
Department of Environmental Quality Fund (Federal)	1,086,900	369,400	$ 42,200	$ 577,100	2,075,600
TOTAL	$ 1,270,200	$ 388,300	$ 42,200	$ 577,100	$ 2,277,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,665,100	$1,002,600	$ 67,900		$ 2,735,600
Air Quality Permitting Fund	32,800	213,200	2,000		248,000
Department of Environmental Quality Fund (Federal)	1,595,800	953,600	39,000		2,588,400
Public Water System Supervision Fund	262,500	43,800			306,300
Department of Environmental Quality Fund (Receipts)	76,300	12,700			89,000
TOTAL	$ 3,632,500	$2,225,900	$108,900		$ 5,967,300
III. AIR QUALITY:					
FROM:					
General Fund	$ 1,047,400	$ 205,900	$ 72,000		$ 1,325,300
Agriculture Smoke Management		29,700			29,700
Air Quality Permitting Fund	1,562,000	361,000	6,000	$ 193,900	2,122,900
Department of Environmental Quality Fund (Federal)	1,295,800	298,200	51,000	40,000	1,685,000
Department of Environmental Quality Fund (Receipts)	10,300	30,000			40,300
TOTAL	$ 3,915,500	$ 924,800	$129,000	$ 233,900	$ 5,203,200
IV. WATER QUALITY:					
FROM:					
General Fund	$ 4,610,400	$2,256,400	$139,000	$2,901,800	$ 9,907,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality Fund (Federal)	2,349,500	610,000	8,000	1,576,600	4,544,100
Public Water System Supervision Fund	773,300	148,700		325,300	1,247,300
Department of Environmental Quality Fund (Receipts)	288,100	74,500	4,000	49,900	416,500
TOTAL	$ 8,021,300	$3,089,600	$151,000	$4,853,600	$16,115,500
V. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General Fund	$ 1,173,500	$ 755,600	$ 20,900	$ 100,000	$ 2,050,000
Environmental Remediation Fund	158,100	640,000		10,000	808,100
Department of Environmental Quality Fund (Receipts)	217,900	235,700	12,000	50,000	515,600
Bunker Hill Trust Fund				300,000	300,000
Department of Environmental Quality Fund (Federal)	2,108,800	1,186,400	14,000	15,000	3,324,200
TOTAL	$ 3,658,300	$2,817,700	$ 46,900	$ 475,000	$ 6,997,900
GRAND TOTAL	$20,497,800	$9,446,300	$478,000	$6,139,600	$36,561,700

SECTION 2. There is hereby reappropriated to the Department of Environmental Quality any unexpended and unencumbered balances of the Cooperative Welfare DEQ Fund as appropriated for the Division of Environmental Quality for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. The Department of Environmental Quality shall adjust the amount of reappropriation so as not to exceed available moneys.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred fifty-seven and fifty-five hundredths (357.55) full-time

equivalent positions at any point during the period July 1, 2000, through June 30, 2001, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. Notwithstanding the provisions of Section 39-3630, Idaho Code, 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, 2000, through June 30, 2001.

SECTION 5. 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 6. Notwithstanding the provisions of Section 39-3630, Idaho Code, the State Controller is hereby directed to transfer $5,000,000 from the Water Pollution Control Fund to the General Fund for the period July 1, 2000, through June 30, 2001.

SECTION 7. To provide maximum flexibility, the Department 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, 2000, through June 30, 2001. 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 8. In addition to the appropriation made in Section 1, Chapter 270, Laws of 1999, there is hereby appropriated to the Department of Health and Welfare for the Division of Environmental Quality, 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:	
Operating Expenditures	$150,000
FROM:	
Water Pollution Control Fund	$150,000

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 8 of this act shall be in full force and effect on and after its passage and approval.

Approved April 14, 2000.

CHAPTER 403
(H.B. No. 789)

AN ACT

APPROPRIATING MONEYS FROM THE IDAHO MILLENNIUM INCOME FUND TO THE STATE TREASURER FOR THE PURPOSES SPECIFIED FOR FISCAL YEAR 2001; APPROPRIATING MONEYS TO VARIOUS PROGRAMS; PROVIDING LEGISLATIVE INTENT TO THE CATASTROPHIC HEALTH CARE COST PROGRAM BOARD REGARDING CERTAIN EXPENDITURES; AND PROVIDING LEGISLATIVE INTENT REGARDING THE ALLOCATION OF AVAILABLE FUNDS.

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

SECTION 1. There is hereby appropriated $2,305,000 from the Idaho Millennium Income Fund to the State Treasurer to be expended for trustee and benefit payments as specified in Section 2 of this act for the period July 1, 2000, through June 30, 2001.

SECTION 2. Of the amount appropriated to the State Treasurer for trustee and benefit payments in Section 1 of this act, there is hereby appropriated from the Idaho Millennium Income Fund to the following programs for the period July 1, 2000, through June 30, 2001:

(a) $100,000 for the Legislature for deposit in the Legislative Account for Millennium Fund Legislative Subcommittee technical support services.

(b) $200,000 for the Bureau of Health Promotion in the Department of Health and Welfare to collect baseline data and develop detailed recommendations for a comprehensive tobacco use and substance abuse prevention program.

(c) $500,000 for the Public Health Districts to implement tobacco use cessation programs statewide through the Public Health Districts of Idaho and other nonprofit entities such as hospitals, primary care clinics and volunteer organizations. The tobacco use cessation programs should be available to any Idaho citizen, with primary emphasis on youth and pregnant women. The program shall include strong evaluation measures including, but not limited to, the number of programs funded, the number of participants, and quit rates.

(d) $735,000 for the Catastrophic Health Care Cost Program for tobacco-related cancer and respiratory disease treatment, by way of reducing the county deductible payment pursuant to Section 3 of this act.

(e) $500,000 for the Bureau of Health Promotion in the Department of Health and Welfare for targeted tobacco counter-marketing programs, specific to Idaho, and to be matched by private industry funds on at least a one-to-one basis.

(f) $170,000 for the Idaho Supreme Court for youth courts and community-based programs in the judicial districts that address tobacco and/or substance abuse.

(g) $100,000 for the Children's Trust Account Board in the Department of Health and Welfare to provide a Youth-Asset Building Summit and to network Idaho communities.

GRAND TOTAL: $2,305,000

SECTION 3. It is legislative intent that the Catastrophic Health Care Cost Program Board use the funds appropriated in Section 2(d) of this act to temporarily reduce the $10,000 deductible paid by counties for the costs of caring for indigent persons with tobacco-related cancers and respiratory diseases. The Catastrophic Health Care Cost Program Board shall be vested with the authority to define and determine which cases qualify for the reduced county deductible, subject to the provisions of this section. Notwithstanding the provisions of Chapter 35, Title 31, Idaho Code, the Catastrophic Health Care Cost Program Board is hereby granted the authority to enact these reductions for the period July 1, 2000, through June 30, 2001, provided that the additional fiscal impact of these reductions on the Catastrophic Health Care Cost Program shall not exceed the amount appropriated in Section 2(d) of this act.

SECTION 4. It is legislative intent that if the total amount of moneys appropriated in Section 2 of this act are not available for appropriation, then the State Treasurer shall allocate such funds as are available to the recipients listed in Section 2 of this act, in the proportion that the amount each recipient's appropriation bears to the total amount appropriated.

Approved April 14, 2000.

CHAPTER 404
(H.B. No. 790)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2001; CLARIFYING THE APPROPRIATION FOR THE PORTFOLIO INVESTMENT PROGRAM; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2000; 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 Office of the Governor for the Public Employee Retirement System 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
Public Employee Retirement System Fund	$2,371,100	$2,969,100	$118,400	$5,458,600
II. PORTFOLIO INVESTMENT:				
FROM:				
Public Employee Retirement System Fund	$ 286,900	$ 196,400	$ 13,000	$ 496,300
III. 401(k) ADMINISTRATION:				
FROM:				
PERSI 401(k) Administration Fund		$ 7,600		$ 7,600
GRAND TOTAL	$2,658,000	$3,173,100	$131,400	$5,962,500

SECTION 2. Notwithstanding Section 59-1311(4)(d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System is authorized no more than fifty-five (55) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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. In addition to the appropriation made in Section 1, Chapter 233, Laws of 1999, there is hereby appropriated to the Office of the Governor for the Public Employee Retirement System for Retirement Administration, 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:

FROM:	
Public Employee Retirement System Fund	$96,200
FOR:	
Personnel Costs	$ 9,000
Operating Expenditures	85,000
Capital Outlay	2,200
TOTAL	$96,200

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 April 14, 2000.

CHAPTER 405
(H.B. No. 791)

AN ACT
APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2001; 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	$ 3,557,100	$ 6,919,500	$ 615,100	$11,091,700
Administration and Accounting Fund		37,800		37,800
Multistate Tax Compact Fund			13,600	13,600
Administration Services for Transportation Fund	350,500	622,000	86,500	1,059,000
Abandoned Property Trust-Unclaimed Property Fund		23,200	11,900	35,100
Seminars and Publications Fund		30,800		30,800
TOTAL	$ 3,907,600	$ 7,633,300	$ 727,100	$12,268,000
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 9,051,000	$ 1,444,700	$ 13,800	$10,509,500
Multistate Tax Compact Fund	568,000	317,100		885,100
Administration and Accounting Fund		9,500		9,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Administration Services for Transportation Fund	1,067,100	234,800	3,000	1,304,900
Abandoned Property Trust-Unclaimed Property Fund	334,000	98,500	900	433,400
TOTAL	$11,020,100	$ 2,104,600	$ 17,700	$13,142,400
III. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,571,600	$ 1,305,500	$ 228,800	$ 4,105,900
Administration and Accounting Fund		26,300		26,300
Administration Services for Transportation Fund	329,800	169,000	45,000	543,800
Seminars and Publications Fund		18,000		18,000
TOTAL	$ 2,901,400	$ 1,518,800	$ 273,800	$ 4,694,000
IV. COUNTY SUPPORT:				
FROM:				
General Fund	$ 2,141,300	$ 561,100	$ 14,400	$ 2,716,800
Seminars and Publications Fund		94,800	1,600	96,400
TOTAL	$ 2,141,300	$ 655,900	$ 16,000	$ 2,813,200
GRAND TOTAL	$19,970,400	$11,912,600	$1,034,600	$32,917,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred fifteen (415) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 406
(H.B. No. 792)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2001; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL

FUND; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; RE-APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE TREASURER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; PROHIBITING THE USE OF UNAPPROPRIATED FUNDS FOR PAYING PERSONNEL COSTS; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY FOR SECTION 8 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR LUMP SUM	TOTAL
FROM:					
General Fund	$827,100	$425,700	$48,600		$1,301,400
State Treasurer LGIP Fund				$241,200	241,200
Treasurer's Office - Professional Services Fund				305,900	305,900
TOTAL	$827,100	$425,700	$48,600	$547,100	$1,848,500

SECTION 2. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Treasurer banking services shall be placed in the Indirect Cost Recovery Fund. On June 30, 2001, the State Controller shall transfer the moneys in the Indirect Cost Recovery Fund, up to a maximum of $1,301,400 to the state General Fund.

SECTION 3. Of the amount appropriated for Operating Expenditures in Section 1 of this act, $341,400, or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 2000, through June 30, 2001, any other provisions of law notwithstanding.

SECTION 4. There is hereby reappropriated to the State Treasurer the unexpended and unencumbered balance of any appropriation made to the State Treasurer from the State Treasurer LGIP Fund or the Treasurer's Office - Professional Services Fund for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001.

SECTION 5. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State

Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 6. The State Treasurer shall not pay for personnel costs from any other funding sources outside of the appropriations made for that purpose. This provision shall be in force and valid in perpetuity, unless specifically repealed.

SECTION 7. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 8. In addition to the appropriation made in Section 1, Chapter 94, Laws of 1999, there is hereby appropriated to the State Treasurer the following amount to be expended according to the designated expense class from the listed funds for the period July 1, 1999, through June 30, 2000:

FOR:	
Operating Expenditures	$45,800
FROM:	
General Fund	$15,000
State Treasurer LGIP Fund	15,400
Treasurer's Office - Professional Services Fund	15,400
TOTAL	$45,800

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 8 of this act shall be in full force and effect on and after its passage and approval.

Approved April 14, 2000.

CHAPTER 407
(H.B. No. 795)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 437,000	$303,100		$50,000	$ 790,100
II. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
General Fund	$1,083,900	$400,600	$20,000		$1,504,500
III. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Fund		$ 22,500			$ 22,500
GRAND TOTAL	$1,520,900	$726,200	$20,000	$50,000	$2,317,100

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

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Secretary of State is authorized no more than thirty-two (32) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 14, 2000.

CHAPTER 408
(H.B. No. 796)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, HOUSE BILL NO. 777, ENACTED BY THE SECOND 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 No. 777, enacted by the Second 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 program according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

I. PRISONS DIVISION:

A. PRISONS ADMINISTRATION:

FOR:

Operating Expenditures	$404,200

FROM:

General Fund	$404,200

Approved April 14, 2000.

CHAPTER 409
(H.B. No. 797)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2001; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CHILDREN'S HEALTH INSURANCE PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CHILDREN'S HEALTH INSURANCE PROGRAM TASK FORCE RECOMMENDATIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO MAKING STATE VETERANS HOMES MEDICAID ELIGIBLE; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPPING TRANSPORTATION EXPENDITURES AT FISCAL YEAR 2000 LEVELS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPPING THE NUMBER OF BEDS IN MEDICAID FUNDED PRIVATE INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPPING RATES FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED AT FISCAL YEAR 2000 LEVELS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO GENERIC DRUGS AND DIRECTING THE DEPARTMENT TO RESEARCH THE FEASIBILITY OF IMPLEMENTING A CLOSED MEDICAID DRUG FORMULARY; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DEVELOPMENTAL DISABILITY AGENCY SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPPING RATES FOR DURABLE MEDICAL EQUIPMENT AT FISCAL YEAR 2000 LEVELS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO PHYSICAL THERAPY SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO TARGETED CASE MANAGEMENT SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO MENTAL HEALTH SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO COPAYMENTS AND OTHER COST-SHARING METHODS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DAY TREATMENT SERVICES PROVIDED TO CLIENTS WITH MENTAL ILLNESS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO RESEARCHING THE FEASIBILITY OF REDUCING MEDICAID SERVICE COVERAGE TO MORE CLOSELY MATCH PRIVATE INSURANCE COVERAGE; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO ADMINISTRATIVE COSTS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DEPARTMENTAL CONTRACTS; AND DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO PROMULGATE RULES AND DRAFT LEGISLATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense classes from the various funds listed for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:					
FROM:					
General Fund	$ 4,560,900	$ 3,151,500	$ 51,000	$164,124,900	$171,888,300
Medical Assistance Fund				2,500	2,500
Liquor Control Fund				650,000	650,000
Cooperative Welfare Fund (Federal)	6,565,200	10,932,100	61,000	394,710,300	412,268,600
Cooperative Welfare Fund (Dedicated)				22,200,600	22,200,600
TOTAL	$11,126,100	$14,083,600	$112,000	$581,688,300	$607,010,000

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 Medical Assistance Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Medical Assistance Services for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Medical Assistance Services is hereby authorized to expend all receipts collected in Medical Assistance Services as noncognizable funds for the period July 1, 2000, through June 30, 2001.

SECTION 5. It is the intent of the Idaho Legislature that the federal Title XXI Children's Health Insurance Program shall not exceed one hundred fifty percent (150%) of the federal poverty level when determining eligibility without prior legislative approval.

SECTION 6. The Idaho Legislature recognizes the work of the Children's Health Insurance Program Task Force appointed by the director of the Department of Health and Welfare. The department is encour-

aged to implement the recommendations of the task force to the extent legally possible and to apply for the necessary federal waivers where required in order to provide basic health care coverage for Idaho's uninsured children.

SECTION 7. It is the intent of the Idaho Legislature that the Division of Veterans Services and the Department of Health and Welfare take the steps necessary to make state veterans homes providers of services under the state's Medicaid Program on or before February 1, 2001. It is further the intent of the Idaho Legislature that for the period July 1, 2000, through June 30, 2001, the cost limits described in Section 56-102(7) and Section 56-102(11), Idaho Code, shall not apply to state homes for veterans. In addition, the Department of Health and Welfare is directed to provide a status report on making this conversion to the Joint Finance-Appropriations Committee at each of their regularly scheduled interim committee meetings.

SECTION 8. It is the intent of the Idaho Legislature that the total expenditure for transportation services provided to clients of the state's Medicaid Program for the period July 1, 2000, through June 30, 2001, shall not exceed the amount spent in state fiscal year 2000. The department shall consult with providers and advocates of persons receiving transportation services on how to achieve these savings.

SECTION 9. It is the intent of the Idaho Legislature that the number of beds in private intermediate care facilities for the mentally retarded funded by Medicaid, be capped at four hundred eighty-six (486) beds, including any beds planned or under construction. The department shall consult with providers and advocates of persons receiving ICF/MR services on how to implement the cap.

SECTION 10. Notwithstanding the provisions of Section 56-113, Idaho Code, it is the intent of the Idaho Legislature that for the period July 1, 2000, through June 30, 2001, rates, including special rates, of private intermediate care facilities for the mentally retarded shall not exceed the rates in effect in state fiscal year 2000.

SECTION 11. It is the intent of the Idaho Legislature that the Department of Health and Welfare require the use of generic drugs to the extent feasible and allowed by law in the state's Medicaid Program. The department shall develop a process of prior approval when the physician prescribes drugs other than generic. The department is further directed to research the feasibility of implementing a closed Medicaid drug formulary.

SECTION 12. It is the intent of the Idaho Legislature that a defined process of prior authorization, client assessment and periodic review be implemented by the department for developmental disability agency services provided to clients of the state's Medicaid Program after consultation with providers and advocates of persons with developmental disabilities.

SECTION 13. It is the intent of the Idaho Legislature that for the period July 1, 2000, through June 30, 2001, the rates paid for durable medical equipment provided to clients of the state's Medicaid Program shall not exceed the rates in effect in state fiscal year 2000.

SECTION 14. It is the intent of the Idaho Legislature that physical therapy services, beyond a specified amount, be prior authorized and that a concurrent review process be established in order to manage utilization and cost.

SECTION 15. It is the intent of the Idaho Legislature that the Department of Health and Welfare actively oversee targeted case management services received by clients of the state's Medicaid Program to ensure that clients are receiving only needed services resulting in desired treatment outcomes. It is further the intent of the Idaho Legislature that private targeted case managers focus more on managing the utilization of services rather than maximizing services provided to clients. The Department of Health and Welfare is authorized to develop and include enforceable prior authorization and performance requirements in provider agreements for targeted case management services to carry out these objectives. The department shall consult with providers and advocates of clients receiving targeted case management services on how to effect the transition to the prior authorization and performance requirements. It is further the intent of the Idaho Legislature that the Department of Health and Welfare develop a plan to be implemented over a period of time to better manage such services.

SECTION 16. It is the intent of the Idaho Legislature that mental health services provided to clients of the state's Medicaid Program shall be prior authorized and periodically reviewed through a defined process in order to achieve cost savings. The department shall consult with providers and advocates of clients receiving mental health services on the process for implementing such prior authorization and periodic review.

SECTION 17. It is the intent of the Idaho Legislature that clients participating in the state's Medicaid Program share a portion of the cost of providing services to the extent allowed by law. The Idaho Legislature authorizes the Department of Health and Welfare to implement reasonable copayments and other cost-sharing methods as allowed by law. Providers will retain all copayments collected, and the Department of Health and Welfare will not reduce provider reimbursement rates by the amount of the copayments.

SECTION 18. It is the intent of the Idaho Legislature that day treatment services provided to clients with mental illness through the state's Medicaid Program shall be limited to aiding in the transition from acute care to lesser levels of care and to stabilization as a means of preventing hospitalization. Such transition and stabilization services shall include, but not be limited to, a planned program of three (3) hours per day of group therapy, one (1) hour per day of

individual therapy, at least two (2) psychiatric visits every six (6) days, and meaningful group recreational activities. The modification of day treatment services shall be phased in by January 1, 2001. The department shall consult with providers and advocates of clients receiving day treatment services regarding the means of modifying day treatment services to transitional and stabilization services by the target date.

SECTION 19. It is the intent of the Idaho Legislature that the Department of Health and Welfare research the feasibility of reducing Medicaid service coverage to more closely match private insurance coverage when practical.

SECTION 20. It is the intent of the Idaho Legislature that the department review the administrative costs of the Medicaid Program to assure cost-effectiveness, and wherever possible, reduce the cost to be more in line with the surrounding states.

SECTION 21. Notwithstanding any other provision of law to the contrary, it is the intent of the Idaho Legislature that the Department of Health and Welfare has the authority and responsibility to manage outside organizations and individuals with whom the department contracts for services. This includes all contracts for any services provided to or on behalf of the department.

SECTION 22. The Department of Health and Welfare is hereby directed to promulgate the necessary rules in consultation with provider groups and clients in order to fully implement the Medicaid cost control measures upon which this budget is based. The department shall also draft any required legislation for submittal to the First Regular Session of the Fifty-sixth Idaho Legislature to permanently implement these changes.

Approved April 14, 2000.

CHAPTER 410
(H.B. No. 798)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2001; AND INCREASING THE LIMIT IN THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to the appropriation made in House Bill No. 741, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Lands 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, 2000, through June 30, 2001:

SUPPORT SERVICES:
FOR:

Personnel Costs	$102,000
Operating Expenditures	10,000
TOTAL	$112,000

FROM:

General Fund	$112,000

SECTION 2. In addition to the authorization provided in House Bill No. 741, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, the Department of Lands is authorized two (2) full-time equivalent positions for the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act.

Approved April 14, 2000.

CHAPTER 411
(H.B. No. 799)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO MAKING STATE VETERANS HOMES MEDICAID ELIGIBLE; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amount, to be expended from the listed funds for the period July 1, 2000, through June 30, 2001:
DIVISION OF VETERANS SERVICES:
FROM:

General Fund	$ 204,200
Miscellaneous Revenue Fund	6,650,400
Veterans Services Endowment Income Fund	618,700
Federal Grant Fund	8,361,700
TOTAL	$15,835,000

SECTION 2. It is the intent of the Idaho Legislature that the Division of Veterans Services and the Department of Health and Welfare take the steps necessary to make state veterans homes providers of services under the state's Medicaid Program on or before February 1, 2001. It is further the intent of the Idaho Legislature that for the period July 1, 2000, through June 30, 2001, the cost limits described in Section 56-102(7) and Section 56-102(11), Idaho Code, shall not apply to state homes for veterans. In addition, the Department of Health and Welfare is directed to provide a status report on making

this conversion to the Joint Finance-Appropriations Committee at each of their regularly scheduled interim committee meetings.

SECTION 3. There is hereby reappropriated to the Division of Veterans Services within the Department of Self-Governing Agencies any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Veterans Services for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. 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 Division of Veterans Services within the Department of Self-Governing Agencies is hereby authorized to expend all receipts collected within the Division of Veterans Services as noncognizable funds for the period July 1, 2000, through June 30, 2001.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than two hundred fifty-five and thirty-two hundredths (255.32) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 14, 2000.

CHAPTER 412
(S.B. No. 1376, As Amended, As Amended)

AN ACT

RELATING TO CHILD SUPPORT GUIDELINES; AMENDING SECTION 32-706, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 418, AS ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO PROVIDE WHEN ADOPTING GUIDELINES, THE SUPREME COURT SHALL PROVIDE THAT IN A PROCEEDING TO MODIFY AN EXISTING AWARD, CHILDREN OF THE PARTY REQUESTING THE MODIFICATION WHO ARE BORN OR ADOPTED AFTER THE ENTRY OF THE EXISTING ORDER SHALL NOT BE CONSIDERED.

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

SECTION 1. That Section 32-706, Idaho Code, as amended by House Bill No. 418, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

32-706. CHILD SUPPORT. (1) In a proceeding for divorce or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his or her support and education until the child is eighteen (18) years of age, without regard to marital misconduct, after considering all rele-

vant factors which may include:

(a) The financial resources of the child;

(b) The financial resources, needs, and obligations of both the custodial and noncustodial parents which ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist;

(c) The standard of living the child enjoyed during the marriage;

(d) The physical and emotional condition and needs of the child and his or her educational needs;

(e) The availability of medical coverage for the child at reasonable cost;

(f) The actual tax benefit recognized by the party claiming the federal child dependency exemption.

(2) If the child continues his high school education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, and after considering all relevant factors which include those set forth in subsection (1) of this section, order the continuation of support payments until the child discontinues his high school education or reaches the age of nineteen (19) years, whichever is sooner.

(3) All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code. Failure to include this provision does not affect the validity of the support order. The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

(4) In a proceeding for the support of a child or a minor parent the court may order the parent(s) of each minor parent to pay an amount reasonable or necessary for the support and education of the child born to the minor parent(s) until the minor parent is eighteen (18) years of age, after considering all relevant factors which may include:

(a) The financial resources of the child;

(b) The financial resources of the minor parent;

(c) The financial resources, needs and obligations of the parent of the minor parent;

(d) The physical and emotional condition and needs of the child and his or her educational needs; and

(e) The availability of medical coverage for the child at reasonable cost.

(5) The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification guidelines that utilize and implement the factors set forth in subsections (1) through (4) of this section to create a uniform procedure for reaching fair and adequate child support awards. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific find-

ing on the record that the application of the guidelines would be unjust or inappropriate in the particular case before the court. When adopting guidelines, the supreme court shall provide that in a proceeding to modify an existing award, children of the party requesting the modification who are born or adopted after the entry of the existing order shall not be considered.

Approved April 17, 2000.

CHAPTER 413
(S.B. No. 1391)

AN ACT

RELATING TO THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION; REPEALING SECTIONS 20-301 AND 20-302, IDAHO CODE; AMENDING CHAPTER 3, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-301, IDAHO CODE, AUTHORIZING THE GOVERNOR TO EXECUTE THE COMPACT ON BEHALF OF THE STATE OF IDAHO, PROVIDING THE PURPOSE OF THE COMPACT, PROVIDING DEFINITIONS, PROVIDING FOR THE INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION, PROVIDING FOR THE STATE COUNCIL FOR INTERSTATE ADULT OFFENDER SUPERVISION, PROVIDING THE POWERS AND DUTIES OF THE INTERSTATE COMMISSION, PROVIDING FOR THE ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION AND THE ACTIVITIES OF THE COMMISSION, PROVIDING FOR THE RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION, PROVIDING FOR OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION, PROVIDING FOR FINANCING OF THE INTERSTATE COMMISSION, PROVIDING FOR COMPACTING STATES, THE EFFECTIVE DATE OF THE COMPACT AND AMENDMENT OF THE COMPACT, PROVIDING FOR WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT, PROVIDING FOR SEVERABILITY AND CONSTRUCTION OF THE COMPACT AND PROVIDING FOR THE BINDING EFFECT OF THE COMPACT AND OTHER LAWS; AMENDING CHAPTER 3, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-302, IDAHO CODE, PROVIDING A SHORT TITLE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Sections 20-301 and 20-302, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 3, 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 20-301, Idaho Code, and to read as follows:

20-301. COMPACTS WITH OTHER STATES AUTHORIZED. The governor of this state is hereby authorized and directed to execute a compact on behalf of the state of Idaho with any of the United States legally joining therein in the form substantially as follows:

ARTICLE I
PURPOSE

The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that congress, by enacting the crime control act, 4 U.S.C. section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact will: create an interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and bylaws and rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute or operation of law.

(2) "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

(3) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact who is responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

(4) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(5) "Commissioner" means the voting representative of each compacting state appointed pursuant to article III of this compact.

(6) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(7) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(8) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

(9) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

(10) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

(11) "Rules" means acts of the interstate commission, duly promulgated pursuant to article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

(12) "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

(13) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under article IV of this compact.

ARTICLE III
THE COMPACT COMMISSION

(1) The compacting states hereby create the "Interstate Commission for Adult Offender Supervision." The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state.

(3) In addition to the commissioners who are the voting representatives of the compacting states, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a

member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the interstate commission shall be ex officio (nonvoting) members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it deems necessary.

(4) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(5) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(6) The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and as directed by the interstate commission; and performs other duties as directed by the commission or set forth in the bylaws.

ARTICLE IV

THE STATE COUNCIL

(1) Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint the compact administrator from that state as its commissioner to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government, victims groups and (the) compact administrator(s). Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary.

(2) In addition to appointment of its commissioner to the interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

(1) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission;

(2) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the commission;

(4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means including, but not limited to, the use of judicial process;

(5) To establish and maintain offices;

(6) To purchase and maintain insurance and bonds;

(7) To borrow, accept or contract for services of personnel including, but not limited to, members and their staffs;

(8) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

(10) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same;

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal or mixed;

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(13) To establish a budget and make expenditures and levy dues as provided in article X of this compact;

(14) To sue and be sued;

(15) To provide for dispute resolution among compacting states;

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(17) To report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

(18) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity;

(19) To establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the interstate commission;

(b) Establishing an executive committee and such other committees as may be necessary;

(c) Providing reasonable standards and procedures:

(i) For the establishment of committees; and

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

(d) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the officers of the interstate commission;

(f) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission;

(g) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(h) Providing transition rules for "start up" administration of the compact;

(i) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(3) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(4) The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

(5) The members, officers, executive director and employees of

the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(6) The interstate commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(7) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII
ACTIVITIES OF THE INTERSTATE COMMISSION

(1) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

(2) Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(3) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(4) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(5) The interstate commission shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(6) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the government in sunshine act, 5 U.S.C. section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(a) Relate solely to the interstate commission's internal personnel practices and procedures;

(b) Disclose matters specifically exempted from disclosure by statute;

(c) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) Involve accusing any person of a crime, or formally censuring any person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigatory records compiled for law enforcement purposes;

(g) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(h) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;

(i) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision.

(7) The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and

shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(8) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(2) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal administrative procedure act, 5 U.S.C.S. section 551 et seq., and the federal advisory committee act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA").

(3) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(4) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(5) When promulgating a rule, the interstate commission shall:

(a) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(b) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(c) Provide an opportunity for an informal hearing; and

(d) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

(6) Not later than sixty (60) days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(7) Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

(a) Notice to victims and opportunity to be heard;

(b) Offender registration and compliance;

(c) Violations/returns;

(d) Transfer procedures and forms;

(e) Eligibility for transfer;

(f) Collection of restitution and fees from offenders;

(g) Data collection and reporting;

(h) The level of supervision to be provided by the receiving state;

(i) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

(j) Mediation, arbitration and dispute resolution.

(8) The existing rules governing the operation of the previous compact superseded by this act shall be null and void twelve (12) months after the first meeting of the interstate commission created hereunder.

(9) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption; provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but in no event later than ninety (90) days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION
BY THE INTERSTATE COMMISSION

(1) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(3) The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(4) The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.

(5) The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(6) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII, of this compact.

ARTICLE X
FINANCE

(1) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(2) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(3) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI
COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state, as defined in article II of this compact, is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(3) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII
WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a

compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.

(2) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

(3) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations the performance of which extend beyond the effective date of withdrawal.

(4) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state's reenactment of the compact or upon such later date as determined by the interstate commission.

(5) If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(a) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

(b) Remedial training and technical assistance as directed by the interstate commission;

(c) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(6) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension.

(7) Within sixty (60) days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

(8) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations the performance of which extends beyond the effective date of termination.

(9) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

(10) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(11) The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(12) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one (1) compacting state. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV
BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(3) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

(4) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(5) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(6) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred

by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

SECTION 3. That Chapter 3, 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 20-302, Idaho Code, and to read as follows:

20-302. SHORT TITLE. This act may be cited as the "Interstate Compact for Adult Offender Supervision."

SECTION 4. This act shall become effective upon the enactment of the Interstate Compact for Adult Offender Supervision into law by thirty-five states or July 1, 2001, whichever is later.

Approved April 17, 2000.

CHAPTER 414
(S.B. No. 1425)

AN ACT

RELATING TO THE STATE-TRIBAL RELATIONS ACT; AMENDING SECTION 67-4002, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR AND HIS DESIGNATED STATE AGENCIES MAY ENTER INTO AGREEMENTS WITH ENUMERATED INDIAN TRIBES IN IDAHO REGARDING FUEL TAXES AND THEIR REVENUES AND TO PROVIDE FOR RATIFICATION BY THE LEGISLATURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4002, Idaho Code, be, and the same is hereby amended to read as follows:

67-4002. AUTHORITY TO ENTER INTO AGREEMENTS WITH TRIBES. (1) Any public agency as defined in section 67-2327, Idaho Code, or the state of Idaho or any of its political subdivisions may enter into agreements with the Indian tribes enumerated in section 67-4001, Idaho Code, for transfer of real and personal property and for joint concurrent exercise of powers provided such agreement is in substantial compliance with the provisions of sections 67-2327 through 67-2333, Idaho Code.

(2) The governor and his designated state agencies may enter into agreements with Indian tribes enumerated in section 67-4001, Idaho Code, regarding the assessment, nonassessment, collection, refund and sharing of any fuel tax imposed by the state and revenues from fuel taxes. The agreement must be in substantial compliance with the provisions of sections 67-2327 through 67-2333, Idaho Code. The agreement shall be effective when ratified by both houses of the legislature by adoption of a concurrent resolution.

(3) No power, privilege or other authority shall be exercised

under the authority of this chapter where otherwise prohibited by the constitution of the state of Idaho or the constitution or laws of the United States government. Additionally, the provisions of this chapter shall not be deemed to amend, modify, or repeal the provisions of chapter 51, title 67, Idaho Code (public law 280).

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

Approved April 17, 2000.

CHAPTER 415
(S.B. No. 1472)

AN ACT

RELATING TO HEALTH BENEFIT PLANS; AMENDING SECTION 41-4706, IDAHO CODE, TO PROVIDE FOR THE APPLICATION OF AGE AS A RATING FACTOR ON AN ANNUAL BASIS IN SETTING PREMIUM RATES FOR HEALTH BENEFIT PLANS FOR SMALL EMPLOYERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-5206, IDAHO CODE, TO PROVIDE FOR THE APPLICATION OF AGE AS A RATING FACTOR ON AN ANNUAL BASIS IN SETTING PREMIUM RATES FOR HEALTH BENEFIT PLANS FOR INDIVIDUALS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-4706, Idaho Code, be, and the same is hereby amended to read as follows:

41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the ~~provisions of the~~ following provisions:

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent (20%).

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium

rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(d) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(e) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to section 41-4711, Idaho Code.

(f) In the case of health benefit plans delivered or issued for delivery prior to the effective date of this chapter, a premium rate for a rating period may exceed the ranges set forth in subsections (1)(a) and (b) of this section for a period of three (3) years following the effective date of this chapter. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers; and

(ii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

(g) (i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) A small employer carrier shall treat all health benefit

plans issued or renewed in the same calendar month as having the same rating period.

(h) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(i) The small employer carrier shall not use case characteristics, other than age, individual tobacco use, geography, as defined by rule of the director, or gender, without prior approval of the director.

(j) A small employer carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under ~~the--age--of~~ twenty-three (23) years of age, and the same rating factor ~~shall~~ may be applied on an ~~quinquennial~~ annual basis as to individuals or nondependents twenty (20) years of age or older.

(k) The director may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(iii) Prescribe the manner in which a small employer carrier is to demonstrate compliance with the provisions of this section, including requirements that a small employer carrier provide the director with actuarial certification as to such compliance.

(2) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more small employers included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales mate-

rials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 2. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(b) The percentage increase in the premium rate charged to an individual for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the

first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals.

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the individual or dependents as determined from the individual carrier's rate manual; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the individual carrier's rate manual.

(c) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by carriers pursuant to section 41-4711, Idaho Code.

(d) In the case of health benefit plans delivered or issued for delivery prior to the effective date of this chapter, a premium rate for a rating period may exceed the ranges set forth in subsections (1)(a) and (b) of this section for a period of three (3) years following the effective date of this chapter. In such case, the percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals; and

(ii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the carrier's rate manual.

(e) (i) Individual carriers shall apply rating factors, including case characteristics, consistently with respect to all individuals. Rating factors shall produce premiums for identical individuals which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the individuals assumed to select particular health benefit plans; and

(ii) An individual carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(f) For purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize

such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(g) The individual carrier shall not use case characteristics, other than age, individual tobacco use, geography as defined by rule of the director, or gender, without prior approval of the director.

(h) An individual carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under ~~the age of~~ twenty-three (23) years of age, and the same rating factor ~~shall~~ may be applied on an ~~quinquennial~~ annual basis as to individuals or nondependents twenty (20) years of age or older.

(i) The director may establish rules to implement the provisions of this section and to assure that rating practices used by individual carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by individual carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by individual carriers; and

(iii) Prescribe the manner in which an individual carrier is to demonstrate compliance with the provisions of this section, including requirements that an individual carrier provide the director with actuarial certification as to such compliance.

(2) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more individuals for one (1) or more rating periods upon a filing by the individual carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the individual carrier or that the suspension would enhance the efficiency and fairness of the marketplace for individual health insurance.

(3) In connection with the offering for sale of any health benefit plan to an individual, an individual carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for an individual are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the individual and his dependents;

(b) The provisions of the health benefit plan concerning the individual carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(4) (a) Each individual carrier shall maintain at its principal

place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each individual carrier shall file with the director annually on or before September 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the individual carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the individual carrier at its principal place of business.

(c) An individual carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

Approved April 17, 2000.

CHAPTER 416
(S.B. No. 1497)

AN ACT

RELATING TO LEGISLATIVE APPROVAL FOR CERTAIN FEDERAL ACTIONS; AMENDING CHAPTER 63, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6302, IDAHO CODE, TO REQUIRE ANY FEDERAL AGENCY TO SECURE APPROVAL FROM THE STATE LEGISLATURE PRIOR TO INTRODUCING OR REINTRODUCING ANY SPECIES INTO THE STATE OF IDAHO.

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

SECTION 1. That Chapter 63, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6302, Idaho Code, and to read as follows:

67-6302. LEGISLATIVE APPROVAL REQUIRED FOR CERTAIN FEDERAL ACTIONS. No action may be taken by a federal agency including the United States fish and wildlife service, or any entity acting on behalf of a federal agency, to introduce or to reintroduce any species into the state of Idaho without first securing the approval of the Idaho state legislature.

Approved April 17, 2000.

CHAPTER 417
(S.B. No. 1501, As Amended, As Amended in the House)

AN ACT

RELATING TO PUBLIC TRANSPORTATION POLICY; AMENDING SECTION 40-117, IDAHO CODE, TO DEFINE "PUBLIC TRANSPORTATION SERVICES" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-514, IDAHO CODE, TO SPECIFY REPORTING REQUIREMENTS FOR STATE AGENCIES AND OTHER ENTITIES, TO CLARIFY DUTIES OF THE DEPARTMENT, TO REVISE THE NAME OF THE ADVISORY COUNCIL, TO PROVIDE DUTIES OF THE COUNCIL, TO PROVIDE ADDITIONAL CRITERIA FOR APPOINTMENTS TO THE COUNCIL, TO REDUCE THE TERM OF OFFICE FOR COUNCIL MEMBERS TO THREE YEARS, TO AUTHORIZE THREE COUNCIL MEETINGS PER YEAR, TO REVISE MEMBERSHIP OF THE INTERAGENCY WORKING GROUP, TO PROVIDE FOR MEETINGS OF THE INTERAGENCY WORKING GROUP, TO PROVIDE FOR ANNUAL ELECTION OF A CHAIRMAN FOR THE INTERAGENCY WORKING GROUP AND TO DELETE PROVISION FOR APPOINTMENT OF REGIONAL ADVISORY COMMITTEES.

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

SECTION 1. That Section 40-117, Idaho Code, be, and the same is hereby amended to read as follows:

40-117. DEFINITIONS -- P.

(1) "Person" includes every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors.

(2) "Place." (See "Maintain," section 40-114, Idaho Code)

(3) "Primary system" or "primary highway" means any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways."~~.~~

(4) "Public highway agency" means the state transportation department, any city, county, highway district or other political subdivision of the state with jurisdiction over public highway systems and public rights-of-way.

(5) "Public highways" means all highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (Also see "Highways," section 40-109, Idaho Code)

(6) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(7) "Public transportation services" means, but is not limited to, fixed transit routes, scheduled or unscheduled transit services provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car pooling services;

transportation services unique to social service programs; and the management and administration thereof.

SECTION 2. That Section 40-514, Idaho Code, be, and the same is hereby amended to read as follows:

40-514. PUBLIC TRANSPORTATION SERVICES -- PUBLIC TRANSPORTATION SERVICES ADVISORY COUNCIL CREATED -- INTERAGENCY WORKING GROUP CREATED -- ~~REGIONAL--ADVISORY--COMMITTEES-CREATED~~ DEPARTMENT SUPPORT. (1) ~~The department-shall-coordinate-planning-of-public-funds-from-all--sources expended--on--public--transportation-services-in-Idaho,-and-a~~All state agencies except the department of education, and all public entities that use public funds to provide public transportation services within the state shall ~~annually~~ report not less often than semiannually to the department the amount of funding~~,-personnel-and~~ expended, audits conducted, the number of passengers carried, the agency vehicles ~~directed~~ used and the vehicle miles driven to provide transportation for Idaho citizens. Upon receipt of such information, the department shall:

(a) Develop a uniform data collection and reporting system; information from said system shall be submitted annually to the joint finance-appropriations committee of the Idaho legislature; and as public information, it shall also be available upon request; ~~which-includes-funding,-personnel-and-equipment--information-on-all-state-and-other-publicly-supported-transportation-services;~~

(b) In cooperation with other state agencies and public entities, develop a comprehensive plan for public transportation; and

(c) Provide assistance to operators of local and regional transportation systems that are consistent with public program objectives of the state plan~~;~~

~~(d)--Maintain--a-state-commitment-to-improve-public-transportation for-presently-served-areas-and-unserved-areas;-and~~

~~(e)--Increase-the-efficiency-and-productivity--of--publicly-funded transportation-services.~~

(2) There is hereby created the public transportation ~~services~~ advisory council to advise the Idaho transportation department on issues and policies regarding public transportation in Idaho. The council shall participate in planning activities, identify transportation needs, and promote coordinated transportation systems. Before setting programs and priorities, the council shall seek pertinent information, facts and data from local governments, agencies and providers regarding rural public transportation issues.

The advisory council shall be composed of six (6) members appointed by the Idaho transportation board. Appointed members shall be representatives of local governments and agencies, private organizations, citizen groups and private providers that have an interest in public transportation, and people with disabilities and the elderly who utilize public transportation. The board shall appoint said members from recommendations submitted by said organizations, groups, providers, users and state agencies in each district. One (1) member shall be appointed from each of the six (6) transportation department director districts as provided in section 40-303, Idaho Code. The term

of each member shall be ~~six~~ three (63) years and the initial appointments to the council shall be such that ~~one-(1)-member~~ two (2) members shall be appointed each year thereafter.

The ~~number-of~~ council ~~meetings-per-year-shall-not-exceed-the-number-of-meetings~~ is authorized to meet three (3) times per year with additional meetings as authorized by the board.

Members of the advisory council shall be reimbursed according to the provisions of section 59-509(g), Idaho Code.

(3) The director of the Idaho transportation department together with the directors of the affected state agencies shall establish an interagency working group to advise and assist the department in analyzing public transportation needs, identifying areas for coordination, and developing strategies for eliminating procedural and regulatory barriers to coordination at the state level. The group shall undertake detailed work assignments related to transportation services which promote cooperation and collaboration among systems.

The working group shall be composed of a representative from the office of the governor and one (1) staff representative from each of the following agencies which expend public funds for transportation services or associations representing public transportation interests:

(a) Idaho ~~office~~ commission on aging;

(b) Idaho head start association;

(c) Two (2) representatives from the Idaho department of health and welfare, one (1) of whom shall represent the division of medicaid;

(d) Idaho department of education;

(e) Idaho transportation department;

(f) Community transportation association;

(g) Idaho council on developmental disabilities; ~~and~~

(h) ~~Any-other-participating-agency~~ Division of vocational rehabilitation; and

(i) Idaho department of labor, workforce development council.

Ex officio members may be appointed to the group as deemed necessary. Members of the working group representing state agencies shall be reimbursed by their respective agencies according to the provisions of section 59-509(b), Idaho Code.

(4) ~~The-transportation-board-shall-appoint-one-(1)-regional-advisory--committee--within--each-of-the-six-(6)-transportation-department director-districts-as-provided-in-section--40-303,--Idaho--Code.--Each committee--shall--be--composed--of--not-more-than-four-(4)-members-who shall-advise-and-assist-the--council--members--in--planning,--resource identification,--coordination--and--evaluation--of--regional-and-local transportation-services.-The-term-of-each-regional-advisory--committee member--shall--not--exceed--three--(3)--years-and-members-may-be-reappointed.-The-number-of-committee-meetings-per-year--for--each--of--the committees--shall--not-exceed-the-number-authorized-by-the-board.-Members-shall-be-reimbursed-by-the-department--for--travel--and--expenses according--to--the-limits-specified-in-section-67-2008,-Idaho-Code~~ The interagency working group established in subsection (3) of this section shall:

(a) Meet at least once in each calendar quarter; and

(b) Discuss all agenda items submitted to it by any member of the group; and

(c) Provide notice of each meeting at least two (2) weeks in advance of the meeting; and

(d) Annually elect a chairman from among its members; such person shall not serve consecutive terms as chairman.

(5) The department shall provide the administrative support required by the council and the interagency working group.

Approved April 17, 2000.

CHAPTER 418
(S.B. No. 1580)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES WEIGHING IN EXCESS OF SIXTY THOUSAND POUNDS GROSS VEHICLE WEIGHT; AMENDING CHAPTER 7, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-710, IDAHO CODE, TO ESTABLISH THE AMERICAN TRUCKING ASSOCIATION SETTLEMENT FUND; AMENDING SECTION 49-110, IDAHO CODE, TO DEFINE "INTERNATIONAL REGISTRATION PLAN"; AMENDING SECTION 49-114, IDAHO CODE, TO DELETE REFERENCE TO USE FEE; AMENDING SECTION 49-122, IDAHO CODE, TO DELETE THE DEFINITION OF "USE FEE" AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 49-201A, IDAHO CODE; AMENDING SECTION 49-202, IDAHO CODE, TO DELETE REFERENCE TO A REPEALED LAW, TO DELETE REFERENCE TO USE FEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-434, IDAHO CODE, TO CLARIFY PAYMENT OF THE ADMINISTRATIVE FEE, TO REVISE THE REGISTRATION SCHEDULE FOR VEHICLES WEIGHING IN EXCESS OF SIXTY THOUSAND POUNDS GROSS VEHICLE WEIGHT, TO CLARIFY REGISTRATIONS FOR VEHICLES WHICH ARE REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN, TO CLARIFY REGISTRATIONS FOR VEHICLES WHICH ARE NOT REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN, TO PROVIDE FOR DETERMINATION OF MILEAGE DATA, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-435, IDAHO CODE, TO PROVIDE FOR PROPORTIONAL REGISTRATION OF FLEETS OF COMMERCIAL VEHICLES, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTIONS 49-435A AND 49-436, IDAHO CODE; AMENDING SECTION 49-437, IDAHO CODE, TO PROVIDE THAT FEES SHALL BE ROUNDED TO THE NEAREST WHOLE DOLLAR; AMENDING SECTION 49-438, IDAHO CODE, TO DELETE REFERENCE TO USE FEE AND TO PROVIDE THAT VIOLATIONS SHALL BE INFRACTIONS OR MISDEMEANORS AS SPECIFIED IN SECTION 49-1013, IDAHO CODE; AMENDING SECTION 49-439, IDAHO CODE, TO PROVIDE A STANDARD AUDITING CYCLE, TO PROVIDE ADDITIONAL AUDITING CONDITIONS AND PROCEDURES CONSISTENT WITH CURRENT LAW AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-504, IDAHO CODE, TO DELETE REFERENCE TO USER FEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1001, IDAHO CODE, TO DELETE REFERENCE TO WEIGHT-DISTANCE OPERATING FEES AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 49-1004, IDAHO CODE, TO PROVIDE A FEE FOR VEHICLES OPERATING AT SPECIFIED WEIGHTS AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING LEGISLATIVE INTENT FOR THE TRANSITION FROM A SYSTEM OF REGISTRATION AND WEIGHT-DISTANCE USE FEES TO A REGISTRATION FEE

ONLY SYSTEM AND FOR COLLECTION OF FEES; PROVIDING REPORTING REQUIREMENTS; AND PROVIDING EFFECTIVE DATES CONTINGENT UPON CERTIFICATION BY THE SECRETARY OF STATE THAT THE COURT HAS APPROVED A FINAL SETTLEMENT.

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

SECTION 1. That Chapter 7, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-710, Idaho Code, and to read as follows:

40-710. AMERICAN TRUCKING ASSOCIATION SETTLEMENT FUND. (1) There is hereby established in the state treasury the American trucking association settlement fund hereafter referred to as the settlement fund, to which shall be credited all moneys as may be provided by law.

(2) Moneys in the fund are continuously appropriated and shall be used to satisfy the settlement agreement as approved by the court pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., in the fourth judicial district, in accordance with the terms of such agreement.

(3) Interest earned on the investment of idle moneys in the settlement fund shall be paid to the settlement fund.

SECTION 2. That Section 49-110, Idaho Code, be, and the same is hereby amended to read as follows:

49-110. DEFINITIONS -- I.

(1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Individual record" means a record containing personal information about a designated person who is the subject of the record as identified in a request for information.

(5) "Infraction" means a civil public offense, not constituting a

crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars ($100) and no imprisonment.

(6) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(7) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(8) "International registration plan" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of registration and licensing fees on a proportional basis determined by the fleet miles operated in the various jurisdictions.

(9) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

SECTION 3. 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.

(12) "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.

(13) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(14) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(15) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(16) "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 4. That Section 49-122, Idaho Code, be, and the same is hereby amended to read as follows:

49-122. DEFINITIONS -- U.

(1) "Unauthorized vehicle" means any vehicle parked or otherwise left on private property without the consent of the person owning or controlling that property.

(2) "United States" means the fifty (50) states and the District of Columbia.

(3) "Unladen weight." (See "Light weight,"~~;~~ section 49-113, Idaho Code)

(4) "Unregistered vehicle" means a vehicle without current registration on file with the department or with the appropriate agency of another state, unless exempt from registration.

(5) "Unusual noise." (See "Excessive,"~~;~~ section 49-106, Idaho Code)

(6) "Urban district." (See "District,"~~;~~ section 49-105, Idaho Code)

(7) ~~"Use--fee"--means-the-fee-as-imposed-in-section-49-434,-Idaho Code,-for-vehicles-exceeding--sixty--thousand--(60,000)--pounds--gross weight,--and--calculated--based--upon--the-number-of-miles-traveled-in Idaho-times-the-use-fee-rate-per-mile-of-travel-as-established-by--law for--the-applicable-maximum-gross-weight-of-the-vehicle-or-combination of-vehicles-as-registered.~~

~~(8)~~ "Utility trailer" means a trailer or semitrailer designed primarily to be drawn behind a passenger car or pickup truck for domestic and utility purposes. Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.

SECTION 5. That Section 49-201A, Idaho Code, be, and the same is hereby repealed.

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 furnishing copies of 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 searching 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 contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (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~~ insufficient 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~~ insufficient 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 requests revocation, or whenever an interstate carrier's 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~~9~~, Idaho Code;

(~~g~~f) 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~~f) unless:

(i) ~~t~~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) ~~t~~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~~ insufficient 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 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 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Maximum Gross Weight (Pounds)	~~Annual Reigstration~~ Annual Registration Fee	
	Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 31.08	$ 30.60
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount ~~of one hundred twenty dollars ($120)~~ prescribed by

subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

(a) Trailer or semitrailer in a combination of vehicles ...$15.00

(b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less $8.00

(c) Rental utility trailer with a gross weight over two thousand (2,000) pounds $15.00

(4) As an option to the trailer and semitrailer annual registration, the department may provide extended registration.

(a) For trailers and semitrailers, the optional extended-registration period shall not extend beyond seven (7) years.

(b) The fee shall be fifteen dollars ($15.00) for each year.

(c) The license plate originally issued shall remain on the trailer or semitrailer until the registration expires.

(d) The registration document shall be the official record of the status of the extended registration. No pressure-sensitive validation sticker shall be required.

(e) For rental utility trailers, the optional registration period shall not extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. ~~No r~~Refunds ~~shall~~ may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration docu-

ment. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars ($4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8)(a) of this section. Vehicles registered under subsection (8)(b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) ~~In--addition-to-the-registration-and-license-fees-provided-by subsections-(1)-and-(2)-of-this-section,-t~~There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a ~~use~~ registration fee based upon the ~~registered~~ maximum gross weight ~~in-accordance-with-the-following schedule.-The-use-fees-shall-be-calculated-by--multiplying--the--mills per-mile,-determined-from-the-mills-per-mile-schedule-table,-times-the reported--mileage--for--the-vehicle,-subject-to-the-provisions-of-this section~~ of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross Weight of Vehicle (Pounds)	~~Mills-per-Mile~~	Total Miles Driven		
		1-7,500	7,501-50,000	Over 50,000
60,001-62,000	~~30.05~~	$210	$ 840	$1,400
62,001-64,000	~~31.35~~	240	960	1,600
64,001-66,000	~~32.60~~	270	1,080	1,800
66,001-68,000	~~33.90~~	300	1,200	2,000
68,001-70,000	~~35.15~~	330	1,320	2,200
70,001-72,000	~~36.40~~	360	1,440	2,400
~~60,001-62,000~~	~~30.05~~			
72,001-74,000	~~38.55~~	390	1,560	2,600
74,001-76,000	~~40.65~~	420	1,680	2,800
76,001-78,000	~~42.75~~	450	1,800	3,000
78,001-80,000	~~44.90~~	480	1,920	3,200
80,001-82,000	~~47.00~~	495	1,980	3,300
82,001-84,000	~~49.10~~	510	2,040	3,400
84,001-86,000	~~51.20~~	525	2,100	3,500
86,001-88,000	~~53.30~~	540	2,160	3,600
88,001-90,000	~~55.40~~	555	2,220	3,700
90,001-92,000	~~57.50~~	570	2,280	3,800
92,001-94,000	~~59.60~~	585	2,340	3,900
94,001-96,000	~~61.70~~	600	2,400	4,000
96,001-98,000	~~63.80~~	615	2,460	4,100
98,001-100,000	~~65.90~~	630	2,520	4,200
100,001-102,000	~~68.00~~	645	2,580	4,300
102,001-104,000	~~70.10~~	660	2,640	4,400
104,001-106,000	~~72.20~~	675	2,700	4,500
106,001-108,000		690	2,760	4,600
108,001-110,000		705	2,820	4,700
110,001-112,000		720	2,880	4,800
112,001-114,000		735	2,940	4,900
114,001-116,000		750	3,000	5,000
116,001-118,000		765	3,060	5,100
118,001-120,000		780	3,120	5,200
120,001-122,000		795	3,180	5,300
122,001-124,000		810	3,240	5,400
124,001-126,000		825	3,300	5,500
126,001-128,000		840	3,360	5,600
128,001-129,000		855	3,420	5,700

(d) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars ($255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8)(d).

~~For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.~~

~~(9) In addition to the registration and license fees of this section, there shall be paid on all farm vehicles, and any commercial~~

~~vehicle--exclusively-engaged-in-the-transportation-of-logs,-pulp-wood,-stull,-poles,-piling,-rough-lumber,-ores,-ore-concentrates,--sand--and-gravel--aggregates--in--bulk,-livestock-and-vehicles-used-for-the-sole-purpose-of-transporting-milk-from-the-farm-to-processing-plant,-having-a-maximum-gross-weight-in-excess-of-sixty-thousand-(60,000)-pounds,--a-use--fee-in-accordance-with-the-following-schedule.-The-use-fees-shall-be-calculated-by-multiplying-the-mills-per-mile,-determined--from--the-mills--per--mile--schedule--table,--times-the-reported-mileage-for-the-vehicle,-subject-to-the-provisions-of-this-section.~~

~~Maximum-Gross Weight-of-Vehicle (Pounds)~~	~~Mills-per-Mile~~
~~60,001-62,000~~	~~22.45~~
~~62,001-64,000~~	~~22.45~~
~~64,001-66,000~~	~~22.45~~
~~66,001-68,000~~	~~22.45~~
~~68,001-70,000~~	~~22.45~~
~~70,001-72,000~~	~~22.45~~
~~72,001-74,000~~	~~22.45~~
~~74,001-76,000~~	~~22.45~~
~~76,001-78,000~~	~~22.45~~
~~78,001-80,000~~	~~22.45~~
~~80,001-82,000~~	~~24.55~~
~~82,001-84,000~~	~~26.65~~
~~84,001-86,000~~	~~28.75~~
~~86,001-88,000~~	~~30.85~~
~~88,001-90,000~~	~~32.95~~
~~90,001-92,000~~	~~35.05~~
~~92,001-94,000~~	~~37.15~~
~~94,001-96,000~~	~~39.25~~
~~96,001-98,000~~	~~41.35~~
~~98,001-100,000~~	~~43.45~~
~~100,001-102,000~~	~~45.55~~
~~102,001-104,000~~	~~47.65~~
~~104,001-106,000~~	~~49.75~~

~~For-each-additional-two-thousand-(2,000)-pounds-or-fraction-thereof-in-excess-of-one-hundred-six--thousand-(106,000)-pounds-add-2.1-mills-per-mile.~~

~~(10)-If-any-vehicle,-or-combinations-of-vehicles-move-on-the-highways-of-the-state,-and-the-vehicle-or-combination-exceeds--its--registered--maximum--gross-weight-there-shall-be-paid-for-that-vehicle,-the-fees-provided-for-in-either-subsection-(8)-or-(9)-of-this-section,--as-applicable,--for-the-actual-gross-weight-of-the-vehicle-or-combination-of-vehicles-for-the-miles-traveled-at-the-heavier-weight.~~

(9) (a) During the first registration year that the fee schedule in subsection (8)(c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8)(c) of this section. When estimating the miles, the owner shall

provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8)(c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8)(c) of this section that is less than the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(1~~1~~0) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

~~(12) Any owner operating vehicle combinations may apply to the department for authority to report multiple weights and pay use fees based upon the maximum gross weight of each configuration in the combination being operated. The owner shall declare a maximum gross weight for each configuration being operated but not more than three (3) maximum gross weights for a vehicle combination may be declared. Any owner who receives authority to report and pay use fees at multiple maximum gross weights shall register the motor vehicle in a combination at the highest maximum gross weight of the vehicle. Any owner who reports vehicle combinations at multiple weights and fails to maintain records and furnish said records to the department upon request which show the configuration of the combination of vehicles and the trailer and unit number for all miles and trip segments traveled shall have all miles assessed at the highest maximum gross weight of the combination of vehicles.~~

~~(13) An applicant for registration of a commercial vehicle, a noncommercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (1), (2), (3) and (4) of this section. No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (8) or (9) of this section on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.~~

~~(14)-Any-owner-who-operates-or-intends-to-operate-non-Idaho--based vehicles--in-Idaho-that-are-subject-to-the-use-fee-required--under-the provisions-of-this-section-shall-apply-for-a-use--fee--account--before operating--the--vehicles--in--Idaho.-In-lieu-of-establishing-a-use-fee account-the-owner-may-purchase-a-trip-permit-under-the--provisions--of section--49-432--or--49-433,-Idaho-Code,-as-applicable.-The-department shall-develop-rules-to-administer-the-use-fee-account.-Any--owner--who has-not-established-a-use-fee-account-or-has-not-purchased-a-trip-permit-prior-to-operating-in-Idaho-shall-have-committed-an-infraction.~~

SECTION 8. That Section 49-435, Idaho Code, be, and the same is hereby amended to read as follows:

49-435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. (1) Any owner engaged in operating one (1) or more fleets of commercial vehicles may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain ~~the following information-and-such-other-information-pertinent-to-vehicle--registration-as-the-department-may-require:~~

~~(a)--Total--fleet--miles.--This-shall-be-the-total-number-of-miles operated-in-all-jurisdictions-during-the--preceding--year--by--the motor-vehicles-in-a-fleet-during-the-year.~~

~~(b)--In-state-miles.-This-shall-be-the-total-number-of-miles-operated--in-this-state-during-the-preceding-year-by-motor-vehicles-in the-fleets-during-the-year.~~

~~(c)--A-description-and-identification-of-each-vehicle-of-the-fleet which-is-to-be-operated-in-this-state-during-the-registration-year for-which-proportional-fleet-registration-is--requested,--and,--as determined--by--the--department,--the--vehicle-unit-number-of-each fleet-vehicle-as-assigned-by-the-owner.~~

~~(2)--The-application-for-each-fleet-shall,-at-the-time-and-in--the manner--required-by-the-department,-be-supported-by-a-fee-payment-computed-as-follows:~~

~~(a)--Divide-in-state-miles-by-total-fleet-miles.~~

~~(b)--Determine-the-total-amount-necessary--to--register--each--and every--vehicle--in--the--fleet--for-which-registration-is-required based-on-the-regular-annual-fees--prescribed--by--section--49-434, Idaho-Code.~~

~~(c)--Multiply--the--sum--obtained--under-subsection-(2)(b)-of-this section,-by-the-quotient-obtained-under-subsection-(2)(a)-of--this section.~~

~~(3)--The-applicant-for-proportional-registration-of-any-fleet,-the motor--vehicles-of-which-are-operated-by-him-in-jurisdictions-in-addition-to-those-in-which-the-applicant's-fleet-motor-vehicles-are--operated,-may-state-those-motor-vehicles-separately-in-his-application-and compute-and-pay-the-fees-in-accordance-with-the-separate-statement,-as to--which--"total-miles"-shall-be-the-total-miles-of-highway-operation determined-from-miles-of-power-units,-whether-prorated-or--not,--operated-in-combination-with-prorated-trailers-in-all-jurisdictions-during the--preceding-year~~ the information required by the international registration plan (IRP) agreement. Any owner who makes application for proportional registration under the provisions of the international

registration plan shall comply with the terms and conditions of the IRP agreement.

(~~4~~2) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsections ~~(2)~~ (1) and (8) of section 49-434, Idaho Code, and an additional identification charge of eight dollars ($8.00) per vehicle. The fees collected for the additional identification shall be deposited to the state highway account. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times.

(~~5~~3) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation~~,-except-that,-in--those--instances--in--which--a grant--of--authority-is-required-for-intrastate-movement-or-operation, no-vehicle-shall-be-operated-in--intrastate--commerce--in--this--state unless--the--owner--has-been-granted-intrastate-authority-or-rights-by the-public-utilities-commission-and-unless-the-vehicle-is-being--operated-in-conformity-with-such-authority-or-rights.~~

(~~6~~4) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one (1) other jurisdiction during the period for which it is proportionally registered in this state.

~~(7)--Vehicles-acquired-by-the-owner-after-the-commencement-of--the registration--year--and--subsequently-added-to-a-proportionally-registered-fleet-shall-be-proportionally-registered-by-applying-the-mileage percentage-used-in-the-original-application-for--the--fleet--for--that registration--period--to-the-annual-registration-fees-due-with-respect to-those-vehicles-for-the-remainder-of-the-registration-year.~~

~~(8)--If-any-vehicle-is-withdrawn-from-a-proportionally--registered fleet--during--the-period-for-which-it-is-registered,-the-owner-of-the fleet-shall-so-notify-the-department-on-appropriate-forms-to--be--prescribed--by--the--department.--The-department-may-require-the-owner-to surrender-proportional-registration--cards--and--other--identification devices--which--have--been--issued--with-respect-to-the-vehicle-as-the department-may-deem-advisable.~~

~~(9)--The-initial-application-for-proportional--registration--of--a fleet--shall--state-the-mileage-data-with-respect-to-the-fleet-for-the preceding-year-in-this-and-other-jurisdictions.-If-no-operations--were conducted--with--the--fleet-during-the-preceding-year,-the-application shall-contain-a-full-statement-of-the-proposed-method-of-operation-and estimates-of-annual-mileage-in-this-state-and-other-jurisdictions.-The department-shall-determine-the-in-state-and-total-fleet--miles--to--be used--in--computing--the-fee-payment-for-the-fleet.-The-department-may evaluate-and-adjust-the-estimate-in-the-application-if-it-is-not--satisfied-as-to-the-correctness-submitted.~~

~~(10)-The-department-may-refuse-to-accept-proportional-registration applications--for-the-registration-of-vehicles-based-in-another-juris-~~

~~diction if it shall find that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.~~

~~(11) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year of application. The owner shall agree to make his records accessible to the department for audit as to accuracy of computations, payments and assessments of deficiencies or allowances for credit. The department shall make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (2)(b) of this section, an additional penalty of ten per cent (10%) shall also be assessed.~~

(12~~5~~) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit.

~~(13) Proportionally registered vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds shall pay a use fee in accordance with section 49-434(4), (5), (6) and (7), Idaho Code, as applicable.~~

SECTION 9. That Section 49-435A, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 49-436, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 49-437, Idaho Code, be, and the same is hereby amended to read as follows:

49-437. INCREASE IN MAXIMUM GROSS WEIGHT -- FEES FOR REMAINING PORTION OF YEAR. (1) When a motor vehicle registered under section 49-434 or 49-435, Idaho Code, has once been registered and during the year of that registration increases the maximum gross weight, the higher fee due for the weight increase shall be offset by the fee already paid. The fee already paid and the fee due shall be prorated by one-twelfth (1/12) for each month already expired in the registration year. The difference between the two (2) fees shall be the balance due for the remainder of the registration year. If an owner decreases the weight during a registration year, the weight decrease shall not result in a refund of the fees already paid.

(2) If a motor vehicle is not operated on any highway during the first months of a calendar year, the owner may at any time thereafter be registered for the remainder of the year on payment of all fees, rounded to the nearest whole dollar, as provided in this chapter, less

one-twelfth (1/12) of such fees for each full calendar month which has expired prior to registering, but in no event shall the minimum fee be less than five dollars ($5.00).

SECTION 12. That Section 49-438, Idaho Code, be, and the same is hereby amended to read as follows:

49-438. PENALTY FOR EXCEEDING REGISTERED GROSS WEIGHT. Any person who shall operate, cause, permit, or suffer to be operated upon any highway any vehicle or combination of vehicles with a gross weight in excess of the registered gross weight of the vehicle specified in this title, without having paid the additional registration ~~and--use~~ fees required, shall have committed ~~an~~ a violation under the infraction or misdemeanor provisions of section 49-1013, Idaho Code.

SECTION 13. That Section 49-439, Idaho Code, be, and the same is hereby amended to read as follows:

49-439. AUDIT GUIDELINES. (1) The department may audit an owner of motor vehicles subject to fees pursuant to this chapter once every ~~five~~ four (~~5~~4) years unless probable cause, as defined by department rules~~and regulations~~, exists that the owner has not paid fees due pursuant to this chapter or has underreported or underpaid fees due pursuant to this chapter. An owner selected for audit more frequently than the ~~five~~ four (~~5~~4) years may have the audit selection reviewed for determination of the absence of probable cause by the district court of the county where the owner resides or where the owner's place of business is located or in Ada County, at the discretion of the owner. The department shall promulgate rules ~~and regulations~~ outlining its procedures for audit selection, assignment and inventory. Any owner of motor vehicles who has been subjected to an audit by the department that has not been in compliance with the provisions of this section or rules ~~and--regulations~~ promulgated pursuant thereto may recover attorney's fees and costs as may be determined by a court or may receive his attorney's fees and costs if granted, all or in part, by the director all in accordance with section 12-117, Idaho Code.

(2) Every owner whose fees are computed as specified in section 49-434 or 49-435, Idaho Code, except those registering under subsection (8)(c) of section 49-434, Idaho Code, for over fifty thousand (50,000) miles driven, shall maintain records and permit the department to inspect the records upon request to substantiate that the actual miles traveled, if using a mileage schedule in subsection (8)(c) of section 49-434, Idaho Code, are less than the maximum mileage schedule.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of those records and accounts at the out-of-state location. The owner or the department may request that the records be presented at a place within the state designated by the department. The records must be presented by a representative of the owner who is familiar with the records and who is responsible for the safekeeping of the records.

(4) Every owner is required to maintain records for the current year and the three (3) years immediately preceding. If an assessment has been made, such fees may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (7) of this section.

(5) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under section 49-434 or 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the department may assess a fee based on an estimate of the operation. The department shall promulgate rules specifying the methodology to be used to assess a fee based on an estimate of the operation.

(6) An owner who fails to pay any fees due is subject to suspension of vehicle registrations in addition to a penalty of ten percent (10%) of the amount of fee determined to be due, plus interest of one percent (1%) of the amount of the fee due for each month or fraction thereof after the fee became due. An order suspending the vehicle registration shall be mailed to the owner by the department. The suspension shall be canceled if the payment due is made, plus penalty and interest, along with a reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. The department may remit all or any part of the penalty and interest if satisfied that the delay was excusable. The department shall promulgate rules specifying when the penalty may be held in abeyance or be forgiven. The reinstatement fees shall be deposited to the state highway account. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is subsequently canceled pursuant to the appeal, the reinstatement fee shall not be due.

(7) An owner may contest an assessment made by the department within thirty (30) days from receipt of the assessment by filing an appeal with the department. Upon receipt of an appeal, the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal by the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing and the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law, the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the

director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.

SECTION 14. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules ~~and regulations~~ to provide for exceptions to the odometer requirement.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer~~s'~~'s certificate of origin or manufacturer~~s'~~'s statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a

certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the seller's bill of sale shall serve as a seventy-two (72) hour permit. This temporary permit allows operation of any noncommercial vehicle or unladened commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A ladened commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code~~, and provided user fees have been paid for the ladened weight and mileage~~.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

SECTION 15. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L

is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles										
axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
4	34,000											
5	34,000			WHEN NO ALLOWABLE WEIGHT IS								
6	34,000			LISTED FOR ANY AXLE SPACING,								
7	34,000			APPLY THE ALLOWABLE WEIGHT AS								
8	34,000			LISTED IN THE FIRST COLUMN TO								
8+	38,000	42,000		THE LEFT								
9	39,000	42,500										
10	40,000	43,500										
11		44,000										
12		45,000	50,000									
13		45,500	50,500									
14		46,500	51,500									
15		47,000	52,000									
16		48,000	52,500	58,000								
17		48,500	53,500	58,500								
18		49,500	54,000	59,000								
19		50,000	54,500	60,000								
20		51,000	55,500	60,500	66,000							
21		51,500	56,000	61,000	66,500							
22		52,500	56,500	61,500	67,000							
23		53,000	57,500	62,500	68,000							
24		54,000	58,000	63,000	68,500	74,000						
25		54,500	58,500	63,500	69,000	74,500						
26		55,500	59,500	64,000	69,500	75,000						
27		56,000	60,000	65,000	70,000	75,500						
28		57,000	60,500	65,500	71,000	76,500	82,000					
29		57,500	61,500	66,000	71,500	77,000	82,500					
30		58,500	62,000	66,500	72,000	77,500	83,000					
31		59,000	62,500	67,500	72,500	78,000	83,500					
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000				
33			64,000	68,500	74,000	79,000	85,000	90,500				
34			64,500	69,000	74,500	80,000	85,500	91,000				
35			65,500	70,000	75,000	80,500	86,000	91,500				
36			66,000	70,500	75,500	81,000	86,500	92,000	98,000			
37			66,500	71,000	76,000	81,500	87,000	93,000	98,500			
38			67,500	71,500	77,000	82,000	87,500	93,500	99,000			
39			68,000	72,500	77,500	82,500	88,500	94,000	99,500			
40			68,500	73,000	78,000	83,500	89,000	94,500	100,000	106,000		
41			69,500	73,500	78,500	84,000	89,500	95,000	100,500	106,500		
42			70,000	74,000	79,000	84,500	90,000	95,500	101,000	107,000		
43			70,500	75,000	80,000	85,000	90,500	96,000	102,000	107,500		
44			71,500	75,500	80,500	85,500	91,000	96,500	102,500	108,000	114,000	
45			72,000	76,000	81,000	86,000	91,500	97,500	103,000	108,500	114,500	
46			72,500	76,500	81,500	87,000	92,500	98,000	103,500	109,000	115,000	
47			73,500	77,500	82,000	87,500	93,000	98,500	104,000	110,000	115,500	
48			74,000	78,000	83,000	88,000	93,500	99,000	104,500	110,500	116,000	122,000
49			74,500	78,500	83,500	88,500	94,000	99,500	105,000	111,000	116,500	122,500
50			75,500	79,000	84,000	89,000	94,500	100,000	105,500	111,500	117,000	123,000
51			76,000	80,000	84,500	89,500	95,000	100,500	106,000	112,000	118,000	123,500
52			76,500	80,500	85,000	90,500	95,500	101,000	107,000	112,500	118,500	124,000
53			77,500	81,000	86,000	91,000	96,500	102,000	107,500	113,000	119,000	124,500
54			78,000	81,500	86,500	91,500	97,000	102,500	108,000	113,500	119,500	125,000
55			78,500	82,500	87,000	92,000	97,500	103,000	108,500	114,000	120,000	125,500

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles										
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
56			79,500	83,000	87,500	92,500	98,000	103,500	109,000	115,000	120,500	126,000
57			80,000	83,500	88,000	93,000	98,500	104,000	109,500	115,500	121,000	127,000
58				84,000	89,000	94,000	99,000	104,500	110,000	116,000	121,500	127,500
59				85,000	89,500	94,500	99,500	105,000	110,500	116,500	122,000	128,000
60				85,500	90,000	95,000	100,500	105,500	111,000	117,000	122,500	128,500
61				86,000	90,500	95,500	101,000	106,000	112,000	117,500	123,000	129,000
62				87,000	91,000	96,000	101,500	107,000	112,500	118,000	124,000	
63				87,500	92,000	96,500	102,000	107,500	113,000	118,500	124,500	
64				88,000	92,500	97,500	102,500	108,000	113,500	119,000	125,000	
65				88,500	93,000	98,000	103,000	108,500	114,000	119,500	125,500	
66				89,500	93,500	98,500	103,500	109,000	114,500	120,000	126,000	
67				90,000	94,000	99,000	104,500	109,500	115,000	121,000	126,500	
68				90,500	95,000	99,500	105,000	110,000	115,500	121,500	127,000	
69				91,000	95,500	100,000	105,500	111,000	116,000	122,000	127,500	
70				92,000	96,000	101,000	106,000	111,500	117,000	122,500	128,000	
71				92,500	96,500	101,500	106,500	112,000	117,500	123,000	128,500	
72				93,000	97,000	102,000	107,000	112,500	118,000	123,500	129,000	
73				93,500	98,000	102,500	107,500	113,000	118,500	124,000		
74				94,500	98,500	103,000	108,000	113,500	119,000	124,500		
75				95,000	99,000	103,500	109,000	114,000	119,500	125,000		
76				95,500	99,500	104,500	109,500	114,500	120,000	126,000		
77				96,000	100,000	105,000	110,000	115,000	120,500	126,500		
78				97,000	101,000	105,500	110,500	116,000	121,000	127,000		
79				97,500	101,500	106,000	111,000	116,500	122,000	127,500		
80				98,000	102,000	106,500	111,500	117,000	122,500	128,000		
81				98,500	102,500	107,000	112,000	117,500	123,000	128,500		
82				99,000	103,000	108,000	113,000	118,000	123,500	129,000		
83				100,000	104,000	108,500	113,500	118,500	124,000			
84					104,500	109,000	114,000	119,000	124,500			
85					105,000	109,500	114,500	120,000	125,000			
86					105,500	110,000	115,000	120,500	125,500			
87					106,000	111,000	115,500	121,000	126,000			
88					107,000	111,500	116,000	121,500	127,000			
89					107,500	112,000	117,000	122,000	127,500			
90					108,000	112,500	117,500	122,500	128,000			
91					108,500	113,000	118,000	123,000	128,500			
92					109,000	113,500	118,500	123,500	129,000			
93					110,000	114,000	119,000	124,000				
94					110,500	115,000	119,500	125,000				
95					111,000	115,500	120,000	125,500				
96					111,500	116,000	121,000	126,000				
97					112,000	116,500	121,500	126,500				
98					113,000	117,000	122,000	127,000				
99					113,500	118,000	122,500	127,500				
100					114,000	118,500	123,000	128,000				
101					114,500	119,000	123,500	129,000				

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7) through thirteen (13) axles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(c) Vehicles may operate with reducible loads at gross weights greater than one hundred five thousand five hundred (105,500) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds on noninterstate highways in accordance with the provisions of section 49-1004, Idaho Code, provided such vehicles are in compliance with the weight formula specified in this subsection (1) of this section, have registered and have paid the ~~weight-distance-operating~~ registration fees ~~calculated~~ as specified in section 49-434, Idaho Code, and are in compliance with the length restrictions set forth in section 49-1010(7), Idaho Code.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed seventy-nine thousand (79,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

(a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;

(b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;

(c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately, or single axles may be prequalified in accordance with rules or ordinances established by the board or other public road jurisdiction, if any of the following conditions exist regarding the single axle within a group of axles:

(a) A suspension system common to all axles in the group of axles does not exist.

(b) One (1) or more axles in the group of axles is equipped with separate variable load suspension controls to regulate the weight carried by individual axles.

(c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.

(d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating.

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed eighty thousand (80,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of

this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars ($50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator valve for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The manufacturer's gross axle weight rating of each such axle must not be less than the actual loading of the axle.

(c) All variable load suspension axles mounted on a vehicle after January 1, 1990, shall be designed to be self-steering in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement without undue tire scrubbing or pavement scuffing.

(d) The manufacturer's gross tire weight rating of each tire must not be less than the actual loading of the tire.

(e) Variable load suspension axles must be fully deployed or fully raised. For applicable definitions, see sections 49-117 and 49-123, Idaho Code.

(12) Any person who operates a motor vehicle with a variable load suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.

SECTION 16. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS. (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and

on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection (2). Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1 Gross weight of vehicle and load in pounds	Column 2 Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents ($1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged ~~fees as stated in section 49-434(9), Idaho Code~~ four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(e) From July 1, 1998, through June 30, 1999, the fee charged per mile pursuant to this subsection shall be assessed at one-half (1/2) the calculated fee. On and after July 1, 1999, the fee charged per mile shall be calculated and assessed in accordance

with this subsection.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(~~2~~4) A special pilot project route permit authorizing travel on pilot project routes may be issued by the board or a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such pilot project routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction, based on criteria established by the board. No local public highway agency shall approve a pilot project route which provides a thoroughfare for interstate carriers to pass through the state. State pilot project routes designated by the board based on criteria established by the board and identified on a map entitled "Designated Pilot Project Routes" are:

(a) Ashton to Kimberly to Twin Falls to Nevada using US-20, US-30, SH-33, US-93, SH-25, SH-50 and SH-74.

(b) Interstate 15 to Wyoming or Utah border using US-30, SH-34 and US-91.

Additions or deletions to the approved state pilot project routes specified in paragraphs (a) and (b) of this subsection (~~2~~4) shall be made only with the approval of the state legislature.

(~~3~~5) An annual administrative permit fee for operating on pilot project routes at the weights specified in subsection (~~2~~4) of this section shall be set by the board for travel on state pilot project routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars ($50.00) per vehicle. The annual permit shall cover administrative costs. Local public highway agencies are authorized to request the department to issue permits on their behalf. Permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the weight-distance fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate weight-distance fee for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-434, Idaho Code.

SECTION 17. LEGISLATIVE INTENT. It is legislative intent that, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., the following provisions setting forth the process for transitioning from a combination of registration fees and weight-distance use fees to a system of registration fees only, shall take effect as provided herein. These following provisions are both integral and necessary for the administration and implementation of the new registration system. It is legislative intent that the following provisions for vehicle registrations shall be in effect, subject

to the contingencies stated above, from October 1, 2000, through September 30, 2001. Subsection (5) shall continue to be in effect until the expiration of the applicable limitations period under that subsection.

(1) With regard to registrations for vehicles exceeding sixty thousand pounds gross vehicle weight which expire on December 31, 2000, the Idaho Transportation Department may accept payment for registration fees that will become effective on January 1, 2001, beginning October 1, 2000, and the owners of those vehicles shall cease to accrue new liability for repealed weight-distance use fees on January 1, 2001, and shall be liable for the new registration fees on January 1, 2001. An owner shall pay at least one-quarter of the annual Idaho registration fee due. The remainder of the annual Idaho registration fee shall be paid in three equal installments on dates as billed by the department.

(2) With regard to registration under the International Registration Plan for foreign-based vehicles exceeding sixty thousand pounds gross vehicle weight which expire in any month beginning October 1, 2000, through September 30, 2001, the owners of those vehicles shall cease to accrue new liability for the repealed weight-distance use fees and shall be liable for the new registration fees on the first day of the month during which their registration is due. Owners of vehicles whose registration has not yet expired during a given calendar quarter shall continue to accrue, report and remit the weight-distance use fees until the quarter in which their registration expires under the repealed weight-distance statutes.

(3) With regard to registration under the International Registration Plan for Idaho-based vehicles exceeding sixty thousand pounds gross vehicle weight which expire in any month beginning October 1, 2000, through September 30, 2001, the owners of those vehicles shall have the option of converting from the weight-distance use fee system to the registration fee only system at the time their registration is scheduled to expire, or may convert any time during the period from October 1, 2000, through September 30, 2001. At the time of conversion, the owner shall pay all weight-distance use fees due and shall pay at least one-quarter of the annual Idaho registration fee due, less any unexpired portion of registration fees already paid. The remainder of the annual Idaho registration fee shall be paid in three equal installments on dates as billed by the department.

(4) With regard to registration under the International Registration Plan for Idaho-based vehicles exceeding sixty thousand pounds gross vehicle weight which are being registered for the first time during the period from October 1, 2000, through September 30, 2001, the owner shall pay at least one-quarter of the annual Idaho registration fee and shall pay all other amounts due and owing to all other jurisdictions in which the owner intends to operate. The remainder of the annual registration fee due to Idaho shall be paid in three equal installments on dates as billed by the department.

(5) The Idaho Transportation Department may continue to enforce the repealed statutes addressing payment and collection of weight-distance use fees to audit and collect weight-distance use fees for the limitation period that would be in effect if the weight-distance use fees had not been repealed.

Further, it is legislative intent that for registrations or renewals occurring on and after October 1, 2001, all owners of vehicles exceeding sixty thousand pounds gross vehicle weight who are registering in Idaho for the first time, or who are renewing registrations on the registration fee only system, shall pay the full annual Idaho registration fee at the time of registration or renewal of registration.

SECTION 18. REPORTING REQUIREMENTS. The Legislature hereby directs the Idaho Transportation Department to review the level of fees collected under the repealed system of registration fees and weight-distance use fees with the newly enacted system of registration fees only.

During the First Regular Session and the Second Regular Session of the Fifty-sixth Idaho Legislature, the department shall provide the information and data necessary for the germane committees of the Legislature to review the transition from weight-distance use fees to a system of registration fees only. Such review shall include, but not be limited to, matters related to installment payments for the registration fee, and the schedule of registration fees in columns 2, 3 and 4 of the table in Section 49-434(8)(c), Idaho Code.

The Idaho Transportation Department shall report the revenues raised under the year preceding and the last year of the old weight-distance use fees system and the first and second years of the new registration fee only system to the Second Regular Session of the Fifty-seventh Idaho Legislature.

SECTION 19. Section 1 of this act shall be in full force and effect on and after July 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later.

SECTION 20. Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later.

Approved April 17, 2000.

CHAPTER 419
(S.B. No. 1584)

AN ACT

RELATING TO THE IDAHO PETROLEUM CLEAN WATER TRUST FUND; AMENDING SECTION 41-4908, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF THE TRANS-

FER FEE IMPOSED ON PETROLEUM PRODUCTS DELIVERED OR STORED WITHIN THE STATE WHEN THE UNENCUMBERED BALANCE IN THE FUND EQUALS TWENTY-FIVE MILLION DOLLARS AND FOR REINITIATION OF THE TRANSFER FEE WHEN THE UNENCUMBERED BALANCE IN THE FUND EQUALS FIFTEEN MILLION DOLLARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-4908, Idaho Code, be, and the same is hereby amended to read as follows:

41-4908. SOURCE OF TRUST FUND -- APPLICATION FEES -- APPLICATION FOR ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground storage tank may, if he desires to apply to the trust fund to insure the underground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(2) Every owner or operator of an ~~above-ground~~ aboveground storage tank may, if he desires to apply to the trust fund to insure the ~~above-ground~~ aboveground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(3) Every owner or operator of a farm tank or residential tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(4) Every owner or operator of a heating tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed five dollars ($5.00) for each tank for which application for coverage is made.

(5) The application for insurance shall be made to the administrator on forms furnished and prescribed by him for the purpose of eliciting reasonably available information as to the type and use of the storage tank, the type of business enterprise of the tank owner or operator, the age of the storage tank, the materials used in the construction of the tank and the inside and outside protective coatings and other corrosion protective measures, leak detection methods, spill and overfill prevention methods of the tank, the location of the tank and its proximity to roads and buildings, the foundation and type of material used as a bedding and fill for the tank, any available inspection records of the tank including the gallons of petroleum products entered into the tank and the gallon dispersements from the tank, and other information that is reasonably prudent in order to obtain a sufficient body of statistical data to determine the relative hazards of various categories of tanks, the potential that future leaks or discharges may occur, and the conditions under which cleanup costs and personal injury and property damage costs may occur and vary in the severity of the release and the resultant costs to the trust fund.

(6) The administrator shall act upon the application for insurance with all reasonable promptness, and he shall make such investigations of the applicant as he deems advisable to determine if the information contained in the application for insurance is accurate and complete. The administrator shall determine if the applicant's storage tanks meet all the eligibility requirements and promptly notify the applicant of the acceptance or nonacceptance of the application for insurance. The absence of unknown data requested on the application shall not preclude an applicant's acceptance for coverage by the trust fund, if the applicant is otherwise eligible for insurance under this chapter.

(7) In addition to the application fees received by the trust fund pursuant to this section, the trust fund shall receive the revenue produced by the imposition of a "transfer fee" of one cent (~~$.01~~¢) per gallon on the delivery or storage of all petroleum products as defined in subsection (24) of section 41-4903, Idaho Code, delivered or stored within the state of Idaho. This transfer fee is hereby imposed upon the first licensed distributor who receives, as receipt is determined in section 63-2403, Idaho Code, a petroleum product within this state for the privilege of engaging in the delivery or storage of petroleum products whose delivery or storage may present the danger of a discharge into the environment and thus create the liability to be funded. The fee imposed by this subsection shall not apply to: (a) petroleum or petroleum products which are first delivered or stored in this state in a container of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products; or (b) petroleum or petroleum products delivered or stored in this state for the purpose of packaging or repackaging into containers of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products.

(8) The transfer fee shall be collected by the commission on all petroleum products delivered or stored within this state after April 1, 1990. This transfer fee shall be in addition to any excise tax imposed on motor fuel or other petroleum products and shall be remitted to the commission with the distributor's monthly report as required in section 63-2406, Idaho Code. The distributor may deduct from his monthly report those gallons of petroleum products returned to a licensed distributor's refinery or pipeline terminal storage or exported from the state when supported by proper documents approved by the commission. For the purpose of carrying out its duties under the provisions of this chapter, the commission shall have the powers and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

(9) No person shall be excused from liability for any duty or fee imposed in this chapter for failure to obtain a distributor's license.

(10) The director shall certify to the commission when the unencumbered balance in the trust fund equals ~~thirty~~ twenty-five million dollars ($~~30~~25,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be suspended. Thereafter, the director shall certify to the commission when the unencumbered balance in the trust fund equals

~~twenty~~ fifteen million dollars ($~~20~~15,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be reinitiated.

Approved April 17, 2000.

CHAPTER 420
(H.B. No. 444)

AN ACT

RELATING TO POSSESSING WEAPONS OR FIREARMS ON SCHOOL PROPERTY; AMENDING SECTION 18-3302D, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY PERSON TO POSSESS A FIREARM OR OTHER DEADLY OR DANGEROUS WEAPON WHILE ON THE PROPERTY OF A SCHOOL OR OTHER STRUCTURE ON SCHOOL GROUNDS WHICH WERE BEING USED FOR AN ACTIVITY SPONSORED BY OR THROUGH A SCHOOL IN THIS STATE, TO PROVIDE APPLICATION TO STUDENTS OF SCHOOLS OFF SCHOOL PROPERTY, TO DEFINE TERMS, TO PROVIDE FOR THE SEARCH OF STUDENTS OR MINORS, TO PROVIDE EXCEPTIONS AND TO PROVIDE PENALTIES; AMENDING SECTION 18-3302C, IDAHO CODE, TO PROVIDE A CIRCUMSTANCE WHERE A PERSON CAN CARRY A CONCEALED WEAPON IN A PUBLIC OR PRIVATE SCHOOL; AND PROVIDING AN EFFECTIVE DATE.

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

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

18-3302D. ~~CARRYING~~ POSSESSING WEAPONS OR FIREARMS ON SCHOOL PROPERTY.

(1) (a) It shall be unlawful and is a misdemeanor for any person ~~under--the-age-of-twenty-one-(21)~~ to ~~carry~~ possess a firearm~~,-dirk knife,-bowie-knife,-dagger,-metal-knuckles~~ or other deadly or dangerous weapon ~~on-or-about-his-person~~ while on the property of a ~~public--or-private-elementary-or-secondary~~ school or in those portions of any building, stadium or other structure on school grounds which, ~~were,~~ at the time of the violation, were being used for an activity sponsored by or through ~~such~~ a school in this state or while riding school provided transportation. ~~Provisions-of-this-section-shall-not-apply-to-persons-in-private--vehicles--delivering-children-to-and-from-school-or-school-activities. Persons-who-are-found-guilty-of-violating-the-provisions--of--this section--may--be-sentenced-to-a-jail-term-of-not-more-than-one-(1) year,-or-if-a-minor,-not-in-excess-of--one--hundred--twenty--(120) days--in--a-juvenile-detention-facility,-or-fined-an-amount-not-in excess-of-one-thousand-dollars-($1,000)-or-both.-Additionally,-the board-of-trustees-of-a-school-district-shall-expel-any-person-violating-the-provisions-of-this-section-if-the-violator--is--a--student.-The-school-shall-immediately-suspend-the-student-pursuant-to the--provisions--of-section-33-205,-Idaho-Code.-If-a-violator-is-a student-and-under-the-age-of-eighteen-(18),-the--court--may--place~~

~~the--violator--on--probation-and-suspend-the-juvenile-detention-or fine-or-both--as-long-as-the-violator-is-enrolled-in-a-program--of study--recognized--by--the-court-that,-upon-successful-completion, will-grant-the-violator-a-general-equivalency-diploma-(GED)--or--a high-school-diploma-or-other-educational-program-authorized-by-the court.--Upon--successful--completion--of--the-terms-imposed-by-the court,-the-court-shall-discharge-the--offender--from--serving--the remainder--of--the-sentence.-If-the-violator-does-not-complete,-is suspended-from-or-otherwise-withdraws-from-the--program--of--study imposed--by-the-court,-the-court,-upon-receiving-such-information, shall-order-the-violator-to-commence-serving-the-sentence-provided for-in-this-section.~~

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means any weapon as defined in 18 U.S.C. section 930;

(b) "Firearm" means any firearm as defined in 18 U.S.C. section 921;

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

(d) "Possess" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school provided transportation, or to exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1)(b) of this section, "possess" shall also mean to bring an object onto the site of a school sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "School" means a private or public elementary or secondary school.

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

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

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

~~(b)--"Firearm"--means-a-pistol,-revolver-or-other-firearm-designed~~

~~to be fired with the use of a single hand.~~

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

(4) The provisions of this section shall not apply to the following persons:

(a) A peace officer;

(b) A person who lawfully possesses a firearm or deadly or dangerous weapon as an appropriate part of a program, an event, activity or other circumstance approved by the board of trustees or governing board;

(c) A person or persons complying with the provisions of section 19-202A, Idaho Code;

(d) Any adult over eighteen (18) years of age and not enrolled in a public or private elementary or secondary school who has lawful possession of a firearm or other deadly or dangerous weapon, secured and locked in his vehicle in an unobtrusive, nonthreatening manner;

(e) A person who lawfully possesses a firearm or other deadly or dangerous weapon in a private vehicle while delivering minor children, students or school employees to and from school or a school activity;

(f) Notwithstanding the provisions of section 18-3302C, Idaho Code, a person or an employee of the school or school district who is authorized to carry a firearm with the permission of the board of trustees of the school district or the governing board.

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars ($1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

SECTION 2. That Section 18-3302C, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302C. PROHIBITED CONDUCT. Any person obtaining a license under the provisions of section 18-3302, Idaho Code, shall not:

(1) Carry a concealed weapon in a courthouse, juvenile detention facility or jail, public or private school, except as provided in subsection (4)(f) of section 18-3302D, Idaho Code; or

(2) Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue. Any person violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 3. This act shall be in full force and effect on and after July 1, 2000.

Approved April 17, 2000.

CHAPTER 421
(H.B. No. 497, As Amended in the Senate)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE AN ANNUAL REGISTRATION FEE FOR SCHOOL BUSES IF CERTAIN CONDITIONS ARE OCCURRING AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 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 shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

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 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 twenty-four dollars ($24.00).

(3) 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).

(3~~1~~4) 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.

(4~~2~~5) Registration fees shall not be subject to refund.

(5~~3~~6) 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.

(6~~4~~7) 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, 49-417A, 49-417B, 49-418A, 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 as specified by law for each program.

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, 2000.

Approved April 17, 2000.

CHAPTER 422
(H.B. No. 504, As Amended)

AN ACT

RELATING TO ACTIONS BY CONSUMER REPORTING AGENCIES; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 28, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE FOR THE BARRING OF INFORMATION OCCURRING AS A RESULT OF A VIOLATION OF THE CRIMINAL CODE SECTION MAKING IT A VIOLATION TO MISAPPROPRIATE PERSONAL IDENTIFYING INFORMATION, TO PROVIDE EXCEPTIONS AND TO PROVIDE REMEDIES.

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

SECTION 1. That Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 50, Title 28, Idaho Code, and to read as follows:

CHAPTER 50
IDENTITY THEFT

28-50-101. DEFINITIONS. As used in this section and section 28-50-102, Idaho Code, the following terms have the following meanings:

(1) "Consumer credit report" means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity, character, general reputation, personal characteristics, or mode of living which is used or is expected to be used, or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance for personal, family or household purposes, employment purposes or other purposes authorized under sections 603 and 604 of the fair credit reporting act, 15 USC sections 1681a and 1681b, as amended. The term does not include:

(a) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(b) Any communication of that information among persons related by common ownership or affiliated by corporate control;

(c) Any communication of other information among persons related by common ownership or affiliated by corporate control;

(d) Any authorization or approval of a specific extension of credit directly or indirectly by the issuers of a credit card or similar device;

(e) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under section 615 of the fair credit reporting act, 15 USC section 1681m, as amended.

(2) "Consumer reporting agency" means a person that, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

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

28-50-102. BLOCK OF INFORMATION APPEARING AS A RESULT OF A VIOLATION OF CRIMINAL CODE PROVISION PROHIBITING MISAPPROPRIATION OF PERSONAL INFORMATION. (1) If a consumer submits to a consumer reporting agency a certified copy of a police report setting forth facts establishing probable cause of a violation of section 18-3126, Idaho Code, the consumer reporting agency shall, within thirty (30) days of the receipt of the police report, permanently block or decline to block reporting any information that the consumer identifies on his or her credit report is the result of a violation of section 18-3126, Idaho Code, so that the information cannot be reported. The consumer reporting agency shall promptly notify the furnisher of the information that a police report has been filed, that a block has been requested and the effective date of the block.

(2) Furnishers of information and consumer reporting agencies may decline to block or may rescind any block of credit information if:

(a) The information was blocked due to a material misrepresentation of fact by the consumer;

(b) The consumer agrees that the blocked information, or portions of the blocked information, were blocked in error; or

(c) The consumer knowingly obtained possession of goods, services or moneys as a result of the blocked transaction or transactions or the consumer should have known that he or she obtained possession of goods, services or moneys as a result of the blocked transaction or transactions.

(3) If the block of information is declined or rescinded pursuant to this section, the consumer shall be promptly notified in the same manner as consumers are notified of the reinsertion of information pursuant to section 611 of the fair credit reporting act, 15 USC section 1681i, as amended. The prior presence of the blocked information in the consumer reporting agency's file on the consumer is not evidence of whether the consumer knew or should have known that he or she obtained possession of any goods, services or moneys.

(4) A consumer harmed by a violation of this section may maintain an action for legal damages and injunctive relief against the consumer reporting agency or the furnisher of the information or both. A judgment in favor of the consumer shall include an award of attorney's fees in addition to other appropriate relief as granted by the court.

Approved April 17, 2000.

CHAPTER 423
(H.B. No. 505)

AN ACT

RELATING TO THE TRANSMISSION OF BULK ELECTRONIC MAIL ADVERTISEMENTS; AMENDING CHAPTER 6, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-603E, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE PROHIBITED ACTS REGARDING BULK ELECTRONIC MAIL ADVERTISEMENT PRACTICES, TO PROVIDE FOR CIVIL DAMAGES AND TO PROVIDE EXCEPTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 6, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-603E, Idaho Code, and to read as follows:

48-603E. UNFAIR BULK ELECTRONIC MAIL ADVERTISEMENT PRACTICES. (1) For purposes of this section, unless the context otherwise requires:

(a) "Bulk electronic mail advertisement" means an electronic message, containing the same or similar advertisement, which is contemporaneously transmitted to two (2) or more recipients, pursuant to an internet or intranet computer network.

(b) "Computer network" means a set of related, remotely connected devices and communication facilities, including two (2) or more computers, with the capability to transmit data among them through communication facilities.

(c) "Interactive computer service" means an information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet, and such systems operated or services offered by a library or an educational institution.

(d) "Recipient" means a person who receives any bulk electronic mail advertisements.

(2) Any person who uses an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement shall provide an electronic mail address readily identifiable in the bulk electronic mail advertisement to which the recipient may send a request for declining such mail.

(3) It is unlawful for a person to use an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement to any recipient that the sender knows, or has reason to know, engages in any of the following:

(a) Uses the name of a fictitious name of a third party in the return address field without the permission of the third party.

(b) Misrepresents any information in identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(c) Fails to contain information identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(d) Sends or transmits, at any time after five (5) business days of a declination, any bulk electronic mail advertisement to a recipient who provided the sender with a request declining the receipt of such advertisements.

(4) Pursuant to section 48-608, Idaho Code, a recipient that receives a bulk electronic mail advertisement in violation of this section may bring an action to recover actual damages. The recipient, in lieu of actual damages, may elect to recover from the person transmitting or causing to be transmitted such bulk electronic mail advertisement the greater of one hundred dollars ($100) for each bulk electronic mail advertisement transmitted to the recipient in violation of this section or one thousand dollars ($1,000).

(5) This section does not apply to any of the following:

(a) A person, including an interactive computer service, who provides users with access to a computer network, and as part of that service, transmits electronic mail on behalf of those users, unless such person transmits bulk electronic mail advertisements on behalf of those users which the person knows, or should have known, were transmitted in violation of this section.

(b) Electronic mail advertisements which are accessed by the recipient from an electronic bulletin board.

(c) A person who provides users with access at no charge to electronic mail, including receiving and transmitting bulk electronic mail advertisements, and, as a condition of providing such access, requires such users to receive unsolicited advertisements.

(d) The transmission of bulk electronic mail advertisements from an organization or similar entity to the members of such organization.

(6) An interactive computer service is not liable under this section for an action voluntarily taken in good faith to block or prevent the receipt or transmission through its service of any bulk electronic mail advertisement which is reasonably believed to be in violation of this section.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved April 17, 2000.

CHAPTER 424
(H.B. No. 520)

AN ACT

RELATING TO MAINTENANCE OF SCHOOLS; AMENDING SECTION 33-511, IDAHO CODE, TO REQUIRE THAT A MAJORITY VOTE SHALL DECIDE THE ELECTION FOR CONTINUANCE OR DISCONTINUANCE OF A SCHOOL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-511, Idaho Code, be, and the same is hereby amended to read as follows:

33-511. MAINTENANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. Each elementary school district shall maintain at least one (1) elementary school, and each other school district shall maintain at least one (1) elementary school and one (1) secondary school;

2. To employ necessary help and labor to maintain and operate the schools of the district;

3. To discontinue any school within the district whenever it shall find such discontinuance to be in the best interests of the district and of the pupils therein. For the purposes of this section, discontinuing a school shall mean no longer maintaining a school of any kind, at the same location, except in the case of secondary units as herein provided.

When any school proposed to be discontinued is one which was operated and maintained by a former district now wholly incorporated within the boundaries of the district operated by said board of trustees, and, immediately following reorganization and the dissolution of said former district such school has been continuously operated and maintained at the same location by the presently organized district, the board of trustees must first give notice of such proposal not later than the first day of July next preceding the date of the proposed discontinuance. Such notice shall be posted, and published once, in the manner provided in section 33-401, Idaho Code, and shall identify the school proposed to be discontinued.

If, not later than the first day of August following the posting and publishing of the notice of discontinuance, five (5) or more qualified school district electors residing within the school district shall petition the board of trustees for an election to be held within the school district on the question of discontinuance of that school, the board of trustees shall forthwith order an election to be held within fourteen (14) days of the date of said order, and shall give notice of the election.

Notice of such election shall be posted at or near the main door of the school proposed to be discontinued and at or near the main door of the administrative offices of the school district, and shall also be published in one (1) issue of a newspaper printed in the county in which is situate the school proposed to be discontinued. The notice shall state the date the election is to be held, the place of voting, and the hours between which the polls shall be open. In addition, the notice of election shall describe the area of the particular attendance unit of the school district and shall identify the school proposed to be discontinued; and it shall state that only qualified school district electors residing within the school district may vote on the question of discontinuing the school.

The election shall be held within the school district and there shall be submitted to the electors a ballot containing the proposal:

For discontinuing the school located at ....,

Against discontinuing the school located at .....

If ~~two-thirds (2/3)~~ a majority of the qualified electors, hereinabove defined and voting in the election, shall vote against discon-

tinuing that school, then said school shall not be discontinued; and no proposal to discontinue the same school shall be made by the board of trustees of the district within nine (9) months after the date of the election.

If a secondary unit which the trustees of a district propose to close is more than thirty (30) miles by all-weather road from the attendance unit to which it is proposed to transfer such students, then, notwithstanding other provisions of this section, five (5) electors residing within the attendance area of the unit proposed to be closed may, as provided by this section, petition the board of trustees requesting an election to determine whether or not such attendance unit, or any portion of it, shall be closed. The board shall forthwith call and hold an election as herein provided. However, for the purpose of this section relating to the secondary attendance unit thirty (30) miles or more distant from another secondary attendance unit, only the patrons resident in this attendance area shall be eligible to vote. The election shall be deemed passed and the unit shall not be closed if ~~two-thirds (2/3)~~ a majority of those voting in the election vote in favor of retaining the attendance unit.

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

Approved April 17, 2000.

CHAPTER 425
(H.B. No. 562)

AN ACT

RELATING TO EXEMPTIONS FROM SALES AND USE TAXES; AMENDING SECTION 63-3622O, IDAHO CODE, TO FURTHER DEFINE HEALTH-RELATED ENTITIES TO INCLUDE THE IDAHO DIABETES YOUTH PROGRAMS AND TO MAKE A TECHNICAL CORRECTION.

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

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

63-3622O. 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 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, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other 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, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs 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.

(k) "Agency of the state of Idaho" shall mean 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 exemptions granted by subsection (1) of this section do 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 April 17, 2000.

CHAPTER 426
(H.B. No. 577)

AN ACT

RELATING TO OPERATORS OF SCHOOL BUSES; AMENDING SECTION 33-1508, IDAHO CODE, TO CHANGE REFERENCES TO SCHOOL BUS DRIVERS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-1509, IDAHO CODE, TO CHANGE REFERENCES TO SCHOOL BUS DRIVERS AND AUTHORIZE A WAIVER FOR PERSONS WITH INSULIN-DEPENDENT DIABETES MELLITUS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1508, Idaho Code, be, and the same is hereby amended to read as follows:

33-1508. OPERATION OF SCHOOL BUSES. 1. All school buses shall at all times be operated in conformity with law and with rules ~~and--regulations~~ of the department of law enforcement and the state board of education.

2. No school bus shall:

a. Cross any railroad track, or enter or cross any arterial highway without first coming to a full stop. If any such crossing, intersection or access be obscured by trees, buildings or other object, or because of wind, storm or fog, the ~~chauffeur~~ school bus driver shall open such windows and doors as will permit him to determine when it is safe to proceed;

b. Be operated at any time for the transportation of pupils by any person who does not have a current ~~chauffeur~~ commercial driver's license (CDL) as specified in section 49-105, Idaho Code, a valid driver's permit issued by the board of trustees, and the minimum training for bus drivers as prescribed by the state board of education;

c. Be operated at any time in excess of its maximum occupancy as determined by the manufacturer. Occupancy at no time shall exceed three (3) persons in a seat.

SECTION 2. That Section 33-1509, Idaho Code, be, and the same is hereby amended to read as follows:

33-1509. ~~CHAUFFEURS~~ SCHOOL BUS DRIVERS -- DEFINITION -- QUALIFICATION -- DUTIES. For the purpose of this chapter the term "~~chauffeur~~school bus driver" shall mean any person who at any time is operating a school bus while transporting pupils to or from school, or to or from approved school activities.

A board of trustees shall employ ~~chauffeurs~~ school bus drivers only upon prior application in writing and the board shall require of ~~chauffeurs~~ school bus drivers employed by others who transport pupils of their district under contract, the same information required in such written application. Each application shall contain at least the minimum information specified by the state department of education.

Any person employed as a ~~chauffeur~~ school bus driver shall be over

the age of eighteen (18) years, be of good moral character and not addicted to the use of intoxicants or narcotics. ~~Chauffeurs~~ School bus drivers shall be subject to the physical examination standards of the federal motor carrier safety regulations. Provided however, that individuals with insulin-dependent diabetes mellitus, who are otherwise medically qualified under the physical examination standards of the federal motor carrier safety regulations, may request a waiver for this condition and, in the discretion of the board of trustees, be issued a school bus driver's permit for intrastate transport of pupils to or from school, or to or from approved school activities. Applicants for a waiver under this section shall provide all information and accompanying documentation as required on a form approved by the state department of education. Before entering upon his duties, each ~~chauffeur~~ school bus driver shall file with the board of trustees a current health certificate and, if applicable, a waiver request pursuant to this section with all required information and accompanying documentation. Subsequent health certificates shall be filed with the frequency required by the federal motor carrier safety regulations. ~~Chauffeurs~~ School bus drivers shall be physically able to perform all job-related duties.

Each ~~chauffeur~~ school bus driver shall at all times possess a valid and appropriate commercial driver's license, including endorsements as specified in section 49-105, Idaho Code, and a school bus driver's permit issued by the board of trustees and, if applicable, a waiver for insulin-dependent diabetes mellitus issued by the board of trustees. ~~Such~~ The school bus driver's permit shall be in a form approved by the state department of education and shall be carried on the ~~chauffeur's~~ school bus driver's person or be exhibited in full view when the holder thereof is operating any school bus with pupils therein.

The board of trustees may for cause, and after a hearing, revoke any school bus driver's permit or waiver for insulin-dependent diabetes mellitus.

Each ~~chauffeur~~ school bus driver shall maintain such route books and other records as may be required by the state department of education or by the board of trustees of the school district. ~~He~~ The school bus driver shall report any pupil whose behavior is such as may endanger the operation of the vehicle, or who damages the same or any part thereof, or whose language is obscene.

It shall be the duty of each ~~chauffeur~~ school bus driver to report any condition on, or bordering, his route which constitutes a hazard to the safety of the pupils being transported.

Approved April 17, 2000.

CHAPTER 427
(H.B. No. 608, As Amended in the Senate)

AN ACT

RELATING TO THE STATE INCOME TAX; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 63-3029E AND 63-3029F, IDAHO

CODE, TO PROVIDE DEFINITIONS AND CONSTRUCTION OF TERMS AND TO PROVIDE SPECIAL CREDITS TO THE INCOME TAX FOR NEW EMPLOYEES FOR AN ENTERPRISE THAT PRODUCES, ASSEMBLES, FABRICATES OR PROCESSES NATURAL RESOURCE PRODUCTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029E, Idaho Code, and to read as follows:

63-3029E. DEFINITIONS -- CONSTRUCTION OF TERMS. As used in this section and in section 63-3029F, Idaho Code:

(1) (a) "New employee" means a person from whom Idaho income tax has been withheld, employed by the taxpayer in a revenue-producing enterprise creating value-added natural resource products, and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by section 63-3029F, Idaho Code, is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a revenue-producing enterprise from another taxpayer or who operates in a place of business the same or a substantially identical revenue-producing value-added natural resource products enterprise as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(2) "Revenue-producing enterprise" means the production, assembly, fabrication, manufacture or processing of any natural resource product.

(3) "Same or a substantially identical revenue-producing enterprise" means a revenue-producing enterprise in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another revenue-producing enterprise.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029F, Idaho Code, and to read as follows:

63-3029F. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) Any taxpayer shall be allowed a credit, in an amount determined under subsection (2) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the taxpayer's employment of new employees, as defined under section 63-3029E(1), Idaho Code, increases above the taxpayer's average employment for either: (a) the prior taxable year, or (b) the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person.

(2) The credit authorized in subsection (1) of this section shall be five hundred dollars ($500) per new employee, but the total credit allowed shall not exceed three and one-quarter percent (3.25%) of net income from the taxpayer's corporate, proprietorship, partnership, small business corporation or limited liability company revenue-producing enterprise in which the employment occurred. Additionally, the total of this and all other credits allowed under this chapter except for the credits allowed under sections 63-3024A, 63-3025D and 63-3029, Idaho Code, taken during any taxable year shall not exceed forty-five percent (45%) of the tax otherwise imposed on the taxpayer for the taxable year for which such credit is allowed.

(3) If the sum of the credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (2) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be a credit carryover to the three (3) succeeding taxable years. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the employment level for which the credit was granted is still maintained.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2000.

Approved April 17, 2000.

CHAPTER 428
(H.B. No. 632)

AN ACT

RELATING TO TRADE PRACTICES BETWEEN BREWERS OR DEALERS AND WHOLESALERS; AMENDING SECTION 23-1033A, IDAHO CODE, TO PERMIT A BREWER OR DEALER AND A WHOLESALER TO AGREE TO DISTRIBUTE THE PRODUCTS OF ONE BREWER OR DEALER TO THE EXCLUSION OF THE PRODUCTS OF OTHER BREWERS OR DEALERS.

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

SECTION 1. That Section 23-1033A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1033A. PROHIBITION OF CERTAIN TRADE PRACTICES BETWEEN BREWERS OR DEALERS AND WHOLESALERS. (1) It shall be unlawful for any brewer or dealer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To require~~,-by-agreement-or-otherwise,~~ that any wholesaler purchase any such beer or other distributed products from such person to the exclusion in whole or in part of beer or other products made or imported by other dealers or brewers;

(b) ~~To-induce,-by-any-means,-any-wholesaler-engaged-in--the--sale or--distribution--of--beer--to-purchase-from-or-distribute-the-beer-or other-products-of-any-brewer-or-dealer-to-the-exclusion-of-the-beer-or products-of-other-brewers-or-dealers-by-any-means,-including,-but--not limited--to--the-brewer-or-dealer's-acquisition-of-any-interest-in-the wholesaler's-license,-or-by-acquiring-any-interest-in-the-real-or-personal-property-owned,-occupied,-or-used-by-the-wholesaler;~~

~~(c)~~ To discriminate in price, allowance, rebate, refund, commission, discount, or service between the wholesalers purchasing beer or other products from such brewer or dealer;

(d~~c~~) To threaten any wholesaler with any discrimination prohibited under subsection (1)(c~~b~~) of this section, with the purpose or effect of changing or maintaining resale prices of the wholesaler;

(e~~d~~) To impose conditions or restrictions on a wholesaler not generally imposed on other wholesalers of such brewer.~~;-or~~

~~(f)--To--cause-a-termination,-cancellation,-nonrenewal-or-substantial-change-in-competitive-circumstances-in-the-relationship-with--the wholesaler-without-providing-at-least-ninety-(90)-days'-written-notice of--the-termination,-cancellation,-nonrenewal-or-substantial-change-in competitive-circumstances.-The-notice-shall-state-all-the-reasons--for termination,-cancellation,-nonrenewal-or-substantial-change-in-competitive--circumstances--and--shall-provide-that-the-wholesaler-has-sixty (60)-days-from-the-date-of-receipt-by-said-wholesaler-of-the--brewer's or--dealer's--notice--in-which-to-rectify-any-claimed-deficiency;-provided-that-said-notice-need-not-provide-for-an-opportunity-to--rectify if--any--written-agreement-between-the-brewer-or-dealer-and-wholesaler then-exists-pursuant-to-which-the-brewer-or-dealer-has--the--right--of termination,--cancellation--or--nonrenewal-without-cause.-If-the-deficiency-is-rectified-within-sixty-(60)-days-the-notice-shall-be-void-in~~

~~those-cases-where-the-wholesaler-has-a-right-to--rectify--any--claimed deficiency--as--herein-provided.-The-notice-provisions-of-this-section shall-not-apply-if-the-reason-for-termination,--cancellation--or--non-renewal-is-insolvency,-the-occurrence-of-an-assignment-for-the-benefit of--creditors,-bankruptcy,-the-conviction-of-the-wholesaler-in-a-court of-competent-jurisdiction-of-violating-any-federal-or-state-law-relating-to-or-regulating-the-sale-and-distribution-of-any-alcoholic-beverage,-the-conviction-of-the-wholesaler-in-any-court-of-competent-jurisdiction-of-any-felony-or-other-crime-involving--moral--turpitude,--the suspension,--for-a-period-of-sixty-(60)-or-more-days,-or-revocation-or nonrewal-of-any-federal-or-state-permit-or-license-of--the--wholesaler authorizing-the-sale-or-distribution-of-any-alcoholic-beverage,-or-the act--or-acts-of-the-wholesaler-in-the-course-of-the-wholesaler's-dealings-with-the-brewer-or-dealer-which-constitute-dishonesty,--fraud--or deceit--on--the-part-of-the-wholesaler.-If-the-reason-for-termination, cancellation,-nonrenewal-or-substantial-change-in-competitive--circumstances--is--nonpayment--of--sums-due-for-the-purchase-of-product,-the wholesaler-shall-be-entitled-to-written-notice-of--such--default,--and shall--have--twenty-(20)-days-in-which-to-remedy-such-default-from-the date-of-delivery-or-posting-of-such-notice.--By--mutual--agreement--in writing-executed-by-the-brewer-and-wholesaler-the-period-of-any-notice herein--required--may-be-shortened-provided-such-agreement-is-executed specifically-for-that-purpose-after-receipt-by-the-wholesaler--of--any written-form-of-notice-herein-required-has-been-given.~~

(2) Nothing in this section shall be deemed to prohibit brewers or dealers from selecting their own customers in bona fide transactions not in restraint of trade, nor to prohibit a brewer, or any affiliate or subsidiary of such brewer, duly licensed as a wholesaler from selling and distributing beer or other products manufactured by such brewer at wholesale to the exclusion of beer or other products manufactured by any other brewers. The terms "wholesaler" and "wholesalers" as used in this section shall mean a wholesaler or wholesalers licensed and engaged as such in the sale and distribution of beer in the state of Idaho.

Approved April 17, 2000.

CHAPTER 429
(H.B. No. 673)

AN ACT

RELATING TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE; AMENDING SECTION 67-461, IDAHO CODE, TO CLARIFY THE CONFIDENTIALITY PROVISIONS PERTAINING TO INDIVIDUALS WHO SUPPLY DATA TO THE DIRECTOR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-461, Idaho Code, be, and the same is hereby amended to read as follows:

67-461. CONDUCT OF AND ISSUANCE OF PERFORMANCE EVALUATION REPORTS. (1) In conducting a performance evaluation, the director of legislative performance evaluations shall obtain an overview of the operations of the agency or program.

(a) The survey phase will develop background information, including roles and identities of key personnel, identify actual and potential financial, managerial and operational problem areas and determine whether and to what extent detailed audit tests may be required in each specific area.

(b) In consultation with the agency or program, the director of legislative performance evaluations will develop a performance evaluation work plan.

(2) Prior to the presentation of any performance evaluation to the committee, the evaluated agency and the governor shall have an opportunity to review the performance evaluation report and issue a response.

(a) The response of the agency and the governor to the performance evaluation report shall be included in the final report when it is presented to the committee.

(b) All documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the committee issues its performance evaluation report pursuant to subsection (3) of this section.

(c) Any person violating the provisions of this subsection regarding confidentiality shall be guilty of a misdemeanor.

(3) The committee shall issue performance evaluation reports, favorable or unfavorable, of any state agency, and such reports shall be a public record~~.~~ except that:

(a) Prior to the release of a performance evaluation report or the point at which a performance evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the work papers in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report shall be confidential and exempt from disclosure pursuant to chapter 3, title 9, Idaho Code.

(b) Additionally, all other records or materials in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report that would otherwise be confidential or exempt from disclosure shall be exempt from disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code.

(4) If data supplied by an individual are needed to initiate, continue or complete a performance evaluation, ~~and the individual will not provide the data to the director of legislative performance evaluations without an assurance that the individual's identity will remain confidential and exempt from disclosure,~~ the director of legislative performance evaluations may by written memorandum to the file provide that the individual's identity will remain confidential and exempt from disclosure under chapter 3, title 9, Idaho Code, and this written memorandum will protect the identity of the person from disclosure under chapter 3, title 9, Idaho Code, notwithstanding any other provi-

sion of law to the contrary.

(5) A final copy of the report, including recommendations, the evaluated agency's response, and the governor's response, shall be submitted to the governor and to the official, officer or person in charge of the state agency examined at least one (1) day prior to its release, and shall be made available to each member of the legislature no later than one (1) day following the report's receipt by the joint legislative oversight committee.

(~~4~~6) The committee may meet in executive session to consider whether to direct the director of legislative performance evaluations to initiate or continue a performance evaluation or to receive or consider materials exempt from disclosure under subsection (2), ~~or~~ (3) or (4) 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 April 17, 2000.

CHAPTER 430
(H.B. No. 674)

AN ACT

RELATING TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE; AMENDING SECTION 67-461, IDAHO CODE, TO CLARIFY THE RESPONSIBILITY FOR RELEASE OF PUBLIC RECORDS OF AN AGENCY FOLLOWING REVIEW BY THE DIRECTOR OF LEGISLATIVE PERFORMANCE EVALUATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-461, Idaho Code, be, and the same is hereby amended to read as follows:

67-461. CONDUCT OF AND ISSUANCE OF PERFORMANCE EVALUATION REPORTS. (1) In conducting a performance evaluation, the director of legislative performance evaluations shall obtain an overview of the operations of the agency or program.

(a) The survey phase will develop background information, including roles and identities of key personnel, identify actual and potential financial, managerial and operational problem areas and determine whether and to what extent detailed audit tests may be required in each specific area.

(b) In consultation with the agency or program, the director of legislative performance evaluations will develop a performance evaluation work plan.

(2) Prior to the presentation of any performance evaluation to the committee, the evaluated agency and the governor shall have an opportunity to review the performance evaluation report and issue a response.

(a) The response of the agency and the governor to the perfor-

mance evaluation report shall be included in the final report when it is presented to the committee.

(b) All documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the committee issues its performance evaluation report pursuant to subsection (3) of this section.

(c) Any person violating the provisions of this subsection regarding confidentiality shall be guilty of a misdemeanor.

(3) The committee shall issue performance evaluation reports, favorable or unfavorable, of any state agency, and such reports shall be a public record~~.~~ except that:

(a) Prior to the release of a performance evaluation report or the point at which a performance evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the work papers in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report shall be confidential and exempt from disclosure pursuant to chapter 3, title 9, Idaho Code.

(b) ~~Additionally, a~~All other records or materials in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report that would otherwise be confidential or exempt from disclosure shall be exempt from disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code.

(c) Nothing herein shall be construed to prohibit or prevent public access to state agency records in the possession of the director of legislative performance evaluations that would otherwise be subject to disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code. The director of legislative performance evaluations shall refer requests for access to those records directly to the state agency that is the official custodian of the requested records, which shall be responsible for responding to the request for public records.

(4) If data supplied by an individual are needed to initiate, continue or complete a performance evaluation and the individual will not provide the data to the director of legislative performance evaluations without an assurance that the individual's identity will remain confidential and exempt from disclosure, the director of legislative performance evaluations may by written memorandum to the file provide that the individual's identity will remain confidential and exempt from disclosure under chapter 3, title 9, Idaho Code, and this written memorandum will protect the identity of the person from disclosure under chapter 3, title 9, Idaho Code, notwithstanding any other provision of law to the contrary.

(5) A final copy of the report, including recommendations, the evaluated agency's response, and the governor's response, shall be submitted to the governor and to the official, officer or person in charge of the state agency examined at least one (1) day prior to its release, and shall be made available to each member of the legislature no later than one (1) day following the report's receipt by the joint legislative oversight committee.

(~~4~~6) The committee may meet in executive session to consider whether to direct the director of legislative performance evaluations to initiate or continue a performance evaluation or to receive or consider materials exempt from disclosure under subsection (2), ~~or~~ (3) or (4) 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 April 17, 2000.

CHAPTER 431
(H.B. No. 676)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6519, IDAHO CODE, TO REQUIRE THAT ANY PERMIT APPLICATION SUBMITTED TO A ZONING COMMISSION OR A PLANNING AND ZONING COMMISSION WHICH RELATES TO PUBLIC SCHOOL FACILITIES SHALL RECEIVE PRIORITY CONSIDERATION AND SHALL BE REVIEWED BY THE COMMISSION OR THE GOVERNING BOARD AT THE EARLIEST REASONABLE TIME REGARDLESS OF THE TIMING OF ITS SUBMISSION RELATIVE TO OTHER APPLICATIONS WHICH ARE NOT RELATED TO PUBLIC SCHOOL FACILITIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-6519, Idaho Code, be, and the same is hereby amended to read as follows:

67-6519. PERMIT GRANTING PROCESS. As part of ordinances required or authorized under this chapter, a procedure shall be established for processing in a timely manner applications for permits for which a reasonable fee may be charged. Each application for a permit required or authorized under this chapter shall first be submitted to the zoning or planning and zoning commission for its recommendation or decision. The commission shall have a reasonable time fixed by the governing board to examine the application before the commission makes its decision on the permit or makes its recommendation to the governing board. Each commission or governing board shall establish by rule a time period within which a recommendation or decision must be made. Provided however, any permit application which relates to a public school facility shall receive priority consideration and shall be reviewed for approval, denial or recommendation by the commission or the governing board at the earliest reasonable time, regardless of the timing of its submission relative to other applications which are not related to public school facilities. Whenever a governing board or zoning or planning and zoning commission grants or denies a permit, it shall specify:

(a) ~~t~~The ordinance and standards used in evaluating the application;

(b) ~~t~~The reasons for approval or denial; and

(c) ~~t~~The actions, if any, that the applicant could take to obtain a permit.

An applicant denied a permit or aggrieved by a decision may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

Approved April 17, 2000.

CHAPTER 432
(H.B. No. 700, As Amended)

AN ACT

RELATING TO THE IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT; AMENDING SECTION 50-2803, IDAHO CODE, TO REVISE THE ALLOCATION FORMULA AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 50-2804, IDAHO CODE, TO PROVIDE THE GOVERNOR'S EXECUTIVE ORDER SHALL ESTABLISH PRIORITIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 50-2803, Idaho Code, be, and the same is hereby amended to read as follows:

50-2803. ALLOCATION FORMULA. The entire state ceiling for the year, including any carry-forward under section 146(f) of the Internal Revenue Code, shall be allocated by the following formula. The state ceiling shall be allocated by the state to governmental units, as needed to finance ~~specific~~ qualified projects and programs under the Internal Revenue Code, as amended, on the basis of ~~the chronological order--in which applications from governmental units for an allocation of the state ceiling are received~~ effective utilization, need, economic impact and efficient distribution of resources throughout the state by ~~the agency designated in the executive order~~ the department of commerce. The allocation formula established by this section shall be implemented and administered by the governor pursuant to the terms and provisions of ~~the~~ an executive order which shall make provisions for priorities of projects and programs based on the formula. No qualified applicant for the state ceiling shall render decisions in the allocation formula.

SECTION 2. That Section 50-2804, Idaho Code, be, and the same is hereby amended to read as follows:

50-2804. AUTHORITY OF THE GOVERNOR. The governor is authorized and directed to provide for the implementation and administration of the allocation formula established in section 50-2803, Idaho Code, by executive order. The executive order shall: (i) establish rules and procedures for the form, contents, submission, processing, priorities and approval of applications for allocations of the state ceiling~~,~~;

(ii) designate an agency for receipt, verification and approval of applications and for authorization of allocations~~,~~; (iii) provide for the carry-forward of an allocation under section 146(f) of the code~~,~~; (iv) provide for the issuance to governmental units of certificates evidencing an allocation of the state ceiling~~,~~; (v) establish a period of time within which allocations must be used~~,~~; (vi) provide for a means of reallocating portions of the state ceiling with respect to allocations for bonds or certificates that are not actually issued or are issued in a lesser amount than that portion of the state ceiling which was allocated to the bonds~~,~~; and (vii) provide for, through the establishment of rules and procedures or otherwise, any other matters necessary or desirable to implement and administer the allocation formula and to provide for an efficient use of the state ceiling.

Approved April 17, 2000.

CHAPTER 433
(H.B. No. 705)

AN ACT

RELATING TO LEVY AND APPORTIONMENT OF TAXES; AMENDING SECTION 63-809, IDAHO CODE, TO PROVIDE NOTIFICATION TO THE COUNTY COMMISSIONERS AND COUNTY TREASURER OF ANY UNAUTHORIZED LEVY.

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

SECTION 1. That Section 63-809, Idaho Code, be, and the same is hereby amended to read as follows:

63-809. UNAUTHORIZED LEVY -- NOTIFICATION BY STATE TAX COMMISSION -- ACTION TO SET ASIDE. (1) The state tax commission shall carefully examine the statements furnished to it, as provided in section 63-808, Idaho Code. On or before the fourth Monday in October, the state tax commission shall notify the county commissioners of each county of the approval of all previously certified levies. The state tax commission shall also notify the county commissioners of each county and the governing authorities of any city, school district, or any other taxing district or municipality no later than the fourth Monday of October if it appears that the county commissioners or governing authorities have fixed a levy or certified a property tax budget increase that exceeds any limitation provided by law.

(2) If it appears that the county commissioners of any county have fixed a levy for any purpose or purposes not authorized by law, or in excess of the maximum provided by law for any purpose or purposes, the state tax commission shall thereupon notify the attorney general, and if it appears that the governing authorities of any city, school district, or any other district or municipality to which is delegated by law the authority to levy property taxes, have fixed a levy for any purpose or purposes not authorized by law or in excess of the maximum provided by law for any purpose or purposes, the commission shall ~~thereupon~~ on or before the fourth Monday in October notify

the board of county commissioners, county treasurer and county attorney of the county in which it appears that such unauthorized or excess levy has or levies have been fixed.

(3) The attorney general or the county attorney so notified shall immediately bring suit in a court of proper jurisdiction against the county commissioners or governing authorities of any city, school district or other district or municipality levying such unauthorized or excess levy to set aside such levy as being illegal.

(4) Any necessary expenses incurred by the attorney general or the county attorney in the prosecution of such action shall be borne by the county in which the suit was brought.

Approved April 17, 2000.

CHAPTER 434
(H.B. No. 709)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY.

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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$1,243,100	$ 442,900	$105,100	$ 2,700	$1,793,800
Federal Grant Fund	511,500	92,600		41,900	646,000
Miscellaneous Revenue Fund	67,800	124,600		4,600	197,000
TOTAL	$1,822,400	$ 660,100	$105,100	$49,200	$2,636,800
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 129,400	$ 224,000	$ 19,000		$ 372,400
Miscellaneous Revenue Fund	148,100	124,800	$ 800		273,700
TOTAL	$ 277,500	$ 348,800	$ 19,800		$ 646,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$2,099,900	$1,008,900	$124,900	$49,200	$3,282,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than forty-six and thirty-six hundredths (46.36) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 384, Laws of 1999, to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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, 2000, 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, 2000, 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.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 384, Laws of 1999, 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	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:			
General Fund	$7,300	$ 30,900	$ 38,200
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:			
General Fund		$ 7,800	$ 7,800
Miscellaneous Revenue Fund		600,000	600,000
TOTAL		$607,800	$607,800
GRAND TOTAL	$7,300	$638,700	$646,000

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 this act shall be in full force and effect on and after its passage and approval.

Approved April 17, 2000.

CHAPTER 435
(H.B. No. 710)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,778,000	$ 691,100	$160,200		$2,629,300
Federal Grant Fund	167,200	200,000	25,000	$606,900	999,100
Miscellaneous Revenue Fund		123,700	25,000	51,000	199,700
TOTAL	$1,945,200	$1,014,800	$210,200	$657,900	$3,828,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-six (46) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the State Library Board the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 226, Laws of 1999, to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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, 2000, 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, 2000, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Library Board bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 17, 2000.

CHAPTER 436
(H.B. No. 711)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF LAND COMMISSIONERS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS.

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

SECTION 1. There is hereby appropriated to the State Board of Land Commissioners for the Endowment Fund Investment Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
Endowment Administrative Fund	$268,900	$161,900	$5,700	$436,500
Miscellaneous Revenue Fund	120,000	44,000	2,500	166,500
TOTAL	$388,900	$205,900	$8,200	$603,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than five and five-tenths (5.5) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for moneys in the Endowment Administrative Fund for consulting fees, bank custodial fees and portfolio-related external costs for the period July 1, 2000, through June 30, 2001.

Approved April 17, 2000.

CHAPTER 437
(H.B. No. 712)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2001; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FOR REDISTRICTING; AND EXTENDING THE REAPPROPRIATION FOR REAPPORTIONMENT MADE IN SECTION 3, CHAPTER 228, LAWS OF 1998.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

A. LEGISLATIVE SERVICES OFFICE:	
FROM:	
General Fund	$3,331,400
Miscellaneous Revenue Fund	43,400
Professional Services Fund	1,042,200
TOTAL	$4,417,000
B. LEGISLATIVE TECHNOLOGY:	
FROM:	
General Fund	$ 225,000
C. OFFICE OF PERFORMANCE EVALUATIONS:	
FROM:	
General Fund	$ 620,000
D. REDISTRICTING:	
FROM:	
General Fund	$ 397,200
GRAND TOTAL	$5,659,200

SECTION 2. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of the appropriation made in Section 1 of this act for Redistricting for the period July 1, 2001, through June 30, 2002.

SECTION 3. The reappropriation made in Section 3, Chapter 228, Laws of 1998, for Reapportionment shall be extended to June 30, 2001.

Approved April 17, 2000.

CHAPTER 438
(H.B. No. 713)

AN ACT

RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE BOARD; AMENDING SECTION 54-1905, IDAHO CODE, TO REPOSITION THE BOARD WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES TO BE A PART OF THE DIVISION OF BUILDING SAFETY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING SECTION 67-2601, IDAHO CODE, TO REPOSITION THE BOARD WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES TO BE A PART OF THE DIVISION OF BUILDING SAFETY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1905, Idaho Code, be, and the same is hereby amended to read as follows:

54-1905. PUBLIC WORKS CONTRACTORS LICENSE BOARD CREATED -- QUALIFICATIONS OF APPOINTEES -- TERM -- REMOVALS. There is hereby created <u>and made part of the division of building safety</u> in the department of self-governing agencies a public works contractors license board to be composed of seven (7) members, who shall be appointed by the governor. One (1) member of the board shall be a "heavy construction" contractor, one (1) member shall be a "highway construction" contractor, two (2) members shall be "building construction" contractors, one (1) member shall be a "specialty construction" contractor, as such construction terms are defined in this chapter, one (1) member shall be a "construction manager," and one (1) member shall be a registered professional engineer. All contractor members of the board shall be contractors holding a current unrevoked license at the time of their appointment, actively engaged in the contracting business and have been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during their term of office. Each member of the board next preceding his appointment shall have been a citizen and resident of the state of Idaho for at least five (5) years. The governor shall appoint a member to said board for a term of six (6) years. Each member shall hold office after the expiration of their own term until their successor has been duly appointed and qualified. Vacancies on the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term. The governor may remove any member of the board for misconduct, incompetence or neglect of duty. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of their duties, shall file with the secretary of state the constitutional oath of office.

SECTION 2. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) ~~a~~Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; and the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and~~;~~

(b) ~~p~~Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; board of environmental health specialists examiners, as provided by chapter 24, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; ~~public-works-contractors--licensing--board,--as--provided-by-chapter-19,-title-54,~~

~~Idaho Code;~~ Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code.

(c) ~~t~~The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) ~~t~~The division of building safety, to be headed by a division administrator and comprised of four (4) bureaus: plumbing, electrical, buildings, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and broker licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

Approved April 17, 2000.

CHAPTER 439
(H.B. No. 714)

AN ACT

RELATING TO THE MANUFACTURED HOME ADVISORY BOARD; AMENDING SECTION 44-2102, IDAHO CODE, TO REMOVE AUTHORITY OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY TO PROMULGATE RULES WHICH PROVIDE FOR THE LICENSING AND BONDING OF MANUFACTURED HOME DEALERS AND BROKERS, MANUFACTURERS AND SERVICE FIRMS, AND THE LICENSING OF MANUFACTURED HOME SALESMEN; AND AMENDING SECTION 44-2104, IDAHO CODE, TO PROVIDE AUTHORITY TO THE MANUFACTURED HOME ADVISORY BOARD

TO PROMULGATE RULES TO IMPLEMENT PROVISIONS OF LAW RELATING TO LICENSING OF MANUFACTURED HOME DEALERS, BROKERS, SALESMEN, MANUFACTURERS AND SERVICE FIRMS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules~~,-not--inconsistent--with-the-provisions-of-this-chapter-and-the-laws-of-the-state-of Idaho,-as-he-shall-consider-necessary,-to-provide--for--the--licensing and--bonding--of--manufactured-home-dealers-and-brokers,-manufacturers and-service-firms,-the-licensing-of-manufactured--home--salesmen,--and~~ for the establishment of a mandatory statewide manufactured home "setup" code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed manufactured home dealer to represent the interests of the manufactured home dealer in this type of transaction.

SECTION 2. That Section 44-2104, Idaho Code, be, and the same is hereby amended to read as follows:

44-2104. MANUFACTURED HOME ADVISORY BOARD. (1) A manufactured home advisory board is established in the division of building safety to advise the administrator in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor, four (4) of whom shall be from licensed manufactured home dealers and one (1) of whom shall be a consumer who lives in a manufactured home. The board shall serve the following terms commencing January 1, 1989: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. The consumer member shall be a member appointed to a term beginning on January 1, 1996, or as soon thereafter as there is a vacancy on the board. Thereafter board members shall be appointed for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(f), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the administrator shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the administrator, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each January or as soon thereafter as practicable, elect a chairman, ~~vice-chairman~~ vice chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the administrator. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the division of building safety. If the chairman is absent from any meeting of the board, his duties shall be discharged by the ~~vice-chairman~~ 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.

(3) The board shall have the authority to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

Approved April 17, 2000.

CHAPTER 440
(H.B. No. 717)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1363, IDAHO CODE, TO PROVIDE FOR THE PURCHASE OF UP TO FORTY-EIGHT MONTHS OF MEMBERSHIP SERVICE.

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

SECTION 1. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1363, Idaho Code, and to read as follows:

59-1363. PURCHASE OF MEMBERSHIP SERVICE. (1) Notwithstanding any other provision of this chapter, an active member who is vested may purchase up to forty-eight (48) months of membership service.

(2) The cost of purchases under this section shall be the full actuarial costs of the service as determined by the board. The board may provide for payment options, including periodic payments, but no service shall be credited until payment has been made in full. The member shall be solely responsible for the costs of such purchased service, except that an employer may participate in the costs at its option.

(3) In no event shall any member be allowed to purchase in the aggregate more than forty-eight (48) months of membership service whether purchased under this section or any other provision authorizing purchase of membership service.

Approved April 17, 2000.

CHAPTER 441
(H.B. No. 721)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2001; 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 Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$23,401,600
Equine Education Fund	135,000
Federal Grant Fund	4,594,600
Miscellaneous Revenue Fund	181,900
TOTAL	$28,313,100

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation con-

tained in Section 1, Chapter 182, Laws of 1999, to be used for non-recurring expenditures for the period July 1, 2000, through June 30, 2001.

SECTION 3. The reappropriation for the General Fund granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is zero, the reappropriation for the General Fund in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2000, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Agricultural Research and Cooperative Extension Service bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 17, 2000.

CHAPTER 442
(H.B. No. 722)

AN ACT

RELATING TO THE STATE DISASTER PREPAREDNESS ACT; AMENDING SECTION 46-1019, IDAHO CODE, TO ADD A MEMBER TO THE EMERGENCY RESPONSE COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 10, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1025, IDAHO CODE, TO PROVIDE FOR PREPARATION AND DISTRIBUTION OF A SUMMARY OF FEDERAL FUNDS GRANTED TO THE STATE FOR DISASTER PREPAREDNESS AND TO PROVIDE FOR DISTRIBUTION OF FUNDS.

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

SECTION 1. That Section 46-1019, Idaho Code, be, and the same is hereby amended to read as follows:

46-1019. EMERGENCY RESPONSE. (1) There is hereby created an emergency response commission in the office of the governor. The commission shall consist of the following state and local officials, industry representatives, or their designees: the adjutant general of the Idaho national guard; the director of the department of health and welfare; the state fire marshal; the director of the department of law enforcement; the director of the Idaho transportation department; the director of the department of agriculture; the director of the department of lands; the director of the Idaho geological survey; the director of the department of water resources; the coordinator for INEEL oversight; one (1) member representing Idaho cities; one (1) member of an organization representing farmers or ranchers; one (1) member representing Idaho counties; one (1) member representing the hazardous waste or materials transportation industry; one (1) member representing a user of hazardous materials; one (1) member representing the

Idaho state fire chief's association; one (1) member representing the Idaho county sheriff's association; one (1) member of the Idaho police chief's association; one (1) member representing the Idaho emergency management association; and one (1) member at-large representing the citizens of the state of Idaho. The last ~~nine~~ ten (~~9~~10) members shall be appointed by the governor to serve staggered three (3) year terms. The manager of the bureau of disaster services and the manager of the bureau of hazardous materials shall be nonvoting members of the commission. All members shall serve without compensation, except that members who are not state officers or employees shall be compensated as provided in section 59-509(g), Idaho Code. The governor shall appoint a chairman from the appointees. The attorney general shall provide legal counsel to the commission.

(2) The commission shall act as an all-hazards advisory and coordinating body to the governor for all types of disasters and emergencies which could affect the citizens of Idaho. They shall review, evaluate, report and advise the governor on state and local plans and programs to prepare for, respond to, and recover from all types of disaster emergencies.

SECTION 2. That Chapter 10, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-1025, Idaho Code, and to read as follows:

46-1025. FEDERAL FUNDS TO POLITICAL SUBDIVISIONS. (1) Annually, the chief of the Idaho bureau of disaster services shall prepare a written summary of all grants received from the federal emergency management agency to be distributed to the forty-four (44) county commission chairmen. The summary shall list those federal funds that are eligible for direct assistance to local disaster agencies in accordance with section 46-1009(2), Idaho Code, and those funds that are limited to use by the state and not eligible for direct assistance to local disaster agencies.

(2) Not less than thirty-four percent (34%) of the eligible direct assistance funds shall be subgranted by the Idaho bureau of disaster services to the local disaster agencies. Funds shall be distributed to the local disaster agencies subject to the provisions and regulations of the Idaho bureau of disaster services, the federal emergency management agency through the Robert T. Stafford Act, title 44 of the code of federal regulations, and pertinent circulars published by the United States office of management and budget.

(3) Direct financial assistance to the local disaster agencies is not an entitlement. Subgrants are awarded through the Idaho bureau of disaster services for the purpose of assisting counties to achieve goals and objectives outlined in an approved county grant proposal.

Approved April 17, 2000.

CHAPTER 443
(H.B. No. 726, As Amended, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202, IDAHO CODE, TO CLARIFY THAT PUBLIC CHARTER SCHOOLS OPERATE INDEPENDENTLY FROM THE EXISTING SCHOOL DISTRICT STRUCTURE; AMENDING SECTION 33-5204, IDAHO CODE, TO CLARIFY THAT PUBLIC CHARTER SCHOOLS FUNCTION INDEPENDENTLY OF ANY SCHOOL BOARD OF TRUSTEES, EXCEPT AS PROVIDED IN THE CHARTER; AMENDING SECTION 33-5205, IDAHO CODE, TO CLARIFY ADMISSION PROCEDURES WITH REGARD TO OVERENROLLMENT FOR INITIAL ADMISSION PROCEDURES AND FOR SUBSEQUENT SCHOOL TERMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-5202, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202. LEGISLATIVE INTENT. It is the intent of the legislature to provide opportunities for teachers, parents, students and community members to establish and maintain public charter schools which operate independently <u>from the existing school district structure but</u> within the existing public school system as a method to accomplish all of the following:

(1) Improve student learning;

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students;

(3) Include the use of different and innovative teaching methods;

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;

(6) Hold the schools established under this chapter accountable for meeting measurable student educational standards.

SECTION 2. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a charter school shall be deemed public agents authorized by a public school district or the state board of education to control the charter school<u>, but shall function independently of any school board of trustees, except as provided in the charter.</u> A charter school shall be considered a public school for all purposes. For the purposes of section 59-1302(15), Idaho Code, a charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a pub-

lic charter school are exempt from payment of the sales and use tax.

(2) A charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of public school districts and other public schools. The approving authority of a charter school shall have no liability for the acts, omissions, debts or other obligations of a charter school, except as may be provided in an agreement or contract with such charter school.

(3) Charter schools shall secure insurance for liability and property loss.

SECTION 3. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH CHARTER SCHOOL. (1) Any person may request the board of trustees of a school district to establish a charter school, or to convert an existing school within the school district to charter status. A petition to convert an existing school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not less than sixty percent (60%) of the students currently attending the school to be converted. A petition to establish a new charter school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than thirty (30) qualified electors of the district.

(2) Not later than thirty (30) days after receiving a petition signed in accordance with the specifications in subsection (1) of this section, the board of trustees shall hold a meeting open to the public for the purpose of discussing the provisions of the charter, at which time the board shall consider the merits of the petition and the level of employee and parental support for the petition. Following review of the petition and the public hearing, the board of trustees shall either grant or deny the charter within sixty (60) days of receipt of the petition, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to meet the signature requirements or fails to contain all of the information required in this section, or if both parties agree to the extension.

(3) A board of trustees may grant a charter for operation of a school under the provisions of this chapter if it determines that the petition contains the number of signatures required, a statement of each of the conditions described in subsection (4) of this section, and descriptions of all of the following:

(a) The educational program of the charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for

use by the charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the school, and the process to be followed by the charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the charter school. Instructional staff shall be certified teachers, or may apply for a waiver or any of the limited certification options as provided by rule of the state board of education.

(h) The procedures that the charter school will follow to ensure the health and safety of students and staff.

(i) Admission procedures, including provision for overenrollment. Initial admission procedures for a new charter school, not a renewal, including provision for overenrollment, which specifies admission will be determined by lottery or other random method. If initial capacity is insufficient to enroll all pupils who submit a timely application, preference shall be given in the following order: first, to siblings of pupils already selected by the lottery or other random method; and second, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, preference shall be given in the following order: first, to pupils returning to the charter school in the second or any subsequent year of its operation; second, to siblings of pupils already enrolled in the charter school; and third, an equitable selection process such as by lottery or other random method.

(j) The manner in which an annual audit of the financial and programmatic operations of the charter school is to be conducted.

(k) The procedures by which students can be suspended, expelled and reenrolled.

(l) A provision which ensures all staff members of the charter school will be covered by the public employee retirement system, federal social security, unemployment insurance and worker's compensation insurance.

(m) The public school attendance alternative for students residing within the school district who choose not to attend the charter school.

(n) A description of the transfer rights of any employee choosing to work in a charter school and the rights of such employees to return to any noncharter school in the school district after employment at a charter school.

(o) A provision which ensures that the staff of the charter school shall be considered a separate unit for purposes of collective bargaining.

(p) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act.

(r) The manner by which eligible students from the charter school shall be allowed to participate in dual enrollment in noncharter schools within the district as provided for in chapter 2, title 33, Idaho Code.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the school including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided and the potential civil liability effects upon the school and upon the district.

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

Approved April 17, 2000.

CHAPTER 444
(H.B. No. 729)

AN ACT

RELATING TO LIMITATION ON BUDGET REQUESTS; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE IN THE CASE OF FIRE DISTRICTS, DURING THE YEAR IMMEDIATELY FOLLOWING THE ELECTION OF A PUBLIC UTILITY OR PUBLIC UTILITIES TO CONSENT TO BE PROVIDED FIRE PROTECTION PURSUANT TO SECTION 31-1422, IDAHO CODE, THE MAXIMUM AMOUNT OF PROPERTY TAX REVENUES PERMITTED BY THE THREE PERCENT GROWTH FACTOR LAW MAY BE INCREASED BY AN AMOUNT EQUAL TO THE CURRENT YEAR'S TAXABLE VALUE OF THE CONSENTING PUBLIC UTILITY OR PUBLIC UTILITIES MULTIPLIED BY THAT PORTION OF THE PRIOR YEAR'S LEVY SUBJECT TO THE THREE PERCENT LIMITATION AND TO PROVIDE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-802, 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~~3) 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~~4) 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; or

(~~g~~h) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1422, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) 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~~4) 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, 2000.

Approved April 17, 2000.

CHAPTER 445
(H.B. No. 736)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2001; 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 Water Resources 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 818,400	$ 411,700	$ 65,000		$ 1,295,100
Water Administration Fund	34,600	20,800			55,400
Indirect Cost Recovery Fund	234,100	46,900			281,000
TOTAL	$ 1,087,100	$ 479,400	$ 65,000		$ 1,631,500
II. PLANNING AND TECHNICAL SERVICES:					
FROM:					
General Fund	$ 1,901,200	$ 477,100	$ 34,900	$ 856,300	$ 3,269,500
Federal Grant Fund	593,900	1,521,800			2,115,700
Indirect Cost Recovery Fund	57,000	5,700			62,700
Miscellaneous Revenue Fund	11,600	367,800			379,400
TOTAL	$ 2,563,700	$2,372,400	$ 34,900	$ 856,300	$ 5,827,300
III. ENERGY RESOURCES:					
FROM:					
General Fund	$ 31,300	$ 2,900			$ 34,200
Petroleum Price Violation Fund	508,700	1,588,900	$ 11,500		2,109,100
Federal Grant Fund	370,800	585,500	9,000		965,300
Indirect Cost Recovery Fund	43,700	121,600			165,300
Miscellaneous Revenue Fund	289,300	1,020,500			1,309,800
TOTAL	$ 1,243,800	$3,319,400	$ 20,500		$ 4,583,700
IV. SNAKE RIVER BASIN ADJUDICATION:					
FROM:					
General Fund	$ 1,712,500	$ 841,700	$ 40,500		$ 2,594,700
Water Claims Adjudication Fund				$ 500,000	500,000
TOTAL	$ 1,712,500	$ 841,700	$ 40,500	$ 500,000	$ 3,094,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. WATER MANAGEMENT:					
FROM:					
General Fund	$ 2,741,100	$ 569,700	$ 58,600		$ 3,369,400
Water Administration Fund	562,400	152,900	6,000		721,300
Federal Grant Fund	106,400	186,800			293,200
Indirect Cost Recovery Fund	43,700	3,300			47,000
Miscellaneous Revenue Fund	397,100	105,700			502,800
TOTAL	$ 3,850,700	$1,018,400	$ 64,600		$ 4,933,700
GRAND TOTAL	$10,457,800	$8,031,300	$225,500	$1,356,300	$20,070,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred eighty-three (183) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 446
(H.B. No. 737)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2001; 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; APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2001; 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$1,140,900	$ 674,400	$ 27,500		$ 1,842,800
Indirect Cost Recovery Fund	24,600	6,400			31,000
Parks and Recreation Fund	361,500	553,900	21,600		937,000
Recreational Fuels Fund	52,300	43,400	5,000		100,700
Parks and Recreation Registration Fund	23,800	43,600			67,400
Miscellaneous Revenue Fund	4,300	17,300			21,600
Federal Grant Fund	14,800	30,100		$ 36,400	81,300
TOTAL	$1,622,200	$1,369,100	$ 54,100	$ 36,400	$ 3,081,800
II. PARK OPERATIONS:					
FROM:					
General Fund	$4,290,500	$ 895,300	$ 7,700		$ 5,193,500
Parks and Recreation Fund	1,273,700	835,700			2,109,400
Recreational Fuels Fund	13,600	16,000	620,000		649,600
Miscellaneous Revenue Fund	5,400	76,400			81,800
Public Recreation Enterprise Fund	200,200	596,700	159,700		956,600
Parks and Recreation Expendable Trust Fund	166,200	211,700	170,000		547,900
Federal Grant Fund	648,000	149,400			797,400
TOTAL	$6,597,600	$2,781,200	$ 957,400		$10,336,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. PARK DEVELOPMENT:					
FROM:					
General Fund	$ 261,400	$ 76,200	$ 260,000	$ 1,000,000	$ 1,597,600
Parks and Recreation Fund	99,800	49,100			148,900
Recreational Fuels Fund	151,700		1,088,700		1,240,400
Parks and Recreation Expendable Trust Fund			10,000		10,000
TOTAL	$ 512,900	$ 125,300	$1,358,700	$ 1,000,000	$ 2,996,900
IV. RECREATION RESOURCES:					
FROM:					
General Fund	$ 89,800	$ 40,800	$ 20,000		$ 150,600
Indirect Cost Recovery Fund	87,300	29,800	1,000		118,100
Parks and Recreation Fund				$ 50,000	50,000
Recreational Fuels Fund	335,100	123,900	745,000	2,118,700	3,322,700
Parks and Recreation Registration Fund	210,900	292,500	19,900	6,088,700	6,612,000
Petroleum Price Violation Fund				300,000	300,000
Federal Grant Fund	212,600	128,900	24,000	1,136,000	1,501,500
TOTAL	$ 935,700	$ 615,900	$ 809,900	$ 9,693,400	$12,054,900
GRAND TOTAL	$9,668,400	$4,891,500	$3,180,100	$10,729,800	$28,469,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred fifty-three and seventy-five one-hundredths (153.75) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 2000 are hereby reappropriated for capital outlay in that program for the period July 1, 2000, through June 30, 2001.

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 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. 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, 2000, through June 30, 2001:

LAVA HOT SPRINGS FOUNDATION:

FOR:	
Personnel Costs	$ 529,000
Operating Expenditures	478,300
Capital Outlay	273,800
TOTAL	$1,281,100
FROM:	
Public Recreation Enterprise - Lava Hot Springs Fund	$1,281,100

SECTION 8. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the program specified in Section 7 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 April 17, 2000.

CHAPTER 447
(H.B. No. 738)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Division of Building Safety in the Department of Self-Governing Agencies not exceed the following amount for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Electrical Fund	$2,430,300	$1,159,500	$300,600	$3,890,400
Building Fund	713,600	155,100	74,500	943,200
Plumbing Fund	1,506,300	652,000	239,300	2,397,600
Manufactured Housing Fund	53,800	40,100	2,700	96,600
Federal Grant Fund	102,500	43,400	18,600	164,500
Miscellaneous Revenue/ Industrial Safety Fund	516,500	196,600	78,900	792,000
Miscellaneous Revenue/ Logging Fund	241,600	67,000	35,400	344,000
Miscellaneous Revenue/ Consumer Protection Fund	20,800	6,500	100	27,400
TOTAL	$5,585,400	$2,320,200	$750,100	$8,655,700

SECTION 2. There is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Electrical Fund	$ 204,700	$ 28,100	$ 15,500	$ 248,300
Building Fund	53,400	7,200	4,000	64,600
Plumbing Fund	128,000	17,700	9,600	155,300
Miscellaneous Revenue/ Industrial Safety Fund	46,600	6,500	3,600	56,700
Miscellaneous Revenue/ Logging Fund	19,300	2,600	1,400	23,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Manufactured Housing Fund	5,400	800	500	6,700
Miscellaneous Revenue/ Consumer Protection Fund	1,500	200	100	1,800
Federal Grant Fund	6,900	1,000	600	8,500
TOTAL	$ 465,800	$ 64,100	$ 35,300	$ 565,200
II. BUILDING SAFETY:				
FROM:				
Electrical Fund	$2,225,600	$1,131,400	$285,100	$3,642,100
Building Fund	660,200	147,900	70,500	878,600
Plumbing Fund	1,378,300	634,300	229,700	2,242,300
Manufactured Housing Fund	48,400	39,300	2,200	89,900
Federal Grant Fund	95,600	42,400	18,000	156,000
Miscellaneous Revenue/ Industrial Safety Fund	469,900	190,100	75,300	735,300
Miscellaneous Revenue/ Logging Fund	222,300	64,400	34,000	320,700
Miscellaneous Revenue/ Consumer Protection Fund	19,300	6,300		25,600
TOTAL	$5,119,600	$2,256,100	$714,800	$8,090,500
GRAND TOTAL	$5,585,400	$2,320,200	$750,100	$8,655,700

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than one hundred thirteen (113) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 17, 2000.

CHAPTER 448
(H.B. No. 739)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2001; PROVIDING FOR THE TRANSFER OF CERTAIN FUNDS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Attorney General the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$ 4,190,900	$ 447,000	$162,400	$ 4,800,300
Federal Grant Fund	113,200	108,500		221,700
Consumer Protection Fund	252,300	85,900	145,900	484,100
State Legal Services Fund	7,906,700	182,200	6,300	8,095,200
TOTAL	$12,463,100	$ 823,600	$314,600	$13,601,300
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$2,564,500	$ 10,000	$ 2,574,500
GRAND TOTAL	$12,463,100	$3,388,100	$324,600	$16,175,800

SECTION 2. Upon closing of fiscal year 2000, the State Controller shall, at the request of the Office of the Attorney General, transfer $700,000 to the General Fund from the Consumer Protection Fund.

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

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred seventy-seven and nine-tenths (177.9) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 449
(H.B. No. 741)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; TRANSFERRING UNEXPENDED AND UNENCUMBERED BALANCES TO THE GENERAL FUND; PLACING A CONTINGENCY ON THE APPROPRIATION FOR THE FOREST AND RANGE FIRE PROTECTION PROGRAM; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Lands 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 388,800	$ 415,300	$ 40,000			$ 844,100
Department of Lands Fund	355,000	266,300	6,500			627,800
Endowment Administrative Fund	982,500	942,700	68,500			1,993,700
Federal Grant Fund	53,200	126,300				179,500
TOTAL	$ 1,779,500	$1,750,600	$115,000			$ 3,645,100
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 915,600	$ 112,400	$ 67,600			$ 1,095,600
Department of Lands Fund	1,687,400	1,199,100	67,300			2,953,800
Endowment Administrative Fund	4,666,800	2,435,300	257,900	$476,200		7,836,200
Community Forestry Fund				78,500		78,500
Federal Grant Fund	491,700	236,100		156,000		883,800
TOTAL	$ 7,761,500	$3,982,900	$392,800	$710,700		$12,847,900
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 700,900	$ 245,200	$ 30,900			$ 977,000
Department of Lands Fund	16,700	131,700				148,400
Abandoned Mine Reclamation Fund		100,000				100,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Land and Building Rental Fund	1,000	61,900				62,900
Endowment Administrative Fund	1,560,900	701,000	35,300			2,297,200
TOTAL	$ 2,279,500	$1,239,800	$ 66,200			$ 3,585,500
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,269,700	$ 2,269,700
Department of Lands Fund					4,132,700	4,132,700
Fire Suppression Deficiency Fund					119,200	119,200
Federal Grant Fund					410,000	410,000
TOTAL					$6,931,600	$ 6,931,600
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 281,200	$ 44,600	$ 32,200			$ 358,000
GRAND TOTAL	$12,101,700	$7,017,900	$606,200	$710,700	$6,931,600	$27,368,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred forty-three and sixty-one hundredths (243.61) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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. Upon closing of fiscal year 2000, the State Controller shall transfer to the General Fund any unexpended and unencumbered balance previously appropriated to the Department of Lands from the Hazardous Waste Management Fund.

SECTION 4. Of the amount appropriated in Section 1 of this act from the General Fund for the Forest and Range Fire Protection Program, $125,000 is contingent upon the reimbursement of at least $250,000 to the General Fund from amounts previously appropriated for the Triumph Mine Reclamation project. The reimbursement is in addition to the amount transferred in Section 3 of this act.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 253, Laws of 1999, there is hereby appropriated to the Idaho Department of Lands the following amount, to be expended for the Land, Range, and Mineral Resource Management Program according to the desig-

nated expense class from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Operating Expenditures	$500,000
FROM:	
Land Improvement Fund	$500,000

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 of this act shall be in full force and effect on and after its passage and approval.

Approved April 17, 2000.

CHAPTER 450
(H.B. No. 742)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2001; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:				
FROM:				
General Fund	$1,117,600	$276,100	$100,000	$1,493,700
Miscellaneous Revenue Fund	240,500	362,800		603,300
TOTAL	$1,358,100	$638,900	$100,000	$2,097,000

SECTION 2. 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, 2000, through June 30, 2001, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education the unexpended and unencumbered balance of any appropriation contained in Section 2, Chapter 358, Laws of 1999, to be used for nonrecurring expenditures for the period July 1, 2000, through June 30, 2001.

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, 2000, 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, 2000, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 17, 2000.

CHAPTER 451
(H.B. No. 743)

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 2001; 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 $500,000 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, 2000, through June 30, 2001.

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 April 17, 2000.

CHAPTER 452
(H.B. No. 744)

AN ACT

RELATING TO TELEPHONE SOLICITATIONS; STATING LEGISLATIVE FINDINGS; AMENDING SECTION 48-1002, IDAHO CODE, TO CLARIFY WHAT CONSTITUTES A "TELEPHONE SOLICITATION"; AMENDING TITLE 48, CHAPTER 10, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-1003A, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF A NO TELEPHONE SOLICITATION CONTACT LIST ON WHICH IDAHO RESIDENTS MAY, FOR A FEE, REQUEST TO BE PLACED, TO PROHIBIT TELEPHONE SOLICITORS FROM CALLING PEOPLE ON THE LIST, TO IMPOSE CIVIL PENALTIES FOR CONTACTING PERSONS IDENTIFIED ON THE LIST, AND TO PROVIDE EXCEPTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE FINDINGS. Idaho residents are being contacted repeatedly in their homes in an effort by telephone solicitors to sell goods or services. These telephone solicitations are continuing to grow in frequency. They are often made at times and in such a manner and number as to be disruptive to Idaho's residents and the enjoyment of their home and family life.

With respect to residential telephone solicitations, the right of Idaho residents to be left alone in their home is fundamental. This right has not been adequately accommodated by the voluntary pledge of some telephone solicitors to honor a person's request not to be telephone solicited.

Idaho residents should be entitled to take steps to reduce the number of telephone solicitations they will receive. This opportunity should be made available in a cost-effective manner, with adequate incentives provided to ensure that telephone solicitors will honor and respect a person's wish not to be telephone solicited.

SECTION 2. That Section 48-1002, Idaho Code, be, and the same is hereby amended to read as follows:

48-1002. DEFINITIONS. In this chapter:

(1) "Business days" means all days of the week except Saturdays and Sundays and all other legal holidays as defined in section 73-108, Idaho Code.

(2) "Conducting business" means making telephone solicitations either to or from locations within the state of Idaho.

(3) "Goods" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value.

(4) "Minor" means any person less than eighteen (18) years of age.

(5) "Newspaper of general circulation" means a newspaper which holds a second class mailing permit from the United States postal service, has at least two hundred (200) subscribers, is made up of at least four (4) pages of at least five (5) columns, is not produced

through any type of mimeographing process, and has been published or distributed within the state of Idaho on a weekly basis for at least seventy-eight (78) consecutive weeks, or on a daily basis, which is defined to be no less than five (5) days of any one (1) week, at least twelve (12) months immediately preceding any telephone solicitation done by or on behalf of such newspaper.

(6) "Person" means natural persons, partnerships, both limited and general, corporations, both foreign and domestic, companies, trusts, business entities, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, servant, employee or representative thereof.

(7) "Purchaser" means a person who is solicited to become or does become obligated to a telephone solicitor.

(8) "Services" means any work, labor, help, assistance or instruction wherever provided or performed.

(9) "Telephone directory of general circulation" means a directory containing telephone numbers of individual residents and/or businesses which is published on a community-wide or regional basis and which is widely available to persons residing in such community or region through free distribution or direct purchase of said directory without the requirement of other purchases or affiliations.

(10) "Telephone solicitation" means:

(a) Any unsolicited telephone call ~~or facsimile transmission~~ to a purchaser for the purpose of asking, inducing, inviting, requesting, or encouraging the purchaser to purchase or invest in goods or services during the course of a telephone call; or

(b) Any communication in which:

(i) A free gift, award, or prize is offered, or in which it is represented or implied that goods or services are offered below the regular price of the goods or services; and

(ii) A return telephone call is invited or the communication is followed up by a call to the purchaser by the telephone solicitor; and

(iii) It is intended during the course of the return or follow-up call with the purchaser that an agreement to purchase, or a purchase be made.

(c) For purposes of this subsection, "communication" means a written or oral statement or notification or advertisement transmitted to the purchaser through any means.

(11) "Telephone solicitor" means any person who, on his own behalf or through other persons or through use of an automatic dialing-announcing device, engages in a telephone solicitation.

(12) "Unsolicited advertisement" means any advertisement offering goods or services which is transmitted to any person without that person's prior express invitation or permission unless an established business relationship exists between the sender and recipient which has not been terminated by either party.

(13) "Written confirmation" means a writing that includes the following information: the date of purchase, the telephone solicitor's complete address and registration number, a listing of all goods and/or services purchased, a listing of the price of each good and/or service purchased, the total obligation incurred by the purchaser, and

the notice of cancellation as set forth in subsection (2) of section 48-1004, Idaho Code.

SECTION 3. That Chapter 10, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-1003A, Idaho Code, and to read as follows:

48-1003A. NO TELEPHONE SOLICITATION CONTACT LIST.

(1) (a) Any residential, mobile or telephonic paging device telephone subscriber desiring to be placed on a "no telephone solicitation contact" list, indicating that the subscriber does not wish to receive telephone solicitations, may be placed upon such list by notifying the attorney general in writing and paying the attorney general an initial list fee, which the attorney general may assess in an amount up to ten dollars ($10.00) per subscriber. The subscriber's notice shall be in a form approved by the attorney general. The subscriber's listing shall be for a period of up to three (3) years, and may be renewed by the attorney general for additional periods of up to three (3) years each, if the subscriber requests renewal and pays a renewal list fee, which the attorney general may assess in an amount up to five dollars ($5.00) per renewal.

(b) The first "no telephone solicitation contact" list shall be published on or before June 30, 2001. The attorney general shall thereafter update his "no telephone solicitation contact" list quarterly and provide this list to telephone solicitors upon request and receipt of a list distribution fee, which the attorney general may charge in an amount up to twenty-five dollars ($25.00) per list.

(c) All fees imposed pursuant to this section shall be deposited in the consumer protection account and shall be used for the furtherance of the attorney general's duties and activities under this section.

(2) Within thirty (30) days after a new "no telephone solicitation contact" list has been published by the attorney general, no telephone solicitor shall make or cause to be made any telephone solicitation, as defined by section 48-1002(10)(a), Idaho Code, to any telephone number which is assigned by a telephone company to a person listed on the "no telephone solicitation contact" list as appears in the then current quarterly listing published by the attorney general.

(3) Section 48-1006, Idaho Code, notwithstanding, any violation of this section shall subject the person violating the terms of this section to a civil penalty, to be imposed by the district court, as follows: for the first violation, not to exceed five hundred dollars ($500); for the second violation, not to exceed two thousand five hundred dollars ($2,500); for the third and subsequent violations, not to exceed five thousand dollars ($5,000) per violation. Penalties received under this section shall be expended pursuant to legislative appropriation.

(4) This section is not applicable to telephone solicitations:

(a) To a telephone subscriber's commercial or business telephone number;

(b) (i) Where an established business relationship exists between the telephone solicitor and the telephone subscriber; provided however, the established and existing business relationship exception shall not apply between a telephone company and a telephone subscriber under this section unless the telephone subscriber shall have previously consented to receive a telephone solicitation from such company or its agent;

(ii) For purposes of this section, "telephone company" means a person providing telecommunications services to the public, or any segment thereof, for compensation, by wire, cable, radio, lightwaves, cellular signal or other means. "Telecommunications services" means the conveyance of voice, data, sign, signal, writing, sound, messages or other information at any frequency over any part of the electromagnetic spectrum;

(c) By a minor seeking to sell a good or service, pursuant to a telephone solicitation, for a charitable purpose or organization.

(5) The attorney general shall advise telephone subscribers who register with his office under this section of all self-help measures available to them to reduce unwanted telephone solicitations.

SECTION 4. This act shall be in full force and effect on and after January 1, 2001.

Approved April 17, 2000.

CHAPTER 453
(H.B. No. 745)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2001; 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
DIVISION OF HUMAN RESOURCES:				
FROM:				
Division of Human Resources Fund	$1,898,400	$597,000	$86,800	$2,582,200
Seminars and Publications Fund		100,000		100,000
TOTAL	$1,898,400	$697,000	$86,800	$2,682,200

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, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 454
(H.B. No. 746)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2001; 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 Juvenile Corrections 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,141,300	$ 691,200			$ 1,832,500
Federal Grant Fund		300			300
Miscellaneous Revenue Fund	47,800	11,900	3,000		62,700
TOTAL	$ 1,189,400	$ 703,100	$ 3,000		$ 1,895,500
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 863,100	$ 139,100	$ 5,000	$ 3,100,900	$ 4,108,100
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,822,200	4,822,200
Juvenile Corrections Fund	14,500	74,500			89,000
Federal Grant Fund	40,000				40,000
Miscellaneous Revenue Fund			5,500	100,000	105,500
TOTAL	$ 917,600	$ 213,600	$ 10,500	$ 8,023,100	$ 9,164,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General Fund	$10,115,500	$ 681,600	$ 11,400	$12,454,900	$23,263,400
Juvenile Corrections Fund				116,600	116,600
State Juvenile Corrections Center Fund		1,359,300			1,359,300
Federal Grant Fund	48,500	231,700		1,400,000	1,680,200
Miscellaneous Revenue Fund		50,500	76,300	1,492,600	1,619,400
TOTAL	$10,164,000	$2,323,100	$ 87,700	$15,464,100	$28,038,900
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 78,900	$ 11,400		$ 55,100	$ 145,400
Federal Grant Fund	111,100	593,000		2,325,600	3,029,700
TOTAL	$ 190,000	$ 604,400		$ 2,380,700	$ 3,175,100
GRAND TOTAL	$12,461,000	$3,844,200	$101,200	$25,867,900	$42,274,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than two hundred eighty-two and one-half (282.5) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 455
(H.B. No. 765)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Secretary of State for the Commission on the Arts, the following amounts, to be expended

according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$281,400	$219,300	$5,500	$445,000	$ 951,200
Federal Grant Fund	232,200	127,500		183,000	542,700
Miscellaneous Revenue Fund		54,500		16,200	70,700
TOTAL	$513,600	$401,300	$5,500	$644,200	$1,564,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 456
(H.B. No. 773)

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; AND DECLARING AN EMERGENCY.

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:	$12,883,000
	(1) Alterations and Repairs	
	(2) Asbestos Abatement	
	(3) Underground Storage Tank Program	
	(4) Statewide ADA Compliance	
	(5) Building Demolition	
	(6) Capitol Mall Maintenance	
B.	DEPARTMENT OF HEALTH & WELFARE:	
	(1) State Hospital South - Remodel "A" Building	$ 2,250,000
C.	DEPARTMENT OF ADMINISTRATION:	
	(1) Statewide Microwave System	$ 1,100,000
D.	STATE BOARD OF EDUCATION:	
	(1) Lewis Clark State College - Campus Activity Center	$ 3,425,000
	(2) Eastern Idaho Technical College - Library Expansion	$ 775,000
	(3) Historical Society - Archives Building, Phase II (Design)	$ 500,000
	(4) College of Southern Idaho - Fine Arts Building Addition	$ 1,500,000
	(5) University of Idaho - Teaching and Learning Center	$ 1,500,000
	(6) Boise State University - Canyon County Campus Phase II	$ 3,500,000
	(7) Idaho State University - Multi-Use Building	$ 1,500,000
	(8) North Idaho College - Nursing, Life Sciences, Allied Health Building (Planning)	$ 100,000
	TOTAL	$12,800,000
E.	DEPARTMENT OF LAW ENFORCEMENT	
	(1) Idaho State Police Twin Falls Field Office	$ 1,700,000
F.	DEPARTMENT OF JUVENILE CORRECTIONS	
	(1) St. Anthony Chapel	$ 220,000
	GRAND TOTAL	$30,953,000

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

Approved April 17, 2000.

CHAPTER 457
(H.B. No. 800)

AN ACT

RELATING TO THE INCOME TAX CREDIT FOR CAPITAL INVESTMENT; AMENDING SECTION 63-3029B, IDAHO CODE, TO INCREASE THE INVESTMENT CREDIT CARRYOVER FROM THE SEVEN TO THE FOURTEEN SUCCEEDING TAXABLE YEARS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) 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 the sum of:

(a) ~~t~~<u>T</u>he tax credit ~~carry-overs~~ <u>carryovers;</u> and

(b) ~~t~~<u>T</u>he tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain depreciable property which:

(a) ~~i~~<u>I</u>s eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the ~~i~~<u>I</u>nternal ~~r~~<u>R</u>evenue ~~c~~<u>C</u>ode subject to the limitations provided for certain regulated companies in section 46(f) of the ~~i~~<u>I</u>nternal ~~r~~<u>R</u>evenue ~~c~~<u>C</u>ode and is not a motor vehicle under eight thousand (8,000) pounds gross weight;

(b) ~~i~~<u>I</u>s acquired, constructed, reconstructed, erected or placed

into service after December 31, 1981; and

(c) ~~h~~Has a situs in Idaho.

(4) Notwithstanding the provisions of subsections (1) and (2), the amount of the credit allowed shall not exceed forty-five percent (45%) of the tax liability of the taxpayer.

(5) If the sum of credit ~~carry-overs~~ carryovers from the credit allowed by subsection (2) and the amount of credit for the taxable year from the credit allowed by subsection (2) exceed the limitation imposed by subsection (4) for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit ~~carry-over~~ carryover to the ~~seven (7)~~ fourteen (14) succeeding taxable years. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (4) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the qualified investment property for which the unused credit was granted still maintains Idaho situs. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(6) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to the applicable recapture provisions of the ~~i~~Internal ~~r~~Revenue ~~c~~Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(7) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code shall be disregarded.

(8) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. No credit or ~~carry-over~~ carryover of credit is permitted under this section if the credit or ~~carry-over~~ carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or ~~carry-over~~ carryover is claimed. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(9) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) ~~t~~The amount of each qualified investment in a specific asset

shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) ~~t~~The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(10) Only for the purposes of subsections (3)(a) and (7) of this section, references to sections of the "~~i~~Internal ~~r~~Revenue ~~c~~Code" mean the sections referred to as they existed in the ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986 prior to November 5, 1990.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2000.

Approved April 17, 2000.

CHAPTER 458
(H.B. No. 807)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2001.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill No. 778, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Supreme Court the following amount to be expended for the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund $542,800

Approved April 17, 2000.

CHAPTER 459
(H.B. No. 808)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2001.

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

SECTION 1. In addition to the appropriation provided in House Bill No. 763, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Agriculture the following amounts to be expended for the Administration Program according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$10,000		$10,000
Administration and Accounting Fund	15,000	$25,000	40,000
TOTAL	$25,000	$25,000	$50,000

Approved April 17, 2000.

CHAPTER 460
(H.B. No. 809)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2001; AND AUTHORIZING ONE ADDITIONAL FULL-TIME EQUIVALENT POSITION.

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

SECTION 1. In addition to any other appropriation for fiscal year 2001, there is hereby appropriated to the Office of the Governor for the Public Employee Retirement System the following amounts, to be expended by the listed program according to the specified expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

RETIREMENT ADMINISTRATION:

FOR:	
Personnel Costs	$42,000
Operating Expenditures	6,000
Capital Outlay	5,900
TOTAL	$53,900
FROM:	
Public Employee Retirement System Fund	$53,900

SECTION 2. The Public Employee Retirement System is authorized one (1) additional full-time equivalent position, any other provision of law notwithstanding.

Approved April 17, 2000.

CHAPTER 461
(H.B. No. 810)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2001; AND AUTHORIZING ONE ADDITIONAL FULL-TIME EQUIVALENT POSITION.

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

SECTION 1. In addition to any other appropriation for fiscal year 2001, there is hereby appropriated to the Department of Administration the following amounts, to be expended by the listed program according to the specified expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

PUBLIC WORKS:	
FOR:	
Personnel Costs	$ 75,000
Operating Expenditures	125,000
TOTAL	$200,000
FROM:	
General Fund	$200,000

SECTION 2. The Department of Administration is authorized one (1) additional full-time equivalent position, any other provision of law notwithstanding.

Approved April 17, 2000.

CHAPTER 462
(H.B. No. 812)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2001; AUTHORIZING A FULL-TIME POSITION; AND PROVIDING DUTIES OF THE STATE CONTROLLER REGARDING THE WINTER FEEDING AND HABITAT IMPROVEMENT PROGRAM.

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

SECTION 1. In addition to the appropriations in House Bill No. 766, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Fish

and Game the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 29,800	$ 60,600	$ 113,000	$15,000	$ 218,400
Fish and Game Federal Fund	14,700	40,400	66,300		121,400
TOTAL	$ 44,500	$101,000	$ 179,300	$15,000	$ 339,800
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund			$ 438,900		$ 438,900
III. FISHERIES:					
FROM:					
Fish and Game Fund	$294,800	$ 8,100	$1,201,500		$1,504,400
Fish and Game Federal Fund		24,300	412,500		436,800
TOTAL	$294,800	$ 32,400	$1,614,000		$1,941,200
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$130,300	$468,400	$ 298,900		$ 897,600
Fish and Game Federal Fund	97,600	54,900			152,500
TOTAL	$227,900	$523,300	$ 298,900		$1,050,100
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund			$ 25,000		$ 25,000
VI. ENGINEERING:					
FROM:					
Fish and Game Fund			$ 8,900		$ 8,900
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund			$ 500		$ 500
GRAND TOTAL	$567,200	$656,700	$2,565,500	$15,000	$3,804,400

SECTION 2. In addition to the full-time equivalent positions authorized in House Bill No. 766, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby authorized one (1) additional full-time equivalent position for the Department of Fish and Game for the period July 1, 2000, through June 30, 2001.

SECTION 3. Pursuant to House Bill No. 699, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, which eliminated a set-aside fund for the Upland Game and Waterfowl programs, the State Controller is hereby directed to reduce the appropriation for operating expenditures in the Winter Feeding and Habitat Improvement Program from the Fish and Game Set-aside Fund in the amount of $600,000 and increase the appropriation for operating expenditures in the Winter Feeding and Habitat Improvement Program from the Fish and Game Fund in the amount of $600,000.

Approved April 17, 2000.

CHAPTER 463
(H.B. No. 819)

AN ACT

AUTHORIZING THE STATE TREASURER TO MAKE MONEYS IN THE PETROLEUM CLEAN WATER TRUST FUND AVAILABLE FOR TRANSFER FOR A SPECIFIC PURPOSE; APPROPRIATING MONEYS FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND TO THE AMERICAN TRUCKING ASSOCIATION SETTLEMENT FUND; APPROPRIATING MONEYS FROM THE BUDGET STABILIZATION FUND TO THE AMERICAN TRUCKING ASSOCIATION SETTLEMENT FUND; PROVIDING FOR REPAYMENT TO THE IDAHO PETROLEUM CLEAN WATER TRUST FUND FROM THE HIGHWAY DISTRIBUTION ACCOUNT; PROVIDING FOR TRANSFER OF UP TO SEVENTEEN MILLION DOLLARS IN FISCAL YEAR 2000 GENERAL FUND SURPLUS TO THE BUDGET STABILIZATION FUND; AND PROVIDING EFFECTIVE DATES CONTINGENT UPON CERTIFICATION BY THE SECRETARY OF STATE THAT THE COURT HAS APPROVED A FINAL SETTLEMENT.

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

SECTION 1. Notwithstanding any other provision of law, the State Treasurer shall make $10,000,000 in Idaho Petroleum Clean Water Trust Fund moneys available for transfer pursuant to Section 2 of this act.

SECTION 2. Notwithstanding any other provision of law, there is hereby appropriated and the State Controller is hereby directed to transfer $10,000,000 from the Idaho Petroleum Clean Water Trust Fund to the American Trucking Association Settlement Fund, established in Section 40-710, Idaho Code.

SECTION 3. There is hereby appropriated and the State Controller is hereby directed to transfer $17,000,000 from the Budget Stabilization Fund to the American Trucking Association Settlement Fund, established in Section 40-710, Idaho Code.

SECTION 4. Beginning one month following the effective date of this act, but no sooner than January 1, 2001, when the balance of the Highway Distribution Account contains sufficient funds and before distributions are made pursuant to Section 40-701(2), Idaho Code, the State Controller shall transfer payments from the Highway Distribution

Account to the Idaho Petroleum Clean Water Trust Fund, at terms agreed to by the State Treasurer, State Insurance Fund Manager, and the Director of the Idaho Transportation Department. The State Controller shall make a similar transfer each succeeding month until such time as $10,000,000 plus interest has been repaid. Any outstanding loan balance will not reduce the unencumbered balance of the Idaho Petroleum Clean Water Trust Fund regarding Section 41-4908(10), Idaho Code. The trustee of the Idaho Petroleum Clean Water Trust Fund is hereby directed to coordinate with the State Controller in the transfer of funds and is directed to execute any documents or instruments to effect the loan and shall have no liability whatsoever in connection with the loan.

SECTION 5. Upon the closing of fiscal year 2000, the State Controller shall calculate the amount of any unexpended and unencumbered balance in the General Fund that exceeds $56,100,000. Pursuant to the provisions of Section 6 of this act, the State Controller shall transfer that amount to the Budget Stabilization Fund, up to a maximum of $17,000,000.

SECTION 6. This act shall be in full force and effect on and after July 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later.

Approved April 17, 2000.

CHAPTER 464
(H.B. No. 576)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 49-418, IDAHO CODE, TO PROVIDE THAT A PORTION OF THE SPECIAL PROGRAM FEES FOR VETERANS MOTOR VEHICLE LICENSE PLATES SHALL BE DEPOSITED TO THE VETERANS CEMETERY MAINTENANCE FUND; AND AMENDING CHAPTER 1, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-107, IDAHO CODE, TO CREATE A VETERANS CEMETERY MAINTENANCE FUND AND TO PROVIDE FOR PURPOSES AND ADMINISTRATION OF MONEYS IN THE FUND.

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

SECTION 1. 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 of twenty-five dollars ($25.00) and the annual program fee of fifteen dollars ($15.00) as specified in section 49-402, Idaho Code, and the plate fee specified in section 49-450, Idaho Code. Ten dollars ($10.00) of the initial program fee and ten dollars ($10.00) of 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. Fifteen dollars ($15.00) of the initial program fee and five dollars ($5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, and shall be used to operate and maintain a state veterans cemetery.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

(a) The word "VETERAN" or

(b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11).

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system. The design, color, and numbering system shall be subject to approval of the department.

SECTION 2. That Chapter 1, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-107, Idaho Code, and to read as follows:

65-107. VETERANS CEMETERY MAINTENANCE FUND. (1) There is hereby created in the state treasury a fund to be known as the "veterans cemetery maintenance fund" to which shall be deposited the revenues derived from the program fees for special veterans motor vehicle license plates as provided in section 49-418, Idaho Code, and any other moneys as may be provided by law. Interest earned on idle moneys in the veterans cemetery maintenance fund shall be paid to such fund.

(2) Moneys in the fund shall be used exclusively for the purposes of operating and maintaining a state veterans cemetery, and moneys shall be continuously appropriated for such purposes.

(3) The administrator of the division of veterans services shall have the authority and the responsibility, with the advice and approval of the Idaho veterans affairs commission created in section 65-201, Idaho Code, to administer moneys for the purposes indicated.

Approved April 17, 2000.

CHAPTER 465
(H.B. No. 611)

AN ACT

RELATING TO THE IDAHO BUILDING CODE ADVISORY ACT; AMENDING SECTION 39-4101, IDAHO CODE, TO PROVIDE THE INTENT OF THE LEGISLATURE TO REQUIRE MINIMUM CONSTRUCTION STANDARDS CONSISTENT WITH STANDARDS FOR ACCESSIBILITY FOR THOSE WITH DISABILITIES; AMENDING SECTION 39-4106, IDAHO CODE, TO INCREASE THE MEMBERSHIP OF THE IDAHO BUILDING CODE ADVISORY BOARD TO INCLUDE AN ADDITIONAL LOCAL BUILDING OFFICIAL AND AN INDIVIDUAL WITH A DISABILITY FROM AN ORGANIZATION REPRESENTING PEOPLE WITH ALL TYPES OF DISABILITIES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-4107, IDAHO CODE, TO PROVIDE FOR ADOPTION OF THE LATEST EDITION OF THE BUILDING CODE AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INCLUDING AMENDMENTS TO THE BUILDING CODE IN ACCORDANCE WITH THE BOARD'S DETERMINATION OF ITS EQUIVALENCY WITH THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES AND THE FAIR HOUSING ACT ACCESSIBILITY GUIDELINES, TO REQUIRE THE BOARD TO PROVIDE FOR SUITABILITY OF ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION AND TO PROMOTE ADOPTION OF ACCESSIBILITY CODES, TO PROVIDE FOR THE BOARD'S GENERAL RULEMAKING AUTHORITY AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-4108, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO REQUIRE RECOGNITION OF A BUILDING INSPECTOR'S CERTIFICATION FROM THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS OR THE INTERNATIONAL CODE COUNCIL AS EQUIVALENT TO STATE CERTIFICATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4116, IDAHO CODE, TO REQUIRE THAT LOCAL GOVERNMENTS ISSUING BUILDING PERMITS AND PERFORMING ENFORCEMENT ACTIVITIES ADOPT THE MOST CURRENT BUILDING CODE, INCLUDING APPENDIX CHAPTERS PROVIDING FOR ACCESSIBILITY, TO DELETE OBSOLETE LANGUAGE AND TO REQUIRE STATE CERTIFICATION OF ALL BUILDING CODE INSPECTORS INCLUDING THOSE OF LOCAL GOVERNMENTS.

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

SECTION 1. That Section 39-4101, Idaho Code, be, and the same is hereby amended to read as follows:

39-4101. LEGISLATIVE FINDING AND INTENT. (1) Uniformity of building codes and uniformity in procedures for enforcing building codes

throughout the nation and state are matters of nationwide and statewide concern and interest, in that uniformity would enhance elimination of obsolete, restricting, conflicting, duplicating and unnecessary regulations and requirements which could unnecessarily increase construction costs or retard the use of new materials and methods of installation or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction.

The legislature also finds that the factory production of housing and other buildings presents unique problems with respect to uniformity of codes and inspections throughout this state and nation.

(2) It is the intent of the legislature to:

(a) Promote the health, safety and welfare of the occupants or users of buildings and structures and the general public;

(b) Require minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire ~~and~~ safety, life safety and accessibility for those with disabilities;

(c) Require standards and requirements in terms of performance, energy efficiency, effect upon construction costs and consistency with nationally accepted standards;

(d) Permit the use of modern technical methods, devices and improvements; and

(e) Provide for a uniform interpretation of the building and safety codes for the state of Idaho.

SECTION 2. That Section 39-4106, Idaho Code, be, and the same is hereby amended to read as follows:

39-4106. IDAHO BUILDING CODE ADVISORY BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code advisory board is established within the department as an appeals, code adoption and variance, and advisory board, to be appointed by the governor, and shall consist of ~~seven~~ nine (~~7~~9) members: ~~two~~ one (~~2~~1) members of the general public~~,~~; one (1) ~~of which can be a~~ local fire official; one (1) registered engineer; ~~or~~ one (1) licensed architect; ~~one~~ two (~~1~~2) local building ~~inspector~~ officials, one (1) from a county and one (1) from a city; one (1) homebuilder or general contractor; one (1) representative of the modular building industry; and one (1) ~~representative of the manufactured home industry~~ individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for a term of four (4) years. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the members of the board shall constitute a quorum. ~~provided that said majority shall include at least one (1) public member.~~

(3) Each member of the board not otherwise compensated by public

moneys shall be compensated as provided by section 59-509(g), Idaho Code, for each day spent in attendance at meetings of the board.

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

SECTION 3. That Section 39-4107, Idaho Code, be, and the same is hereby amended to read as follows:

39-4107. POWERS AND DUTIES. (1) ~~The--board--shall--determine--the suitability--of--alternate--materials-and-methods-of-construction~~ Upon publication of the latest edition of the building code by the International Code Council, the board shall initiate the process of developing legislation to provide for its adoption under section 39-4109, Idaho Code. The board shall also determine that building code's equivalency with the provisions of the Americans With Disabilities Act Accessibility Guidelines and the Fair Housing Act Accessibility Guidelines. Upon finding that the building code under review does not provide an equivalent level of protection for those with disabilities, the board shall promulgate rules to amend the code so as to minimize those deficiencies to the maximum extent possible. The board shall complete the legislation development process, code equivalency analysis and promulgation of rules as needed to amend the code within twenty-four (24) months of its publication by the International Code Council.

(2) The board shall function as a board of appeals and shall provide for reasonable interpretations ~~of-the-provisions-of~~ and suitability of alternate materials and methods of construction as defined in the codes enumerated in this act.

(3) The decisions of the board shall, in respect to code interpretations, be final, and the board shall render all decisions and findings in writing to the appropriate enforcement official and agency, the appellant, and the ~~director~~ administrator within ten (10) days of the conclusion of a hearing.

(4) For each appeal brought before the board, the chairman shall appoint not less than three (3) members of the board to hear the appeal and render a decision and finding in the name of the board~~, provided-at-least-one-(1)-member-of-which-shall-be-a-public-member~~.

(5) The board shall continually study the operation of adopted codes, standards, rules and regulations relating to the construction of buildings to ascertain their effect upon the public safety and support an ongoing effort to promote the uniform adoption, application and interpretation of safety, accessibility and building codes statewide.

(6) The board shall adopt the latest changes to the codes enumerated in this act, and shall recommend to the director such amendments deemed necessary for the safety of the public. Such amendments shall be promulgated only after public hearings on the subject amendments.

(7) The board shall have the authority to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

(8) The board shall utilize experts, consultants, and technical

advisors for assistance and recommendations relative to codes, standards, and appeals.

SECTION 4. That Section 39-4108, Idaho Code, be, and the same is hereby amended to read as follows:

39-4108. CERTIFICATION -- DURATION -- FEES -- RENEWAL -- REVOCATION OR SUSPENSION -- HEARINGS. (1) The board is hereby authorized and empowered to conduct examinations and to pass upon the qualifications of state and local government inspectors, and the ~~director~~ administrator is hereby authorized and empowered to grant and issue certificates of competency to such applicants as are found to be qualified by the board to be engaged as building code inspectors. All certificates issued hereunder shall not be transferable.

(2) All certificates shall bear the date of issue, the expiration date, and shall expire on the first day of January three (3) years following the date of issue, unless renewed as provided in this act.

(3) All applicants shall pay to the director at the time of application for examination, a fee of twenty-five dollars ($25.00).

(4) Certification once issued under this act, unless revoked or suspended as herein provided, may be renewed at any time during the month of December on the third year following its issuance on the payment of the renewal fee of fifteen dollars ($15.00), and any certification which has expired may be renewed at any time within one (1) year from the first day of January next following its issuance, by payment of the examination fee.

(5) The ~~director~~ administrator shall have the power to revoke or suspend any certification if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has ~~wilfully~~ willfully violated any of the rules and regulations prescribed by said ~~director~~ administrator or as prescribed by this act; provided before any certification shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said ~~director~~ administrator. The provisions of chapter 52, title 67, Idaho Code, shall apply to all cases of revocation or suspension of certification.

(6) The ~~director~~ administrator shall have power to appoint, by an order in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the ~~director~~ administrator shall be based on his examination of the testimony taken and the records produced. Any person whose certification has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for new certification.

(7) The administrator shall recognize a valid building inspector's certification from the International Conference of Building Officials or the International Code Council as an equivalent to the state certification, and shall issue a certificate of competency to anyone providing proof of said certification upon receipt of all applicable fees.

SECTION 5. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. LOCAL GOVERNMENT ENFORCEMENT -- ASSISTANCE. (1) Local governments may, effective July 1 of any year, by affirmative action by resolution or ordinance taken by the governing board of a local government, prior to December 31 of the previous year, comply with the codes enumerated in this chapter, and codes and rules promulgated pursuant to this chapter, and inspection and enforcement may be provided by the local government, or may be provided by the department if such local government opts to comply with the provisions of this chapter but not to provide inspection and enforcement, except that the department shall retain jurisdiction of inspection and enforcement of construction standards and set-up codes for manufactured homes, and for inspection and enforcement of construction standards for modular buildings and commercial coaches, and, except as provided in section 39-4113(4), Idaho Code, for review of public school construction plans, whether or not a local government opts to comply with the other provisions of this chapter. Any decision to comply with the provisions of this chapter must be communicated to the director in writing, and compliance must be for an entire year commencing July 1. The minimum codes a local government must adopt in order to opt into this chapter are the latest editions of the ~~Uniform B~~building ~~C~~code, and the Uniform Mechanical Code. Except as listed in subsection (2) of this section, the remaining codes enumerated in the act are optional as to whether or not the local government wishes to adopt them.

(2) Regardless of whether or not a local government opts to comply with other sections of this act, ~~they shall adopt the Americans With Disabilities Act (ADA) Part III, (Appendix A to Part 36 Standards for Accessible Design), Accessibility--Guidelines--for--Buildings--and Facilities as published in the Federal Register Volume 56 No. 144 Friday, July 26, 1991 and subsequent editions and this shall also be known as UBC Standard 31-1 and the Americans--With--Disabilities--Act (ADA)--Part--II, Accessibility Guidelines for Buildings and Facilities, and Transportation Facilities as published--in--the--Federal--Register Volume--56--No.--173, Friday, September 6, 1991~~ local governments that issue building permits and perform enforcement activities as defined in the building code shall adopt the most current building code as defined in section 39-4109, Idaho Code, including the appendix chapter(s) providing for accessibility.

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

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

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

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

Approved April 17, 2000.

CHAPTER 466
(H.B. No. 623)

AN ACT

RELATING TO RESTITUTION ORDERED AT THE SENTENCING OF A JUVENILE; AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE THAT RESTITUTION ORDERED BY A COURT SHALL BE PAID PRIOR TO OTHER COURT-ORDERED PAYMENTS UNLESS THE COURT DIRECTS OTHERWISE.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order;

(b) Sentence the juvenile to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile to

detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(d) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No juvenile who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile is an habitual status offender;

(f) Commit the juvenile to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile's driver's license. The juvenile may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(j) The court may make any other reasonable order which is in the best interest of the juvenile or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(k) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(m) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile and/or parents reside if different than the county where the juvenile was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

(n) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile and the community;

(o) The court shall assess a twenty dollar ($20.00) charge against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the juvenile corrections account which is created in section 20-542, Idaho Code;

(p) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter;

(q) Commit the juvenile to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile's twenty-first birthday, unless extended jurisdiction is necessary to complete the competency development and accountability goals of the department;

(r) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile resides or is committed, or by an appointed agent. When committing a juvenile to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise.

(4) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

Approved April 17, 2000.

CHAPTER 467
(H.B. No. 629, As Amended)

AN ACT

RELATING TO TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209i, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209j, IDAHO CODE, TO PROVIDE FOR SUBSTANCE ABUSE SCREENING AND TESTING AND TO GOVERN PROCEDURE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209k, IDAHO CODE, TO SPECIFY APPLICATION TO CHILDREN; AND AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209l, IDAHO CODE, TO PROVIDE TREATMENT REQUIREMENTS.

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

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

56-209i. LEGISLATIVE FINDINGS. It is the intent of the legislature that the provisions of this act enhance the employability of participants in the temporary assistance for families in Idaho (TAFI) programs through substance abuse screening and, where appropriate, testing and treatment. The legislature finds that a significant number of employers use preemployment drug testing. Substance abuse adds to the difficulties such individuals have in securing employment. The legislature also finds that substance abuse in and of itself impairs personal responsibility and self-sufficiency and stands in the way of the very intent of the TAFI program to care for the health and welfare of certain qualified recipients and in so doing results in welfare costs that burden the state's taxpayers. The legislature further finds that substance abuse adversely affects a significant portion of the workforce, which results in billions of dollars of lost productivity each year and poses a threat to the safety of the workplace and to the public safety and security. In balancing the interests of taxpayers, participants in the TAFI program and potential employers against the interests of those who will be screened and tested under this act, the legislature finds that screening, testing and treatment as provided for in this act are in the greater interests of all concerned.

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

56-209j. SUBSTANCE ABUSE SCREENING AND TESTING PROGRAMS. (1) The department of health and welfare shall develop for implementation in fiscal year 2001, a program to screen each applicant who is otherwise eligible for temporary cash assistance provided under this chapter, and to subject to testing any applicant or participant who the department has reasonable suspicion to believe, based on the screening or other factors, is at risk of substance abuse.

(2) Prior to the first regular session of the fifty-sixth Idaho legislature, the department shall promulgate the necessary rules, pursuant to chapter 52, title 67, Idaho Code, to govern substance abuse screening and testing for TAFI programs. Rules shall, at a minimum:

(a) Specifically address the confidentiality of the screening and test results, and provide that individual results are protected under section 9-340C(6), Idaho Code, and are not subject to disclosure except to an evaluating or treating substance abuse program, and cannot be released for use in any criminal investigation or proceeding;

(b) Provide notice of screening and testing requirements to each applicant at the time of application. The notice must, at a minimum, advise the applicant that substance abuse screening and possible testing will be conducted as a condition for receiving temporary assistance or services under this chapter. The applicant shall be advised that the required screening and possible testing may be avoided if the applicant does not apply for or receive assistance or services. The screening and testing program is not applicable in child only cases;

(c) Develop procedures for substance abuse screening and testing of applicants for and recipients of temporary assistance or services under the TAFI program;

(d) Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking;

(e) Require each person to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (d) of this subsection;

(f) Provide a procedure to assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample;

(g) Specify circumstances under which a person who tests positive has the right to take one (1) or more additional tests;

(h) Provide a procedure for appealing the results of a test by a person who tests positive, and denial of TAFI services or benefits;

(i) Provide a definition for reasonable suspicion and high risk;

(j) Delineate the substances which will be screened;
(k) Establish outcome measures which can substantiate program effectiveness.

SECTION 3. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-209k, Idaho Code, and to read as follows:

56-209k. CHILDREN. If a parent is deemed ineligible for cash assistance due to the operation of this act, his or her dependent child's eligibility for cash assistance is not affected.

If a parent is deemed ineligible for cash assistance due to the operation of this act, an appropriate protective payee may be established for the benefit of the child.

If the parent refuses to cooperate in establishing an appropriate protective payee for the child, the department may appoint one.

SECTION 4. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-2091, Idaho Code, and to read as follows:

56-2091. TREATMENT PROVISIONS. The department shall refer for appropriate evaluation and provide for the treatment of any applicant or participant who, in the reasonable suspicion of the department, is engaged in substance abuse. Treatment shall be community-based and gender-specific. The department shall provide for the transportation and child care needs of the applicant if necessary. TAFI benefits or services may be denied to any applicant or participant who refuses to cooperate with reasonable screening, testing or treatment requests, or who, based on a preponderance of the evidence, engages in substance abuse following treatment. Any individual referred to treatment shall be notified of the local treatment programs appropriate to that person's needs.

Approved April 17, 2000.

CHAPTER 468
(H.B. No. 655)

AN ACT

RELATING TO COURSES OF INSTRUCTION IN PUBLIC SCHOOLS; AMENDING SECTION 33-1602, IDAHO CODE, TO PROVIDE THAT THE UNITED STATES FLAG SHALL BE DISPLAYED IN EVERY PUBLIC SCHOOL CLASSROOM, TO PROVIDE THAT EVERY PUBLIC SCHOOL SHALL OFFER THE PLEDGE OF ALLEGIANCE OR THE NATIONAL ANTHEM AT THE BEGINNING OF EACH SCHOOL DAY, TO PROVIDE THAT NO PUPIL WHO OBJECTS SHALL BE COMPELLED TO PARTICIPATE IN RECITING THE PLEDGE OR SINGING THE ANTHEM AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1602, Idaho Code, be, and the same is hereby amended to read as follows:

33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS -- NATIONAL ANTHEM -- "AMERICA." ~~a.~~(1) Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given;

~~b.~~(2) Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

(3) Every school board of trustees shall cause the United States flag to be displayed in every classroom during the school hours of each school day.

(4) Every public school shall offer the pledge of allegiance or the national anthem in grades one (1) through twelve (12) at the beginning of each school day.

(5) No pupil shall be compelled, against the pupil's objections or those of the pupil's parent or guardian, to recite the pledge of allegiance or to sing the national anthem.

Approved April 17, 2000.

CHAPTER 469
(H.B. No. 660)

AN ACT

RELATING TO THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING SECTION 67-2402, IDAHO CODE, TO CHANGE THE NAME OF THE DEPARTMENT OF LAW ENFORCEMENT TO THE IDAHO STATE POLICE; AMENDING SECTION 67-2406, IDAHO CODE, TO PROVIDE FOR A DIRECTOR OF THE IDAHO STATE POLICE; AMENDING THE HEADING FOR CHAPTER 29, TITLE 67, IDAHO CODE; AMENDING SECTION 67-2901, IDAHO CODE, TO CREATE THE IDAHO STATE POLICE AND ENUMERATE POWERS AND DUTIES; AMENDING SECTION 67-2901A, IDAHO CODE, TO PROVIDE A NAME CHANGE; AMENDING SECTION 67-2901B, IDAHO CODE, TO PROVIDE A NAME CHANGE; AMENDING SECTION 67-2902, IDAHO CODE, TO PROVIDE A NAME CHANGE; REPEALING SECTION 67-2903, IDAHO CODE; AMENDING SECTION 67-2904, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL APPOINT AN ADMINISTRATOR OF THE IDAHO STATE POLICE WHO SHALL SERVE AS DEPUTY DIRECTOR AND WHO SHALL SERVE AT THE PLEASURE OF THE DIRECTOR; AMENDING SECTION 67-2905, IDAHO CODE, TO PROVIDE FOR JURISDICTION OF THE IDAHO STATE POLICE AND ITS DEPUTIES; AMENDING SECTION 67-2908, IDAHO CODE, TO DELETE REFERENCE TO THE STATE POLICE DIVISION AND TO PROVIDE FOR EXPENSES TO BE PAID FROM THE LAW ENFORCEMENT FUND; AMENDING SECTION 67-2913, IDAHO CODE, TO PROVIDE FOR MONEYS IN THE

SEARCH AND RESCUE ACCOUNT TO BE PERPETUALLY APPROPRIATED TO THE IDAHO STATE POLICE; AMENDING SECTION 67-2914, IDAHO CODE, TO ESTABLISH THE IDAHO LAW ENFORCEMENT FUND; AMENDING SECTION 67-2915, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL SUBMIT REPORTS REGARDING MALICIOUS HARASSMENT CRIMES; AMENDING SECTION 67-2916, IDAHO CODE, TO REVISE THE DEFINITION OF "DIRECTOR"; AMENDING SECTION 6-610A, IDAHO CODE, TO PROVIDE FOR DEFENSE OF AN EMPLOYEE OF THE IDAHO STATE POLICE; AMENDING SECTION 7-805, IDAHO CODE, TO PROVIDE FOR NOTICE OF A NAME CHANGE TO THE IDAHO STATE POLICE; AMENDING SECTION 9-335, IDAHO CODE, TO REVISE THE DEFINITION OF "LAW ENFORCEMENT AGENCY"; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE EXEMPTION FROM DISCLOSURE OF CERTAIN RECORDS OF THE IDAHO STATE POLICE; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE FOR EXEMPTION FROM DISCLOSURE OF CERTAIN RECORDS OF THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-915, IDAHO CODE, TO PROVIDE FOR A CRIME COMMITTED UPON AN OFFICER OF THE IDAHO STATE POLICE; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE REGARDING LICENSES TO CARRYING CONCEALED WEAPONS; AMENDING SECTION 18-4508, IDAHO CODE, TO FURTHER DEFINE THE TERM "LAW ENFORCEMENT AGENCY" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-4509, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE REGARDING MISSING CHILD REPORTS; AMENDING SECTION 18-4511, IDAHO CODE, TO PROVIDE FOR NOTIFICATION BY THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-4512, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE REGARDING A MISSING PERSONS CLEARINGHOUSE; AMENDING SECTION 18-8002A, IDAHO CODE, TO REVISE THE DEFINITION OF "EVIDENTIARY TESTING," TO PROVIDE FOR RULEMAKING BY THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8004, IDAHO CODE, TO PROVIDE FOR OPERATION OF OR APPROVAL OF LABORATORIES BY THE IDAHO STATE POLICE; AMENDING SECTION 18-8102, IDAHO CODE, TO FURTHER DEFINE THE TERM "PEACE OFFICER" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8303, IDAHO CODE, TO FURTHER DEFINE THE TERMS "CENTRAL REGISTRY" AND "DEPARTMENT"; AMENDING SECTION 18-8315, IDAHO CODE, TO PROVIDE FOR PUBLIC RECORDS REQUESTS TO THE IDAHO STATE POLICE; AMENDING SECTION 18-8404, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE POLICE SHALL MAINTAIN THE JUVENILE SEX OFFENDER REGISTRY; AMENDING SECTION 18-8405, IDAHO CODE, TO PROVIDE FOR NOTIFICATION ON A FORM PROVIDED BY THE IDAHO STATE POLICE; AMENDING SECTION 18-8406, IDAHO CODE, TO PROVIDE FOR A FORM BY THE IDAHO STATE POLICE; AMENDING SECTION 18-8408, IDAHO CODE, TO PROVIDE FOR A LIST TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AMENDING SECTION 19-5102, IDAHO CODE, TO PROVIDE FOR THE PEACE OFFICERS STANDARDS AND TRAINING COUNCIL TO BE ESTABLISHED IN THE IDAHO STATE POLICE; AMENDING SECTION 19-5109, IDAHO CODE, TO REQUIRE CERTIFICATION OF PERSONS ACTING UNDER A SPECIAL DEPUTY COMMISSION FROM THE IDAHO STATE POLICE AND TO PROVIDE REFERENCE TO DEPUTY DIRECTOR; AMENDING SECTION 19-5113, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE IDAHO STATE POLICE OR HIS AUTHORIZED REPRESENTATIVE TO ADMINISTER OATHS, TAKE DEPOSITIONS OR ISSUE SUBPOENAS; AMENDING SECTION 19-5114, IDAHO CODE, TO PROVIDE FOR A REPORT BY THE IDAHO STATE POLICE; AMENDING SECTION

19-5116, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF THE PEACE OFFICERS STANDARDS AND TRAINING FUND, TO AUTHORIZE TRAINING OF PEACE OFFICERS FROM THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-5202, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL ESTABLISH A TELETYPEWRITER COMMUNICATIONS NETWORK, TO PROVIDE THE TELETYPEWRITER COMMUNICATIONS NETWORK FUND AND TO MAKE A GRAMMATICAL CORRECTION; AMENDING SECTION 19-5203, IDAHO CODE, TO PROVIDE FOR A TELETYPEWRITER COMMUNICATIONS BOARD WITHIN THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-5204, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE THE EXECUTIVE OFFICER OF THE TELETYPEWRITER COMMUNICATIONS NETWORK BOARD; AMENDING SECTION 19-5402, IDAHO CODE, TO REVISE THE DEFINITION OF "DEPARTMENT"; AMENDING SECTION 19-5502, IDAHO CODE, TO REVISE DEFINITIONS OF "DIRECTOR" AND "FORENSIC LABORATORY"; AMENDING SECTION 19-5503, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE POLICE SHALL BE RESPONSIBLE FOR THE POLICY MANAGEMENT AND ADMINISTRATION OF THE STATE'S DATABASE AND DATABANK IDENTIFICATION PROGRAM; AMENDING SECTION 19-5504, IDAHO CODE, TO PROVIDE FOR RULES BY THE IDAHO STATE POLICE; AMENDING SECTION 19-5506, IDAHO CODE, TO PROVIDE THAT A PERSON CONVICTED OF OR WHO PLEADS GUILTY TO CERTAIN CRIMES SHALL PROVIDE A DNA SAMPLE AND RIGHT THUMBPRINT IMPRESSION TO THE IDAHO STATE POLICE; AMENDING SECTION 19-5507, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE IDAHO STATE POLICE; AMENDING SECTION 19-5510, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE IDAHO STATE POLICE; AMENDING SECTION 19-5511, IDAHO CODE, TO PROVIDE FOR A FORM PRESCRIBED BY THE IDAHO STATE POLICE; AMENDING SECTION 19-5513, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE FOR EXPUNGEMENT OF INFORMATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-5514, IDAHO CODE, TO PROVIDE FOR LIMITATIONS OF DISCLOSURE OF INFORMATION BY THE IDAHO STATE POLICE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 20-516, IDAHO CODE, TO PROVIDE FOR FORWARDING OF PHOTOGRAPHS AND FINGERPRINTS OF JUVENILES TAKEN INTO DETENTION TO THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 21-112A, IDAHO CODE, TO PROVIDE FOR LABORATORIES OR METHODS OPERATED BY OR APPROVED BY THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-603, IDAHO CODE, TO PROVIDE FOR NOTIFICATION BY A COURT TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-608, IDAHO CODE, TO PROVIDE FOR THE COURT TO TRANSMIT CERTAIN INFORMATION TO THE IDAHO STATE POLICE; AMENDING SECTION 23-804, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE AND OFFICERS THEREOF AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-805, IDAHO CODE, TO PROVIDE THAT THE PROSECUTING ATTORNEYS, SHERIFFS AND OTHER OFFICERS SHALL COOPERATE WITH THE IDAHO STATE POLICE AND TO PROVIDE DUTIES OF COURTS TO SEND CERTAIN INFORMATION TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-807, IDAHO CODE, TO PROVIDE DUTIES OF THE DIRECTOR AND EMPLOYEES OF THE IDAHO STATE POLICE; AMENDING SECTION 23-901, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE IS AUTHORIZED TO GRANT LICENSES TO QUALIFIED PERSONS TO SELL LIQUOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-902, IDAHO CODE, TO REVISE THE

DEFINITION OF "DIRECTOR"; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE IS EMPOWERED TO ISSUE LIQUOR BY THE DRINK LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-934C, IDAHO CODE, TO PROVIDE A NAME CHANGE; AMENDING SECTION 23-950, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 56, LAWS OF 1981, TO REDESIGNATE THE SECTION AND TO PROVIDE DUTIES OF THE IDAHO STATE POLICE; AMENDING SECTION 23-1001, IDAHO CODE, TO REVISE THE DEFINITION OF "DIRECTOR"; AMENDING SECTION 23-1007A, IDAHO CODE, TO PROVIDE FOR APPLICATION TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-1009, IDAHO CODE, TO PROVIDE FOR APPLICATIONS FOR RETAILER'S LICENSES TO BE MADE TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-1011, IDAHO CODE, TO PROVIDE FOR APPLICATIONS FOR RETAIL BEER LICENSES TO BE MADE TO THE IDAHO STATE POLICE; AMENDING SECTION 23-1018, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-1106, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 23-1303, IDAHO CODE, TO REVISE THE DEFINITION OF "DIRECTOR" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-1407, IDAHO CODE, TO PROVIDE A NAME CHANGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-1408, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE STATE POLICE SHALL PROMULGATE RULES; AMENDING SECTION 25-1102, IDAHO CODE, TO PROVIDE THAT THE BRAND BOARD SHALL BE IN THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-1105, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE IS AN EX OFFICIO BRAND INSPECTOR; AMENDING SECTION 25-1106, IDAHO CODE, TO PROVIDE THAT THE STATE BRAND INSPECTOR AND HIS DEPUTIES SHALL HAVE ALL THE AUTHORITY AND POWERS OF PEACE OFFICERS VESTED IN THE DIRECTOR OF THE IDAHO STATE POLICE WITH GENERAL JURISDICTION THROUGHOUT THE STATE; AMENDING SECTION 31-2202, IDAHO CODE, TO PROVIDE FOR THE SHERIFF TO SUBMIT CERTAIN REPORTS TO AND COOPERATE WITH THE DIRECTOR OF THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-2227, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE IDAHO STATE POLICE; AMENDING SECTION 33-130, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE REGARDING CRIMINAL HISTORY CHECKS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1508, IDAHO CODE, TO PROVIDE FOR RULES BY THE IDAHO STATE POLICE REGARDING OPERATION OF SCHOOL BUSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1511, IDAHO CODE, TO PROVIDE FOR REPORTS TO BE FILED WITH THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4701, IDAHO CODE, TO PROVIDE FOR THE YOUTH EDUCATION FUND, TO PROVIDE THAT THE IDAHO STATE POLICE MAY CONTRIBUTE FUNDS AND SEEK GRANTS TO THE YOUTH EDUCATION FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2701, IDAHO CODE, TO REVISE THE DEFINITION OF "DIRECTOR" AND "PEACE OFFICER" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2716, IDAHO CODE, TO PROVIDE FOR A COPY OF REGISTRATIONS TO BE TRANSMITTED TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE POLICE MAY RECEIVE RESTITUTION FOR CERTAIN COSTS, TO PROVIDE FOR DISTRIBUTION OF THOSE MONEYS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2740, IDAHO CODE,

TO PROVIDE DUTIES OF THE DIRECTOR OF THE STATE POLICE REGARDING CONTROLLED SUBSTANCES; AMENDING SECTION 37-2743, IDAHO CODE, TO PROVIDE DUTIES OF THE DIRECTOR OF THE STATE POLICE; AMENDING SECTION 37-2744, IDAHO CODE, TO PROVIDE FOR DESTRUCTION OF PROPERTY UNDER THE SUPERVISION OF THE IDAHO STATE POLICE AND TO PROVIDE DUTIES OF THE DIRECTOR OF THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2744B, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE IS AUTHORIZED TO RECEIVE AND DISPOSE OF REAL AND PERSONAL PROPERTY THAT HAS BEEN SEIZED BY A FEDERAL DRUG ENFORCEMENT AGENCY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2803, IDAHO CODE, TO PROVIDE FOR A COPY OF INVENTORY TO BE SENT TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 37-2807, IDAHO CODE, TO PROVIDE FOR MONEYS TO BE REMITTED TO THE DIRECTOR OF THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2808, IDAHO CODE, TO PROVIDE A NAME CHANGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-3105, IDAHO CODE, TO PROVIDE FOR REPORTS TO BE SENT TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 39-3026, IDAHO CODE, TO PROVIDE AUTHORITY OF THE IDAHO STATE POLICE; AMENDING SECTION 39-3372, IDAHO CODE, TO PROVIDE FOR A BACKGROUND CHECK AND FINGERPRINTING WITH THE IDAHO STATE POLICE; AMENDING SECTION 39-3562, IDAHO CODE, TO PROVIDE FOR FINGERPRINTING AND A BACKGROUND CHECK WITH THE IDAHO STATE POLICE; AMENDING SECTION 39-4410, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO THE IDAHO STATE POLICE; AMENDING SECTION 39-5814, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO THE IDAHO STATE POLICE; AMENDING SECTION 39-6316, IDAHO CODE, TO PROVIDE FOR A WRITTEN NOTICE BY THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-7105, IDAHO CODE, TO PROVIDE DUTIES FOR THE IDAHO STATE POLICE; AMENDING SECTION 39-7408D, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 40-510, IDAHO CODE, TO PROVIDE THE DIRECTOR OF THE IDAHO STATE POLICE TO AUTHORIZE A PORT OF ENTRY EMPLOYEE TO CARRY A FIREARM; AMENDING SECTION 41-291, IDAHO CODE, TO REVISE THE DEFINITION OF "AUTHORIZED AGENCIES"; AMENDING SECTION 41-298, IDAHO CODE, TO PROVIDE JURISDICTION OF THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 46-1019, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE ON THE EMERGENCY RESPONSE COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-102, IDAHO CODE, TO REVISE THE DEFINITION OF "APPROVED TESTING AGENCY" AND "AUTHORIZED OFFICER"; AMENDING SECTION 49-104, IDAHO CODE, TO REVISE THE DEFINITION OF "CERTIFICATION OF SAFETY COMPLIANCE"; AMENDING SECTION 49-105, IDAHO CODE, TO REVISE THE DEFINITION OF "DEPARTMENT" AND "DIRECTOR"; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE MAY DESIGNATE OTHER EMERGENCY VEHICLES; AMENDING SECTION 49-201, IDAHO CODE, TO PROVIDE CERTAIN RESPONSIBILITIES FOR THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE FOR FEES TO BE REMITTED TO THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-218, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE STATE POLICE SHALL DESIGNATE ANY PARTICULAR VEHICLE AS AN AUTHORIZED EMERGENCY VEHICLE UPON CERTAIN FINDINGS AND TO PROVIDE PENALTIES; AMENDING SECTION

49-235, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-509, IDAHO CODE, TO PROVIDE FOR THE FURNISHING OF INFORMATION TO THE IDAHO STATE POLICE REGARDING STOLEN VEHICLES AND TO PROVIDE FOR REPORTS; AMENDING SECTION 49-901, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE DIRECTOR OF THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-910A, IDAHO CODE, TO PROVIDE FOR DESIGNATION OF EMERGENCY VEHICLES BY THE DIRECTOR OF THE STATE POLICE; AMENDING SECTION 49-944, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE AND TO PROVIDE FOR RULES; AMENDING SECTION 49-1314, IDAHO CODE, TO PROVIDE DUTIES FOR THE DIRECTOR OF THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1814, IDAHO CODE, TO PROVIDE THAT A MEMBER OF THE IDAHO STATE POLICE MAY MAKE APPRAISALS; AMENDING SECTION 49-2205, IDAHO CODE, TO PROVIDE FOR THE HAZARDOUS MATERIALS/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT FUND, TO PROVIDE REFERENCE TO THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-2426, IDAHO CODE, TO PROVIDE FOR MOTOR VEHICLES UNDER THE CUSTODY AND CONTROL OF THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 54-521, IDAHO CODE, TO DELETE REFERENCE TO THE COMMISSIONER OF LAW ENFORCEMENT APPOINTING THE BOARD OF BARBER EXAMINERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1503, IDAHO CODE, TO DELETE REFERENCE TO THE BOARD OF OPTOMETRY BEING APPOINTED BY A COMMISSIONER OF LAW ENFORCEMENT; AMENDING SECTION 54-1805, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE A MEMBER OF THE BOARD OF MEDICINE; REPEALING SECTION 54-2048, IDAHO CODE; AMENDING SECTION 54-2503, IDAHO CODE, TO PROVIDE THAT THE RACING COMMISSION IS CREATED WITHIN THE IDAHO STATE POLICE; AMENDING SECTION 56-227C, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL HAVE SUBPOENA POWER; AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE APPOINTED BY THE GOVERNOR; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE A REVISED DEFINITION OF "POLICE OFFICER STATUS" FOR STATE POLICE PERSONNEL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2552A, IDAHO CODE, TO PROVIDE FOR MONEYS TO BE REMITTED TO THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1405, IDAHO CODE, TO PROVIDE FOR REPORTS TO THE ATTORNEY GENERAL FROM THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1605, IDAHO CODE, TO PROVIDE THAT RESPONSIBILITY FOR LAW ENFORCEMENT AT THE CAPITOL BUILDING IS VESTED IN THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 67-2337, IDAHO CODE, TO PROVIDE FOR COMMISSIONING OF POLICE OFFICERS BY THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 67-3001, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-4237, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE; AMENDING SECTION 67-7034, IDAHO CODE, TO PROVIDE FOR LABORATORIES OPERATED BY THE IDAHO STATE POLICE OR CERTIFIED OR APPROVED BY THEM; AMENDING SECTION 67-7036, IDAHO CODE, TO PROVIDE DUTIES OF THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 67-7133, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT BY THE IDAHO STATE POLICE; AND AMENDING SECTION 67-7410, IDAHO CODE, TO PROVIDE A REFERENCE TO THE IDAHO STATE POLICE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-2402, Idaho Code, be, and the same is hereby amended to read as follows:

67-2402. STRUCTURE OF THE EXECUTIVE BRANCH OF IDAHO STATE GOVERNMENT. (1) Pursuant to section 20, article IV, Idaho constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of state, except for those assigned to the elected constitutional officers, are allocated among and within the following departments:

Department of administration
Department of agriculture
Department of commerce
Department of correction
Department of labor
Department of finance
Department of fish and game
Department of health and welfare
Department of insurance
Department of juvenile corrections
Idaho transportation department
Industrial commission
Department of lands
~~Department of law enforcement~~ Idaho state police
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(b) The principal unit of a division is a bureau. Each bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor.

SECTION 2. That Section 67-2406, Idaho Code, be, and the same is hereby amended to read as follows:

67-2406. DIRECTORS OF DEPARTMENTS ENUMERATED. The following department directors are created:

Director, department of administration
Director, department of agriculture
Director, department of commerce
Director, department of correction
Director, department of labor
Director, department of finance
Director, department of fish and game
Director, department of health and welfare
Director, department of insurance
Director, department of juvenile corrections
Director, Idaho transportation department
Director, department of lands
Director, ~~department of law enforcement~~ Idaho state police
Director, department of parks and recreation
Director, department of water resources.

SECTION 3. That the Heading for Chapter 29, Title 67, be, and the same is hereby amended to read as follows:

CHAPTER 29
~~DEPARTMENT OF LAW ENFORCEMENT~~
IDAHO STATE POLICE

SECTION 4. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. ~~DEPARTMENT~~ IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the ~~department--of--law--enforcement~~ Idaho state police. The ~~department~~ Idaho state police shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The governor, with the advice and consent of the senate, shall appoint a director of the ~~department of--law--enforcement~~ Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The ~~department of law enforcement~~ Idaho state police shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the ~~department~~ state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the ~~department~~ state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the ~~department~~ state police, and may delegate duties to employees and officers of the ~~department~~ state police.

(5) The ~~department of law enforcement~~ Idaho state police shall have power to:

(a) ~~E~~enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and

authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subdivision, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of ~~said department~~ the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies. ~~The jurisdiction of the director of the department of law enforcement and his deputies, both regular and special, and all peace officers or other persons called into the police service of the state by him or his deputies, shall be coextensive with the territory of the state of Idaho and not limited by the lines of any political or municipal subdivisions.~~

(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 Idaho state police 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;

(h) Regulate traffic on all highways and roads in the state;

(i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;

(j) 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;

(k) 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;

(l) 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;

(m) 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 shall be filed with the director.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(8) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.

(9) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(10) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police: ~~division:~~

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, ~~division,~~ and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police ~~division~~ as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police; ~~division;~~

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing

agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police ~~division~~ and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police. ~~division.~~

(11) (a) The director shall issue to every eligible police officer member of the Idaho ~~department--of--law--enforcement~~ state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars ($50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the ~~department-of-law-enforcement~~ Idaho state police as an active police officer after the effective date of this act shall be insured as other members of ~~said-department~~ the state police immediately upon taking the oath of office.

(c) Every member of the ~~department-of-law-enforcement~~ Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the ~~department~~ state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police ~~division;--the--police--services division;--and--the--alcoholic--beverage--control--division-of-the department-of-law-enforcement~~ an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(12) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

SECTION 5. That Section 67-2901A, Idaho Code, be, and the same is hereby amended 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~~ Idaho state police 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 6. That Section 67-2901B, Idaho Code, be, and the same is hereby amended 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~~ state police 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~~ state police 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 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)."

(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 7. That Section 67-2902, Idaho Code, be, and the same is hereby amended to read as follows:

67-2902. DIRECTOR AND DEPUTIES -- POWERS OF POLICE OFFICERS. The director of the ~~department of law enforcement~~ Idaho state police and persons deputized by him as state policemen are peace officers authorized to exercise within any county the same powers as the sheriff thereof.

SECTION 8. That Section 67-2903, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 67-2904, Idaho Code, be, and the same is hereby amended to read as follows:

67-2904. ~~DIVISION~~ ADMINISTRATOR -- APPOINTMENT, TERM, SALARY. The director of the ~~department of law enforcement~~ Idaho state police shall appoint ~~the~~ an administrator of the Idaho state police ~~division~~ who shall act as a deputy director and serve at the pleasure of the director.~~, and t~~The salary of the ~~administrator~~ deputy director shall be fixed for each term by the director within the limits of any appropriation made therefor.

SECTION 10. 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~~ JURISDICTION. ~~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;~~

~~h. regulate traffic on all highways and roads in the state;~~

~~i. perform all of the duties and exercise all of the powers of peace officers vested in the director of the department of law enforcement;~~

~~j. 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;~~

~~k. 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;~~

~~l. members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other depart-~~

~~ment--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;~~

~~m.--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~~ The jurisdiction of the director of the Idaho state police and his deputies, both regular and special, and all peace officers or other persons called into the police service of the state by him or his deputies shall be coextensive with the territory of the state of Idaho and not limited by the lines of any political or municipal subdivisions.

SECTION 11. That Section 67-2908, Idaho Code, be, and the same is hereby amended to read as follows:

67-2908. SALARIES AND EXPENSES -- SOURCE OF PAYMENT. All salaries, costs of equipment, and expenses of maintaining and operating the Idaho state police ~~division~~ shall be paid from the law enforcement ~~account~~ fund and such other funds as are or may hereafter be appropriated for the purpose of operating and maintaining the Idaho state police. ~~division.~~

SECTION 12. That Section 67-2913, Idaho Code, be, and the same is hereby amended to read as follows:

67-2913. SEARCH AND RESCUE ACCOUNT. There is hereby created in the dedicated fund the search and rescue account.

(1) Moneys in the account shall be maintained in two (2) subaccounts, identified respectively as the "cost reimbursement subaccount" and the "equipment purchase matching subaccount." Moneys in the cost reimbursement subaccount are perpetually appropriated to and shall be used by the director of the ~~department-of-law-enforcement~~ Idaho state police for the purpose of defraying costs of search and rescue missions conducted by the county sheriff's office at a maximum of two thousand dollars ($2,000) per rescue mission, regardless of the number of counties or county search and rescue organizations involved. Of the additional fine imposed pursuant to section 36-1405, Idaho Code, fifty percent (50%) shall be deposited to the credit of the cost reimbursement subaccount. In the event the balance in the cost reimbursement subaccount exceeds fifty thousand dollars ($50,000), the amount in excess shall be transferred to the equipment purchase matching subaccount.

(2) Fifty percent (50%) of the moneys received pursuant to the provisions of section 36-1405, Idaho Code, and any amount in excess

of fifty thousand dollars ($50,000) in the cost reimbursement subaccount, shall be deposited in the search and rescue account to the credit of the equipment purchase matching subaccount, and are perpetually appropriated to the director of the ~~department of law enforcement~~ Idaho state police for the purposes of the subaccount. Moneys in the equipment purchase matching subaccount shall be used by the director to match local funds for the purchase of equipment for use by local search and rescue units, at a maximum amount of two thousand dollars ($2,000) per unit in any single year. The cost sharing match in the equipment purchase matching subaccount shall be thirty-five percent (35%) local funds to sixty-five percent (65%) from the equipment purchase matching subaccount.

SECTION 13. That Section 67-2914, Idaho Code, be, and the same is hereby amended to read as follows:

67-2914. IDAHO LAW ENFORCEMENT ~~ACCOUNT~~ FUND ESTABLISHED. For the purposes of the ~~department of law enforcement~~ Idaho state police, there is established in the ~~dedicated fund~~ state treasury of the state of Idaho the Idaho law enforcement ~~account~~ fund, to which shall be deposited funds as provided by law.

SECTION 14. That Section 67-2915, Idaho Code, be, and the same is hereby amended to read as follows:

67-2915. STATISTICAL REPORT OF MALICIOUS HARASSMENT CRIMES. The director of ~~law enforcement~~ the Idaho state police shall annually submit to the governor and the chairman of the judiciary and rules committee in the senate and the chairman of the judiciary, rules and administration committee in the house of representatives a report on malicious harassment crimes, as that crime is defined in section 18-7902, Idaho Code. Report content shall be limited to statistical data and shall be presented in conformance with the provisions of section 9-335, Idaho Code.

All city, county and state law enforcement units shall be required to report to the director all incidences of, complaints on, and arrests for malicious harassment crimes within their respective jurisdictions. The director shall develop a standard procedure and shall prescribe and provide a standard form for complete and uniform reporting.

SECTION 15. That Section 67-2916, Idaho Code, be, and the same is hereby amended to read as follows:

67-2916. REPORTS OF MURDERS. (1) As used in this section:

(a) "Director" means the director of the ~~department of law enforcement of the state of~~ Idaho state police.

(b) "Murder" has the meaning provided in section 18-4003, Idaho Code.

(2) Any law enforcement agency within the state of Idaho having primary responsibility for the investigation of the case shall provide information relating to any suspected murder to the director within twenty-five (25) days after its discovery. The law enforcement agency

shall submit the information on a form which shall be developed and provided by the director. The form shall contain only information necessary to aid law enforcement personnel in comparing murders and suspected murders and discovering those exhibiting similar characteristics. The director shall enter information submitted by an investigating agency into a file maintained and controlled by the director and shall compare such information to information on other murders or suspected murders, for the purpose of discovering similarities in criminal methods and suspect descriptions. The director shall advise the concerned investigating agencies if the director finds murders exhibiting similar criminal methods or suspect descriptions.

(3) When an investigating law enforcement agency terminates active investigation of a suspected murder due to an arrest having been made in the case, death of the primary suspect, or whatever other reason, the investigating agency shall so notify the director within thirty (30) days following such termination. Notification shall include the reason for terminating active investigation.

(4) All suspected murders coming under the jurisdiction of any law enforcement agency in the state of Idaho occurring less than one (1) year before the effective date of this section shall be reported to the director as provided in this section within sixty-five (65) days after the effective date of this section or thirty (30) days after the director provides forms for such purpose, whichever is later.

SECTION 16. That Section 6-610A, Idaho Code, be, and the same is hereby amended to read as follows:

6-610A. EMPLOYER FURNISHING DEFENSE FOR PUBLIC OFFICER IN CRIMINAL ACTIONS -- REQUIREMENTS. (1) If a criminal action or proceeding is brought against an employee who is a sheriff, constable, peace officer, commissioned officer of the ~~department of law enforcement~~ Idaho state police, or any other person charged with the duty of enforcement of the criminal laws of this state, the employer of the employee charged in the criminal action shall reimburse the employee for reasonable expenses the employee incurred in providing his defense in the criminal action if:

(a) The criminal action or proceeding is brought on account of an act or omission which occurred in the course and scope of the employee's duties as an employee of the employer; and

(b) The employee provides his own defense in the criminal action and the employee is found not guilty of the criminal charges or the charges are dropped.

(2) For the purposes of this section, employer shall mean the state of Idaho or any office, department, agency, authority, commission, board or other instrumentality thereof, and political subdivisions of the state of Idaho including any city, county or municipal corporation.

SECTION 17. That Section 7-805, Idaho Code, be, and the same is hereby amended to read as follows:

7-805. RESTRICTIONS ON NAME CHANGES FOR CONVICTED SEXUAL OFFENDERS -- NOTIFICATION OF NAME CHANGES OF CONVICTED SEXUAL OFFENDERS. (1) No person shall apply for a change of name with the intent or purpose of avoiding registration as a convicted sexual offender pursuant to chapter 83, title 18, Idaho Code. No name change shall be granted to any person if the name change would have the effect of relieving the person of the duty to register as a convicted sexual offender under chapter 83, title 18, Idaho Code, or under the provisions of similar laws enacted by another state.

(2) The court granting a name change to any individual required to register as a convicted sexual offender pursuant to the provisions of chapter 83, title 18, Idaho Code, shall provide notice of the name change to the Idaho ~~department of law enforcement~~ state police, central sexual offender registry. This notice shall include the offender's name prior to change, new name, social security number, date of birth and last known address.

SECTION 18. That Section 9-335, Idaho Code, be, and the same is hereby amended to read as follows:

9-335. EXEMPTIONS FROM DISCLOSURE -- CONFIDENTIALITY. (1) Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would:

(a) Interfere with enforcement proceedings;

(b) Deprive a person of a right to a fair trial or an impartial adjudication;

(c) Constitute an unwarranted invasion of personal privacy;

(d) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement agency in the course of a criminal investigation, confidential information furnished only by the confidential source;

(e) Disclose investigative techniques and procedures; or

(f) Endanger the life or physical safety of law enforcement personnel.

(2) An inactive investigatory record shall be disclosed unless the disclosure would violate the provisions of subsection (1)(a) through (f) of this section. Investigatory record as used herein means information with respect to an identifiable person or group of persons compiled by a law enforcement agency in the course of conducting an investigation of a specific act or omission and shall not include the following information:

(a) The time, date, location, and nature and description of a reported crime, accident or incident;

(b) The name, sex, age, and address of a person arrested, except as otherwise provided by law;

(c) The time, date, and location of the incident and of the arrest;

(d) The crime charged;

(e) Documents given or required by law to be given to the person arrested;

(f) Informations and indictments except as otherwise provided by law; and

(g) Criminal history reports.

As used herein, the term "law enforcement agency" means the office of the attorney general, the office of the state controller, the ~~department--of--law--enforcement~~ Idaho state police, the office of any prosecuting attorney, sheriff or municipal police department.

(3) Whenever it is made to appear by verified petition to the district court of the county where the records or some part thereof are situated that certain investigative records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the investigative record or show cause why he should not do so. The court shall decide the case after examining the record in camera, papers filed by the parties, and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified, he shall order the public officials to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court may, in its discretion, award costs and fees to the prevailing party.

SECTION 19. That Section 9-340B, Idaho Code, 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~~ Idaho state police 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.

(11) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the ~~department--of--law enforcement~~ Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

SECTION 20. That Section 9-340C, Idaho Code, 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~~ Idaho state police 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.

(1~~8~~9) 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 21. That Section 18-915, Idaho Code, be, and the same is hereby amended to read as follows:

18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT. Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the department of correction, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, officer of the Idaho state ~~department-of-law-enforcement~~ police, fireman, social caseworkers or social work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the department of

health and welfare, emergency medical technician-ambulance certified by the department of health and welfare, advanced emergency medical technician and EMT-paramedic certified by the state board of medicine, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section.

(c) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer engaged in the performance of his duties, and the victim is engaged in the performance of his duties, the offense shall be a felony punishable by imprisonment in the state prison for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

SECTION 22. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state for four (4) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or

(b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; or

(c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or

(d) Is a fugitive from justice; or

(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or

(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:

(i) Lacking mental capacity as defined in section 18-210, Idaho Code; or

(ii) Mentally ill as defined in section 66-317, Idaho Code; or

(iii) Gravely disabled as defined in section 66-317, Idaho Code; or

(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; or

(g) Is or has been discharged from the armed forces under dishonorable conditions; or

(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years has elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; or

(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; or

(j) Is an alien illegally in the United States; or

(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or

(l) Is under twenty-one (21) years of age; or

(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or

(n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in triplicate, in a form to be prescribed by the director of the ~~department of law enforcement~~ Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the ~~department of law enforcement~~ Idaho state police for a records check of state and national files. The ~~department of law enforcement~~ Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the

results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of subsection (1) of this section.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the ~~department--of--law--enforcement~~ Idaho state police on a form or in a manner prescribed by the ~~department~~ state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or ~~department-of-law-enforcement~~ Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a four (4) year license shall be twenty dollars ($20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be twelve dollars ($12.00). The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) A licensee may renew a license if the licensee applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the ~~department--of--law--enforcement~~ Idaho state police for a records check of state and national databases. The ~~department-of-law-enforcement~~ Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of four (4) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars ($10.00) in addition to the renewal fee. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff

of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city or inside any mining, lumbering, logging or railroad camp a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any pistol or revolver located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrants the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office,

prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city, or outside any mining, lumbering, logging or railroad camp, located outside any city, while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers with at least ten (10) years of service with the state or a political subdivision as a peace officer and who have been certified by the peace officer standards and training council;

(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following, provided the applicant may select which one:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state; or

(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the ~~department of law enforcement~~ Idaho state police; or

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

(a) Fraud or intentional misrepresentation in the obtaining of a license; or

(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with

the intent to unlawfully cause harm to a person or property; or

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff; or

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon or a license renewal on or after July 1, 1995, is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(17) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

SECTION 23. That Section 18-4508, Idaho Code, be, and the same is hereby amended to read as follows:

18-4508. DEFINITIONS. As used in sections 18-4507, 18-4508, 18-4509, 18-4510~~,~~ and 18-4511, Idaho Code:

(1~~.~~) "Law enforcement agency" means any law enforcement agency of the state or any political subdivision of the state, including the Idaho ~~department of law enforcement~~ state police and any municipal or county sheriff department.

(2~~.~~) "Missing child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as abducted or lost.

(3~~.~~) "Runaway child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as a runaway.

(4~~.~~) "State registrar" means the employee so designated by the director of the department of health and welfare.

SECTION 24. That Section 18-4509, Idaho Code, be, and the same is hereby amended to read as follows:

18-4509. MISSING CHILD REPORTS -- LAW ENFORCEMENT AGENCIES -- DUTIES. (1) Upon receiving a report of a missing or runaway child, a law enforcement agency shall immediately enter identifying and descriptive information about the child into the national crime information center computer. Law enforcement agencies having direct access to the national crime information center computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the system.

(2) If the local law enforcement agency has reason to believe

that a missing or runaway child is enrolled in an Idaho elementary or secondary school, it shall notify that school of the report, at which time the school shall flag the missing child's record pursuant to section 18-4511, Idaho Code.

(3) The ~~department--of--law-enforcement~~ Idaho state police shall report the entries made by local law enforcement in the national crime information center to the state registrar. Upon learning of the return of a missing or runaway child, the ~~department-of-law-enforcement~~ Idaho state police shall so notify the state registrar of this state if the child was born in Idaho, or the appropriate officer in the state where the child was born, and the school informed under the provisions of subsection (2) of this section.

(4) The ~~department-of-law-enforcement~~ Idaho state police shall by rule determine the frequency, manner and form of notices and reports required by this act.

(5) Immediately after a missing or runaway child is returned, the law enforcement agency having jurisdiction over the investigation shall clear the entry from the national crime information center computer.

SECTION 25. That Section 18-4511, Idaho Code, be, and the same is hereby amended to read as follows:

18-4511. SCHOOL DUTIES -- RECORDS OF MISSING CHILD -- IDENTIFICATION UPON ENROLLMENT -- TRANSFER OF STUDENT RECORDS. (1~~.~~) Upon notification by the ~~department-of-law-enforcement~~ Idaho state police of a missing or runaway child report, the school in which the child is currently enrolled shall flag the record of that child in such a manner that whenever a copy of or information regarding the record is requested, the school shall be alerted to the fact that the record is that of a missing or runaway child. The school shall immediately report to the local law enforcement agency any request concerning flagged records or knowledge as to the whereabouts of the missing or runaway child. Upon notification by the ~~department-of-law--enforcement~~ Idaho state police of the return of the missing or runaway child, the school shall remove the flag from the child's record.

(2~~.~~) Upon enrollment of a student for the first time in a public or private elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days he must provide either a certified copy of the student's birth certificate or other reliable proof of the student's identity and birthdate, which proof shall be accompanied by an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the student's identity and birthdate may include a passport, visa or other governmental documentation of the child's identity.

(a) Upon the failure of a person enrolling a student to comply with the provisions of this subsection, the school shall immediately notify the local law enforcement agency of such failure, and shall notify the person enrolling the student, in writing, that he has ten (10) additional days to comply.

(b) The school shall immediately report to the local law enforcement agency any documentation or affidavit received pursuant to this subsection which appears inaccurate or suspicious in form or

content.

(3~~.~~) Within fourteen (14) days after enrolling a transfer student, the public or private elementary or secondary school shall request directly from the student's previous school a certified copy of his record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. A student transferring schools within the same school district need not provide proof of identity and birthdate if the student's record already contains such verified information. Any public or private elementary or secondary school which is requested to forward a copy of a transferred student's record to the student's new school shall comply within ten (10) days of receipt of the request, unless the record has been flagged pursuant to subsection (1) of this section, in which case the copy shall not be forwarded and the school shall notify the local law enforcement agency of the request for a flagged record; provided however, that any private school accredited by the state board of education which has an agreement allowing retention of a student's record when such student's tuition or fees have not been paid may comply with the provisions of this subsection by notifying the student's new school that the transferred student's records are being held for nonpayment of tuition or fees. However, such private school shall be required to notify the local law enforcement agency if the student's record has been flagged pursuant to the provisions of subsection (1) of this section, even if the student's tuition and fees have not been paid.

(4~~.~~) It shall be the duty of the local law enforcement agency to immediately investigate each report received from a school of a failure to comply with the provisions of subsection (2) or ~~subsection~~ (3) of this section.

(5~~.~~) Failure of a parent, or person in custody of a child, or a person enrolling a student, to comply with the documentation requirements of this section after a lawful request by a law enforcement agency, or to cooperate with a law enforcement investigation lawfully conducted pursuant to this section, shall constitute a misdemeanor.

SECTION 26. That Section 18-4512, Idaho Code, be, and the same is hereby amended to read as follows:

18-4512. MISSING PERSONS CLEARINGHOUSE. (1) The ~~department of law enforcement~~ Idaho state police shall establish a missing persons clearinghouse as a resource center of information and assistance regarding missing and unidentified persons.

(2) The director of the ~~department of law enforcement~~ Idaho state police shall appoint a coordinator to manage appropriate programs for addressing the problem of missing persons, which may include the following:

(a) Collecting and maintaining computerized data and investigative information on missing and unidentified persons in Idaho;

(b) Establishing access to the national crime information center and to other sources of automated information;

(c) Distributing information to public and private nonprofit agencies that will assist in the location and recovery of missing persons;

(d) Operating a toll-free telephone hotline for accepting reports

relating to missing persons;

(e) Publishing a directory of missing persons;

(f) Compiling statistics on missing persons cases handled and resolved each year;

(g) Developing and conducting training on issues relating to missing persons;

(h) Developing and distributing educational and other information regarding the prevention of abduction and sexual exploitation of children.

(3) The ~~department--of--law--enforcement~~ Idaho state police may accept gifts and grants from governmental agencies and private non-profit organizations to achieve the purposes of the clearinghouse.

(4) The ~~department--of--law-enforcement~~ Idaho state police shall publish an annual report on the activities and achievements of the clearinghouse.

(5) The ~~department--of--law-enforcement~~ Idaho state police shall determine, by rule, the type and content of information to be collected by the clearinghouse and the manner of collecting and disseminating that information.

(6) The clearinghouse coordinator, in cooperation with the office of the superintendent of public instruction, shall develop a coordinated plan for the distribution of information to teachers and students in the school districts of the state regarding missing and runaway children. The superintendent of public instruction shall encourage local school districts to cooperate by providing the ~~department-of law-enforcement~~ Idaho state police with information on any missing and runaway children that may be identified within the district.

SECTION 27. That Section 18-8002A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF TESTS. (1) Definitions. As used in this section:

(a) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or with the vehicle moving.

(b) "Administrative hearing" means a hearing conducted by a hearing officer to determine whether a suspension imposed by the provisions of this section should be vacated or sustained.

(c) "Department" means the Idaho transportation department and, as the context requires, shall be construed to include any agent of the department designated by rule as hereinafter provided.

(d) "Director" means the director of the Idaho transportation department.

(e) "Evidentiary testing" means a procedure or test or series of procedures or tests utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person, including additional testing authorized by subsection (6) of this section. An evidentiary test for alcohol concentration shall be based on a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath, or sixty-seven (67) milliliters of urine. Analysis of

blood, breath or urine for the purpose of determining alcohol concentration shall be performed by a laboratory operated by the Idaho ~~department of law enforcement~~ state police or by a laboratory approved by the Idaho ~~department of law enforcement~~ state police under the provisions of approval and certification standards to be set by ~~that department~~ the Idaho state police, or by any other method approved by the Idaho ~~department of law--enforcement~~ state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated and approved by the Idaho ~~department of law enforcement~~ state police or by any other method approved by the Idaho ~~department of law enforcement~~ state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(f) "Hearing officer" means a person designated by the department to conduct administrative hearings. The hearing officer shall have authority to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing and make a final ruling on the issues before him.

(g) "Hearing request" means a request for an administrative hearing on the suspension imposed by the provisions of this section.

(2) Information to be given. At the time of evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if the person refuses to submit to or fails to complete evidentiary testing, or if the person submits to and completes evidentiary testing and the test results indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the person shall be informed substantially as follows (but need not be informed verbatim):

If you refuse to submit to or if you fail to complete and pass evidentiary testing for alcohol or other intoxicating substances:

(a) The peace officer will seize your driver's license and issue a notice of suspension and a temporary driving permit to you, but no peace officer will issue you a temporary driving permit if your driver's license or permit has already been and is suspended or revoked. No peace officer shall issue a temporary driving permit to a driver of a commercial vehicle who refuses to submit to or fails to complete and pass an evidentiary test;

(b) You have the right to request a hearing within seven (7) days of the notice of suspension of your driver's license to show cause why you refused to submit to or to complete and pass evidentiary testing and why your driver's license should not be suspended;

(c) If you refused or failed to complete evidentiary testing and do not request a hearing before the court or do not prevail at the hearing, your driver's license will be suspended. The suspension will be for one hundred eighty (180) days if this is your first refusal. The suspension will be for one (1) year if this is your second refusal within five (5) years. You will not be able to obtain a temporary restricted license during that period; and

(d) If you complete evidentiary testing and fail the testing and do not request a hearing before the department or do not prevail at the hearing, your driver's license will be suspended. This suspension will be for ninety (90) days if this is your first failure of evidentiary testing, but you may request restricted driving privileges after the first thirty (30) days. The suspension will be for one (1) year if this is your second failure of evidentiary testing within five (5) years. You will not be able to obtain a temporary restricted license during that period;

(e) After submitting to evidentiary testing you may, when practicable, at your own expense, have additional tests made by a person of your own choosing.

(3) Rulemaking authority of the ~~department of law enforcement~~ Idaho state police. The Idaho ~~department of law enforcement~~ state police may, pursuant to chapter 52, title 67, Idaho Code, prescribe by rule:

(a) What testing is required to complete evidentiary testing under this section; and

(b) What calibration or checking of testing equipment must be performed to comply with the department's requirements. Any rules of the Idaho ~~department of law enforcement~~ state police shall be in accordance with the following: a test for alcohol concentration in breath as defined in section 18-8004, Idaho Code, and subsection (1)(e) of this section will be valid for the purposes of this section if the breath alcohol testing instrument was approved for testing by the Idaho ~~department of law enforcement~~ state police in accordance with section 18-8004, Idaho Code, at any time within ninety (90) days before the evidentiary testing. A test for alcohol concentration in blood or urine as defined in section 18-8004, Idaho Code, that is reported by the Idaho ~~department of law enforcement~~ state police or by any laboratory approved by the Idaho ~~department of law enforcement~~ state police to perform this test will be valid for the purposes of this section.

(4) Suspension.

(a) Upon receipt of the sworn statement of a peace officer that there existed legal cause to believe a person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances and that the person submitted to a test and the test results indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the department shall suspend the person's driver's license, driver's permit, driving privileges or ~~non-resident~~ nonresident driving privileges:

(i) For a period of ninety (90) days for a first failure of evidentiary testing under the provisions of this section. The first thirty (30) days of the suspension shall be absolute and the person shall have absolutely no driving privileges of any kind. Restricted driving privileges applicable during the remaining sixty (60) days of the suspension may be requested as provided in subsection (9) of this section.

(ii) For a period of one (1) year for a second and any subsequent failure of evidentiary testing under the provisions

of this section within the immediately preceding five (5) years. No driving privileges of any kind shall be granted during the suspension imposed pursuant to this subsection.

The person may request an administrative hearing on the suspension as provided in subsection (7) of this section. Any right to contest the suspension shall be waived if a hearing is not requested as therein provided.

(b) The suspension shall become effective thirty (30) days after service upon the person of the notice of suspension. The notice shall be in a form provided by the department and shall state:

(i) The reason and statutory grounds for the suspension;

(ii) The effective date of the suspension;

(iii) The suspension periods to which the person may be subject as provided in subsection (4)(a) of this section;

(iv) The procedures for obtaining restricted driving privileges;

(v) The rights of the person to request an administrative hearing on the suspension and that if an administrative hearing is not requested within seven (7) days of service of the notice of suspension the right to contest the suspension shall be waived;

(vi) The procedures for obtaining an administrative hearing on the suspension;

(vii) The right to judicial review of the hearing officer's decision on the suspension and the procedures for seeking such review.

(5) Service of suspension by peace officer or the department. If the driver submits to evidentiary testing after the information in subsection (2) of this section has been provided and the results of the test indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code:

(a) The peace officer shall take possession of the person's driver's license, shall issue a temporary permit which shall be valid for a period not to exceed thirty (30) days from the date of issuance, and, acting on behalf of the department, will serve the person with a notice of suspension in the form and containing the information required under subsection (4) of this section. The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(b) Within five (5) business days following service of a notice of suspension the peace officer shall forward to the department a copy of the completed notice of suspension form upon which the date of service upon the driver shall be clearly indicated, a copy of any completed temporary permit form along with any confiscated driver's license, and a sworn statement of the officer, which may incorporate any arrest or incident reports relevant to the arrest and evidentiary testing setting forth:

(i) The identity of the person;

(ii) Stating the officer's legal cause to stop the person;

(iii) Stating the officer's legal cause to believe that the

person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code;

(iv) That the person was advised of the consequences of taking and failing the evidentiary test as provided in subsection (2) of this section;

(v) That the person was lawfully arrested;

(vi) That the person was tested for alcohol concentration, drugs or other intoxicating substances as provided in this chapter, and that the results of the test indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code.

A certified copy or duplicate original of the results of all tests for alcohol concentration, as shown by analysis of breath administered at the direction of the peace officer shall accompany the sworn statement of the officer. If an evidentiary test of blood or urine was administered rather than a breath test, the peace officer or the department shall serve the notice of suspension once the results are received. The sworn statement required in this subsection shall be made on forms in accordance with rules adopted by the department.

(c) The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(6) Additional tests. After submitting to evidentiary testing at the request of the peace officer, the person may, when practicable, at his own expense, have additional tests for alcohol concentration or for the presence of drugs or other intoxicating substances made by a person of his own choosing. The person's failure or inability to obtain additional tests shall not preclude admission of the results of evidentiary tests administered at the direction of the peace officer unless additional testing was denied by the peace officer.

(7) Administrative hearing on suspension. A person who has been served with a notice of suspension after submitting to an evidentiary test may request an administrative hearing on the suspension before a hearing officer designated by the department. The request for hearing shall be in writing and must be received by the department within seven (7) calendar days of the date of service upon the person of the notice of suspension, and shall include what issue or issues shall be raised at the hearing. The date on which the hearing request was received shall be noted on the face of the request.

If a hearing is requested, the hearing shall be held within twenty (20) days of the date the hearing request was received by the department unless this period is, for good cause shown, extended by the hearing officer for one ten (10) day period. Such extension shall not operate as a stay of the suspension and any temporary permit shall expire thirty (30) days after service of the notice of suspension, notwithstanding an extension of the hearing date beyond such thirty (30) day period. Written notice of the date and time of the hearing shall be sent to the party requesting the hearing at least seven (7) days prior to the scheduled hearing date. The department may conduct

all hearings by telephone if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

The hearing shall be recorded. The sworn statement of the arresting officer, and the copy of the notice of suspension and any temporary permit issued by the officer shall be admissible at the hearing without further evidentiary foundation. The results of any tests for alcohol concentration or the presence of drugs or other intoxicating substances by analysis of blood, urine or breath administered at the direction of the peace officer and the records relating to calibration, certification, approval or quality control pertaining to equipment utilized to perform the tests shall be admissible as provided in section 18-8004(4), Idaho Code. The arresting officer shall not be required to participate unless directed to do so by a subpoena issued by the hearing officer.

The burden of proof shall be on the person requesting the hearing. The hearing officer shall not vacate the suspension unless he finds, by a preponderance of the evidence, that:

(a) The peace officer did not have legal cause to stop the person; or

(b) The officer did not have legal cause to believe the person had been driving or was in actual physical control of a vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(c) The test results did not show an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(d) The tests for alcohol concentration, drugs or other intoxicating substances administered at the direction of the peace officer were not conducted in accordance with the requirements of section 18-8004(4), Idaho Code, or the testing equipment was not functioning properly when the test was administered; or

(e) The person was not informed of the consequences of submitting to evidentiary testing as required in subsection (2) of this section.

If the hearing officer finds that the person has not met his burden of proof, he shall sustain the suspension. The hearing officer shall make findings of fact and conclusions of law on each issue and shall enter an order vacating or sustaining the suspension. If the suspension is vacated, the person's driver's license, unless unavailable by reason of an existing suspension, revocation, cancellation, disqualification or denial shall be returned to him. The findings of fact, conclusions of law and order entered by the hearing officer shall be considered a final order pursuant to the provisions of chapter 52, title 67, Idaho Code, except that motions for reconsideration of such order shall be allowed and new evidence can be submitted.

The facts as found by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension required to be imposed under the provisions of this section. If a license is suspended under this section and the person is also con-

victed on criminal charges arising out of the same occurrence for a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, both the suspension under this section and the suspension imposed pursuant to the provisions of section 18-8005 or 18-8006, Idaho Code, shall be imposed, but the periods of suspension shall run concurrently, with the total period of suspension not to exceed the longer of the applicable suspension periods, unless the court ordering the suspension in the criminal case orders to the contrary.

(8) Judicial review. A party aggrieved by the decision of the hearing officer may seek judicial review of the decision in the manner provided for judicial review of final agency action provided in chapter 52, title 67, Idaho Code.

(9) Restricted driving privileges. A person served with a notice of suspension for ninety (90) days pursuant to this section may apply to the department for restricted driving privileges, to become effective after the thirty (30) day absolute suspension has been completed. The request may be made at any time after service of the notice of suspension. Restricted driving privileges will be issued for the person to travel to and from work and for work purposes, to attend an alternative high school, work on a GED, for postsecondary education, or to meet the medical needs of the person or his family if the person is eligible for restricted driving privileges.

(10) Rules. The department may adopt rules under the provisions of chapter 52, title 67, Idaho Code, deemed necessary to implement the provisions of this section.

SECTION 28. That Section 18-8004, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004. PERSONS UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES.

(1) (a) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.08, as defined in subsection (4) of this section, or more, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(b) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.04 or higher but less than 0.08, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a commercial motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(c) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.08 or higher, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a commercial motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(d) It is unlawful for any person under the age of twenty-one (21) who has an alcohol concentration of at least 0.02 but less than 0.08, as defined in subsection (4) of this section, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public. Any person violating this subsection shall be subject to the penalties provided in section 18-8004A, Idaho Code.

(2) Any person having an alcohol concentration of less than 0.08, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, by a test requested by a police officer shall not be prosecuted for driving under the influence of alcohol, except as provided in subsection (3), subsection (1)(b) or subsection (1)(d) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for driving or being in actual physical control of a motor vehicle while under the influence of alcohol, drugs, or any other intoxicating substances, on other competent evidence.

(3) If the results of the test requested by a police officer show a person's alcohol concentration of less than 0.08, as defined in subsection (4) of this section, such fact may be considered with other competent evidence of drug use other than alcohol in determining the guilt or innocence of the defendant.

(4) For purposes of this chapter, an evidentiary test for alcohol concentration shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the alcohol concentration shall be performed by a laboratory operated by the Idaho ~~department of law enforcement~~ state police or by a laboratory approved by the Idaho ~~department of law enforcement~~ state police under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho ~~department of law enforcement~~ state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho ~~department of law enforcement~~ state police or by any other method approved by the Idaho ~~department of law enforcement~~ state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(5) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which impairs the driver's ability to safely operate a motor vehicle, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to public use. The fact that any person charged with a violation of the provisions of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of a violation of

the provisions of this subsection.

(6) "Actual physical control" as used in this section, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 29. That Section 18-8102, Idaho Code, be, and the same is hereby amended to read as follows:

18-8102. DEFINITIONS. As used in this chapter:

(1) "Civil disorder" means any public disturbance involving acts of violence by an assemblage of two (2) or more persons which acts cause an immediate danger of or result in damage or injury to the property or person of any other individual.

(2) "Governmental military force" means the national guard, as defined in section 101(9) of title 10, United States code; the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included with the definition of national guard as defined by such section 101(9); and the armed forces of the United States.

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

(4) "Peace officer" means any duly appointed officer 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 of the Idaho state police, ~~division, or any other division of the department of law enforcement,~~ department of fish and game, a sheriff or deputy sheriff of a county, or a marshal or police officer of a city.

SECTION 30. 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~~ state police pursuant to this chapter.

(3) "Department" means the Idaho ~~department of law enforcement~~ state police.

(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.

(6) "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.

(7) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(8) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(9) "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.

(10) "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.

(12) "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 31. That Section 18-8315, Idaho Code, be, and the same is hereby amended to read as follows:

18-8315. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings of the board shall be held in accordance with the open meeting law as provided in chapter 23, title 67, Idaho Code, except:

(a) Consideration of and discussions pertaining to documents not subject to public disclosure, such as the presentence investigation report, certain medical or psychological reports and any reports, orders or other documents sealed by court order;

(b) Deliberations and decisions concerning the classification of violent sexual predators; and

(c) Votes of individual members in arriving at the classification decisions shall not be made public, provided that the board shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that member shall be produced by the board. In accordance with section 9-340, Idaho Code, the record produced by the board pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the gov-

ernor and the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes. Distribution of the report by a board member or an employee of the board to any person not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any classification action by the board without reference to the manner in which any member voted. This information can be obtained through a public records request made to the sexual offender registry maintained by the ~~department of law enforcement~~ Idaho state police.

(4) Nothing contained herein shall prevent the governor and chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting including an executive session of the sexual offender classification board.

SECTION 32. That Section 18-8404, Idaho Code, be, and the same is hereby amended to read as follows:

18-8404. JUVENILE SEX OFFENDER REGISTRY. The ~~department of law enforcement~~ Idaho state police shall establish and maintain within the central sex offender registry a separate registry of juvenile sex offenders. The registry shall include fingerprints, photographs, and information collected from submitted forms and other communications relating to notice of duty to register, sex offender registration, and notice of address change. Information in the registry of juvenile sex offenders is subject to release to criminal justice agencies pursuant to section 18-8305, Idaho Code, and to the public pursuant to section 18-8323, Idaho Code.

SECTION 33. That Section 18-8405, Idaho Code, be, and the same is hereby amended to read as follows:

18-8405. NOTIFICATION OF DUTY TO REGISTER -- PROBATION. With respect to a juvenile sex offender sentenced to probation without a period of detention, the court shall provide at the time of sentencing written notification of the duty to register. The written notification shall be a form provided by the ~~department of law enforcement~~ Idaho state police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the court, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry.

SECTION 34. That Section 18-8406, Idaho Code, be, and the same is hereby amended to read as follows:

18-8406. NOTIFICATION OF DUTY TO REGISTER -- PRIOR TO RELEASE. With respect to a juvenile sex offender sentenced to a period of detention, the county shall provide, prior to release, written notification of the duty to register. With respect to a juvenile sex offender committed to the custody of the department of juvenile cor-

rections, the department shall provide, prior to release, written notification of the duty to register. The written notification shall be a form provided by the ~~department of law enforcement~~ Idaho state police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the department of juvenile corrections, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry.

SECTION 35. That Section 18-8408, Idaho Code, be, and the same is hereby amended to read as follows:

18-8408. PROVIDING LIST TO SUPERINTENDENT OF PUBLIC INSTRUCTION. The ~~department of law enforcement~~ Idaho state police shall provide to the superintendent of public instruction, quarterly and on request, a list of registered juvenile sex offenders in the state. The superintendent of public instruction subsequently shall notify a school district or private school regarding the enrollment of a registered juvenile sex offender. The superintendent shall also notify the district or school of the offender's probationary status or treatment status, if known.

SECTION 36. That Section 19-5102, Idaho Code, be, and the same is hereby amended to read as follows:

19-5102. COUNCIL ESTABLISHED -- CHAIRMAN -- MEMBERS. There is hereby established in the ~~department of law enforcement~~ Idaho state police the Idaho peace officer standards and training council. The chairman of the council shall be appointed by the governor and shall be a voting member of the council which shall be composed of the following members, and which shall reflect a reasonable geographic balance throughout the state:

(a) Three (3) city chiefs of police or their designees;

(b) Three (3) county sheriffs or their designees;

(c) The director of the ~~department of law enforcement~~ Idaho state police or his designee;

(d) A county prosecuting attorney or his designee;

(e) The attorney general or his designee;

(f) The special agent in charge of the Idaho division of the federal bureau of investigation or his designee;

(g) The director of the department of correction or his designee;

(h) The director of the fish and game department or his designee;

(i) The director of the department of juvenile corrections or his designee; and

(j) In addition, there shall be advisory to the council, as ex officio nonvoting members of the council, the executive directors of the Idaho association of counties and association of Idaho cities.

SECTION 37. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (a) It shall be the duty of and the council shall have the power:

(1) To establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed.

(2) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.

(3) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.

(4) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.

(5) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.

(6) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.

(7) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.

(8) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.

(9) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advance courses of instruction successfully completed by such peace officers while employed in this state.

(10) To receive applications for financial assistance from the state and from political subdivisions and disburse available state funds to the state and to political subdivisions for salaries and allowable living expenses or any part thereof, as authorized by the council, incurred while in attendance at approved training programs and schools. The annual reimbursements authorized by this section shall not exceed the funds available for such purpose and authorized by section 31-3201B, Idaho Code.

(11) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal peace officer shall receive a certificate of satisfactorily completing the academy.

(b) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official, any deputy sheriff working as a detention offi-

cer in the county jail, or serving civil process, the ~~superintendent~~ deputy director of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the ~~department of law enforcement~~ Idaho state police, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(c) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date upon which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council may decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment of:

(1) Any felony or offense which would be a felony if committed in this state;

(2) Any misdemeanor;

(3) Any unlawful use, possession, sale or delivery of any controlled substance; or who

(4) Willfully or otherwise falsifies or omits any information to obtain any certified status; or who

(5) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

All proceedings taken by the council shall be done in accordance with chapter 52, title 67, Idaho Code.

(d) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action, shall, within thirty (30) days of such action, make a report to the council.

(e) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for county detention officers that can be completed within one (1) year of employment as a county detention officer.

(f) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training for juvenile probation officers and implement minimum training and certification standards for juvenile detention officers.

SECTION 38. That Section 19-5113, Idaho Code, be, and the same is hereby amended to read as follows:

19-5113. INVESTIGATIONS -- AUTHORITY TO ADMINISTER OATHS -- SUBPOENAS. To determine whether the standards, training, qualifications of instructors or schools, the obligations of applicants for aid, or recipients of aid, are being complied with and for such other purposes as the council deems necessary and not inconsistent with the intent of this act, the director of the ~~department of law enforcement~~ Idaho state police or his authorized representative may administer oaths, take depositions and/or issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda or other information. If any person fails to comply with any subpoena issued under this section or refuses to testify on any matter on which he lawfully may be interrogated, compliance with such subpoena shall be sought in the district court wherein such subpoena was served.

SECTION 39. That Section 19-5114, Idaho Code, be, and the same is hereby amended to read as follows:

19-5114. ANNUAL REPORTS. The council shall report annually to the governor and legislature through the director of the ~~department of law enforcement~~ Idaho state police on its activities and may make such other reports and recommendations as it deems desirable.

SECTION 40. That Section 19-5116, Idaho Code, be, and the same is hereby amended to read as follows:

19-5116. PEACE OFFICERS STANDARDS AND TRAINING ~~ACCOUNT~~ FUND. (a) There is hereby established in the state ~~operating fund~~ treasury, the peace officers standards and training ~~account~~ fund. All moneys deposited to the ~~account~~ fund shall be expended by the peace officers standards and training council for the following purposes:

(1) Training peace officers, county detention officers, and self-sponsored students, within the state of Idaho, including, but not limited to, sheriffs and their deputies, officers of the Idaho ~~department of law enforcement~~ state police and conservation officers of the Idaho department of fish and game, and city and county prosecutors and their deputies;

(2) Salaries, costs and expenses relating to such training as provided in subsection (1) of this section;

(3) Such capital expenditures as the peace officers standards and training council may provide, for the acquisition, construction and/or improvement of a peace officers standards and training academy; and

(4) Such expenditures as may be necessary to aid approved peace officers training programs or county detention officer programs certified as having met the standards established by the peace officers standards and training council.

(b) The peace officers standards and training ~~account~~ fund shall be funded as provided in section 31-3201B, Idaho Code.

(c) All contributions and other moneys and appropriations which are designated for peace officers standards and training shall be

deposited in the peace officers standards and training ~~account~~ fund.

(d) Moneys received into the ~~account~~ fund as provided in subsection (c) of this section, shall be accounted for separately.

(e) If the fiscal year-end balance in the ~~account~~ fund pursuant to section 31-3201B, Idaho Code, exceeds one million dollars ($1,000,000) the excess shall revert to the general ~~account~~ fund.

SECTION 41. That Section 19-5202, Idaho Code, be, and the same is hereby amended to read as follows:

19-5202. ESTABLISHMENT OF NETWORK -- USE -- RENTAL CHARGE -- INTERSTATE CONNECTION. (1) Establishment of network. The director of the ~~department of law enforcement of the state of~~ Idaho state police shall establish a teletypewriter communications network which will interconnect the criminal justice agencies of this state and its political subdivisions and all agencies engaged in the promotion of highway safety into a unified teletypewriter communications system. The director is authorized to lease such transmitting and receiving facilities and equipment as may be necessary to establish and maintain such teletypewriter communications network.

(2) Use of network. The teletypewriter communications network shall be used exclusively for the law enforcement business of the state of Idaho and all the political subdivisions thereof, including all agencies engaged in the promotion of traffic safety.

(3) Judiciary and traffic safety. Nothing in this act shall prohibit the use of or participation in the teletypewriter communications herein provided by the judicial branch of the state government or by any other department, agency or branch of state or local government engaged in traffic safety.

(4) Rental. The monthly rental to be charged each department or agency participating in the teletypewriter communications network on a terminal or unit basis shall be set by the teletypewriter communications board and in setting such rental charge the board shall take into consideration the usage of said network by each participant and of the economic position of each participant. There is hereby created the teletypewriter communications network ~~account~~ fund. All rental and use fees collected under the provisions of this chapter shall be paid into the ~~account~~ fund.

(5) Interstate connection. The teletypewriter communications network provided for herein is hereby authorized to connect and participate with teletypewriter communications network systems of other states and provinces of Canada.

SECTION 42. That Section 19-5203, Idaho Code, be, and the same is hereby amended to read as follows:

19-5203. TELETYPEWRITER COMMUNICATIONS BOARD -- CREATION -- COMPOSITION -- TERMS -- RULES ~~AND REGULATIONS~~ -- COMPENSATION OF MEMBERS. (1) There is hereby created within the ~~department of law enforcement~~ Idaho state police a teletypewriter communications board which shall be composed of five (5) members appointed by the governor.

The members of the teletypewriter communications board shall be composed of the following:

(a) Two (2) incumbent county sheriffs;

(b) Two (2) incumbent city chiefs of police;

(c) One (1) member of the Idaho ~~department--of--law--enforcement~~ state police.

(2) The term of office of the first board shall be staggered with the one (1) appointment expiring January 1, 1972; one (1) appointment expiring January 1, 1973; one (1) appointment expiring January 1, 1974; one (1) appointment expiring January 1, 1975; and one (1) appointment expiring January 1, 1976.

Thereafter, the term of office of each chief of police, sheriff and member of the Idaho ~~department-of-law-enforcement~~ state police shall be for a term of five (5) years.

The director of the ~~department--of--law--enforcement~~ Idaho state police shall be ~~an~~ a permanent member of the board.

In the event any chief of police, sheriff or member of the Idaho ~~department-of-law-enforcement~~ state police ceases to be such chief of police, sheriff, or member of the Idaho ~~department-of-law-enforcement~~ state police his appointment to said board shall terminate and cease immediately and the governor shall appoint a qualified person in such category to fill the unexpired term of such member.

(3) The board shall, upon their appointment, adopt such rules, ~~regulations,~~ procedures and methods of operation as may be necessary to establish and put into use the most efficient and economical statewide teletypewriter communications network and shall publish and distribute said rules~~,-regulations~~ and procedures to each participating department, agency or office.

(4) The teletypewriter communications board shall have exclusive management control over the entire Idaho law enforcement teletypewriter system (ILETS) which includes all hardware, software, electronic switches, peripheral gear, microwave links, circuitry, and terminal devices which make up the network and any access thereto. The term Idaho law enforcement teletypewriter system (ILETS) shall mean the teletypewriter system established by the director of the ~~department--of-law-enforcement~~ Idaho state police pursuant to subsection (1) of section 19-5202, Idaho Code, and shall not apply to any type of voice-oriented transmission whether it be by mobile radio, microwave or telephone.

(5) Salaries and expenses. Members of said board shall be compensated as provided by section 59-509(b), Idaho Code, which expenses shall be paid from moneys appropriated for the funding of this act.

The performance of duties under this act by a member of the board shall be deemed to be in performance of his duties as an employee of his particular branch of government.

(6) Federal funding, gifts, donations. The director is authorized to apply for and accept federal funds granted by the congress of the United States, or by executive order, all of which must be deposited in the teletypewriter communication network ~~account~~ fund, and which may be expended only after a legislative appropriation. The director may accept gifts and donations from individuals and private organizations or foundations for all or any of the purposes of chapter 52, title 19, Idaho Code.

SECTION 43. That Section 19-5204, Idaho Code, be, and the same is hereby amended to read as follows:

19-5204. EXECUTIVE OFFICER OF BOARD. The director of the ~~department of law enforcement of the state of~~ Idaho state police shall be the executive officer of the teletypewriter communications network board and shall be responsible for the carrying out of the policies and rules of the board and with the management and expenditures of such funds as may be appropriated to implement this act.

SECTION 44. That Section 19-5402, Idaho Code, be, and the same is hereby amended to read as follows:

19-5402. DEFINITIONS. As used in this chapter:

(1) "Department" means the Idaho ~~department of law enforcement~~ state police.

(2) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer of firearms issued by the United States department of treasury.

(3) "Handgun" means:

(a) A firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

(b) Any combination of parts from which a firearm described in paragraph (a) of this section can be assembled.

(4) "Statement of intent" means ATF form 5300.35 (statement of intent to obtain a handgun(s)) or an equivalent form prescribed by regulations administered by the bureau of alcohol, tobacco and firearms of the United States department of treasury for compliance with the Brady handgun violence prevention act.

(5) "Transfer" and the various derivatives thereof shall include the sale, delivery or other transfer of a handgun.

(6) "Working day" means each day except Saturday, Sunday or a legal state holiday.

SECTION 45. That Section 19-5502, Idaho Code, be, and the same is hereby amended to read as follows:

19-5502. DEFINITIONS. (1) "CODIS" means the federal bureau of investigation's combined DNA index system that allows the storage and exchange of DNA records submitted by state and local forensic laboratories.

(2) "Director" means the director of the Idaho ~~department of law enforcement~~ state police.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA profile" means the list of one (1) or more genetic types determined for an individual based on variations in DNA sequence.

(5) "DNA record" means DNA information stored in the statewide DNA database system of the bureau of forensic services or CODIS and includes information commonly referred to as a DNA profile.

(6) "DNA sample" means a body fluid or tissue sample provided by any person convicted of a qualifying sex crime or violent crime or any body fluid or tissue sample submitted to the statewide DNA database

system for analysis pursuant to a criminal investigation or missing person investigation.

(7) "Forensic laboratory" means the ~~Idaho~~ bureau of forensic services of the Idaho ~~department of law enforcement~~ state police.

(8) "Law enforcement purpose" means to assist federal, state or local criminal justice and law enforcement agencies within and outside the state of Idaho in identification or prosecution of sex crimes, violent crimes or other crimes and the identification and location of missing and unidentified persons.

(9) "Statewide DNA databank" means the state repository of DNA samples collected under this chapter.

(10) "Statewide DNA database system" means the DNA record system administered by the Idaho bureau of forensic services.

SECTION 46. That Section 19-5503, Idaho Code, be, and the same is hereby amended to read as follows:

19-5503. RESPONSIBILITY FOR MANAGING DNA PROGRAMS -- BUREAU OF FORENSIC SERVICES. The ~~department--of--law--enforcement~~ Idaho state police through the bureau of forensic services shall be responsible for the policy management and administration of the state's database and databank identification program. The bureau of forensic services shall be responsible for liaison with the FBI regarding the state's participation in the CODIS program.

SECTION 47. That Section 19-5504, Idaho Code, be, and the same is hereby amended to read as follows:

19-5504. IMPLEMENTATION OF THE CHAPTER -- RULES. The Idaho ~~department--of--law-enforcement~~ state police, in consultation with the Idaho attorney general's office, the Idaho department of correction, the Idaho chiefs of police association, the Idaho state sheriff's association, and the Idaho prosecuting attorney's association, shall adopt policies, procedures and rules for implementation of this chapter, and ensure that DNA samples are collected from qualifying offenders in a timely manner. The director may designate additional persons and organizations to provide consultation in implementing the provisions of this chapter.

SECTION 48. That Section 19-5506, Idaho Code, be, and the same is hereby amended to read as follows:

19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION -- EARLY COLLECTION OF SAMPLES. (1) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the ~~department-of-law--enforcement~~ Idaho state police, a DNA sample and a right thumbprint impression:

(a) Aggravated arson (section 18-805, Idaho Code);

(b) Aggravated assault (section 18-905, Idaho Code);

(c) Aggravated battery (section 18-907, Idaho Code);

(d) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);
(e) Battery with the intent to commit a serious felony (section 18-911, Idaho Code);
(f) Injury to a child (section 18-1501(1), Idaho Code);
(g) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
(h) Possession of sexually exploitive material for other than a commercial purpose (section 18-1507A, Idaho Code);
(i) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
(j) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
(k) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
(l) Manslaughter (section 18-4006(1) or (2), Idaho Code);
(m) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
(n) Mayhem (section 18-5001, Idaho Code);
(o) Rape (section 18-6101, Idaho Code);
(p) Robbery (section 18-6501, Idaho Code);
(q) Incest (section 18-6602, Idaho Code);
(r) Crime against nature (section 18-6605, Idaho Code);
(s) Forcible sexual penetration (section 18-6608, Idaho Code);
(t) Racketeering (section 18-7804, Idaho Code);
(u) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);
(v) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).

(2) In addition to those crimes enumerated in subsection (1) of this section, any person, including any juvenile tried as an adult, who is convicted for an attempt to commit any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the ~~department of law enforcement~~ Idaho state police, a DNA sample and a right thumbprint impression:
(a) Aggravated arson (section 18-805, Idaho Code);
(b) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
(c) Injury to a child (section 18-1501(1), Idaho Code);
(d) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
(e) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
(f) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
(g) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
(h) Mayhem (section 18-5001, Idaho Code);
(i) Rape (section 18-6101, Idaho Code);
(j) Robbery (section 18-6501, Idaho Code);
(k) Incest (section 18-6602, Idaho Code);
(l) Crime against nature (section 18-6605, Idaho Code);

(m) Forcible sexual penetration (section 18-6608, Idaho Code);

(n) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).

(3) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons described above are mandatory and apply to those persons convicted of such crimes covered in this chapter prior to its effective date, and who, as a result of the offense, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

(4) The collection of samples and impressions specified in this chapter are required regardless of whether the person previously has supplied a DNA sample to law enforcement agencies in any other jurisdiction.

(5) The requirements of this chapter are mandatory and apply regardless of whether a court advises a person that samples and impressions must be provided to the databank and database as a condition of probation or parole.

(6) Persons who have been sentenced to death, or life without the possibility of parole, or to any life or indeterminate term are not exempt from the requirements of this chapter.

SECTION 49. That Section 19-5507, Idaho Code, be, and the same is hereby amended to read as follows:

19-5507. RESPONSIBILITY FOR SAMPLE COLLECTION -- TIMING OF SAMPLE COLLECTION -- SITE FOR SAMPLE COLLECTION. (1) A court shall order a DNA sample and thumbprint impression to be taken after conviction and before sentencing of any person upon application by the prosecuting attorney, the attorney general, or the ~~department of law enforcement~~ Idaho state police upon a showing that early collection of such samples will be in the best interest of justice. The DNA samples shall be collected in accordance with procedures established by the bureau of forensic services. The director may designate a state or county correctional facility for sample collection.

(2) Any person, including any juvenile tried as an adult, who comes within the terms of this chapter, and who is granted probation or who serves an entire term of confinement in a state or county facility, or who otherwise bypasses a prison inmate reception center shall, prior to physical release from custody, be required to provide a DNA sample and thumbprint impression at a ~~department of law enforcement~~ Idaho state police designated sample collection location. If the person is not incarcerated at the time of sentencing, the court shall order the person to report within ten (10) working days to the facilities designated for the collection of such specimens.

(3) The chief administrative officer of any state or local detention facility, jail or other facility shall cause a DNA sample and thumbprint impression to be collected from the person subject to this chapter during the intake process at the facility, or immediately thereafter at another facility designated for such collection, if DNA samples previously have not been taken pursuant to this chapter.

(4) The director of the department of correction shall cause a DNA sample and thumbprint impression to be collected from any person

subject to the terms of this chapter who has been sentenced to serve a term of imprisonment in a state correctional institution and who has not had a DNA sample taken after conviction and before sentencing. The DNA sample and thumbprint impression shall be collected from the person during the intake process at the reception center designated by the director of the department of correction as soon as possible.

(5) Any person subject to the terms of this chapter who is serving a term of imprisonment or confinement, and who did not, for any reason, provide a DNA sample or thumbprint impression for analysis by the bureau of forensic services, shall submit to such tests as soon as practicable, but in any event prior to final discharge, parole, or release from imprisonment or confinement. A person who was convicted prior to the effective date of this chapter is not exempt from these requirements.

(6) As a condition of probation or parole, any person subject to the terms of this chapter and who has not previously submitted a DNA sample and thumbprint impression, shall upon notice by a law enforcement agency or an agent of the department of correction, be required to provide a DNA sample and thumbprint impression if it has been determined that such sample and thumbprint impression are not in the possession of the bureau of forensic services. That person is required to have the sample and impression taken within ten (10) working days at the designated county or state facility.

(7) When the state accepts an offender from another state under any interstate compact, or under any other reciprocal agreement with any county, state or federal agency, or any other provision of law, whether or not the offender is confined or released, the acceptance is conditional on the offender providing a DNA sample and thumbprint impression if the offender was convicted of an offense which would qualify as a crime described in section 19-5506, Idaho Code, if committed in this state, or if the person was convicted of an equivalent offense in any other jurisdiction. If the offender from another state is not confined, the samples and impression required by this chapter must be provided within ten (10) working days after the offender reports to the supervising agent or within ten (10) working days of notice to the offender, whichever occurs first. The person shall report to the designated sample collection facility or facilities to have the sample and impression taken. If the offender from another state is confined, he or she shall provide the DNA sample and thumbprint impression as soon as practicable after receipt in a state or county correctional facility or other facility, and, in any event, before completion of the person's term of imprisonment, if that person is to be discharged.

(8) Any inmate serving a term of incarceration for committing an offense listed in section 19-5506, Idaho Code, who is released on parole, furlough, or other release, and is returned to a state or local correctional institution for a violation of a condition of that release, and that inmate has not previously provided a DNA sample and thumbprint impression, shall provide a sample and impression upon returning to the state correctional institution.

SECTION 50. That Section 19-5510, Idaho Code, be, and the same is hereby amended to read as follows:

19-5510. APPLICABILITY OF CHAPTER. Any person subject to the terms of this chapter who has not provided a DNA sample and thumbprint impression for any reason, including the person's release prior to the enactment of this chapter, an oversight or error, or because of the person's transfer from another jurisdiction shall give a DNA sample and thumbprint impression for inclusion in the state's DNA database and databank within ten (10) working days of such person being notified of this requirement by the ~~department of law enforcement~~ Idaho state police, the department of correction or an officer of the court. The samples and impressions shall be collected in a facility designated by the ~~department of law enforcement~~ Idaho state police.

SECTION 51. That Section 19-5511, Idaho Code, be, and the same is hereby amended to read as follows:

19-5511. COLLECTION AND FORWARDING OF SAMPLES -- LIABILITY -- USE OF FORCE. (1) The director of the department of correction or the chief administrative officer of the detention facility, jail, other facility at which the DNA sample and thumbprint impression were collected shall forward the samples and impressions to the bureau of forensic services according to requirements set forth in the bureau of forensic services rules.

(2) The bureau of forensic services shall provide all specimen collection materials, thumbprint cards, mailing tubes, envelopes, labels and instructions for the collection of the samples and thumbprint impressions. The DNA samples and thumbprint impressions shall thereafter be forwarded to the bureau of forensic services for analysis of DNA.

(3) The bureau of forensic services shall adopt rules specifying how DNA samples are to be taken. The right thumbprint impression shall be taken on a form prescribed by the ~~department of law enforcement~~ Idaho state police.

(4) No person or governmental agency shall be subject to civil or criminal liability for obtaining DNA samples or obtaining thumbprint impressions absent a showing of reckless disregard for medically accepted practices or a showing of malice.

(5) Duly authorized law enforcement and correction personnel shall employ reasonable force in cases where an individual who is incarcerated refuses or resists submission to procedures for collecting a DNA sample or thumbprint impression authorized by this chapter, and no employee shall be subject to criminal or civil liability for the reasonable use of force absent a showing of malice.

SECTION 52. That Section 19-5513, Idaho Code, be, and the same is hereby amended to read as follows:

19-5513. EXPUNGEMENT OF INFORMATION. (1) A person whose DNA profile has been included in the database and databank pursuant to this chapter may make a written request for expungement of materials from the database and databank on the grounds that the conviction upon

which the authority for including the DNA profile was based has been reversed and the case dismissed.

(2) The person requesting expungement must send a copy of his request, with proof of service on all parties to the following: the trial court which entered the conviction or rendered disposition in the case; the bureau of forensic services; and the prosecuting attorney of the county in which he was convicted. The court has the discretion to grant or deny the request for expungement. A trial court's denial of a request for expungement is an order not subject to appeal.

(3) Except as provided below, the ~~department of law enforcement~~ Idaho state police shall expunge the DNA sample and all ~~indentifiable~~ identifiable information in the database and databank relating to the subject of the conviction upon receipt of a court order which verifies that the applicant has made the necessary showing at a noticed hearing, and which includes the following documents:

(a) Written request for expungement pursuant to this section;

(b) A certified copy of the court order reversing and dismissing the conviction;

(c) Proof of written notice to the prosecuting attorney and the bureau of forensic services that such expungement is being sought; and

(d) A court order finding that no retrial or appeal of the case is pending and verifying that at least sixty (60) days have passed since the defendant has notified the prosecuting attorney and the bureau of forensic services of the expungement request and that the court finds no reason, based on the interests of justice, to deny expungement.

(4) Upon order of the court, the ~~department of law enforcement~~ Idaho state police shall destroy the DNA sample relating to the subject of conviction, unless the ~~department~~ state police determines that the person has otherwise become obligated to submit to DNA sample and thumbprint impression as a result of a separate conviction subject to the terms of this chapter.

(5) The bureau of forensic services is not required to destroy an item of physical evidence obtained from the DNA sample if evidence relating to another person subject to the provisions of this chapter would thereby be destroyed. Notwithstanding this subsection, no sample, physical evidence or identifiable information is affected by an order to set aside a conviction.

SECTION 53. That Section 19-5514, Idaho Code, be, and the same is hereby amended to read as follows:

19-5514. LIMITATIONS ON DISCLOSURE OF INFORMATION. (1) All DNA profiles retained by the bureau of forensic services pursuant to this chapter shall be treated as confidential as provided by ~~section 9-340~~ chapter 3, title 9, Idaho Code.

(2) The DNA information shall be filed with the offender's file maintained by the ~~department of law enforcement~~ Idaho state police.

(3) The DNA information shall not be included in the state summary criminal history information.

(4) The DNA information, and thumbprint impressions, shall be released only to law enforcement agencies, including, but not limited

to, parole officers of the department of correction, hearing officers of the parole authority, and prosecuting attorneys' offices, at the request of the agency, except as specified in this chapter. Dissemination of this information to law enforcement agencies and prosecuting attorneys' offices outside the state shall be done in conformity with the provisions of this chapter.

(5) Any person who, by virtue of employment or official position, or any person contracting to carry out any function under this chapter, including any officers, employees and agents of such contractor who has possession of or access to individual identifiable DNA information contained in the state DNA database or databank and who willfully discloses such information in any manner to any person or agency not entitled to receive it is guilty of a misdemeanor.

(6) Furnishing DNA information or thumbprint comparison results to defense counsel for criminal defense purposes in compliance with discovery is not a violation of this section.

(7) It is not a violation of this section to disseminate statistical or research information obtained from the offender's file, the computerized databank system, or any of the bureau of forensic services' databases provided that the subject of the file is not identified and cannot be identified from the information disclosed. It is also not a violation of this section to include information obtained from a file in a transcript or record of a judicial proceeding or in any other public record when the inclusion of the information in the public record is authorized by a court, statute or case law.

SECTION 54. That Section 20-516, Idaho Code, be, and the same is hereby amended to read as follows:

20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A peace officer may take a juvenile into custody, or a private citizen may detain a juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody.

When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

(a) Parents of the juvenile;

(b) Relatives of the juvenile;

(c) Foster care;

(d) Group care;

(e) A juvenile detention facility; or

(f) Community-based diversion programs.

(5) The person in charge of a detention facility shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho ~~department--of-law-enforcement~~ state police which shall create a juvenile fingerprint file and enter the fingerprint data into the automated fingerprint identification system. The fingerprint data shall then be forwarded to the department to be maintained in a statewide juvenile offender information system. Access to the information in the juvenile offender system shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code. If the court finds good cause it may order the fingerprints and photographs of the juvenile expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 55. That Section 21-112A, Idaho Code, be, and the same is hereby amended to read as follows:

21-112A. OPERATING AIRCRAFT WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) It is unlawful for any person to pilot or be in actual physical control of an aircraft within this state, whether upon an airport or body of water, or in the airspace over this state:

(a) Within eight (8) hours after the consumption of any alcoholic beverage;

(b) While under the influence of alcohol;

(c) While using any drug that affects the person's faculties in any way contrary to safety; or

(d) While having an alcohol concentration of 0.04 as defined in subsection (5) of this section, or more, as shown by analysis of his blood, urine, or breath.

(2) Any person having an alcohol concentration of less than 0.04 as defined in subsection (5) of this section, as shown by analysis of his blood, urine, breath, or other bodily substance, by a test requested by an authorized law enforcement officer shall not be prosecuted for operating an aircraft while under the influence of alcohol, except as provided in subsection (3) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for piloting or being in actual physical control of an aircraft while under the influence of alcohol, drugs, or any other ~~intoxication~~ intoxicating substances, on other competent evidence.

(3) If the results of the test requested by an authorized law enforcement officer show a person's alcohol concentration of less than 0.04, as defined in subsection (5) of this section, such fact may be considered with other competent evidence of drug use other than alcohol in determining the guilt or innocence of the defendant.

(4) Persons authorized to withdraw blood for the purposes of determining content of alcohol or other intoxicating substances are those persons authorized in section 18-8003, Idaho Code.

(5) For purposes of this chapter, an evidentiary test for alcohol concentration is a determination of the ~~per-cent~~ percent by weight of alcohol in blood and shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the blood alcohol concentration shall be performed by a laboratory operated by the Idaho ~~department-of-law-enforcement~~ state police or by a laboratory approved by the Idaho ~~department-of-law--enforcement~~ state police under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho ~~department-of-law-enforcement~~ state police. Notwithstanding any other provision of law or rule of court, the results of any test for

alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho ~~department of law enforcement~~ state police or by any other method approved by the Idaho ~~department of law enforcement~~ state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(6) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which renders him incapable of safely piloting an aircraft, to pilot or be in actual physical control of an aircraft on an airport, body of water, or in the airspace above the state of Idaho. The fact that any person charged with a violation of the provisions of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of a violation of the provision ~~on~~ of this subsection.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, not withstanding the form of the judgment or withheld judgment.

SECTION 56. That Section 23-603, Idaho Code, 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~~ Idaho state police. 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 57. That Section 23-608, Idaho Code, be, and the same is hereby amended to read as follows:

23-608. ADDED PENALTY -- FORFEITURE OF LICENSE OR PERMIT -- TRANSMISSION OF RECORD. Whenever, in any court in this state, a defendant is convicted of a violation of title 23, Idaho Code, or of any law of this state relating to alcohol beverages including distilled spirits, beer or wine, or in any case in which it appears that the crime was committed while the defendant was under the influence of alcohol beverages, it shall be the duty of the court to include in its judgment the forfeiture of any license or permit issued to the defend-

ant by the state liquor dispensary or the ~~department-of-law-enforcement~~ Idaho state police pursuant to title 23, Idaho Code, and the court shall forthwith transmit to the issuing authority a certified copy of its judgment.

SECTION 58. That Section 23-804, Idaho Code, be, and the same is hereby amended to read as follows:

23-804. DUTIES OF THE ~~DEPARTMENT-OF-LAW-ENFORCEMENT~~ IDAHO STATE POLICE AND OFFICERS THEREOF. The ~~department-of-law--enforcement~~ Idaho state police and the director thereof are hereby charged with the responsibility and duty of assisting in the policing of the state of Idaho to enforce and require the enforcement of the penal provisions of the Idaho ~~L~~liquor ~~A~~act in addition to other duties imposed upon them by law, notwithstanding the duties now, or which may be hereafter imposed upon sheriffs, police, or other officers to enforce the provisions of such laws. To accomplish such enforcement it is hereby made the duty of said director and every officer of the ~~department--of--law enforcement~~ Idaho state police, whether employed specifically for the enforcement of the liquor act, or otherwise, to officially report every violation of such liquor act of which they have knowledge, or which is made known to them, to the sheriff, and prosecuting attorney of the respective county or counties in which such violations occur and sign complaints for such violations, which complaints said prosecuting attorney, sheriff, and other officers shall faithfully prosecute.

Said ~~department-of-law-enforcement~~ Idaho state police under the direction of the director thereof shall conduct investigations to obtain facts involving violations of the provisions of such laws and the said director shall appoint a chief of enforcement of such laws and may employ expert investigators, detectives, and secret officers to obtain such information and assist in such policing and enforcement.

SECTION 59. That Section 23-805, Idaho Code, be, and the same is hereby amended to read as follows:

23-805. DUTIES OF PROSECUTING ATTORNEYS, SHERIFFS, AND OTHER OFFICERS. It shall be the duty of the superintendent of the state liquor dispensary and every prosecuting attorney, sheriff, police or other peace officer to cooperate with the ~~department-of--law--enforcement~~ Idaho state police in the enforcement of such laws, and any such officer refusing to so cooperate or divulge any information he may have in any such prosecution shall be subject to action against him as provided in chapter 41, title 19, Idaho Code. Any such action may be brought in the name of the state of Idaho by any resident of the county, or officer of the state or county. Upon the conviction of a person for a violation of the provisions of the Idaho liquor act, or of the provisions of chapter 9, title 23, Idaho Code, the judge of the court imposing the judgment of conviction shall immediately send to the director of the ~~department-of-law-enforcement~~ Idaho state police a statement setting forth the title of the court, the name and residence of the defendants, the nature of the offense and the fine and sentence

or judgment imposed.

SECTION 60. That Section 23-807, Idaho Code, be, and the same is hereby amended to read as follows:

23-807. COMPELLING ATTENDANCE OF WITNESSES -- IMMUNITY OF WITNESSES -- AUTHORITY OF ENFORCEMENT OFFICERS. The director of the ~~department--of--law-enforcement~~ Idaho state police and any prosecuting attorney of any county, for the purposes contemplated by this act, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within and without the state of Idaho, as now provided by law, compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. If a person in attendance before such director or prosecuting attorney refuses, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper or other evidence when ordered so to do by the director or prosecuting attorney, said director or prosecuting attorney may apply to the judge of the district court of the county where such person is in attendance, upon affidavit for an order returnable not less than two (2) or more than five (5) days, directing such person to show cause before such judge, or any other judge of such district, why he should not be punished for contempt; upon the hearing of such order, if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of court.

No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry by or upon any hearing before any officer so authorized upon the ground that the testimony or evidence, books, papers or documents required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have, by order of the said officer, testified to or produced documentary evidence of; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury testified by him.

Subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

Inspectors and investigators employed by the ~~department-of-law enforcement~~ Idaho state police for the enforcement of this act shall have all the authority given by statute to peace officers of the state of Idaho, including authority to serve and execute warrants of arrest and warrants of search and seizure.

SECTION 61. That Section 23-901, Idaho Code, be, and the same is hereby amended to read as follows:

23-901. DECLARATION OF POLICY -- RETAIL SALE OF LIQUOR. It is hereby declared as the policy of the state of Idaho that it is necessary to further regulate and control the sale and distribution within

the state of alcoholic beverages and to eliminate certain illegal traffic in liquor now existing and to insure the entire control of the sale of liquor it is advisable and necessary, in addition to the operation of the state liquor stores now provided by law, that the director of the ~~department of law enforcement of the state of~~ Idaho state police and the county commissioners and the councils of cities in the state of Idaho be empowered and authorized to grant licenses to persons qualified under this act to sell liquor purchased by them at state liquor stores at retail posted prices in accordance with this act and under the rules ~~and regulations~~ promulgated by said director and under his strict supervision and control and to provide severe penalty for the sale of liquor except by and in state liquor stores and by persons licensed under this act. The restrictions, ~~regulations~~ rules, and provisions contained in this act are enacted by the legislature for the protection, health, welfare and safety of the people of the state of Idaho and for the purpose of promoting and encouraging temperance in the use of alcoholic beverages within ~~said~~ the state of Idaho.

SECTION 62. That Section 23-902, Idaho Code, be, and the same is hereby amended to read as follows:

23-902. DEFINITIONS. The following words and phrases used in this chapter shall be given the following interpretation:

(1) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members and to bona fide guests of members only:

(a) A post, chapter, camp or other local unit composed solely of veterans and their duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state; or

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20) years; and which has not less than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club membership shall consist of bona fide dues paying members, recorded by the secretary of the club, paying at least six dollars ($6.00) per year in dues, payable monthly, quarterly or annually; and the mem-

bers at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

(3) "Director" means the director of the ~~department--of-law enforcement-of-the-state-of~~ Idaho state police.

(4) "Gaming" means any and all gambling or games of chance defined in chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof, whether those games are licensed or unlicensed.

(5) "Interdicted person" means a person to whom the sale of liquor is prohibited under law.

(6) "License" means a license issued by the director to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail, as provided by law.

(7) "Licensee" means the person to whom a license is issued under the provisions of law.

(8) "Liquor" means all kinds of liquor sold by and in a state liquor store of the state of Idaho.

(9) "Municipal license" means a license issued by a municipality of the state of Idaho under the provisions of law.

(10) "Party" means a social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

(11) "Person" means every individual, partnership, corporation, organization, or association holding a retail liquor license, whether conducting the business singularly or collectively.

(12) "Premises" means the building and contiguous property owned, or leased or used under a government permit by a licensee as part of the business establishment in the business of sale of liquor by the drink at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of liquor by the drink at retail is authorized under the provisions of law.

(13) "Rules" means rules promulgated by the director in accordance with the provisions of law.

(14) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

SECTION 63. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the ~~department of-law-enforcement~~ Idaho state police is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules promulgated

by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census or by an estimate that is statistically valid including adding the number of new residential utility connections or including adding the population of areas annexed into the city after the last census or special census was conducted, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population or status of the city for which such license is issued. Any license issued and which has remained in effect at its location for a consecutive period of ten (10) years or more shall be deemed to have been validly issued and may be renewed from year to year provided, however, that the applicant for the renewal of such license is not otherwise disqualified for licensure pursuant to section 23-910, Idaho Code, and, if the premises required special characteristics for original licensure, other than being either within or without the incorporated limits of a city, that said premises continue to have such special characteristics at the time of the application for renewal.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course whether located within or without the limits of any city, or located on premises also operated as a winery, or ski resort, or to the lessee of any premises situate thereon, no part of which ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof.

Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through

others, including, but not limited to, the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. Alternatively, for the purpose of this section a ski resort may also be defined as a downhill ski area, open to the public, comprising real property of not less than two hundred fifty (250) skiable acres, operating two (2) or more chair lifts with a vertical lift of one thousand (1,000) feet or more, and capable of transporting a minimum of one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying under this definition shall also have on the premises a lodge facility providing shelter and food service to the public, the operator of which shall also be the valid owner or lessee of the grounds and facilities upon which the ski resort offers downhill skiing services to the public. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this sec-

tion will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction, or a food, beverage and lodging facility serving the public by reservation only, having a minimum of five (5) rooms operating in a structure that has been in existence for

at least seventy-five (75) years and has been on the historic register for a minimum of ten (10) years, is situated within five hundred (500) yards of a natural lake containing a minimum of thirty-six thousand (36,000) acre feet of water when full with a minimum of thirty-two (32) miles of shoreline, and is located in a county with a minimum population of sixty-five thousand (65,000). The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued to continuous operation facilities are not transferable.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex.

A gondola resort complex means an actual, bona fide gondola capable of transporting people for recreational and/or entertainment purposes at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a winery also operating a golf course on the premises.

The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this subsection. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this subsection are not transferable.

SECTION 64. That Section 23-934C, Idaho Code, be, and the same is hereby amended to read as follows:

23-934C. REGULATORY AND PENALTY PROVISIONS APPLICABLE. All of the regulatory and penal provisions of title 23, Idaho Code, shall apply to the exercise of alcohol beverage catering permits, including the penalties for violations thereof, except such provisions declared to be inapplicable to alcohol beverage catering permits by rules prescribed by the director of ~~law enforcement~~ the Idaho state police; provided, however, the director shall have no power to declare inapplicable any of the provisions of section 23-927, Idaho Code.

SECTION 65. That Section 23-950, Idaho Code, as added by Section 1, Chapter 56, Laws of 1981, be, and the same is hereby amended to read as follows:

23-95~~0~~1. DISTILLED SPIRITS FUELS. (1) Any person, partnership, association or corporation registered to produce alcohol for use in motor fuels and in possession of a federal operating permit pursuant to title 27, code of federal regulations, part 20~~1~~.131 - 201.138 or part 201.64, 201.65 shall not be deemed to be making alcoholic liquor within the meaning of section 23-105, Idaho Code, provided:

(a) Such person, partnership, association or corporation prior to

commencing operation furnishes the ~~department of law enforcement~~ Idaho state police with a true copy of the operating permit application described in title 27, code of federal regulations, part 201.137 or 201.65 and a true copy of the operating permit or other authorizing document;

(b) Such person, partnership, association or corporation faithfully complies with all security and supervision requirements of the federal government; and

(c) Alcohol possessed or produced under the federal operating permit is not used, sold or made available for human consumption.

(2) The ~~department of law enforcement~~ Idaho state police shall maintain a list of persons, partnerships, associations or corporations in the state of Idaho who hold federal operating permits as described in subsection (1) of this section.

SECTION 66. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

23-1001. DEFINITIONS. As used in this chapter:

(a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.

(b) The word "brewer" means a person licensed to manufacture beer.

(c) "Certificate of approval" means a license issued to a person whose business is located outside of the state of Idaho, who sells beer to wholesalers or brewers located within the state of Idaho.

(d) The term "dealer" means a person licensed to import beer into this state for sale to a wholesaler.

(e) The word "director" means the director of the ~~department of law enforcement~~ Idaho state police.

(f) The word "person" includes any individual, firm, copartnership, association, corporation or any group or combination acting as a unit, and the plural as well as the singular number unless the intent to give a more limited meaning is disclosed by the context.

(g) The word "premises" means the building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.

(h) The word "retailer" means a person licensed to sell beer to consumers at premises described in the license.

(i) The word "wholesaler" means any person licensed to sell beer to retailers, wholesalers, permittees or consumers and distribute beer from warehouse premises described in the license.

SECTION 67. That Section 23-1007A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1007A. BEER SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES -- PERMIT REQUIRED. (1) Notwithstanding the provisions of

section 23-1007, Idaho Code, to the contrary, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of beer or kegs of beer to a person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (2) of this section.

(2) Upon application to the director of the ~~department of law enforcement~~ Idaho state police, the director may issue a permit authorizing the sale or dispensing of beer by a person if the director is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose. The director shall prescribe the form of the application which may require:

(a) Disclosure of names of sponsors;

(b) Quantities and types of beer products to be used at the event;

(c) Names of the dealer or wholesaler from whom the beer is to be received;

(d) The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense beer on behalf of the permittee;

(e) Dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days;

(f) That the applicant submit a report to the director subsequent to the benevolent, charitable or public purpose event showing the disposition of funds from the event; and

(g) Such other information directly related to the event and the applicant that the director may require.

The director shall collect a twenty dollar ($20.00) fee for each permit issued.

(3) Should the director determine that an applicant, permittee or its representative is violating or has in the past violated any law pertaining to the dispensing or sale of beer by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in section 23-1013, Idaho Code, or has failed in the past to submit such information as may have been requested by the director, such permit may be summarily suspended by the director prior to hearing, or may be denied or cancelled pending a hearing.

(4) A licensed retailer may, on behalf of the permittee, receive or store beer to be used at the event and may dispense such beer to attendees of the benevolent, charitable or public purpose event for which the permit was issued.

SECTION 68. That Section 23-1009, Idaho Code, be, and the same is hereby amended to read as follows:

23-1009. RETAILERS' LOCAL LICENSES. No retailer shall sell beer within this state, until he or it shall be licensed therefor by a municipality, if the business is to be conducted therein, and by the county wherein said business is to be conducted, and by the director. Applications for retailer's licenses shall be made under oath first to the director of the ~~department of law enforcement~~ Idaho state police,

and if the license be issued, to the county and then to the municipality, upon forms to be supplied by each, which forms shall require that the applicant show that the applicant possesses all of the qualifications and none of the disqualifications of a retailer licensee under this act, and, as to the municipal license, under any ordinance thereof. Each application shall be accompanied with the required license fee. If the applications conform hereto the director, county and municipality respectively, shall each issue a retailer's license to the applicant, subject to the restrictions and upon the conditions in this act specified, and, as to the municipal license, in the ordinance aforesaid. Said licenses shall at all times be prominently displayed in the place of business of the licensee, and shall be issued only for the particular premises described therein, but the municipality, county and director may permit a transfer to other particularly described premises. No license transferred by process of law or otherwise shall authorize the transferee, including any executor, administrator or trustee in bankruptcy of the estate of the licensee, to retail beer thereunder until the transferee shall have filed under oath applications therefor containing substantially the same information required of an applicant for a license, and if the transferee possesses the qualifications and none of the disqualifications for a license as herein provided, the director, county and municipality shall approve such transfer and issue a license so to show. The transferee shall accompany the state application for transfer with, and shall pay, the fee as set out in section 23-1005A, Idaho Code. Such transferee shall accompany each such county and municipality application for transfer with, and shall pay, the sum of five dollars ($5.00).

SECTION 69. That Section 23-1011, Idaho Code, be, and the same is hereby amended to read as follows:

23-1011. ISSUANCE OF LICENSES. Notwithstanding any other provision of chapter 10, title 23, Idaho Code, all applications for retail sale of beer licenses, renewals, or transfers thereof, shall be first presented to the director of the ~~department of law enforcement~~ Idaho state police for approval and issuance of the state license required by state law. If the license, renewal or transfer thereof is approved by the director, then such license, renewal or transfer thereof may be issued by the city or county, or both, as the case may be. Approval of such license, renewal or transfer thereof may be by endorsement upon the state license or by the issuance of an additional license, at the option of the city or county.

SECTION 70. That Section 23-1018, Idaho Code, be, and the same is hereby amended to read as follows:

23-1018. SALE OF KEG BEER -- PENALTIES. (1) Retail and wholesale licensees selling keg beer for consumption off licensed premises shall place an identification tag onto all kegs of beer at the time of sale and require the signing of a receipt therefor by the purchaser in order to allow kegs to be traced if the contents are used in violation of this act. The keg identification shall be in the form of a numbered

label prescribed and supplied by the director of the ~~department of law enforcement~~ Idaho state police, which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the director of the ~~department--of--law--enforcement~~ Idaho state police and shall include the name and address of the purchaser and such other information as may be required by the director of the ~~department of law enforcement~~ Idaho state police.

(2) Any licensee selling keg beer for off-premises consumption who fails to require the signing of a receipt at the time of sale and fails to place a numbered identification label onto the keg shall be subject to having his license suspended as set forth in section 23-1038, Idaho Code.

(3) Possession of a keg containing beer which is not identified as required by subsection (1) of this section is a misdemeanor.

(4) Any purchaser of keg beer who knowingly provides false information on the receipt required by subsection (1) of this section shall be guilty of a misdemeanor.

(5) As used in this section, "keg" means any brewery-sealed, individual container of beer having a liquid capacity of seven and three-fourths (7 3/4) gallons or more.

SECTION 71. That Section 23-1106, Idaho Code, be, and the same is hereby amended to read as follows:

23-1106. SUPPLIER'S RIGHT TO DISCONTINUE DISTRIBUTION OF BRAND. (1) A supplier may amend, modify, terminate, cancel, discontinue or fail to renew an agreement, with reference to a brand sold by a supplier, not less than thirty (30) days after written notice is given by the supplier as provided in section 23-1108, Idaho Code, if the supplier discontinues production or discontinues distribution in this state of a brand of beer sold by the supplier to the distributor.

(2) Nothing in this section shall prohibit a supplier from conducting test marketing of a product which is not currently being sold in this state, provided that the supplier has notified the director, Idaho ~~department--of--law--enforcement~~ state police, in writing, of its plans to conduct test marketing, which notice shall describe the market area in which the test shall be conducted, the name or names of the distributor or distributors who will be selling the product, the name or names of the product being tested, and the period of time, not to exceed eighteen (18) months, during which the testing will take place.

(3) If a supplier causes the discontinuance of distribution in this state of a brand of beer, except a brand that is being test marketed pursuant to subsection (2) of this section, then that brand cannot be reintroduced or sold to distributors within this state by any supplier for a period of six (6) months after providing the written notice required in the provisions of this section. A supplier who is test marketing a brand or brands in this state, in compliance with subsection (2) of this section, shall not be subject to the six (6) month reintroduction limitation set forth in the provisions of this subsection.

(4) Whenever a supplier discontinues distribution in this state

of a brand of beer, the supplier shall be required, at the distributor's request, to purchase from the distributor any unsold inventory of that brand.

SECTION 72. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. The following terms as used in this chapter are hereby defined as follows:

(a) "Wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(b) "Director" means the director of the ~~department--of-law enforcement-of-the-state-of~~ Idaho state police.

(c) "Retail wine license" means a license issued by the director, authorizing a person to sell wine at retail for consumption off the licensed premises.

(d) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute wine to retailers within the state of Idaho.

(e) "Wine importer's license" means a license issued by the director to a person authorizing such person to import wine into the state of Idaho and to sell and distribute wine to a distributor.

(f) "Retailer" means a person to whom a retail wine license has been issued.

(g) "Distributor" means a person to whom a wine distributor's license has been issued.

(h) "Importer" means a person to whom a wine importer's license has been issued.

(i) "Winery" means a place, premises or establishment within the state of Idaho for the manufacture or bottling of wine for sale.

(j) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(k) "Vintner" means a person who manufactures, bottles, or sells wine to importers for resale within this state other than a licensed "winery" as herein defined.

(l) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(m) "Wine by the drink license" means a license to sell wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(n) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(o) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit based beverages exceeding fourteen per-

cent (14%) alcohol by volume shall be considered as liquor and sold only through the state liquor dispensary system.

(p) All other words and phrases used in this chapter, the definition of which is not herein given, shall be given their ordinary and commonly understood and accepted meaning.

SECTION 73. That Section 23-1407, Idaho Code, be, and the same is hereby amended to read as follows:

23-1407. COUNTY OPTION -- RESOLUTION OF COUNTY COMMISSIONERS. There is hereby granted to the board of county commissioners of each of the several counties of the state the right and authority to disallow the use of hospitality cabinets, as defined in this chapter, within the borders of their respective counties. This right and authority may be exercised by the board of county ~~commissions~~ commissioners by resolution, regularly adopted, which provides that hospitality cabinets, as defined in this chapter, shall be disallowed within the county. The resolution shall take effect three (3) months after receipt of certification thereof by the director of ~~law enforcement~~ the Idaho state police and notification of qualified facilities within the county. Hospitality cabinets shall remain disallowed within the county so long as the resolution remains in effect.

SECTION 74. That Section 23-1408, Idaho Code, be, and the same is hereby amended to read as follows:

23-1408. DIRECTOR TO PROMULGATE RULES. ~~AND REGULATIONS.~~ For the purpose of the administration of this chapter, the director of the ~~department of law enforcement~~ Idaho state police shall promulgate and publish such rules ~~and regulations~~ as the director may deem necessary for carrying out the provisions of this chapter.

SECTION 75. That Section 25-1102, Idaho Code, be, and the same is hereby amended to read as follows:

25-1102. BOARD CREATED -- MEMBERSHIP AND ORGANIZATION. There shall be in the ~~department of law enforcement of the state of~~ Idaho state police a state brand board and such board is hereby created. The state brand board shall consist of five (5) members, three (3) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the feeding or the production of beef cattle in Idaho and no two (2) of whom shall be from the same county; one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the operation of a licensed public livestock auction market, and one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged as a dairy milk producer. The term of office of each member of said board shall be five (5) years, excepting that of the members of said board first appointed, one (1) shall be appointed to hold office until the first Monday in January, 1975, one (1) until the first Monday of January, 1976, and one (1) until the first Monday of January, 1977, one (1) until the first Monday of January, 1978, and one (1) until the first

Monday of January, 1979. Vacancies occurring on the board other than by expiration of the term, shall be filled for the unexpired term only. Each of such members of the board, before entering upon the duties of his office, shall take and subscribe to the constitutional oath of office, and be bonded to the state of Idaho in the time, form and manner provided by chapter 8, title 59, Idaho Code. The members of the board shall be compensated as provided by section 59-509(h), Idaho Code. Said compensation shall be paid in the same manner as other expenses of the state brand board are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office, within the state of Idaho. Said board must hold a meeting quarterly and at any other times if so requested by any member of the board. The governor shall appoint the members of such board, both initially and thereafter as vacancies occur therein, from the recommendations of the executive committee or board of directors of the Idaho cattle association, Idaho dairymen's association and licensed public livestock auction markets. Each such recommendation shall be of at least two (2) persons for each appointment to be made by the governor. If no such recommendation is made within thirty (30) days after the occurrence of any vacancy in the membership of such board, then the appointment may be made without such recommendation. If the person or persons recommended are not deemed eligible or fit by the governor, then he shall request two (2) additional names from the respective industry segment. A member of such board shall be ineligible to hold any other state or federal office providing full-time employment, or any county or elective office. After due notice and public hearing, the governor may remove any member for cause.

The board shall elect one (1) of its members chairman, and there shall be a state brand inspector who shall serve as secretary of such board. The board is empowered to make rules ~~and regulations~~ for governing itself, and such rules ~~and regulations~~ as it may deem necessary for the enforcement of all of the duties of the state brand inspector, the laws of the state of Idaho providing registration and use of stock growers' brands, and the laws of the state of Idaho providing inspection and other requirements for the transportation of livestock, and all laws of the state enacted for the identification, inspection and transportation of livestock, and all laws of the state designed to prevent theft and illegal butchering of livestock.

SECTION 76. That Section 25-1105, Idaho Code, be, and the same is hereby amended to read as follows:

25-1105. EX OFFICIO BRAND INSPECTORS. The director of the ~~department of law enforcement of the state of~~ Idaho <u>state police,</u> every state police officer, port of entry officers, county sheriff and deputy sheriff is hereby made an ex officio brand inspector, and shall have the authority to inspect any livestock described in this chapter that is being transported within the jurisdiction of said officer and to require the person transporting the same to produce satisfactory evidence from him of his right to the possession of such livestock.

SECTION 77. That Section 25-1106, Idaho Code, be, and the same is hereby amended to read as follows:

25-1106. DUTIES OF INSPECTOR AND DEPUTIES AS LAW-ENFORCEMENT OFFICERS. The state brand inspector and his deputies shall also have power and the duty to enforce all of the laws of the state for the identification, inspection and transportation of livestock and sheep and all laws of the state designed or intended to prevent the theft of livestock and sheep and shall have all of the authority and powers of peace officers vested in the director of the ~~department--of--law enforcement~~ Idaho state police, with general jurisdiction throughout the state.

The state brand inspector shall give special consideration to reducing the loss of livestock and sheep by theft and to that end may inspect and cause inspections to be made outside the state of Idaho of livestock and sheep transported or driven from the state of Idaho, and shall also coordinate the efforts of all other law-enforcement officials and peace officers in the apprehension and conviction of persons who have stolen livestock, sheep, hides, pelts, or carcasses of livestock.

SECTION 78. That Section 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The policy of the state of Idaho is that the primary duty of enforcing all penal provisions and statutes of the state is vested with the sheriff of each county as provided in section 31-2227, Idaho Code. The sheriff shall perform the following:

(1~~.~~) Preserve the peace.

(2~~.~~) Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

(3~~.~~) Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

(4~~.~~) Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

(5~~.~~) Command the aid of as many inhabitants of the county as he may think necessary in the execution of these duties.

(6~~.~~) Take charge of and keep the county jail and the prisoners therein.

(7~~.~~) Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

(8~~.~~) Serve all process and notices in the manner prescribed by law.

(9~~.~~) Certify under his hand upon process or notices the manner and time of service, or, if he fails to make service, the reasons of his failure, and return the same without delay.

(10~~.~~) Perform such other duties as are required of him by law.

(11~~.~~) Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the ~~department of--law--enforcement~~ Idaho state police and he shall also notify the director of the ~~department-of-law-enforcement~~ Idaho state police of any and all cars recovered.

(12~~.~~) Work in his county with the Idaho state ~~department-of-law enforcement~~ police in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;

(b) Safeguard and protect the surface and other physical portions of the state highways;

(c) 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;

(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks and make investigations relative thereto.

(13~~.~~) Work in his county with the Idaho transportation department to give examinations for and sell drivers' licenses and identification cards.

(14~~.~~) Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

SECTION 79. That Section 31-2227, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

SECTION 80. That Section 33-130, Idaho Code, be, and the same is hereby amended to read as follows:

33-130. CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES OR APPLICANTS FOR CERTIFICATES. The department of education, through the cooperation of the ~~department-of-law-enforcement~~ Idaho state police, shall establish a system to obtain a criminal history check on certificated and noncertificated employees, and all applicants for certificates pursuant to chapter 12, title 33, Idaho Code. The criminal history check shall include the following:

(1) Statewide criminal identification bureau;
(2) Federal bureau of investigation (FBI) criminal history check;
(3) National crime information center; and
(4) Statewide sex offender register.

The state department of education shall charge all applicants a fee of forty dollars ($40.00) for undergoing a criminal history check pursuant to this section. The fee shall be sufficient to cover costs charged by the federal bureau of investigation, the state ~~department of--law--enforcement~~ police and the state department of education. A record of all background checks shall be maintained at the state department of education in a data bank for all employees of a school district with a copy going to the applicant. The department of education shall forward to all applicants for a criminal history check, notification that the fingerprint card has been destroyed after the background check has been completed. The department of education and the ~~department-of-law-enforcement~~ Idaho state police shall ensure that fingerprint cards have been destroyed after a criminal history check has been completed.

The ~~department-of-law--enforcement~~ Idaho state police and the department of education shall implement a joint exercise of powers agreement pursuant to sections 67-2328 through 67-2333, Idaho Code, necessary to implement the provisions of this section.

SECTION 81. That Section 33-1508, Idaho Code, be, and the same is hereby amended to read as follows:

33-1508. OPERATION OF SCHOOL BUSES. (1~~.~~) All school buses shall at all times be operated in conformity with law and with rules ~~and regulations~~ of the ~~department-of-law-enforcement~~ Idaho state police and the state board of education.

(2~~.~~) No school bus shall:

(a~~.~~) Cross any railroad track, or enter or cross any arterial highway without first coming to a full stop. If any such crossing, intersection or access be obscured by trees, buildings or other

objects, or because of wind, storm or fog, the chauffeur shall open such windows and doors as will permit him to determine when it is safe to proceed;

(b~~.~~) Be operated at any time for the transportation of pupils by any person who does not have a current driver's license, a valid driver's permit issued by the board of trustees, and the minimum training for bus drivers as prescribed by the state board of education;

(c~~.~~) Be operated at any time in excess of its maximum occupancy as determined by the manufacturer. Occupancy at no time shall exceed three (3) persons in a seat.

SECTION 82. That Section 33-1511, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2~~.~~) Adopt, publish and distribute, and from time to time as need therefor arises amend, minimum standards for the construction of school buses, the basis of which standards shall be those incorporated in the latest report of the National Conference on School Transportation, which report shall be filed with the ~~department of law--enforcement~~ Idaho state police;

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

SECTION 83. That Section 33-4701, Idaho Code, be, and the same is hereby amended to read as follows:

33-4701. YOUTH EDUCATION ~~ACCOUNT~~ FUND ESTABLISHED. There is hereby established in the state treasury ~~an account~~ fund to be known as the youth education ~~account~~ fund. Moneys in the ~~account~~ fund shall be used exclusively for the production and purchase of radio and television advertising designed to advise children of the risks and problems associated with the use of alcohol, drugs and tobacco. Moneys in the ~~account~~ fund shall be comprised of appropriations, donations, contributions, gifts or grants from any source for purposes consistent with the provisions of this chapter. Moneys in the ~~account~~ fund are subject to appropriation to the governor's commission on alcohol and drug abuse for expenditure pursuant to the provisions of this chapter.

The state board of education, the department of health and welfare, the ~~department of law enforcement~~ Idaho state police and the transportation department may contribute funds and seek grants to the youth education ~~account~~ fund.

Not less than seventy ~~per cent~~ percent (70%) of the moneys in the ~~account~~ fund shall be used each year for advertising pertaining to alcohol and alcohol abuse.

SECTION 84. 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, 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 state police.

(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) Bongs;
(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, employ-

ees 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:

(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 desig-

nated 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~~ Idaho state police, 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.

SECTION 85. That Section 37-2716, Idaho Code, be, and the same is hereby amended to read as follows:

37-2716. REGISTRATION REQUIREMENTS. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the board in accordance with its rules. A copy of each registration issued shall be transmitted by the board to the director of the ~~department of law enforcement~~ Idaho state police.

(b) Persons registered by the board under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess controlled substances under this act:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board rule.

SECTION 86. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) a controlled substance classified in schedule I which is

a narcotic drug or a controlled substance classified in schedule II, except as provided for in section 37-2732B(a)(3), Idaho Code, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for

not more than seven (7) years, or fined not more than fifteen thousand dollars ($15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000), or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains tetrahydrocannabinal, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of

this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(z), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony violation under this chapter or upon conviction of a felony pursuant to the "racketeering act," section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the ~~department of law enforcement~~ Idaho state police, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the ~~department of law enforcement~~ Idaho state police, those moneys shall be paid to the ~~department of law enforcement~~ Idaho state police for deposit into the drug enforcement donation ~~account~~ fund created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general ~~account~~ fund. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 87. That Section 37-2740, Idaho Code, be, and the same is hereby amended to read as follows:

ARTICLE V

37-2740. POWERS OF ENFORCEMENT PERSONNEL. (a) Any peace officer, as defined by this act, may:

(1) Carry firearms in the performance of his official duties;

(2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;

(3) Make arrests without warrant for any offense under this act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this act which may constitute a felony or a misdemeanor;

(4) Make seizures of property pursuant to this act.

(b) The director of the ~~department of law enforcement~~ Idaho state police shall administer the state-level program of Idaho to suppress the unlawful traffic and abuse of controlled substances and shall have

the authority to appoint and commission agents to enforce the provisions of this act.

(c) All duly authorized peace officers while investigating offenses under this act in the performance of their official duties, and any person working under their immediate direction, supervision, or instruction, provided such person shall not deviate from the lawful direction of the peace officer, are immune from prosecution under this act.

SECTION 88. That Section 37-2743, Idaho Code, be, and the same is hereby amended to read as follows:

37-2743. COOPERATIVE ARRANGEMENTS. (a) The director of the ~~department of law enforcement~~ Idaho state police shall cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. The name or identity of a patient or research subject whose identity could not be obtained under subsection (c) of this section shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substance may be extracted;

(5) Enter into agreements with other states to coordinate and facilitate the enforcement of this act; and

(6) Require law enforcement agencies to report such information regarding traffic in controlled substances and abuse of controlled substances as he deems necessary to enforce this act. Such reports shall be on forms supplied by the director of the ~~department--of law--enforcement~~ Idaho state police and shall include, but not be limited to, the following information: Names, ages, sex, race, and residences of individuals involved in violations of this act; the contraband confiscated, showing the kind, location, quantity, date, and place where seized; the circumstances surrounding the arrests and a report of the disposition of charges.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections and investigations conducted by the bureau may be relied and acted upon by the board in the exercise of its regulatory functions under this act.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the director, nor may he be compelled in any state or local civil, criminal, administrative, legislative or other pro-

ceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential and as such the name or identity of the patient or research subject is subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 89. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

of property described in paragraph (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;

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

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

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

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

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

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

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

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

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

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

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

(A) Place the property under seal;

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

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

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

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

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director, or appropriate prosecuting attorney, subject only to the orders

and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Retain it for official use;

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

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

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

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investiga-

tion, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

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

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

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

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

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

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

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

SECTION 90. That Section 37-2744B, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744B. AUTHORIZATION TO RECEIVE AND ADMINISTER FEDERAL FORFEITURES AND PRIVATE DONATIONS. The director of the ~~department of law enforcement~~ Idaho state police is authorized to receive and dispose of any real or personal property which has been seized by a federal drug enforcement agency, or any donations from private citizens, the proceeds of which shall be placed in the drug enforcement donation ~~account~~ fund created in section 57-816, Idaho Code.

SECTION 91. That Section 37-2803, Idaho Code, be, and the same is hereby amended to read as follows:

37-2803. INVENTORY. Any peace officer of this state seizing property subject to forfeiture under the provisions of this chapter shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted. A copy of the inventory shall be sent, within five (5) days of the seizure, to the director of the ~~department of law enforcement~~ Idaho state police. Upon completion of the forfeiture action pursuant to this chapter, a final inventory shall be made which indicates the disposition of the seized property, and a copy of that inventory shall also be sent to the director of the ~~department of law enforcement~~ Idaho state police.

SECTION 92. That Section 37-2807, Idaho Code, be, and the same is hereby amended to read as follows:

37-2807. PERSONAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Within five (5) days of any of the events specified in section 37-2806, Idaho Code, notice, including a copy of the request for forfeiture, shall be given to each co-owner or party in interest who has or claims any right, title or interest in any of such personal property according to one (1) of the following methods:

(a) Upon each co-owner of or party in interest in a titled motor vehicle, aircraft or other conveyance, by mailing notice by certified mail to the address of each co-owner and party in interest as given upon the records of the appropriate department of state or federal government where records relating to such conveyances are maintained.

(b) Upon each secured party and assignee designated as such in any UCC-1 financing statement on file in an appropriate filing office covering any personal property sought to be forfeited, by mailing notice by certified mail to the secured party and the assignee, if any, at their respective addresses as shown on such financing statement.

(c) Upon each co-owner or party in interest whose name and address is known, by mailing notice by registered mail to the last-known address of such person.

(2) Within twenty (20) days after the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(3) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) At the hearing, any co-owner or party in interest who has a verified answer on file may show by competent evidence that his interest in the titled motor vehicle, aircraft or other conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the titled motor vehicle, aircraft or other conveyance was being used, had been used or was intended to be used for the purposes described in section 37-2801, Idaho Code.

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

(i) In the event of such proof, the court shall order that portion of the property or interest released to the bona fide or innocent co-owner, purchaser, lienholder, mortgagee, secured party or conditional sales vendor.

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

1. To the bona fide or innocent co-owner, purchaser, conditional sales vendor, lienholder, mortgagee or secured party of the property, if any, up to the value of his interest in the property.

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

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

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

(C) The remainder, if any, to the director of ~~law enforcement~~ the Idaho state police for credit to the drug enforcement donation ~~account~~ fund created in section 57-816, Idaho Code, or to the appropriate prosecuting attorney for credit to the local drug enforcement donation ~~account~~ fund, or its equivalent.

3. Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the personal property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity which may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest, or other claimant.

4. In any case, the attorney general, or appropriate prosecuting attorney, may, within thirty (30) days after order of forfeiture, pay the balance due to the bona fide lienholder, mortgagee, secured party or conditional sales vendor and thereby purchase the property for use to enforce this chapter.

SECTION 93. That Section 37-2808, Idaho Code, be, and the same is hereby amended to read as follows:

37-2808. REAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Real property subject to forfeiture under the provisions of this chapter may be seized by the attorney general or appropriate prosecuting attorney upon determining that a parcel of property is subject to forfeiture, by filing a notice of seizure with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided however, that in the event the property sought to be forfeited is part of a greater parcel, the attorney general or appropriate prosecuting attorney may, for the purposes of this notice, use the legal description of the greater parcel. The attorney general or appropriate prosecuting attorney shall also send by certified mail a copy of the notice of seizure to any persons holding a recorded interest or of whose interest the attorney general or appropriate prosecuting attorney has actual knowledge. The attorney general or appropriate prosecuting attorney shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the county. The co-owner or party in lawful possession of

the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

(2) In the event of a seizure pursuant to subsection (1) of this section, a request for forfeiture shall be filed with the trial court within the time limit imposed by section 37-2804, Idaho Code. The request shall be served in the same manner as complaints subject to the Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

(3) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the real property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity which may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest, or other claimant.

(4) Within twenty (20) days of the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(5) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) A co-owner, or claimant of any right, title or interest in the real property sought to be forfeited may prove that his right, title or interest, whether under a lien, mortgage, deed of trust or otherwise, was created without any knowledge or reason to believe that the real property was being used or had been used for the purposes alleged;

(b) Any co-owner who has a verified answer on file may show by competent evidence that his interest in the property sought to be forfeited is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the real property was being used, or had been used in any manner in violation of the provisions of section 37-2801, Idaho Code.

(6) In the event of such proof, the court shall order the release of the interest of the co-owner, purchaser, lienholder, mortgagee or beneficiary.

(a) If the amount due to such person is less than the value of the real property, the real property may be sold in a commercially reasonable manner by the attorney general or appropriate prosecuting attorney. The proceeds from such sale shall be distributed as follows in the order indicated:

(i) To the innocent co-owner, purchaser, mortgagee or beneficiary of the real property, if any, up to the value of his interest in the real property.

(ii) The balance, if any, in the following order:

1. To the attorney general or appropriate prosecuting attorney for all expenditures made or incurred in connection with the sale, including expenditure for any

necessary repairs or maintenance of the real property, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, travel, investigation, title company fees and insurance premiums.

2. The remainder, if any, to the director of ~~law enforcement~~ the Idaho state police for credit to the drug enforcement donation ~~account~~ fund created in section 57-816, Idaho Code.

(b) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after the order of forfeiture, pay the balance due to the innocent co-owner, purchaser, lienholder, mortgagee or beneficiary and thereby purchase the real property for use in the enforcement of this chapter.

SECTION 94. That Section 37-3105, Idaho Code, be, and the same is hereby amended to read as follows:

37-3105. REPORTS -- FORM. Every physician that provides treatment or rehabilitation services to a person addicted to or dependent upon drugs shall each quarter of every year, commencing July 1, 1971, make a statistical report to the director of the department of health and welfare or his designee in such form and manner as the director of the department of health and welfare shall prescribe for each such person treated or to whom rehabilitation services were provided during the preceding quarter. The form of the report prescribed shall be furnished by the director of the department of health and welfare and be so designated that a carbon copy shall be sent quarterly to the ~~bureau of narcotics and drug enforcement of the department of law enforcement~~ director of the Idaho state police and the state board of pharmacy; the report shall include the doctor's signature. The name or address of any person treated or to whom rehabilitation services were provided shall not be reported.

SECTION 95. That Section 39-3026, Idaho Code, be, and the same is hereby amended to read as follows:

39-3026. IMPLEMENTATION OF ARTICLE III. The state department of health and welfare, as the designated state radiation control agency, shall adopt the practices and may impose the fees authorized under article III of the compact, except that the ~~department of law enforcement~~ Idaho state police and the public utilities commission shall retain their existing enforcement and inspection authority relating to carriers. The board of health and welfare shall adopt such rules and regulations as may be necessary to enable the department of health and welfare to carry out the provisions of this section.

SECTION 96. That Section 39-3372, Idaho Code, be, and the same is hereby amended to read as follows:

39-3372. APPLICATION FOR CERTIFICATION. An application for certification shall be made to regional offices of the department upon

forms provided by the department and shall contain such information as the department reasonably requires which will include a background check and fingerprinting with the Idaho ~~department of law enforcement~~ state police. Following receipt of an application, the department shall conduct a study, including a visit to the home, to determine the capability of the provider to provide adult foster care.

SECTION 97. That Section 39-3562, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 98. That Section 39-4410, Idaho Code, be, and the same is hereby amended to read as follows:

39-4410. TRANSPORTATION OF HAZARDOUS WASTE. (1) The board shall promulgate hazardous waste transportation rules and regulations to control the intrastate and interstate transportation of federally regulated types and quantities of hazardous waste. The rules and regulations shall be consistent with the rules and regulations issued by the United States department of transportation and the United States environmental protection agency. The rules and regulations shall also be consistent with the rules and regulations of the Idaho public utilities commission unless such consistency would impair the primacy or the effectiveness of the state's hazardous waste management program. In that case the board shall confer with the commission and endeavor to develop mutually acceptable transportation rules and regulations. If mutually acceptable rules and regulations cannot be developed, the board shall promulgate transportation rules and regulations that minimize conflict with the commission's rules and regulations while assuring the primary authority and effectiveness of the state's hazardous waste management program. Rules and regulations so promulgated by the board shall prevail over conflicting rules and regulations of the commission.

(2) The hazardous waste transportation rules and regulations shall apply to all transporters of federally regulated types and quantities of hazardous waste generated either by themselves or by others. These rules and regulations shall apply to any movement of a regulated quantity of hazardous wastes to or from a hazardous waste facility or site.

(3) The hazardous waste transportation rules and regulations shall provide for but not be limited to:

(a) Standards for the containerization and labeling of hazardous wastes;

(b) Standards for the handling and placarding of hazardous waste shipments;

(c) A hazardous waste tracking system requiring that:

(i) All transporters of federally regulated types and quantities of hazardous waste obtain an identification number from the department, the environmental protection agency, or another approved state program, before accepting hazardous waste for transport;

(ii) All shipments of federally regulated types and quantities of hazardous waste to be shipped off site or received from off site be accompanied by a manifest or similar form describing the hazardous waste being shipped and its destination;

(iii) A copy of each manifest or similar form be returned to the generator and/or originator of the shipment and a copy be retained by the transporter for a minimum of three (3) years.

(4) The hazardous waste transportation rules and regulations may provide for special routing of hazardous waste shipments in this state when necessary to protect the public health, the public safety, or the environment consistent with federal statutory, regulatory and constitutional requirements.

(5) No commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, shall receive regulated quantities of hazardous waste as defined by federal law from a motor vehicle or trailer unless the hazardous waste is accompanied by a proper manifest and the transporter has obtained a special permit from the Idaho transportation department as provided in sections 49-2202 and 49-2203, Idaho Code. If an improperly documented shipment of hazardous waste arrives at a permitted commercial hazardous waste facility or site, the owner or operator of the facility or site shall immediately notify the Idaho transportation department and the Idaho ~~department of law enforcement~~ state police and follow the requirements of its permits and licenses for notification of appropriate agencies.

SECTION 99. That Section 39-5814, Idaho Code, be, and the same is hereby amended to read as follows:

39-5814. DUTIES OF DIRECTOR UPON RECEIPT OF A SITING LICENSE APPLICATION -- RECOMMENDATION. (1) Upon receipt of a complete siting license application, the director or an authorized representative of the director shall:

(a) Immediately notify the permanent panel members, the city and/or county in which the hazardous waste treatment, storage, or disposal facility is located or proposed to be located, the state fire marshal, the director of the department of fish and game, the director of the ~~department of law enforcement~~ Idaho state police, and each division within the department that has responsibility in land, air or water management, and other appropriate agencies. The notice shall describe the procedure and the schedule based on the complexity of the application by which the siting license may be approved or denied.

(b) Immediately publish a notice that the application has been received, as provided in section 60-109, Idaho Code, in a newspaper having major circulation in the county and the immediate vicinity of the proposed hazardous waste treatment, storage, or

disposal facility. The required published notice shall contain a map indicating the location of the proposed hazardous waste treatment, storage, or disposal facility and shall contain a description of the proposed action and the location where the complete application package may be reviewed and where copies may be obtained. The notice shall describe the procedure by which the siting license may be granted.

(2) Upon notification by the director, the chairman shall immediately notify the representatives of the state to the panel and the public members. The chairman shall also notify the applicable county and city for their appointment of members as provided in subsection (3) of section 39-5812, Idaho Code. Within thirty (30) days after the notification, the board of commissioners of the county and the city council shall select the members to serve on the panel. The panel shall be created at that time and notification of the creation of the panel shall be made to the chairman.

(3) If technical criteria are not applicable, the director shall submit to the panel a draft site license which includes conditions based on the information submitted in the application. The director shall also recommend to the panel that the license be issued or denied. The draft license submittal shall be made within sixty-five (65) days after a complete application is received.

(4) If technical criteria as adopted in the hazardous waste management plan are applicable, the director shall determine if the proposed facility complies with the criteria. Such determination shall be made within forty-five (45) days after a complete application is received. If the technical criteria are not met, the director shall deny the license and the panel shall be disbanded. If the technical criteria are met, the director shall submit to the panel a draft site license which includes conditions regarding the technical criteria to be met. These conditions may be more stringent than those in the plan if warranted by information provided in the application. The draft license may also include additional conditions based on the information submitted in the application regarding the construction of the facility. The director shall also recommend to the panel that the license be issued or denied. The denial or draft license submittal shall be made within sixty-five (65) days after a complete application is received. The director shall immediately notify the applicant and the chairman of the panel of the denial or draft license submittal.

(5) Within ten (10) days after submittal of a draft license, the panel shall meet to review and establish a timetable for the consideration of the draft site license.

(6) The panel shall:

(a) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed site, at its first meeting. The public notice shall:

(i) Contain a map indicating the location of the proposed hazardous waste treatment, storage, or disposal facility, a description of the proposed action, and the location where the application for a siting license may be reviewed and where copies may be obtained;

(ii) Identify the time, place and location for the public hearing held to receive public comment and input on the application for a siting license;

(b) Publish the notice not less than thirty (30) days before the date of the public hearing and the notice shall be, at a minimum, a twenty (20) days' notice as provided in section 60-109, Idaho Code.

(7) Comment and input on the proposed hazardous waste treatment, storage, or disposal facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the panel for fifteen (15) days after the public hearing date.

(8) The panel shall consider, among other things:

(a) The risk and impact of accident during the transportation of hazardous waste;

(b) The risk of fires or explosions from improper treatment, storage, or disposal methods;

(c) The impact on local units of government where the proposed hazardous waste treatment, storage, or disposal facility is to be located in terms of health, safety, cost and consistency with local planning and existing development. The panel shall also consider city and county ordinances, permits or other requirements and their potential relationship to the proposed hazardous waste treatment, storage, or disposal facility;

(d) The nature of the probable environmental impact.

(9) The panel's primary responsibility shall be to consider the concerns and objections submitted by the public. The panel shall facilitate efforts to provide that the concerns and objections are mitigated by proposing additional conditions regarding the construction of the facility. The panel may propose conditions which integrate the provisions of the city or county ordinances, permits or requirements.

(10) Within ninety (90) days after creation, the panel shall recommend to the director that the license be issued as proposed, issued with different or additional conditions, or denied. The director shall make a final decision within thirty (30) days after receipt of the panel's recommendation. If the panel recommends different or additional conditions, a clear statement of the need for the condition must be submitted to the director. If the panel recommends denial, a clear statement of the reasons for the denial must be submitted to the director.

(11) The director shall issue a siting license if the director determines that:

(a) The technical criteria are met;

(b) The harm to scenic, historic, cultural or recreational values is not substantial or can be mitigated by appropriate license conditions;

(c) The risk and impact of accident during transportation of hazardous waste is not substantial or can be mitigated with appropriate license conditions;

(d) The impact on local government is not adverse regarding health, safety, cost and consistency with local planning and existing development or can be mitigated with appropriate license conditions; and

(e) No other major concerns have been raised by the panel regarding public health or the environment which cannot be mitigated by special license conditions.

(12) An applicant denied a siting license pursuant to this chapter or any person aggrieved by a decision of the director pursuant to this chapter may within twenty-eight (28) days, after all remedies have been exhausted under the provisions of this chapter, seek judicial review under the procedures provided in chapter 52, title 67, Idaho Code.

(13) No permit pursuant to section 39-4409, Idaho Code, shall be issued unless the applicant has been issued a site license.

SECTION 100. That Section 39-6316, Idaho Code, be, and the same is hereby amended to read as follows:

39-6316. LAW ENFORCEMENT OFFICERS -- TRAINING, POWERS, DUTIES. (1) All training provided by the peace officers standards and training academy relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) When a peace officer responds to a domestic violence call, the officer shall give a written statement to victims which alert the victim to the availability of a shelter or other resources in the community, and give the victim a written notice provided by the ~~department--of--law-enforcement~~ Idaho state police substantially stating the following:

> IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in magistrate court requesting an order for protection from domestic abuse which could include any of the following: (a) an order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available from the clerk of the district court. The resources available in this community for information relating to domestic violence, treatment of injuries and places of safety and shelters are: (For safety reasons, inclusion of shelter/safe house addresses ~~are~~ is not necessary). You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in small

claims court if the total amount claimed is less than three thousand dollars ($3,000).

(3) The peace officer shall make every effort to arrange, offer, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(4) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten (10) days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

SECTION 101. That Section 39-7105, Idaho Code, be, and the same is hereby amended to read as follows:

39-7105. LOCAL EMERGENCY RESPONSE AUTHORITIES -- DESIGNATION. (1) It is the purpose of the provisions of this section to provide for the designation of local emergency response authorities for hazardous substance incidents.

(2) Cities and counties shall designate the local emergency response authorities for hazardous substance incidents that occur within their respective jurisdictions. Cities and counties are encouraged to appoint a response authority whose members will become trained in hazardous substance incident response.

(a) The governing body of every city shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the corporate limits of such city. A city may designate the county as its emergency response authority and participate in the county plan for hazardous substance incident response, and shall notify the county of that designation in writing.

(b) The board of county commissioners of every county in the state shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the unincorporated area of such county.

(c) The governing body of every city and every board of county commissioners shall notify the military division and Idaho emergency medical services communications center of its designated local emergency response authority. Such notification shall be in writing and shall occur as soon as practicable, and, in any event, no later than sixty (60) calendar days after this chapter becomes effective. Thereafter, any changes in such designations shall be communicated to the military division and Idaho emergency medical services communications center no later than ten (10) working days before such change becomes effective.

(d) If no local emergency response authority having the ability to respond to a hazardous substance incident exists within a city or county or if such a political subdivision is unable to obtain the services of an emergency response authority by way of a mutual aid agreement, contract or otherwise, such city or county may petition the military division to designate an emergency response authority to respond to hazardous substance incidents within the petitioning political subdivision's jurisdiction. The military division, in consultation with such political subdivision, may

thereafter designate appropriate local emergency response authorities.

(3) If a hazardous substance incident occurs in an area in which no local emergency response authority has been designated, or if the Idaho state police ~~division of the department of law enforcement~~ has been designated as the local emergency response authority, the Idaho state police ~~division~~ shall be the local emergency response authority for such hazardous substance incident for the purposes of this section.

SECTION 102. That Section 39-7408D, Idaho Code, be, and the same is hereby amended to read as follows:

39-7408D. DUTIES OF THE DIRECTOR RELATIVE TO SITING APPLICATIONS. (1) Upon receipt of a complete siting license application, the director or an authorized representative of the director shall:

(a) Notify the permanent panel members, the city and/or county in which the commercial solid waste facility is located or proposed to be located, the director of the department of fish and game, the director of the ~~department of law enforcement~~ Idaho state police, and other state agencies as deemed appropriate by the director.

(b) Publish a notice that the application has been received, as provided in section 60-109, Idaho Code, in a newspaper having major circulation in the county and the immediate vicinity of the proposed commercial solid waste facility. The notice shall contain a map indicating the location of the proposed commercial solid waste facility, a description of the proposed action and the location where the application may be reviewed. The notice shall describe the procedure by which the siting license may be granted.

(2) Upon notification by the director, the chairman shall immediately notify the representatives of the state to the panel and the public members. The chairman shall also notify the applicable county and city for their appointment of members as provided in subsection (2) of section 39-7408B, Idaho Code. Within thirty (30) days after the notification, the board of commissioners of the county and the city council shall select the members to serve on the panel. The panel shall be created at that time and notification of the creation of the panel shall be made to the chairman.

(3) Within thirty (30) days after appointment of panel members, the panel shall meet to review and establish a timetable for the consideration of the draft site license.

(4) The panel shall:

(a) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed site, at its first meeting. The public notice shall:

(i) Contain a map indicating the location of the proposed commercial solid waste facility, a description of the proposed action, and the location where the application for a siting license may be reviewed and where copies may be obtained;

(ii) Identify the time, place and location for the public hearing held to receive public comment and input on the application for a siting license;

(b) Publish the notice not less than thirty (30) days before the date of the public hearing and the notice shall be, at a minimum, a twenty (20) days' notice as provided in section 60-109, Idaho Code.

(5) Comment and input on the proposed commercial solid waste facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the panel for thirty (30) days after the public hearing date. The public hearing shall be held in the same county as the proposed site. If the proposed site is adjacent to a city or populated area in a neighboring county, it is recommended that public hearings also be held in the neighboring county.

(6) The panel shall consider, but not be limited to, the following:

(a) The risk of the spread of disease or impact upon public health from improper treatment, storage, or incineration methods;

(b) The impact on local units of government where the proposed commercial solid waste facility is to be located in terms of health, safety, cost and consistency with local planning and existing development. The panel shall also consider city and county ordinances, permits or other requirements and their potential relationship to the proposed commercial solid waste facility;

(c) The nature of the probable environmental and public health impact;

(d) The financial capability of the applicant to construct, operate and close the commercial solid waste facility.

(7) The panel shall consider the concerns and objections submitted by the public. The panel shall facilitate efforts to provide that the concerns and objections are mitigated by proposing additional conditions regarding the construction of the commercial solid waste facility. The panel may propose conditions which integrate the provisions of the city or county ordinances, permits or requirements.

(8) Within one hundred eighty (180) days after creation, the panel shall recommend to the director that the license be issued, issued with conditions, or rejected. The director shall act on a license application within sixty (60) days after receipt of the panel's recommendation. If the panel recommends conditions, a clear statement of the need for a condition must be submitted to the director. If the panel recommends rejection, a clear statement of the reasons for the denial must be submitted to the director.

(9) The director shall issue, issue with conditions or reject a siting license only as recommended by the siting panel. The director may reconvene a siting panel and request reconsideration of its original recommendation prior to the director's final action.

(10) An applicant or any person aggrieved by a decision of the director pursuant to this chapter may within sixty (60) days of the director's decision, and, after all remedies have been exhausted under the provisions of this chapter, seek judicial review under the procedures provided in chapter 52, title 67, Idaho Code, and may also seek de novo judicial review.

SECTION 103. 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) 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~~ Idaho state police 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 104. That Section 41-291, Idaho Code, be, and the same is hereby amended to read as follows:

41-291. DEFINITIONS. As used in sections 41-290 through and including section 41-298, Idaho Code:

(1) Sections 41-290 through 41-298, Idaho Code, shall be known as the Idaho Arson and Fraud Reporting-Immunity Act.

(2) "Authorized agencies" shall mean:

(a) The director, ~~department--of--law--enforcement~~ Idaho state police;

(b) The prosecuting attorney responsible for prosecution in the county where the fire or fraud occurred;

(c) The attorney responsible for the prosecution in the county where the fire or fraud occurred as designated by the attorney general;

(d) The department of insurance.

(3) Solely for the purpose of section 41-292(1), Idaho Code, "authorized agencies" shall also include:

(a) The United States attorney's office when authorized or charged with investigation or prosecution of the fire or fraud in question;

(b) The federal bureau of investigation or any other federal agency, charged with investigation or prosecution of the fire or fraud in question.

(4) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

(5) Material will be "deemed important," if within the sole discretion of the "authorized agency," such material is requested by the "authorized agency."

(6) "Action," as used in this statute, shall include nonaction or the failure to take action.

(7) "Immunity" means that no civil action may arise against any person for furnishing information pursuant to section 41-248, 41-258, 41-290, 41-292, 41-296 or 41-297, Idaho Code, where actual malice on the part of the insurance company, department of insurance, state fire marshal, authorized agency, their employees or agents, is not present.

(8) "Financial loss" includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments.

(9) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation and any other legal entity.

(10) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, law or any other licensee of the state whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

(11) "Statement" includes, but is not limited to, any notice statement, any statement submitted on applications for insurance, proof of claim, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bills for services, diagnosis, prescription, hospital or doctor records, X-rays, test results or other evidence of loss, injury or expense, whether oral, written or computer generated.

(12) "Insurer" shall mean any insurance company contemplated by title 41, Idaho Code, any business operating as a self-insured for any purpose, the state insurance fund, and any self-insured as contemplated by title 72, Idaho Code.

SECTION 105. That Section 41-298, Idaho Code, be, and the same is hereby amended to read as follows:

41-298. JURISDICTION -- CONSTRUCTION OF PROVISIONS. (1) The provisions of this chapter shall not be construed to affect or repeal any ordinance of any municipality relating to fire prevention or the con-

trol of arson or fraud, but the jurisdiction of the state fire marshal, the director, department of insurance, and the director, ~~department of law enforcement~~ Idaho state police, in such municipality is to be concurrent with that of the municipal and county authorities.

(2) With the exception of section 41-291(7), Idaho Code, all other provisions of this chapter shall not be construed to impair any existing statutory or common law rights or powers.

SECTION 106. That Section 46-1019, Idaho Code, be, and the same is hereby amended to read as follows:

46-1019. EMERGENCY RESPONSE. (1) There is hereby created an emergency response commission in the office of the governor. The commission shall consist of the following state and local officials, industry representatives, or their designees: the adjutant general of the Idaho national guard; the director of the department of health and welfare; the state fire marshal; the director of the ~~department of law enforcement~~ Idaho state police; the director of the Idaho transportation department; the director of the department of agriculture; the director of the department of lands; the director of the Idaho geological survey; the director of the department of water resources; the coordinator for INEEL oversight; one (1) member representing Idaho cities; one (1) member of an organization representing farmers or ranchers; one (1) member representing Idaho counties; one (1) member representing the hazardous waste or materials transportation industry; one (1) member representing a user of hazardous materials; one (1) member representing the Idaho state fire chief's association; one (1) member representing the Idaho county sheriff's association; one (1) member of the Idaho police chief's association; and one (1) member at large representing the citizens of the state of Idaho. The last nine (9) members shall be appointed by the governor to serve staggered three (3) year terms. The manager of the bureau of disaster services and the manager of the bureau of hazardous materials shall be nonvoting members of the commission. All members shall serve without compensation, except that members who are not state officers or employees shall be compensated as provided in section 59-509(g), Idaho Code. The governor shall appoint a chairman from the appointees. The attorney general shall provide legal counsel to the commission.

(2) The commission shall act as an all-hazards advisory and coordinating body to the governor for all types of disasters and emergencies which could affect the citizens of Idaho. They shall review, evaluate, report and advise the governor on state and local plans and programs to prepare for, respond to, and recover from all types of disaster emergencies.

SECTION 107. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A.

(1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the

right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. 5052(a), of the internal revenue code;

(b) Wine of not less than one-half of one per cent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the internal revenue code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All terrain vehicle" or "ATV" means any recreation vehicle with two (2) or more tires, weighing under six hundred fifty (650) pounds, less than forty-eight (48) inches in width, traveling on low pressure tires of less than five (5) psi, and designed to be ridden by one (1) person. Such vehicles shall be registered under the provisions of section 49-402, Idaho Code, for operation on public highways, unless exempted under the provisions of section 49-426, Idaho Code.

(11) "Amateur radio operator." (See "Radio operator, amateur", section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the ~~department of law enforcement~~ Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" mean the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(18) "Authorized officer" means any member of the Idaho state police ~~division of the department of law enforcement~~, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

SECTION 108. 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~~ Idaho state police applicable to motor carriers.

(5) "Commercial coach." (See section 39-4105, Idaho Code)

(6) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(7) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(8) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or 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.

(9) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(10) "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.

(12) "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.

(13) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(14) "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 109. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

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

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

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

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

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

(6) "Disclose" means to engage in any practice or conduct to make

available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

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

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

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

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

(11) "District" means:

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

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

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

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

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

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

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

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

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

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

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

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

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

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

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

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

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

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

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

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

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

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

SECTION 110. 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~~ Idaho state police 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, 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, 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.

(l) 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 homemade 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, com-

mission 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)

(7) "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 111. That Section 49-201, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways and sixty-five (65) miles per hour on state highways, which shall be

effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs. The authority of the board to establish speed limits on state highways pursuant to this section does not restrict the authority of the duly elected officials of an incorporated city acting in the capacity of a local authority to establish lower speed limits for 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, for the purpose of enhancing motorist and pedestrian safety.

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

SECTION 112. 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 furnishing copies of 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 searching 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 contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (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~~ fund.

(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~~ Idaho state police if conducted by the Idaho state police ~~division~~ or in the state highway ~~account~~ fund 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~~ fund. The director and the director of the ~~department of law enforcement~~ Idaho state police shall jointly determine the amount to be transferred from the state highway ~~account~~ fund to the law enforcement ~~account~~ fund for motor carrier safety programs conducted by the ~~department of law enforcement~~ Idaho state police 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 requests revocation, or whenever an interstate carrier's 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 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 113. That Section 49-218, Idaho Code, be, and the same is hereby amended to read as follows:

49-218. DESIGNATION OF AUTHORIZED EMERGENCY VEHICLES. The director of the ~~department-of-law-enforcement~~ Idaho state police shall designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property, or to the execution of emergency governmental functions.

Any person who operates a motor vehicle in a manner which would lead one to reasonably believe it was an emergency vehicle without prior approval of the director of ~~law--enforcement~~ the Idaho state police, shall be guilty of a misdemeanor and shall be subject to a fine of not less than three hundred dollars ($300) and may be incarcerated for not more than thirty (30) days in jail for each occurrence.

SECTION 114. That Section 49-235, Idaho Code, be, and the same is hereby amended to read as follows:

49-235. ENFORCEMENT BY PEACE OFFICERS. (1) The director of the ~~department--of--law--enforcement~~ Idaho state police, his officers and employees, and other peace officers as the director of the ~~department of--law--enforcement~~ Idaho state police may authorize in writing may, upon reasonable cause, require the driver of a vehicle to stop and submit the vehicle and its equipment to an inspection and a test as may be appropriate.

(2) In the event a vehicle is found to be in an unsafe condition, or the required equipment is not present, or is not in proper repair and adjustment, the officer shall give a written notice to the driver and send a copy to the ~~department--of--law--enforcement~~ Idaho state police. The notice shall require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment, and a certificate of inspection and approval for the vehicle be obtained within five (5) days. Every owner or driver upon receiving such a notice shall comply with the notice and shall within the five (5) days secure an ~~indorsement~~ endorsement upon the notice by the person making the repair or adjustment that the vehicle is in safe condition and its equipment in proper repair and adjustment, and shall forward the notice to the ~~department-of-law-enforcement~~ Idaho state police.

(3) No person shall operate any vehicle after receiving a notice

as provided in this section, until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this title.

SECTION 115. That Section 49-509, Idaho Code, be, and the same is hereby amended to read as follows:

49-509. STOLEN VEHICLES -- REPORTING BY OFFICERS -- PUBLICATION OF LISTS -- RECOVERED CARS -- NOTICE. (1) It shall be the duty of every sheriff, chief of police, constable, officer of the Idaho state police ~~division of the department of law enforcement~~, or officer having knowledge of a stolen vehicle, to immediately furnish the ~~department--of--law--enforcement~~ Idaho state police with full information in connection therewith, and it shall be the duty of the ~~department--of law--enforcement~~ Idaho state police whenever it shall receive a report of the theft or conversion of a vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record of it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number with the index records of the vehicles of the same make.

(2) The ~~department of law enforcement~~ Idaho state police shall prepare a report listing vehicles stolen and recovered as disclosed by reports submitted to it, and the report shall be distributed as deemed advisable. At least once each month the ~~department of law enforcement~~ Idaho state police shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every municipality of over three thousand (3,000) population within this state, and shall transmit copies of the reports to the motor vehicle departments of other states. In the event of the receipt by the ~~department of--law--enforcement~~ Idaho state police of a certificate of title to a stolen vehicle, the ~~department of law enforcement~~ Idaho state police shall immediately notify the owner, and if upon investigation it appears that the certificate of title was improperly issued, the transportation department shall immediately cancel it. In the event of the recovery of a stolen or converted vehicle the owner shall immediately notify the ~~department of law--enforcement~~ Idaho state police, which shall cause the record of the theft or conversion to be removed from its file.

SECTION 116. That Section 49-901, Idaho Code, be, and the same is hereby amended to read as follows:

49-901. DUTIES OF DEPARTMENT AND DIRECTOR OF ~~LAW--ENFORCEMENT~~ IDAHO STATE POLICE. (1) The director shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways in lieu of the lamps otherwise required on vehicles by this title. Standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways.

(2) The director may adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried

by school buses supplemental to but consistent with the provisions of section 49-914, Idaho Code. Standards and specifications shall correlate with and so far as possible conform to specifications then current as approved by the society of automotive engineers.

(3) The director is authorized to approve or disapprove lighting devices and to issue and enforce ~~regulations~~ rules establishing standards and specifications for the approval of lighting devices, their installation, adjustment, and aiming, and adjustment when in use on motor vehicles. Regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the society of automotive engineers applicable to that equipment.

(4) The director shall approve or disapprove any lighting device, of a type on which approval is specifically required in this title, within a reasonable time after the device has been submitted. He is authorized to set up the procedure which shall be followed when any device is submitted for approval, and upon approving any lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by him. The department shall publish lists of all lamps and devices by name and type which have been approved. Any person desiring approval of a device shall notify the director in writing of the person's intention and shall submit the device for testing and approval as directed by the director. The director shall not approve a lighting device on any motorcycle or motor-driven cycle that does not have a self-recovery lighting system such as a generator or alternator to replace the power supply.

(5) The director shall approve and disapprove warning lighting devices on emergency and police vehicles and establish standards and specifications for emergency warning lighting devices.

(6) When the department has reason to believe that an approved device as being sold commercially does not comply with the requirements of this title, the director may, after giving thirty (30) days' previous notice to the person holding the certificate of approval for the device in this state, conduct a hearing upon the question of compliance of the approved device. After the hearing he shall determine whether the approved device meets the requirements of this title. If the device does not meet the requirements of this title, he shall give notice to the person holding the certificate of approval for the device in this state.

If at the expiration of ninety (90) days after the notice, the person holding the certificate of approval for the device has failed to satisfy the department that the approved device as thereafter to be sold meets the requirements of this title, the director shall suspend or revoke the approval issued until or unless the device is resubmitted to and retested by an approved testing agency and found to meet the requirements of this title, and may require that all the devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this title. The department may at the time of the retest, purchase in the open market and submit to the testing agency one or more sets of the approved devices, and if the device upon retest fails to meet the requirements of this title, the director may refuse to renew the certificate of approval of the device.

(7) The director shall adopt and enforce safety requirements,

~~regulations~~ rules and specifications applicable to air conditioning equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to air conditioning equipment approved by the society of automotive engineers.

(8) The director in cooperation with the state board of education shall adopt and enforce ~~regulations~~ rules not inconsistent with this title to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district in the state, and these ~~regulations~~ rules shall by reference be made a part of any contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to these ~~regulations~~ rules.

SECTION 117. That Section 49-910A, Idaho Code, be, and the same is hereby amended to read as follows:

49-910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of ~~law enforcement~~ the Idaho state police for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the ~~department of law enforcement~~ Idaho state police may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

SECTION 118. That Section 49-944, Idaho Code, be, and the same is hereby amended to read as follows:

49-944. STANDARDS FOR WINDSHIELDS AND WINDOWS OF MOTOR VEHICLES -- PROHIBITED ACTS -- PENALTY. (1) It is unlawful for any person to place, install, affix or apply any window tinting film or sunscreening device to the windows of any motor vehicle, except as follows:

(a) Nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below the AS-1 line; if no AS-1 line is identifiable on the windshield, nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below a line extending six (6) inches below and parallel to the exposed windshield;

(b) Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the front side vents, front side windows to the immediate right and left of the driver, and the rear window;

(c) Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than twenty percent (20%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the side windows to the rear of the driver;

(d) Window tinting films or sunscreening devices are materials or devices which are designed to be used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of the sun;

(e) Light transmission is the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material to the amount of total light falling on the product or material;

(f) Luminous reflectance is the ratio of the amount of total light, expressed in percentages, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(2) No person shall operate on the public highways, sell, or offer to sell any motor vehicle with a windshield or windows which are not in compliance with the provisions of this section.

(3) Persons who own a motor vehicle with a windshield or windows not in compliance with the provisions of this section on June 30, 1992, shall not be charged with a violation of the provisions of this section until January 1, 1993. Persons owning a motor vehicle with a windshield or windows not in compliance with the provisions of this section on June 30, 1992, shall have until January 1, 1993, to obtain a certificate from the ~~department--of--law--enforcement~~ Idaho state police indicating that the person owned the motor vehicle containing a windshield or windows not in compliance with the provisions of this section on or before June 30, 1992. The certificate shall be carried in the vehicle. A person operating a motor vehicle with a valid certificate as provided in this subsection shall not be deemed to be vio-

lating the provisions of this section on or after January 1, 1993. The ~~department of law enforcement~~ Idaho state police may promulgate rules ~~and regulations~~ in order to implement the provisions of this section.

(4) Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than seventy percent (70%) plus or minus three percent (3%) for the front windshield and not less than twenty percent (20%) plus or minus three percent (3%) for the windows, with a luminous reflectance of no more than thirty-five percent (35%) plus or minus three percent (3%) in each instance, is permitted for a motor vehicle operated by, or carrying as a passenger, a person who possesses written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight or heat for medical reasons associated with past or current treatment; such written verification shall be carried in the vehicle.

(5) Nothing in this section shall be construed to make illegal the operation or sale of any motor vehicle, the windshield or windows of which are composed of, covered by, or treated with, any material, substance, system, or component with which the motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment from the manufacturer or authorized dealer under any United States government statute or regulation governing such sale at the time of manufacture.

(6) Any person convicted of a violation of the provisions of this section shall be guilty of an infraction.

SECTION 119. That Section 49-1314, Idaho Code, be, and the same is hereby amended to read as follows:

49-1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The director of the ~~department--of--law-enforcement~~ Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all morticians in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

(2) All investigating peace officers shall report traffic fatalities to the county coroner or follow the procedure established by the joint action of the director of the ~~department of law enforcement~~ Idaho state police and the various coroners.

(3) The blood sample, with any information as may be required, shall be delivered to the director of the ~~department of law enforcement~~ Idaho state police or his designee. Upon receipt of the sample the director will cause all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in the sample.

(4) The results of such tests shall be used for statistical purposes and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 120. That Section 49-1814, Idaho Code, be, and the same is hereby amended to read as follows:

49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one of the following:

1. The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police; ~~division of the department of law enforcement;~~

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;

(c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;

(d) Any officer or employee of the division of motor vehicles designated by the director;

(e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or

(f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 121. That Section 49-2205, Idaho Code, be, and the same is hereby amended to read as follows:

49-2205. HAZARDOUS MATERIAL/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT ~~ACCOUNT~~ FUND. (1) For the purposes of the Idaho ~~department of law enforcement~~ state police, there is hereby created ~~an account~~ fund in the state treasury, to be designated the hazardous material/hazardous waste transportation enforcement ~~account~~ fund.

(2) The ~~account~~ fund shall consist of:

(a) Moneys appropriated to the ~~account~~ fund;

(b) Moneys as provided in sections 49-2202 and 49-2203, Idaho Code, and in subsections (1) and (2) of section 49-2209, Idaho Code;

(c) Donations, gifts and grants from any source; and

(d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the ~~account~~ fund may be used by the director for reasonable costs incident to enforcement of the laws and rules related to the transportation of hazardous material or hazardous waste. Such costs include expenditures for inspection and monitoring programs, training of law enforcement personnel to meet specialized needs of hazardous materials/hazardous waste enforcement, and other reasonable expenses necessary for the enforcement of such programs.

(4) All moneys placed in the ~~account~~ fund shall be appropriated annually by the legislature for the purposes described in subsection (3) of this section. All expenditures from the ~~account~~ fund shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers.

(5) Pending use, surplus moneys in the ~~account~~ fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code.

(6) An amount of money equal to the actual and reasonable cost of issuing the permits and endorsements, collecting the moneys for them, and the direct administrative costs as determined by the department and certified by the state controller, shall be paid to the state highway ~~account~~ fund established in section 40-702, Idaho Code.

SECTION 122. That Section 49-2426, Idaho Code, be, and the same is hereby amended to read as follows:

49-2426. MARKING OF VEHICLES -- CERTAIN VEHICLES EXCEPTED. (1) Every motor vehicle owned by or under control and custody of the state of Idaho, except as provided in subsection (2) of this section, or in section 49-2427, Idaho Code, shall be indelibly and conspicuously lettered on each side, in plain letters not less than one and one-half (1 1/2) inches high, with the words "State of Idaho" or "Idaho" with the name of the proper department, as defined in section 67-2402, Idaho Code, in each case inserted following either of these words. The words shall be kept clear, distinct and visible at all times. The provisions of this section shall not be applicable to any motor vehicle in the personal service of the governor, except that upon the front doors of any motor vehicle in his personal service there shall be placed the Great Seal of the state of Idaho.

(2) Motor vehicles under the custody and control of the director of the ~~department of law enforcement~~ Idaho state police and used for confidential investigative purposes when necessary to enforce the laws of this state or motor vehicles under the custody and control of the

director of the department of health and welfare and used for official state business need not be marked as provided in subsection (1) above. Any other department, agency, or entity of the state shall apply in writing to the director for permission to use one or more unmarked vehicles for confidential investigative purposes. Permission shall be granted only in writing and upon a finding of good cause.

SECTION 123. That Section 54-521, Idaho Code, be, and the same is hereby amended to read as follows:

54-521. BOARD OF BARBER EXAMINERS -- POWERS AND DUTIES -- DESIGNATION OF PERSONS TO REPORT TO BOARD. There is hereby created, and established in the department of self-governing agencies, the board of barber examiners. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest (in this chapter referred to as the board) and in addition to the powers herein elsewhere conferred, shall have the following powers and it shall be the duty of the board:

(1~~.~~) To conduct examinations to ascertain the qualifications and fitness of applicants for licenses hereunder and to pass upon the qualifications of all applicants for licenses.

(2~~.~~) To conduct hearings and proceedings in accordance with the provisions of chapter 52, title 67, Idaho Code, to revoke licenses issued under this chapter and to revoke such licenses subject to the provisions of this chapter.

(3~~.~~) To designate what schools of barbering within and without the state are approved schools, and from time to time, to change such designations and to keep public records thereof.

(4~~.~~) To prescribe rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for a fair and wholly impartial method of examination of applicants for licenses hereunder and, subject to the provisions of chapter 52, title 67, Idaho Code, for conducting hearings for the revocation of licenses, defining the qualifications of an approved school of barbering and for the administration of this chapter in general.

Excepting the regulation of schools under section 54-507, Idaho Code, hereof, and the issuance of licenses under section 54-513, Idaho Code, none of the powers and duties specified in the ~~foregoing subdivisions of this~~ subsections~~,~~ (1) to (4), ~~inclusive,~~ shall be exercised by the said bureau except on the action of the board of barber examiners.~~,which board shall be composed as follows: The board of barber examiners shall be composed of the present members of the board of barber examiners as appointed by the commissioner of law enforcement.~~ When vacancies occur on said board, the governor shall appoint new members, but not more than a total of three (3) members, each of whom shall be a registered barber, and shall have been a resident of, and lawfully practicing barbering within the state of Idaho for a period of at least five (5) years next before his appointment, and who is neither directly nor indirectly in any way connected with or interested in the barber supply business nor in any institution offering instruction in barbering. In appointing the members of such board the governor shall give consideration to the recommendations received from the Idaho state barbers association. The board and all assistants

shall be compensated as provided by section 59-509(g), Idaho Code.

The regular term of office of a member of the board shall begin as of the first Monday of July of the year in which he is appointed and shall continue for three (3) years thereafter. A member appointed to fill a vacancy occasioned otherwise than by expiration of a term shall serve the unexpired term of his predecessor.

A vacancy in membership in the board shall occur, and be declared by the governor, whenever the regular term of a member expires, or whenever a member dies, resigns, or is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or to cease to have the qualifications of a member, or to have acquired disqualifications of a member, or to have been absent without reasonable cause from two (2) successive meetings of the board.

The board of barber examiners shall select from its members a chairman, vice-chairman, and secretary who shall serve at the pleasure of the board.

The action and report in writing of the board so designated shall be sufficient authority upon which the bureau may act.

Whenever the board is satisfied that substantial justice has not been done, either in examination or in revocation of a license or otherwise, it may order a reexamination or rehearing of the matter.

SECTION 124. That Section 54-1503, Idaho Code, be, and the same is hereby amended to read as follows:

54-1503. STATE BOARD OF OPTOMETRY ESTABLISHED. There is hereby established in the department of self-governing agencies a state board of optometry composed of five (5) members who will serve for staggered terms of five (5) years each after the effective date of this act unless otherwise provided in this act. Sixty (60) days after the effective date of this act, the bureau of occupational licenses shall send the governor of the state of Idaho a list of ten (10) names of persons eligible to serve on the state board of optometry in the state of Idaho, nominated pursuant to the terms of this act, and the governor of the state of Idaho shall then appoint the five (5) members of the board of optometry from the list of names provided for terms of one (1), two (2), three (3), four (4) and five (5) years from the effective date of this act. A vacancy in membership on the board shall occur when the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy because of the expiration of a regular term provided in this act shall be filled by the governor by appointment of a member for a five (5) year term as provided in this act. Appointments to fill a vacancy occurring for some reason other than expiration of term of office shall be made for the unexpired term which is being filled. The governor may remove any member of the board from membership on the board who is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or who ceases to have the qualifications of a member as provided in this act.

~~From the effective date of this act until the appointment of the state board of optometry established by this act, the optometrists designated and appointed by the commissioner of law enforcement under~~

~~existing--law-and-serving-as-the-members-of-the-state-board-of-examiners-in-optometry-when-this-act-becomes-effective-shall--serve--as--the temporary-state-board-of-optometry-under-the-terms-of-this-act.~~

SECTION 125. That Section 54-1805, Idaho Code, be, and the same is hereby amended to read as follows:

54-1805. THE STATE BOARD OF MEDICINE ESTABLISHED. (1) There is hereby established in the department of self-governing agencies a state board of medicine to be composed of ten (10) members. The membership of the state board of medicine as it exists on the effective date of this act is hereby confirmed as members of the board for the terms to which they were originally appointed.

(2) (a) The board shall consist of ten (10) members. The director of the ~~department-of-law-enforcement~~ Idaho state police shall be a member of the board. Seven (7) members shall be physicians who are residents of this state and engaged in the active practice of medicine in this state, and two (2) members shall be public members.

(b) All physician appointments to the board shall be for six (6) year terms. The physician members shall consist of six (6) members who are licensed to practice medicine and surgery in this state and one (1) member who is licensed to practice osteopathic medicine or osteopathic medicine and surgery in this state. Whenever a term of a member of the board who is licensed to practice medicine and surgery expires or becomes vacant, the Idaho medical association shall nominate three (3) persons licensed to practice medicine and surgery for each such vacancy, and forward such nominations to the governor who shall appoint from among such nominees, one (1) person to be a member of the board to fill such vacancy. Whenever a term of the member of the board who is licensed to practice osteopathic medicine or osteopathic medicine and surgery expires or becomes vacant, the Idaho osteopathic association shall nominate three (3) persons licensed to practice osteopathic medicine or osteopathic medicine and surgery for such vacancy, and shall forward the nominations to the governor who shall appoint from among such nominees one (1) person to be a member of the board to fill such vacancy.

(c) All public members shall be appointed by the governor for three (3) year terms. Public members must reside in the state and be persons of integrity and good reputation who have lived in this state for at least five (5) years immediately preceding their appointment, who have never been authorized to practice a healing art, and who have never had a substantial personal, business, professional, or pecuniary connection with a healing art or with a medical education or health care facility, except as patients or potential patients.

(3) Appointments to fill vacancies occurring from some other reason than expiration of a term for which a member was appointed, shall be made in the same manner as hereinabove set forth for the unexpired term. The governor may remove any member of the board from the membership of the board, who is guilty of malfeasance, misfeasance or nonfeasance.

(4) The board shall elect a chairman from its membership. The

members of the board except for state employees shall be compensated as provided by section 59-509(n), Idaho Code. Five (5) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

SECTION 126. That Section 54-2048, Idaho Code, be, and the same is hereby repealed.

SECTION 127. That Section 54-2503, Idaho Code, be, and the same is hereby amended to read as follows:

54-2503. RACING COMMISSION CREATED -- APPOINTMENT -- REMOVAL -- CLAIMS. There is hereby created in the ~~department of law enforcement~~ Idaho state police the Idaho state racing commission, to consist of three (3) members, who shall be citizens, residents, and qualified electors of the state of Idaho.

The members of said commission shall be appointed by the governor within thirty (30) days after this act takes effect, one (1) for a term to expire on the Thursday following the second Monday in January, 1965, and one (1) for a term to expire on the Thursday following the second Monday in January, 1967, and one (1) for a term to expire on the Thursday following the second Monday in January, 1969, and upon the expiration of the term of any member of said commission, the governor shall appoint a successor for a term of six (6) years. All appointments to the Idaho state racing commission shall be subject to the approval of the senate.

Each member shall hold office until his successor is appointed and qualified. Vacancies on the commission shall be filled by appointment to be made by the governor for the unexpired term.

Any member may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Copy of the notice of hearing shall be served on the member by mailing the same to the member at his last known address at least ten (10) days before the date fixed for said hearing.

SECTION 128. That Section 56-227C, Idaho Code, be, and the same is hereby amended to read as follows:

56-227C. SUBPOENA POWER. The director, his authorized representative, the director of the ~~department of law enforcement~~ Idaho state police, his authorized representative, and any prosecuting attorney of any county, for the purposes contemplated by this act, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within and without the state of Idaho, as now provided by law, compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. If a person in attendance before such director or his authorized representative or prosecuting attorney refuses, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper or other evidence when ordered so to do by the director or his authorized representative or prosecuting attorney, said director or his authorized representative or prosecut-

ing attorney may apply to the judge of the district court of the county where such person is in attendance, upon affidavit for an order returnable not less than two (2) or more than five (5) days, directing such person to show cause before such judge, or any other judge of such district, why he should not be punished for contempt; upon the hearing of such order, if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of court.

No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry by or upon any hearing before any officer so authorized upon the ground that the testimony or evidence, books, papers or documents required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he is compelled, after claiming his privileges against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

Inspectors and investigators employed by the ~~department of law enforcement~~ Idaho state police for the enforcement of this act shall have all the authority given by statute to peace officers of the state of Idaho, including authority to serve and execute warrants of arrest and warrants of search and seizure.

SECTION 129. 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~~ Idaho state police,
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,
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,
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 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 chapter shall not apply to appointments which have been made prior to the effective date of this 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 130. 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 Idaho 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~~ Idaho state police training instructors.

(iii) Brand inspectors and brand inspector supervisors.

(iv) Employees of the ~~department of law enforcement~~ Idaho state police 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~~ Are 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, 1999, a requirement for POST certification for classified state employees may be made only by the 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 criteria 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 mem-

ber 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 131. That Section 63-2552A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED -- RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall be collected an additional tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of five ~~per-cent~~ <u>percent</u> (5%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor:

(a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter shall bear interest at the rate of one ~~per--cent~~ <u>percent</u> (1%) per month.

(3) Fifty ~~per-cent~~ <u>percent</u> (50%) of the tax collected pursuant to this section shall be subject to appropriation to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system of which amount two hundred fifty thousand dollars ($250,000) shall be remitted annually to the ~~department-of-law-enforcement~~ <u>Idaho state police</u> to increase toxicology lab capacity in the bureau of forensic services for drug testing of juveniles, and fifty ~~per-cent~~ <u>percent</u> (50%) shall be subject to appropriation to the department of juvenile corrections for distribution quarterly to the counties to be utilized for county juvenile probation services, based upon the percentage the population of the county bears to the population of the state as a whole. The moneys remitted to the ~~department--of--law--enforcement~~ <u>Idaho state police</u> shall be reviewed annually and any money excess to the operations needs of the laboratory for juvenile drug testing will be returned to the public school income fund for substance abuse programs in the public school system. The laboratory may utilize this increased toxicology capacity for adult drug testing to the extent that timely testing for juveniles is not adversely impacted.

SECTION 132. That Section 67-1405, Idaho Code, be, and the same is hereby amended to read as follows:

67-1405. DUTIES OF THE ATTORNEY GENERAL REGARDING CHILD SEXUAL ABUSE REPORTS. (1~~.~~) The department of health and welfare, each city police department, each county sheriff and the ~~department--of--law enforcement~~ Idaho state police shall submit to the office of the attorney general a report of each child sexual abuse incident reported to each agency of state or local government. The report shall contain such information as specified by the attorney general. It shall be the duty of the attorney general to the greatest extent possible to use and develop the information required in this section on forms currently in use by each governmental entity, thus avoiding unnecessary paperwork.

(2~~.~~) It shall be the duty of each county prosecuting attorney to submit to the office of the attorney general a report of each child sexual abuse case handled by the prosecuting attorney. The report required pursuant to this section shall be designed by the attorney general to minimize the paperwork impact on each county prosecutor.

(3~~.~~) The administrative office of the courts shall submit to the office of the attorney general a report showing the disposition of each child sexual abuse case handled by each of the district courts throughout the state. This reporting requirement may be satisfied by submission of a copy of a judgment made and entered in each case.

(4~~.~~) The commission on pardons and parole shall submit to the office of the attorney general a report showing the release or discharge of any individual convicted of a crime involving child sexual abuse. Such report shall be designed to minimize the paperwork impact upon the commission.

(5~~.~~) The office of the attorney general in conjunction with the governor of the state of Idaho shall report, prepare and submit to the legislature a report showing all of the statistical data and information compiled as a result of the reporting requirement contained within this section. This report shall be prepared and submitted no later than January 20, of each year.

SECTION 133. That Section 67-1605, Idaho Code, be, and the same is hereby amended to read as follows:

67-1605. LAW ENFORCEMENT AND SECURITY. Responsibility for law enforcement at the capitol building is vested in the director of the ~~department-of-law-enforcement~~ Idaho state police. In coordination with the director of ~~law-enforcement~~ the Idaho state police, Ada County and Boise City are granted jurisdiction to enforce the laws of the state of Idaho and the ordinances of Ada County and Boise City for the capitol building. The director of the department of administration, or his designee, shall be responsible for security in the capitol building and has the authority to contract with private contractors to provide security for persons and property in the capitol building.

SECTION 134. That Section 67-2337, Idaho Code, be, and the same is hereby amended to read as follows:

67-2337. EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS. (1) As used in this section, "peace officer" shall mean a certified full-time paid employee of a police or law enforcement agency whose duties

include and primarily consist of the prevention, investigation and detection of crime, and the enforcement of penal, traffic, or highway laws of this state or any political subdivision.

(2) All authority that applies to peace officers when performing their assigned functions and duties within the territorial limits of the respective city or political subdivisions, where they are employed, shall apply to them outside such territorial limits to the same degree and extent only when any one (1) of the following conditions exist:

(a) A request for law enforcement assistance is made by a law enforcement agency of said jurisdiction.

(b) The peace officer possesses probable cause to believe a crime is occurring involving a felony or an immediate threat of serious bodily injury or death to any person.

(c) When a peace officer is in fresh pursuit as defined in and pursuant to chapter 7, title 19, Idaho Code.

(3) Subsection (2) of this section shall not imply that peace officers may routinely perform their law enforcement duties outside their jurisdiction in the course and scope of their employment.

(4) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. In the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(5) Circumstances surrounding any actual exercise of peace officer authority outside the territorial limits of the city, county, or political subdivision of their employment shall be reported, as soon as safety conditions allow, to the law enforcement agency having jurisdiction where the authority granted herein is exercised and the officer shall relinquish authority and control over any event to the authority having jurisdiction.

(6) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the ~~department of law enforcement~~ Idaho state police, for acts done under a mutual assistance compact created under this section.

SECTION 135. That Section 67-3001, Idaho Code, be, and the same is hereby amended to read as follows:

67-3001. DEFINITIONS. As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

(2) "Bureau" means the bureau of criminal identification in the Idaho ~~department of law enforcement~~ state police.

(3) "Court" means any court created by the constitution and laws of the state of Idaho; and clerks of the district court.

(4) "Criminal history records" means physical and automated information on individuals collected and maintained by the ~~department of law enforcement~~ Idaho state police as a result of arrest or the initiation of a criminal proceeding by felony summons or information. A criminal history record includes, as defined by department rule, any or all of the following information relating to each event that is subject to fingerprinting under section 67-3004, Idaho Code:

(a) Information relating to offenders;

(b) Information relating to arrests;

(c) Information relating to prosecutions;

(d) Information relating to the disposition of cases by courts;

(e) Information relating to sentencing;

(f) Information relating to probation and parole status; and

(g) Information relating to offenders received by a correctional agency, facility or other institution.

The term shall not include statistical or analytical records, reports in which individuals are not identified and from which their identities are not ascertainable, criminal intelligence information or criminal investigative information, and source information or records maintained by and held at another criminal justice agency or the court.

(5) "Criminal justice agency" means a governmental agency or subdivision of a government entity that performs the administration of criminal justice pursuant to a statute, and that allocates a substantial portion of its budget to the administration of criminal justice.

(6) "Department" means the Idaho ~~department--of--law--enforcement~~ state police.

(7) "Director" means the director of the Idaho ~~department of law enforcement~~ state police.

(8) "Disposition" means the formal or informal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(9) "Fingerprints" means the fingerprint impressions submitted to and compiled by the bureau, in a manual or automated form, pursuant to section 67-3004, Idaho Code.

(10) "Pecuniary benefit" means any benefit to a person or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(11) "Retainable offense" means:

(a) A felony; or

(b) A serious misdemeanor as defined by rule adopted under section 67-3003(2), Idaho Code.

(12) "Subject of record" means the person who is or may be the primary subject of a record of criminal justice information or any representative of the person designated by power of attorney or notarized authorization.

(13) "Working day" means each day except Saturday, Sunday, or a legal state holiday.

SECTION 136. That Section 67-4237, Idaho Code, be, and the same is hereby amended to read as follows:

67-4237. PARKING VIOLATIONS. (1) If any vehicle, as defined in chapter 1, title 49, Idaho Code, is stopped, standing, or parked in an illegal or unauthorized manner within a state park and the operator cannot be identified readily, the fact that the vehicle is registered or leased in the name of a person shall be prima facie evidence that such person was in control of the vehicle at the time it was parked, unless that person can prove to the satisfaction of the court the vehicle was driven and stopped, placed or parked by an unauthorized person.

(2) The provisions of this section shall be enforced by commissioned peace officers of the ~~department-of-law-enforcement~~ Idaho state police, employees of the department of parks and recreation authorized by the director of the ~~department--of--law--enforcement~~ Idaho state police, the sheriff and his deputies of any county in the state and any peace officer of the state of Idaho.

(3) Any violation of the provisions of this section shall be an infraction and punishable as provided in section 18-113A, Idaho Code.

SECTION 137. That Section 67-7034, Idaho Code, be, and the same is hereby amended to read as follows:

67-7034. PERSONS UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES.

(1) (a) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.08, as defined in subsection (5) of this section, or more, as shown by analysis of his blood, urine, breath, or other bodily substance, to operate or be in actual physical control of a vessel on the waters of the state of Idaho.

(b) It is unlawful for any person under twenty-one (21) years of age who has an alcohol concentration of at least 0.02 but less than 0.10, as defined in subsection (5) of this section, to operate or be in actual physical control of a vessel on the waters of the state.

(2) Any person having an alcohol concentration of less than 0.08, as defined in subsection (5) of this section, as shown by analysis of his blood, urine, breath, or other bodily substance, by a test requested by an authorized law enforcement officer shall not be prosecuted for operating under the influence of alcohol, except as provided in subsection (1)(a) and subsection (3) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for operating or being in actual physical control of a vessel while under the influence of alcohol, drugs, or any other intoxicating substances, or other competent evidence.

(3) If the results of the test requested by an authorized law enforcement officer show a person's alcohol concentration of less than 0.08, as defined in subsection (5) of this section, such fact may be considered with other competent evidence of drug use other than alco-

hol in determining the guilt or innocence of the defendant. This subsection does not preclude prosecution for alcohol intoxication for persons described in subsection (1)(b) of this section.

(4) Persons authorized to withdraw blood for the purposes of determining content of alcohol or other intoxicating substances are those persons authorized in section 18-8003, Idaho Code. Immunity from liability in any civil proceeding for specified causes of action shall be extended to personnel as provided in section 18-8002, Idaho Code.

(5) For purposes of this chapter, an evidentiary test for alcohol concentration is a determination of the percent by weight of alcohol in blood and shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the blood alcohol concentration shall be performed by a laboratory operated by the Idaho ~~department of law enforcement~~ state police or by a laboratory approved by the Idaho ~~department of law enforcement~~ state police under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho ~~department of law enforcement~~ state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho ~~department of law enforcement~~ state police or by any other method approved by the Idaho ~~department of law enforcement~~ state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(6) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which renders him incapable of safely operating a vessel to operate or be in actual physical control of a vessel on the waters of the state of Idaho. The fact that any person charged with a violation of the provisions of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of a violation of the provisions of this subsection.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

SECTION 138. That Section 67-7036, Idaho Code, be, and the same is hereby amended to read as follows:

67-7036. TESTING BLOOD OF PERSONS KILLED IN VESSEL ACCIDENTS. The director of the ~~department of law enforcement~~ Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all morticians in the state of Idaho shall obtain blood samples from all vessel operators who have died as a result of

and contemporaneously with an accident involving a vessel.

All investigating sheriffs, deputy sheriffs, or police officers shall report such fatalities to the county coroner or follow the procedure established by the joint action of the director of the ~~department-of-law-enforcement~~ Idaho state police and the various coroners.

The blood sample, with such information as may be required, will be delivered to the director of the ~~department--of--law--enforcement~~ Idaho state police or his designee. Upon receipt of such sample the director will cause such tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs contained in such sample.

The results of such tests shall be used exclusively for statistical purposes and the sample shall never be identified with the name of the deceased. Any person releasing or making public such information other than as herein prescribed, shall be guilty of a misdemeanor.

SECTION 139. That Section 67-7133, Idaho Code, be, and the same is hereby amended to read as follows:

67-7133. RESPONSIBILITY FOR ENFORCEMENT. The provisions of this chapter shall be enforced by the law enforcement personnel of the ~~department--of--law--enforcement~~ Idaho state police, the department of fish and game, employees of the department of parks and recreation authorized by the director of the ~~department-of-law-enforcement~~ Idaho state police, the sheriffs and their deputies of the various counties in the state and peace officers of each city.

SECTION 140. That Section 67-7410, Idaho Code, be, and the same is hereby amended to read as follows:

67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

(1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules ~~and-regulations~~ and this chapter;

(2) Require fingerprint and background checks of prospective employees and contractors; and

(3) Access criminal offender record information from the ~~department-of-law-enforcement~~ Idaho state police for the purpose of background or other investigations performed in accordance with this chapter.

Such information obtained and kept by the security director shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

Approved April 17, 2000.

CHAPTER 470
(H.B. No. 663)

AN ACT

RELATING TO CERTAIN SUITS AGAINST FIREARMS OR AMMUNITION MANUFACTURERS, TRADE ASSOCIATIONS OR SELLERS; AMENDING CHAPTER 2, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-247, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE THAT A GOVERNMENTAL UNIT MAY NOT BRING SUIT AGAINST A FIREARMS OR AMMUNITION MANUFACTURER, TRADE ASSOCIATION OR SELLER FOR RECOVERY OF DAMAGES RESULTING FROM OR INJUNCTIVE RELIEF OR ABATEMENT OF A NUISANCE RELATING TO THE LAWFUL DESIGN, MANUFACTURE, MARKETING OR SALE OF FIREARMS OR AMMUNITION TO THE PUBLIC, TO ALLOW SUIT AFTER LEGISLATIVE AUTHORIZATION AND TO PROVIDE WHEN SUITS ARE AUTHORIZED AND TO ALLOW THE ATTORNEY GENERAL TO BRING SUIT UNDER CERTAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 2, 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 5-247, Idaho Code, and to read as follows:

5-247. LIMITATION ON SUITS AGAINST A FIREARMS OR AMMUNITION MANUFACTURER, TRADE ASSOCIATION OR SELLER -- LIMITATION ON RIGHT TO BRING SUIT OR RECOVER DAMAGES. (1) In this section, "governmental unit" means:

(a) A political subdivision of the state, including a municipality or county; and

(b) Any other agency of government whose authority is derived from the laws or constitution of this state.

(2) Except as provided by subsection (3) of this section, a governmental unit may not bring suit against a firearms or ammunition manufacturer, trade association or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing or sale of firearms or ammunition to the public.

(3) A governmental unit on behalf of the state or any other governmental unit may bring a suit described by subsection (2) of this section if the suit is approved in advance by the legislature by adoption of a concurrent resolution or by enactment of a statute. This subsection does not create a cause of action.

(4) Nothing in this section shall prohibit a governmental unit from bringing an action against a firearms manufacturer, trade association or seller for recovery of damages for:

(a) Breach of contract or warranty as to firearms or ammunition purchased by a governmental unit;

(b) Damage or harm to property owned or leased by the governmental unit caused by a defective firearm or ammunition; or

(c) Injunctive relief to enforce a valid ordinance, statute or rule.

(5) Nothing in this section shall prohibit the attorney general from bringing a suit described by subsection (2) of this section on behalf of the state or any other governmental unit. This subsection does not create a cause of action.

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

Approved April 17, 2000.

CHAPTER 471
(H.B. No. 735)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Self-Governing Operating Fund	$2,935,800	$1,541,800	$228,300	$4,705,900
Federal Grant Fund	111,100	46,200		157,300
Miscellaneous Revenue Fund	42,200	2,000		44,200
TOTAL	$3,089,100	$1,590,000	$228,300	$4,907,400
II. STATE FIRE MARSHAL:				
FROM:				
Self-Governing State Fire Marshal Fund	$ 521,800	$ 263,800	$ 90,100	$ 875,700
GRAND TOTAL	$3,610,900	$1,853,800	$318,400	$5,783,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than sixty-eight and one-half (68.5) full-time equivalent positions at any point during the period July 1, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 472
(H.B. No. 750)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTION 41-4702, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 41-4703, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4706, IDAHO CODE, TO EXPAND THE RATE BANDS FOR SMALL EMPLOYER CARRIERS AND TO PROVIDE A DATE AFTER WHICH THE RATE BANDS WILL TERMINATE WITH RESPECT TO SMALL EMPLOYER HEALTH BENEFIT PLANS OTHER THAN THE SMALL EMPLOYER BASIC, STANDARD AND CATASTROPHIC HEALTH BENEFIT PLANS, TO PROVIDE A CODE REFERENCE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-4707, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-4708, IDAHO CODE, TO PROVIDE THAT A SMALL EMPLOYER CARRIER SHALL OFFER ALL BENEFIT PLANS TO SMALL EMPLOYERS, INCLUDING THE SMALL EMPLOYER BASIC, STANDARD AND CATASTROPHIC HEALTH BENEFIT PLANS, TO DELETE OBSOLETE AND REDUNDANT LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4711, IDAHO CODE, TO PROVIDE THAT THE BOARD ADMINISTERING THE SMALL EMPLOYER CARRIER REINSURANCE PROGRAM SHALL BE THE SAME BOARD ADMINISTERING THE INDIVIDUAL HIGH RISK REINSURANCE POOL, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE FOR APPLICATION OF THE SECTION TO SMALL EMPLOYER HEALTH BENEFIT PLANS ONLY, TO CORRECT TERMINOLOGY, TO PROVIDE FOR IMMUNITY OF THE BOARD AND ITS EMPLOYEES FOR ACTS OR OMISSIONS RELATED TO THE PERFORMANCE OF THEIR POWERS AND DUTIES AND FOR INDEMNIFICATION OF AND LEGAL REPRESENTATION FOR BOARD MEMBERS AND EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4712, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL DEVELOP AND DETERMINE NECESSARY CHANGES TO THE SMALL EMPLOYER BASIC, STANDARD AND CATASTROPHIC HEALTH BENEFIT PLANS AND MAY APPOINT AN ADVISORY COMMITTEE TO ASSIST THE BOARD THEREWITH AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4716, IDAHO CODE, TO PROVIDE FOR ACTIVE MARKETING BY SMALL EMPLOYER CARRIERS OF SMALL EMPLOYER BASIC, STANDARD AND CATASTROPHIC HEALTH BENEFIT PLANS, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTIONS 41-4714, 41-4718 AND 41-5213, IDAHO CODE; AMENDING SECTION 41-5202, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 41-5203, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-5204, IDAHO CODE, TO EXEMPT APPLICATION OF THE CHAPTER TO INDI-

VIDUAL HEALTH BENEFIT PLANS COVERED IN CHAPTER 55, TITLE 41, IDAHO CODE, AND TO CORRECT TERMINOLOGY; AMENDING SECTION 41-5206, IDAHO CODE, TO EXPAND THE RATE BANDS APPLICABLE TO INDIVIDUAL HEALTH BENEFIT PLANS, TO PROVIDE THE DATE AFTER WHICH THE RATE BANDS SHALL TERMINATE WITH RESPECT TO INDIVIDUAL HEALTH BENEFIT PLANS OTHER THAN THE INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A AND CATASTROPHIC B PLANS, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-5207, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-5208, IDAHO CODE, TO PROVIDE THAT INDIVIDUAL CARRIERS SHALL ACTIVELY OFFER HEALTH BENEFIT PLANS INCLUDING THE INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A AND CATASTROPHIC B HEALTH BENEFIT PLANS, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 41-5212, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 55, TITLE 41, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR CREATION OF THE INDIVIDUAL HIGH RISK REINSURANCE POOL AND THE BOARD, TO PROVIDE FOR THE PLAN OF OPERATION OF THE POOL, TO PROVIDE THE POWERS AND AUTHORITY OF THE POOL, TO PROVIDE FOR REINSURANCE OF INDIVIDUAL CARRIERS ISSUING INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A OR CATASTROPHIC B HEALTH BENEFIT PLANS, TO PROVIDE FOR REINSURANCE PREMIUM RATES, TO PROVIDE FOR PREMIUM RATES FOR PLAN COVERAGE, TO PROVIDE FOR ASSESSMENTS OF CARRIERS, TO PROVIDE STANDARDS FOR AGENTS, TO PROVIDE FOR ELIGIBILITY OF AN INDIVIDUAL FOR COVERAGE UNDER AN INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A OR CATASTROPHIC B HEALTH BENEFIT PLAN AND TO PROVIDE FOR THE DESIGN AND BENEFIT LEVELS OF THE INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A AND CATASTROPHIC B HEALTH BENEFIT PLANS; AMENDING SECTION 41-406, IDAHO CODE, TO PROVIDE FOR DIVERSION OF A PORTION OF THE PREMIUM TAX TO THE INDIVIDUAL HIGH RISK REINSURANCE POOL AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING AN EFFECTIVE DATE AND PROVIDING WHEN THE INDIVIDUAL POOL PLANS SHALL BE AVAILABLE; PROVIDING FOR APPOINTMENT OF A JOINT LEGISLATIVE OVERSIGHT COMMITTEE TO MONITOR THE EFFECTS OF THE ACT; AND PROVIDING THAT THE HEALTH INSURANCE PREMIUMS TASK FORCE SHALL DETERMINE A METHOD OF LIMITING ASSESSMENTS FOR THE INDIVIDUAL HIGH RISK POOL ON CARRIERS PROVIDING REINSURANCE BY WAY OF EXCESS OR STOP LOSS COVERAGE AND ON INDIVIDUAL CARRIERS PRIOR TO THE 2001 ASSESSMENT AND SHALL REVIEW OPTIONS FOR INITIALLY LIMITING ENROLLMENT IN THE POOL.

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

SECTION 1. That Section 41-4702, Idaho Code, be, and the same is hereby amended to read as follows:

41-4702. PURPOSE. The purpose and intent of this chapter is to promote the availability of health insurance coverage to small employers regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of preexisting condition exclusions, ~~to provide for the development of "basic" and "standard" health benefit plans to be offered to all small employers,~~ to provide for estab-

lishment of a reinsurance program, and to improve the overall fairness and efficiency of the small group health insurance market.

This chapter is not intended to provide a comprehensive solution to the problem of affordability of health care or health insurance.

SECTION 2. That Section 41-4703, Idaho Code, be, and the same is hereby amended to read as follows:

41-4703. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 41-4706, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means an agent as defined in section 41-1021, Idaho Code, or a broker as defined in section 41-1024, Idaho Code.

(4) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(5) ~~"Basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.~~

~~(6)~~ "Board" means the board of directors of the small employer reinsurance program ~~established pursuant to~~ and the individual high risk reinsurance pool as provided for in section 41-~~4711~~5502, Idaho Code.

(~~7~~6) "Carrier" means any entity that provides health insurance in this state. For the purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(~~8~~7) "Case characteristics" means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(~~9~~8) "Catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(~~10~~9) "Class of business" means all or a separate grouping of small employers established pursuant to section 41-4705, Idaho Code.

~~(11) "Committee" means the health benefit plan committee created pursuant to section 41-4712, Idaho Code.~~

(1~~2~~0) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(1~~3~~1) "Dependent" means a spouse, and unmarried child under the age of nineteen (19) years, and unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(1~~4~~2) "Director" means the director of the department of insurance of the state of Idaho.

(1~~5~~3) "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (30) hours per week. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, seasonal or substitute basis. The term eligible employee may include public officers and public employees without regard to the number of hours worked when designated by a small employer.

(1~~6~~4) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(1~~7~~5) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or ~~health maintenance~~ managed care organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issues for a period of twelve (12) months or less.

(1~~8~~6) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(1~~9~~7) "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty (30) days. However, an eligible employee or dependent shall not be considered a late enrollee if:

(a) The individual meets each of the following:

(i) The individual was covered under qualifying previous coverage at the time of the initial enrollment;

(ii) The individual lost coverage under qualifying previous

coverage as a result of termination of employment or eligibility, or the involuntary termination of the qualifying previous coverage; and

(iii) The individual requests enrollment within thirty (30) days after termination of the qualifying previous coverage.

(b) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

(c) A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty (30) days after issuance of the court order.

(d) The individual first becomes eligible.

(e) If an individual seeks to enroll a dependent during the first sixty (60) days of eligibility, the coverage of the dependent shall become effective:

(i) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) In the case of a dependent's birth, as of the date of such birth; or

(iii) In the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(~~20~~18) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(~~21~~19) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(2~~2~~0) "Plan year" means the year that is designated as the plan year in the plan document of a group health benefit plan, except that if the plan document does not designate a plan year or if there is no plan document, the year plan is:

(a) The deductible/limit year used under the plan;

(b) If the plan does not impose deductibles or limits on a yearly basis, then the plan year is the policy year;

(c) If the plan does not impose deductibles or limits on a yearly basis or the insurance policy is not renewed on an annual basis, then the plan year is the employer's taxable year; or

(d) In any other case, the plan year is the calendar year.

(2~~3~~1) "Premium" means all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(2~~4~~2) "Program" means the Idaho small employer reinsurance program created in section 41-4711, Idaho Code.

(2~~5~~3) "Qualifying previous coverage" and "qualifying existing coverage" means benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool or any other similar publicly sponsored program; or

(b) Any other group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a health maintenance organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(26~~4~~) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(27~~5~~) "Reinsuring carrier" means a small employer carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(28~~6~~) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(29~~7~~) "Risk-assuming carrier" means a small employer carrier whose application is approved by the director pursuant to section 41-4710, Idaho Code.

(30~~8~~) "Small employer" means any person, firm, corporation, partnership or association that is actively engaged in business that, employed an average of at least two (2) but no more than fifty (50) eligible employees on business days during the preceding calendar year and that employs at least two (2) but no more than fifty (50) eligible employees on the first day of the plan year, the majority of whom were and are employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one (1) employer.

(29) "Small employer basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.

(31~~0~~) "Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one (1) or more small employers in this state.

(31) "Small employer catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(32) "Small employer s~~S~~tandard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

SECTION 3. That Section 41-4706, Idaho Code, be, and the same is hereby amended to read as follows:

41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to ~~the provisions of~~ the following provisions:

(a) The index rate for a rating period for any class of business

shall not exceed the index rate for any other class of business by more than twenty percent (20%).

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than ~~twenty-five~~ fifty percent (~~25~~50%) of the index rate. The provisions of this subsection (1)(b) shall apply until July 1, 2002, with respect to all health benefit plans offered to small employers other than the small employer basic, standard and catastrophic plans.

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(d) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(e) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(f) ~~In--the--case-of-health-benefit-plans-delivered-or-issued-for delivery-prior-to-the-effective-date-of-this--chapter;--a--premium rate--for--a-rating-period-may-exceed-the-ranges-set-forth-in-subsections-(1)(a)-and-(b)-of-this-section-for-a-period-of-three--(3) years--following-the-effective-date-of-this-chapter;-In-such-case, the-percentage-increase-in-the-premium-rate--charged--to--a--small employer--for--a-new-rating-period-shall-not-exceed-the-sum-of-the following:~~

~~(i)---The-percentage-change-in-the-new-business-premium--rate~~

~~measured-from-the-first-day-of-the-prior-rating-period-to-the first--day--of-the-new-rating-period.-In-the-case-of-a-health benefit-plan-into-which-the--small--employer--carrier--is--no longer-enrolling-new-small-employers,-the-small-employer-carrier--shall--use--the--percentage--change-in-the-base-premium rate,-provided-that-such-change-does-not-exceed,--on--a--percentage--basis,--the--change-in-the-new-business-premium-rate for-the-most-similar-health-benefit-plan-into-which-the-small employer-carrier-is-actively-enrolling-new--small--employers; and~~

~~(ii)--Any--adjustment--due-to-change-in-coverage-or-change-in the-case-characteristics-of-the-small-employer-as--determined from-the-carrier's-rate-manual-for-the-class-of-business.~~

~~(g)~~ (i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(~~h~~g) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(~~i~~h) The small employer carrier shall not use case characteristics, other than age, individual tobacco use, geography, as defined by rule of the director, or gender, without prior approval of the director.

(~~j~~i) A small employer carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under ~~the age--of~~ twenty-three (23) years of age, and the same rating factor shall be applied on a quinquennial basis as to individuals or nondependents twenty (20) years of age or older.

(~~k~~j) The director may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(iii) Prescribe the manner in which a small employer carrier is to demonstrate compliance with the provisions of this section, including requirements that a small employer carrier

provide the director with actuarial certification as to such compliance.

(2) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more small employers included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered

proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 4. That Section 41-4707, Idaho Code, be, and the same is hereby amended to read as follows:

41-4707. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject to the provisions of this chapter shall be renewable with respect to all eligible employees or dependents, at the option of the small employer, except in any of the following cases:

(a) Nonpayment of the required premiums;

(b) Fraud or intentional misrepresentation of material fact by the small employer;

(c) Noncompliance with the carrier's minimum participation requirements;

(d) Noncompliance with the carrier's employer contribution requirements;

(e) In the case of health benefit plans that are made available in the small employer market only through one (1) or more associations as defined in section 41-2202, Idaho Code, the membership of an employer 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;

(f) The small employer no longer meets the requirements of section 41-4703(~~30~~28), Idaho Code;

(g) The small employer carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to small employers in this state. In such a case the carrier shall:

(i) Provide advance notice of its decision under this paragraph to the director in each state in which it is licensed; and

(ii) Provide notice of the decision not to renew coverage to all affected small employers and to the director at least one hundred eighty (180) days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the director under the provisions of this paragraph shall be provided at least three (3) working days prior to the notice to the affected small employers; or

(h) The director finds that the continuation of the coverage would:

(i) Not be in the best interests of the policyholders or certificate holders; or

(ii) Impair the carrier's ability to meet its contractual obligations.

In such instance the director shall assist affected small employers in finding replacement coverage.

(2) A small employer carrier that elects not to renew a health benefit plan under the provisions of subsection (1)(g) of this section shall be prohibited from writing new business in the small employer market in this state for a period of five (5) years from the date of notice to the director.

(3) In the case of a small employer carrier doing business in one (1) established geographic service area of the state, the rules set forth in this subsection shall apply only to the carrier's operations in that service area.

SECTION 5. That Section 41-4708, Idaho Code, be, and the same is hereby amended to read as follows:

41-4708. AVAILABILITY OF COVERAGE -- PREEXISTING CONDITIONS -- PORTABILITY. (1) ~~(a)~~ Every small employer carrier shall, as a condition of offering health benefit plans in this state to small employers, actively offer to small employers ~~at least three (3) health~~ all benefit plans~~.~~ ~~One (1) health benefit plan offered by each small employer carrier shall be a~~ including the small employer basic health benefit plan, ~~one (1) plan shall be a~~ the small employer standard health benefit plan, and ~~one (1) plan shall be a~~ the small employer catastrophic health benefit plan.

~~(b) (i) A small employer carrier shall issue a basic, standard or catastrophic health benefit plan to any eligible small employer that applies for either such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.~~

~~(ii) In the case of a small employer carrier that establishes more than one (1) class of business pursuant to the provisions of section 41-4705, Idaho Code, the small employer carrier shall maintain and issue to eligible small employers at least one (1) basic health benefit plan, at least one (1) standard health benefit plan and at least one (1) catastrophic benefit plan in each class of business so established. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business, provided that:~~

~~(A) The criteria are not intended to discourage or prevent acceptance of small employers applying for a basic, standard or catastrophic health benefit plan;~~

~~(B) The criteria are not related to the health status or claim experience of the small employer;~~

~~(C) The criteria are applied consistently to all small employers applying for coverage in the class of business; and~~

~~(D) The small employer carrier provides for the acceptance of all eligible small employers into one (1) or more classes of business.~~

~~The provisions of this paragraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.~~

~~(c) A small employer is eligible under the provisions of para-~~

~~graph (b) of this section if it satisfies the definition of "small employer" set forth in section 41-4703(30), Idaho Code.~~

(2) (a) A small employer carrier shall file with the director, in a format and manner prescribed by the director, the small employer basic, standard and catastrophic health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by a small employer carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of a basic, standard or catastrophic health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering small employers shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage.

(b) Genetic information shall not be considered as a condition described in ~~subsection (3)(a) of~~ this subsection in the absence of a diagnosis of the condition related to such information.

(c) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

(d) A health benefit plan may exclude coverage for late enrollees for the greater of twelve (12) months or for a twelve (12) month preexisting condition exclusion; provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed twelve (12) months from the date the individual enrolls for coverage under the health benefit plan.

(e) (i) Except as provided in ~~subsection (3)~~ paragraph (e)(iv) of this subsection, requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall

be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(ii) A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

(iii) In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

(iv) A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(f) (i) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in paragraph (d) of this subsection.

(ii) A small employer carrier shall not modify a basic, standard or catastrophic health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) A small employer carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To a small employer, where the small employer is not physically located in the carrier's established geographic service area;

(ii) To an employee, when the employee does not work or reside within the carrier's established geographic service area; or

(iii) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(b) A small employer carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(iii) of this section may not offer coverage in the applicable area to new cases of employer groups with more than fifty (50) eligible employees or to any small employer groups until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to small employer groups.

(5) A small employer carrier shall not be required to provide coverage to small employers pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of small employers in accordance with the provisions of subsection (1) of this section would place the small employer carrier in a financially impaired condition.

~~(6)--A-small-employer-carrier-shall-not-be-required-to-comply-with the-provisions-of-this-section-until--the--director--has--approved--or adopted--the-revised-plan-of-operation-as-provided-in-section-41-4711, Idaho-Code.~~

SECTION 6. That Section 41-4711, Idaho Code, be, and the same is hereby amended to read as follows:

41-4711. SMALL EMPLOYER ~~AND-INDIVIDUAL~~ CARRIER REINSURANCE PROGRAM. (1) A reinsuring carrier shall be subject to the provisions of this section.

(2) There is hereby created an independent public body corporate and politic to be known as the Idaho small employer ~~and--individual~~ health reinsurance program. The program will perform an essential governmental function in the exercise of powers conferred upon it in this act and any assessments imposed or collected pursuant to the operation of the program shall at all times be free from taxation of every kind.

(3) ~~(a)~~ The program shall operate subject to the supervision and control of the board established in section 41-5502, Idaho Code. ~~Subject--to--the--provisions-of-subsection-(3)(b)-of-this-section, the-board-shall-consist-of-eight--(8)--members--appointed--by--the director--and--serving--at--the-pleasure-of-the-director,-plus-the director-or-his-designated-representative,-who-shall-serve--as--an ex-officio-member-of-the-board.~~

~~(b)--(i)---In--selecting--the--members--of-the-board,-the-director shall-include-representatives-of-small--employers--and--small employer--carriers,--individual-carriers-and-such-other-individuals-determined-to-be-qualified-by-the-director.-At--least five-(5)-of-the-members-of-the-board-shall-be-representatives of-reinsuring-carriers-and-shall-be-selected-from-individuals nominated--by--small-employer-and-individual-carriers-in-this state-pursuant-to-procedures-and-guidelines-developed-by--the director.~~

~~(ii)--In--the--event--that--the--program-becomes-eligible-for additional-financing-pursuant-to-the-provisions-of-subsection (12)(c)-of-this-section,--the--board--shall--be--expanded--to include--two-(2)-additional-members-who-shall-be-appointed-by the-director.-In-selecting--the--additional--members--of--the board,--the--director--shall-choose-individuals-who-represent carriers-subject-to-assessment-for-additional-financing-identified-in-subsection-(12)(c)-of-this-section.--The--expansion of--the--board--under-the-provisions-of-this-subsection-shall continue-for-the-period-that-the-program-continues-to-be-eligible-for-additional-financing-under-the-provisions--of--subsection-(12)(c)-of-this-section.~~

~~(c)--The--initial-board-members-shall-be-appointed-as-follows:-two (2)-of-the-members-to-serve-a-term-of-two-(2)-years;-three-(3)--of~~

~~the--members--to--serve-a-term-of-four-(4)-years;-and-three-(3)-of the-members-to-serve-a-term-of-six--(6)--years.--Subsequent--board members-shall-serve-for-a-term-of-three-(3)-years.~~

~~(d)--A--vacancy--in--the--board-shall-be-filled-by-the-director.-A board-member-may-be-removed-by-the-director-for-cause.~~

(4) Each small employer ~~and-individual~~ carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery to small employers ~~and-individuals~~ in this state in the previous calendar year.

(5) The board shall submit to the director a plan of operation and thereafter any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the program. The director may, after notice and hearing, approve the plan of operation if the director determines it to be suitable to assure the fair, reasonable and equitable administration of the program, and to provide for the sharing of program gains or losses on an equitable and proportionate basis in accordance with the provisions of this section. The plan of operation shall become effective upon written approval by the director.

(6) If the board fails to submit a suitable plan of operation, the director shall, after notice and hearing, adopt and promulgate a temporary plan of operation. The director shall approve the plan of operation submitted by the board, or adopt a temporary plan of operation if the board fails to submit a suitable plan. The director shall amend or rescind any plan adopted under the provisions of this subsection at the time a plan of operation is submitted by the board and approved by the director.

(7) The plan of operation shall:

(a) Establish procedures for handling and accounting of program assets and moneys and for an annual fiscal reporting to the director;

(b) Establish procedures for selecting an ~~administering--carrier~~ administrator, which ~~carrier~~ shall be ~~a~~ properly licensed ~~or authorized-carrier~~ in this state, and setting forth the powers and duties of the ~~administering-carrier~~ administrator;

(c) Establish procedures for reinsuring risks in accordance with the provisions of this section;

(d) Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program; and

(e) Provide for any additional matters necessary for the implementation and administration of the program.

(8) The program shall have the general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business, except the power to issue health benefit plans directly to either groups or individuals. In addition thereto, the program shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including the authority, with the approval of the director, to enter into contracts with similar programs of other states for the joint performance of

common functions or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any reinsuring carriers;

(c) Take any legal action necessary to avoid the payment of improper claims against the program;

(d) Define the health benefit plans, which plans shall allow coordination of benefits, for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of this chapter;

(e) Establish rules, conditions and procedures for reinsuring risks under the program, including board discretion to operate separate small employer and individual reinsurance pools;

(f) Establish actuarial functions as appropriate for the operation of the program;

(g) Assess carriers in accordance with the provisions of subsection (12) of this section, and to make advance interim assessments of carriers as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year;

(h) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program;

(i) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

(9) A reinsuring carrier may reinsure with the program as provided for in this subsection:

(a) With respect to a small employer basic, standard or catastrophic health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the program shall reinsure up to the level of coverage provided in a small employer basic, standard or catastrophic health benefit plan.

(b) A small employer carrier may reinsure an entire employer group within sixty (60) days of the commencement of the group's coverage under a health benefit plan.

(c) A reinsuring small employer carrier may reinsure an eligible employee or dependent within a period of sixty (60) days following the commencement of the coverage with the small employer. A newly eligible employee or dependent of the reinsured small employer may be reinsured within sixty (60) days of the commencement of his coverage.

(d) ~~A reinsuring individual carrier may reinsure any eligible individual or dependent within a period of sixty (60) days following commencement of the coverage with the individual. Newborn dependents of insureds are not eligible for individual reinsurance unless a parent is already reinsured.~~

~~(e)~~ (i) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured ~~individual,~~

employee or dependent until the carrier has incurred an initial level of claims for such ~~individual,~~ employee or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the program. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next fifty thousand dollars ($50,000) of benefit payments during a calendar year and the program shall reinsure the remainder.

(ii) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(~~f~~e) A reinsuring carrier may terminate reinsurance with the program for one (1) or more of the reinsured ~~individuals,~~ employees or dependents on any anniversary of the health benefit plan.

(~~g~~f) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(10) (a) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers ~~and individuals~~ pursuant to this section. The methodology shall include a system for classification of small employers ~~and--individuals~~ that reflects the types of case characteristics commonly used by small employer ~~and individual~~ carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, ~~which shall be multiplied by the factors set forth in subsection (10)(b) of this section to determine the premium rates--for--the--program. The--base--reinsurance--premium--rates shall be established by the board,~~ subject to the approval of the director, and shall be set at levels which reasonably approximate gross premiums charged to small employers ~~or individuals~~ by small employer ~~or--individual~~ carriers for health benefit plans with benefits similar to the standard health benefit plan, adjusted to reflect retention levels required under the provisions of this chapter.

(b) Premiums for the program shall be as established by the board.

(c) The board periodically shall review the methodology established under the provisions of paragraph (10)(a) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the director.

(d) The board may consider adjustments to the premium rates charged by the program to reflect the use of effective cost containment and managed care arrangements.

(11) If a health benefit plan for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 41-4706, Idaho Code.

(12) (a) Prior to March 1 of each year, the board shall determine and report to the director the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments of carriers.

(c) (i) For the assessment of March 1, 1995, and prior to March 1 of each succeeding year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(ii) The individual assessments shall be determined by multiplying net losses, if net earnings are negative, as defined by subsection (12)(a) of this section, by a fraction, the numerator of which shall be the carrier's total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease, and hospital confinement indemnity in this state as reported in the carrier's annual report pursuant to subsection (16) of this section, and the denominator of which shall be the total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease and hospital confinement indemnity in this state.

(d) If assessments exceed net losses of the program, the excess shall be held at interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(e) Each reinsuring carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the reinsuring carriers with the board.

(f) The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

(g) A reinsuring carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment of a reinsuring carrier if the director determines that the payment of the assessment would place the reinsuring carrier in a financially impaired condition. If all or part of an assessment against a reinsuring carrier is deferred the amount deferred shall be assessed against the other participating carriers in a manner consistent with the basis for assessment set forth in this subsection. The reinsuring carrier receiving the deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any ~~individuals--or~~ groups with the program until such time as it

pays the assessments.

(13) (a) Neither the participation in the program as reinsuring carriers, the establishment of rates, forms or procedures, nor any other joint or collective action required under the provisions of this chapter shall be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately.

(b) Neither the board nor its employees shall be liable for any obligations of the program. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. The board may provide for indemnification of, and legal representation for, its members and employees.

(14) The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to agents for the sale of small employer basic, standard and catastrophic health benefit plans. In establishing such standards, the board shall take into consideration the need to assure the broad availability of coverages, the objectives of the program, the time and effort expended in placing the coverage, the need to provide ongoing service to the small employer ~~and individual~~, the levels of compensation currently used in the industry and the overall costs of coverage to small employers ~~and individuals~~ selecting these plans.

(15) The program shall be exempt from any and all taxes.

(16) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan.

(17) If a reinsuring small employer carrier attempts to reinsure or reinsures an entire employer group, an employee, or a dependent of such employee that, immediately prior to the commencement of such coverage, it covered under a health benefit plan, the board shall assess all costs and losses incurred by the program for claims and administrative expenses relating to such group, employee or dependent of such employee only to the said reinsuring small employer carrier.

(18) Subsection (17) of this section shall apply to assessments made for the 1994 calendar year and each year thereafter.

SECTION 7. That Section 41-4712, Idaho Code, be, and the same is hereby amended to read as follows:

41-4712. SMALL EMPLOYER HEALTH BENEFIT PLANS. ~~COMMITTEE.~~ (1) ~~The director shall appoint a health benefit plan committee consisting of nine (9) members, five (5) of whom shall represent consumer interests and four (4) of whom shall be members of the board created in section 41-4711, Idaho Code. Members of the committee serve at the pleasure of the director.~~

~~(2) The committee shall recommend to t~~The board, in addition to its other powers and duties, shall establish the form and level of coverages, including benefit levels, cost-sharing levels, exclusions and limitations for the small employer basic, standard and cata-

strophic health benefit plans to be made available by small employer ~~and individual~~ carriers pursuant to sections 41-4708, ~~and 41-5208,~~ Idaho Code, with an emphasis on making coverage available for preventive care. ~~The plan designs for the small employer market shall not necessarily be the same as the plan designs for the individual market.~~

(~~3~~2) The ~~committee shall recommend to the board benefit levels, cost sharing levels, exclusions and limitations for the basic, standard and catastrophic health benefit plans. The committee~~ board shall also design a small employer basic, standard and catastrophic health benefit plan which each contain benefit and cost-sharing levels that are consistent with the basic method of operation and the benefit plans of ~~health maintenance~~ managed care organizations, including any restrictions imposed by federal law.

~~(a)~~ The plans or changes ~~recommended~~ established by the ~~committee~~ board may include cost containment features such as:

(~~i~~a) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(~~ii~~b) Case management;

(~~iii~~c) Selective contracting with hospitals, physicians and other health care providers;

(~~iv~~d) Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions; and

(~~v~~e) Other managed care provisions.

~~(b) The committee shall submit the health benefit plans or changes described in paragraph (3)(a) of this section to the board for approval by not later than March 1 of each year.~~

(3) The board shall ~~thereafter~~ submit ~~those~~ the plans or changes approved by the board to the director for approval not later than March 1 of each year. The director shall promulgate the approved plans pursuant to the provisions of section 41-4715, Idaho Code.

(~~c~~4) Small employer carriers desiring to issue a small employer basic, standard or catastrophic health benefit plan differing from the form and level of coverage ~~developed by the committee and~~ approved by the board and the director shall submit such plan to the ~~committee~~ board for review to insure that such proposed plan is commensurate with the benefit levels, cost-sharing levels, exclusions, and limitations for the plan developed and approved pursuant to the provisions of this section. ~~The committee shall forward the proposed plan to the board and the director with a recommendation for approval or rejection.~~

(5) The board may appoint an advisory committee to assist in the development of and any changes to the small employer basic, standard and catastrophic health benefit plans.

SECTION 8. That Section 41-4716, Idaho Code, be, and the same is hereby amended to read as follows:

41-4716. STANDARDS TO ASSURE FAIR MARKETING. (1) Each small employer carrier shall actively market health benefit plan coverage, including the small employer basic, standard and catastrophic health benefit plans, to eligible small employers in the state. ~~If a small employer carrier denies coverage to a small employer on the basis of~~

~~the--health--status--or-claims-experience-of-the-small-employer-or-its employees-or-dependents,-the-small-employer-carrier--shall--offer--the small--employer--the--opportunity--to-purchase-a-basic,-health-benefit plan,-a-standard-health-benefit-plan-and-a-catastrophic-health-benefit plan.~~

(2) (a) Except as provided in subsection (2)(b) of this section, no small employer carrier or agent shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(ii) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) The provisions of subsection (2)(a) of this section shall not apply with respect to information provided by a small employer carrier or agent to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

(3) (a) Except as provided in subsection (2)(b) of this section, no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent that provides for or results in the compensation paid to an agent for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) The provisions of subsection (a) of this section shall not apply with respect to a compensation arrangement that provides compensation to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

(4) A small employer carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to an agent, if any, for the sale of a small employer basic, standard or catastrophic health benefit plan.

(5) No small employer carrier may terminate, fail to renew or limit its contract or agreement of representation with an agent for any reason related to the health status, claims experience, occupation or geographic location of the small employers placed by the agent with the small employer carrier.

(6) No small employer carrier or agent may induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.

(7) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(8) The director may establish ~~regulations~~ rules setting forth additional standards to provide for the fair marketing and broad

availability of health benefit plans to small employers in this state.

(9) (a) A violation of the provisions of this section by a small employer carrier or an agent shall be an unfair trade practice pursuant to the provisions of section 41-1302, Idaho Code.

(b) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to the provisions of this section as if it were a small employer carrier.

SECTION 9. That Sections 41-4714, 41-4718 and 41-5213, Idaho Code, be, and the same are hereby repealed.

SECTION 10. That Section 41-5202, Idaho Code, be, and the same is hereby amended to read as follows:

41-5202. PURPOSE. The purpose and intent of this chapter is to promote the availability of health insurance coverage to persons not covered by employment based insurance regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of preexisting condition exclusions, ~~to provide for the adoption of "basic," "standard" and "catastrophic" health benefit plans to be offered to all individuals, to provide for the establishment of a reinsurance program,~~ and to improve the overall fairness and efficiency of the individual health insurance market.

This chapter is not intended to provide a comprehensive solution to the problem of affordability of health care or health insurance.

SECTION 11. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means an agent as defined in section 41-1021, Idaho Code, or a broker as defined in section 41-1024, Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

~~(5) "Basic-health-benefit-plan"-means-a-lower-cost-health-benefit plan-developed-pursuant-to-section-41-4712,-Idaho-Code.~~

~~(6)--"Board"-means-the-board-of-directors-of--the--program--established-pursuant-to-section-4-4711,-Idaho-Code.~~

~~(7)~~ "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(~~8~~6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

~~(9)--"Catastrophic--health--benefit--plan"--means--a--higher-limit health-benefit-plan-developed-pursuant-to-section-41-4712,-Idaho-Code.~~

~~(10)-"Committee"-means-the-health-benefit-plan--committee--created pursuant-to-section-41-4712,-Idaho-Code.~~

(~~11~~7) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(~~12~~8) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a ~~fulltime~~ full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(~~13~~9) "Director" means the director of the department of insurance of the state of Idaho.

(14~~0~~) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage. An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code~~,--provided--that-no-insurer-shall-be required-to-issue-a-basic,-standard--or--catastrophic--health--benefit plan--to--any--individual--who-is-covered-under-other-health-insurance coverage.~~

(15~~1~~) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(16~~2~~) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement,

long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(1~~7~~3) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(15) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(16) "Individual catastrophic B health benefit plan means a health benefit plan with limits higher than an individual catastrophic A health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(17) "Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(18) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(19) ~~"Plan-of-operation"-means-the-plan-of-operation-of--the--program-established-pursuant-to-section-41-4711,-Idaho-Code.~~

~~(20)~~ "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

~~(21)-"Program"-means-the-Idaho-reinsurance-program-created-in-section-41-4711,-Idaho-Code.~~

(~~2~~20) "Qualifying previous coverage" and "qualifying existing coverage" means benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a ~~health-maintenance~~ managed care organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(2~~3~~1) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(2~~4~~2) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance ~~program--pursuant--to--section 41-4711~~ pool established in chapter 55, title 41, Idaho Code.

(2~~5~~3) "Restricted network provision" means any provision of a

health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(26~~4~~) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(27~~5~~) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

~~(28) "Standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.~~

SECTION 12. That Section 41-5204, Idaho Code, be, and the same is hereby amended to read as follows:

41-5204. APPLICABILITY AND SCOPE. To the extent permitted by federal law, the provisions of this chapter shall apply to any health benefit plan delivered or issued for delivery in the state of Idaho that provides coverage to eligible individuals or their dependents if not otherwise subject to the provisions of chapter 22, 40, ~~or~~ 47~~,~~ or 55, title 41, Idaho Code.

(1) Except as provided in subsection (2) of this section, for the purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one (1) carrier and any restrictions or limitations imposed in this chapter shall apply as if all health benefit plans delivered or issued for delivery to individuals in this state by such affiliated carriers were insured by one (1) carrier.

(2) An affiliated carrier that is a ~~health maintenance~~ managed care organization having a certificate of authority pursuant to the provisions of chapter 39, title 41, Idaho Code, may be considered to be a separate carrier for the purposes of this chapter.

(3) Unless otherwise authorized by the director, an individual carrier shall not enter into one (1) or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to individuals in this state if such arrangements would result in less than fifty percent (50%) of the insurance obligation or risk for such health benefit plans being retained by the ceding carrier. The provisions of sections 41-510, 41-511 and 41-514, Idaho Code, shall apply if an individual carrier cedes or assumes all of the insurance obligation or risk with respect to one (1) or more health benefit plans delivered or issued for delivery to individuals in this state.

SECTION 13. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than ~~twenty-five~~ fifty percent (~~25~~50%) of the index rate. The

provisions of this subsection (1)(a) shall apply until July 1, 2002, with respect to all health benefit plans offered to individuals other than the individual basic, standard, catastrophic A and catastrophic B plans.

(b) The percentage increase in the premium rate charged to an individual for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals.

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the individual or dependents as determined from the individual carrier's rate manual; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the individual carrier's rate manual.

(c) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(d) ~~In--the--case-of-health-benefit-plans-delivered-or-issued-for delivery-prior-to-the-effective-date-of-this--chapter;--a--premium rate--for--a-rating-period-may-exceed-the-ranges-set-forth-in-subsections-(1)(a)-and-(b)-of-this-section-for-a-period-of-three--(3) years--following-the-effective-date-of-this-chapter.-In-such-case, the-percentage-increase-in-the-premium-rate-charged-to-an-individual-for-a-new-rating-period-shall-not-exceed-the-sum-of--the--following:~~

~~(i)---The--percentage-change-in-the-new-business-premium-rate measured-from-the-first-day-of-the-prior-rating-period-to-the first-day-of-the-new-rating-period.-In-the-case-of--a--health benefit--plan--into-which-the-individual-carrier-is-no-longer enrolling-new-individuals;-the-individual-carrier--shall--use the-percentage-change-in-the-base-premium-rate;-provided-that such--change--does--not--exceed;--on--a-percentage-basis;-the change-in-the-new-business-premium-rate-for-the-most--similar health--benefit--plan--into--which--the-individual-carrier-is actively-enrolling-new-individuals;-and~~

~~(ii)--Any-adjustment-due-to-change-in-coverage-or--change--in the-case-characteristics-of-the-individual-as-determined-from the-carrier's-rate-manual.~~

~~(e)~~ (i) Individual carriers shall apply rating factors, including case characteristics, consistently with respect to all individuals. Rating factors shall produce premiums for iden-

tical individuals which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the individuals assumed to select particular health benefit plans; and

(ii) An individual carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(~~f~~e) For purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(~~g~~f) The individual carrier shall not use case characteristics, other than age, individual tobacco use, geography as defined by rule of the director, or gender, without prior approval of the director.

(~~h~~g) An individual carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under ~~the--age--of~~ twenty-three (23) years of age, and the same rating factor shall be applied on a quinquennial basis as to individuals or nondependents twenty (20) years of age or older.

(~~i~~h) The director may establish rules to implement the provisions of this section and to assure that rating practices used by individual carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by individual carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by individual carriers; and

(iii) Prescribe the manner in which an individual carrier is to demonstrate compliance with the provisions of this section, including requirements that an individual carrier provide the director with actuarial certification as to such compliance.

(2) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more individuals for one (1) or more rating periods upon a filing by the individual carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the individual carrier or that the suspension would enhance the efficiency and fairness of the marketplace for individual health insurance.

(3) In connection with the offering for sale of any health benefit plan to an individual, an individual carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for an individual are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health

status of the individual and his dependents;

(b) The provisions of the health benefit plan concerning the individual carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(4) (a) Each individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each individual carrier shall file with the director annually on or before September 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the individual carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the individual carrier at its principal place of business.

(c) An individual carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

SECTION 14. 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 ceases to be an eligible individual as defined in section 41-5203(1~~4~~0), 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.

SECTION 15. That Section 41-5208, Idaho Code, be, and the same is hereby amended to read as follows:

41-5208. AVAILABILITY OF COVERAGE -- PREEXISTING CONDITIONS -- PORTABILITY.

(1) (a) Every individual carrier shall, as a condition of offering health benefit plans in this state to individuals, actively offer health benefit plans to individuals, ~~at least three (3) health benefit plans as provided in this section and provide enrollment to all persons with qualifying previous coverage during all months of the year and to all persons without qualifying previous coverage on an open enrollment basis for a forty-five (45) day period commencing on January 1 and July 1 of each calendar year. One (1) health benefit plan offered by each individual carrier shall be a basic health benefit plan, one (1) plan shall be a standard health benefit plan, and one (1) plan shall be a catastrophic~~ including the individual basic health benefit plan, the individual standard health benefit plan, the individual catastrophic A health benefit plan and the individual catastrophic B

health benefit plan.

(b) An individual carrier shall issue an individual basic, standard, ~~or~~ catastrophic A or catastrophic B health benefit plan to any eligible individual that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.

(2) (a) An individual carrier shall file with the director, in a format and manner prescribed by the director, the basic, standard and catastrophic health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by an individual carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the individual carrier, disapprove the continued use by an individual carrier of a basic, standard, or catastrophic health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering individuals shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage to the extent such previous coverage provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage.

(c) An individual carrier shall not modify a basic, standard, or catastrophic health benefit plan with respect to an individual or any dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) An individual carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To an individual, where the individual is not residing in the carrier's established geographic service area;

(ii) Within an area where the individual carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to individuals because of its obligations to existing groups or individuals.

(b) An individual carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(ii) of this section may not offer coverage in the applicable area to new ~~cases--of~~ employer groups with more than fifty (50) eligible employees or to any small employer groups or to any individuals until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to individuals and groups.

(5) An individual carrier shall not be required to provide coverage to individuals pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of individuals in accordance with the provisions of subsection (1) of this section would place the individual carrier in a financially impaired condition.

~~(6)--An individual carrier shall not be required--to--comply--with the--provisions--of--this--section--until the director has approved or adopted the revised plan of operation as provided in section--41-4711, Idaho Code.~~

SECTION 16. That Section 41-5212, Idaho Code, be, and the same is hereby amended to read as follows:

41-5212. STANDARDS TO ASSURE FAIR MARKETING. (1) Each individual carrier shall actively market health benefit plan coverage, including the individual basic, standard, ~~and~~ catastrophic A and catastrophic B health benefit plans, to eligible individuals in the state. If an individual carrier denies coverage to an individual on the basis of the health status or claims experience of the individual or dependents, the individual carrier shall offer the individual the opportunity to purchase an individual basic, standard, catastrophic A or catastrophic B health benefit plan.

(2) (a) Except as provided in subsection (2)(b) of this section, no individual carrier or agent shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing individuals to refrain from filing an application for coverage with the individual carrier because of the health status, claims experience, industry, occupation or geographic location of the individual or dependents.

(ii) Encouraging or directing individuals to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of subsection (2)(a) of this section shall not apply with respect to information provided by an individual carrier or agent to an individual regarding the established geographic service area or a restricted network provision of an indi-

vidual carrier.

(3) (a) Except as provided in subsection (2)(b) of this section, no individual carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent that provides for or results in the compensation paid to an agent for the sale of a health benefit plan to be carried because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of paragraph (a) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the individual.

(4) An individual carrier shall provide reasonable compensation, as provided under the plan of operation of the program individual high risk reinsurance pool, to an agent, if any, for the sale of an individual basic, standard, catastrophic A or catastrophic B health benefit plan.

(5) No individual carrier may terminate, fail to renew or limit its contract or agreement of representation with an agent for any reason related to the health status, claims experience, occupation or geographic location of the individuals placed by the agent with the individual carrier.

(6) Denial by an individual carrier of an application for coverage from an individual shall be in writing and shall state the reason or reasons for the denial.

(7) The director may establish rules setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to individuals in this state.

(8) (a) A violation of the provisions of this section by an individual carrier or an agent shall be an unfair trade practice pursuant to the provisions of section 41-1302, Idaho Code.

(b) If an individual carrier enters into a contract, agreement or other arrangement with a third party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to individuals in this state, the third party administrator shall be subject to the provisions of this section as if it were an individual carrier.

SECTION 17. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 55, Title 41, Idaho Code, and to read as follows:

CHAPTER 55
IDAHO INDIVIDUAL HIGH RISK REINSURANCE POOL

41-5501. DEFINITIONS. As used in this chapter:

(1) "Agent" means an agent as defined in section 41-1021, Idaho Code, or a broker as defined in section 41-1024, Idaho Code.

(2) "Board" means the board of directors of the Idaho high risk individual reinsurance pool established in this chapter and the Idaho small employer reinsurance program established in section 41-4711,

Idaho Code.

(3) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, any other entity providing reinsurance including excess or stop loss coverage, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(4) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(5) "Director" means the director of the department of insurance of the state of Idaho.

(6) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage. Coverage under a basic, standard, catastrophic A or catastrophic B health benefit plan shall not be available to any individual who is covered under other health insurance coverage. For purposes of this chapter, to be eligible, an individual must also meet the requirements of section 41-5510, Idaho Code.

(7) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-5511, Idaho Code.

(9) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

(10) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-5511, Idaho Code.

(11) "Individual catastrophic B health benefit plan" means a health benefit plan offering limits higher than a catastrophic A health benefit plan developed pursuant to section 41-5511, Idaho Code.

(12) "Individual standard health benefit plan" means a health benefit plan developed pursuant to section 41-5511, Idaho Code.

(13) "Plan" or "pool plan" means the individual basic, standard, catastrophic A or catastrophic B plan established pursuant to section

41-5511, Idaho Code.

(14) "Plan of operation" means the plan of operation of the individual high risk reinsurance pool established pursuant to this chapter.

(15) "Pool" means the Idaho high risk reinsurance pool.

(16) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(17) "Qualifying previous coverage" and "qualifying existing coverage" means benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(18) "Reinsurance premium" means the premium set by the board pursuant to section 41-5506, Idaho Code, to be paid by a reinsuring carrier for plans issued under the pool.

(19) "Reinsuring carrier" means a carrier participating in the individual high risk reinsurance pool established by this chapter.

(20) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

41-5502. CREATION OF THE INDIVIDUAL HIGH RISK REINSURANCE POOL -- BOARD. (1) There is hereby created an independent public body corporate and politic to be known as the Idaho individual high risk reinsurance pool. The pool will perform an essential governmental function in the exercise of powers conferred upon it in this chapter. The pool and any assessments imposed or collected pursuant to the operation of the pool shall at all times be free from taxation of every kind.

(2) The pool created by this chapter and the small employer reinsurance program established in section 41-4711, Idaho Code, shall operate subject to the supervision and control of the board. The board shall consist of ten (10) members. Eight (8) members shall be appointed by the director and serve at the pleasure of the director. The director or his designated representative shall serve as an ex officio member of the board. In selecting the members of the board the director shall appoint four (4) members representing carriers, two (2) disability agents and two (2) members representing consumer interests. One (1) member shall be a member of the senate appointed by the president pro tempore of the senate and one (1) member shall be a member of the house of representatives appointed by the speaker of the house.

(3) The initial nonlegislative board members shall be appointed as follows: two (2) of the members to serve a term of two (2) years;

three (3) of the members to serve a term of four (4) years; and three (3) of the members to serve a term of six (6) years. Subsequent nonlegislative board members shall serve for a term of three (3) years. Legislative members of the board shall serve for a term of two (2) years. A vacancy in a legislative member's position on the board shall be filled in the same manner as the original appointment. All other vacancies on the board shall be filled by the director. A nonlegislative board member may be removed by the director for cause.

41-5503. PLAN OF OPERATION. (1) The board shall submit to the director a plan of operation and thereafter any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the pool. The director may, after notice and hearing, approve the plan of operation if the director determines it to be suitable to assure the fair, reasonable and equitable administration of the pool, and to provide for the sharing of pool gains or losses on an equitable and proportionate basis in accordance with the provisions of this chapter. The plan of operation shall become effective upon written approval by the director.

(2) If the board fails to submit a suitable plan of operation, the director shall, after notice and hearing, adopt and promulgate a temporary plan of operation. The director shall approve the plan of operation submitted by the board, or adopt a temporary plan of operation if the board fails to submit a suitable plan. The director shall amend or rescind any plan adopted under the provisions of this section at the time a plan of operation is submitted by the board and approved by the director.

(3) The plan of operation shall:

(a) Establish procedures for handling and accounting of pool assets and moneys and for an annual fiscal reporting to the director;

(b) Establish procedures for selecting an administrator, and setting forth the powers and duties of the administrator;

(c) Establish procedures for reinsuring risks in accordance with the provisions of this chapter;

(d) Establish procedures for collecting assessments from carriers to fund claims and administrative expenses incurred or estimated to be incurred by the pool; and

(e) Provide for any additional matters necessary for the implementation and administration of the pool.

41-5504. POWERS AND AUTHORITY. (1) The pool shall have the general powers and authority granted under the laws of this state to insurance companies and managed care organizations licensed to transact business, except the power to issue health benefit plans directly to individuals. In addition thereto, the pool shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including the authority, with the approval of the director, to enter into contracts with similar programs of other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any assessments and penalties for, on behalf of, or against the pool or any carrier;

(c) Define the health benefit plans, which plans shall allow coordination of benefits, for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of this chapter;

(d) Establish rules, conditions and procedures for reinsuring risks under the pool;

(e) Establish actuarial functions as appropriate for the operation of the pool;

(f) Assess carriers in accordance with the provisions of section 41-5508, Idaho Code, and make advance interim assessments of carriers as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year;

(g) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, policy and other contract design, and any other function within the authority of the pool;

(h) Borrow money to effect the purposes of the pool. Any notes or other evidence of indebtedness of the pool not in default shall be legal investments for carriers and may be carried as admitted assets;

(i) Establish rules, policies and procedures as may be necessary or convenient for the implementation of this chapter and the operation of the pool.

(2) Neither the board nor its employees shall be liable for any obligations of the pool. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. The board may provide for indemnification of, and legal representation for, its members and employees.

(3) No participation of a reinsuring carrier in the pool, no establishment of rates, forms or procedures, and no other joint or collective action required under the provisions of this chapter shall be grounds for any legal action, criminal or civil liability, or penalty against the pool or any of its reinsuring carriers either jointly or separately.

41-5505. REINSURANCE. (1) Any individual carrier issuing an individual basic, standard, catastrophic A, or catastrophic B health benefit plan as provided in this chapter shall receive reinsurance to the level of coverage provided in the plan.

(2) (a) The pool shall not reimburse a reinsuring carrier with respect to the claims of a reinsured individual or dependent until the carrier has incurred an initial level of claims for such individual or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the pool. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next twenty-five thousand dollars ($25,000) of benefit payments

during a calendar year and the pool shall reinsure the remainder.

(b) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(3) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(4) Each carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery in this state in the previous calendar year.

(5) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan, or through excess or stop loss coverage.

41-5506. REINSURANCE PREMIUM RATES. (1) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged reinsuring carriers to reinsure individuals under this chapter. The methodology shall include a system for classification of individuals that reflects the types of case characteristics commonly used by individual carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, subject to the approval of the director, which shall be set at levels which reasonably approximate gross premiums charged to individuals by individual carriers for health benefit plans with benefits similar to the standard health benefit plan, adjusted to reflect retention levels required under the provisions of this chapter. Rate adjustments under the provisions of this subsection shall not be subject to the provisions of section 41-5206, Idaho Code.

(2) The board periodically shall review the methodology established under the provisions of subsection (1) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the pool. The board may propose changes to the methodology which shall be subject to the approval of the director.

(3) The board may consider adjustments to the premium rates charged by the pool to reflect the use of effective cost containment and managed care arrangements.

41-5507. PREMIUM RATES FOR PLAN COVERAGE. (1) The board shall establish premium rates for coverage under the individual basic, standard, catastrophic A and catastrophic B health benefit plans.

(2) Separate schedules of premium rates based on age, individual tobacco use, geography as defined by rule of the director, gender and benefit plan design shall apply for individual risks.

(3) The board, with the assistance of the director and in accordance with appropriate actuarial principles, shall determine a standard risk rate by using the average rates that individual standard risks in this state are charged by at least five (5) of the largest health insurance carriers providing individual health insurance coverage to residents of Idaho that is substantially similar to the coverage offered by each pool plan. In determining the average rate or charges of those health insurance carriers, the rates charged by those carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits similar to those provided by each plan. The standard risk rates shall be established using reasonable actuarial techniques and shall reflect anticipated claims experience, expenses, and other appropriate risk factors for such coverage.

(4) Rates for plan coverage shall not be less than one hundred twenty-five percent (125%) nor more than one hundred fifty percent (150%) of rates established as applicable for individual standard risks pursuant to subsection (3) of this section.

41-5508. ASSESSMENTS. (1) Prior to March 1 of each year, the board shall determine and report to the director the pool's net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses, and any premium tax funds appropriated to the pool pursuant to section 41-406, Idaho Code.

(2) Any net loss for the year shall be recouped by assessments of carriers.

(3) (a) For the assessment of March 1, 2001, and prior to March 1 of each succeeding year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the pool in the previous calendar year.

(b) The individual assessments shall be determined by multiplying net losses, if net earnings are negative, as defined by subsection (1) of this section, by a fraction, the numerator of which shall be the carrier's total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease, and hospital confinement indemnity in this state as reported in the carrier's reports filed pursuant to section 41-5505(4) and (5), Idaho Code, including reinsurance by way of excess or stop loss coverage, and the denominator of which shall be the total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease and hospital confinement indemnity in this state, including reinsurance by way of excess or stop loss coverage.

(4) If assessments exceed net losses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(5) Each carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the carriers with the director.

(6) The plan of operation shall provide for the imposition of an

interest penalty for late payment of assessments.

(7) A carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment if the director determines that the payment of the assessment would place the carrier in a financially impaired condition. If all or part of an assessment against a carrier is deferred the amount deferred shall be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving the deferment shall remain liable to the pool for the amount deferred and shall be prohibited from reinsuring any individuals with the pool until such time as it pays the assessments.

41-5509. STANDARDS FOR AGENTS. The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to agents for the sale of individual basic, standard, catastrophic A and catastrophic B health benefit plans. In establishing such standards, the board shall take into consideration the need to assure broad availability of coverages, the objectives of the pool, the time and effort expended in placing the coverage, the need to provide ongoing service to the individual, the levels of compensation currently used in the industry and the overall costs of coverage to individuals selecting these plans.

41-5510. ELIGIBILITY. (1) Any individual eligible person, who is and continues to be a resident shall be eligible for coverage under an individual basic, standard, catastrophic A or catastrophic B health benefit plan if evidence is provided that:

(a) Such person has been rejected by one (1) individual carrier on the basis of health status or claims experience; or

(b) An individual carrier refuses to issue a health benefit plan providing coverage substantially similar to coverage offered under an equivalent pool plan except at a rate exceeding the rate for the pool plan.

(2) A rejection or refusal by a carrier offering only stop loss, excess of loss or reinsurance coverage with respect to an applicant under subsection (1) of this section shall not constitute sufficient evidence for purposes of subsection (1) of this section.

(3) Each resident dependent of a person who is eligible for coverage under the pool shall also be eligible for coverage under the pool.

(4) A person shall not be eligible for coverage under a pool plan if:

(a) The person has or obtains health insurance coverage substantially similar to or more comprehensive than a pool plan, or would be eligible to have coverage if the person elected to obtain it;

(b) The person is determined to be eligible for health care benefits under medicaid;

(c) The person has previously terminated pool plan coverage unless twelve (12) months have lapsed since such termination; provided however, that this provision shall not apply with respect to an applicant who is a federally defined eligible individual;

(d) The person is an inmate or resident of a state or other pub-

lic institution, or a state, local or private correctional facility; provided however, that this provision shall not apply with respect to an applicant who is a federally defined eligible individual.

(5) Coverage shall cease:

(a) On the first day of the month following the date a person is no longer a resident of this state;

(b) On the first day of the month following the date a person requests coverage to end;

(c) Upon the death of the covered person;

(d) At the option of the board, thirty (30) days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(6) A person who ceases to meet the eligibility requirements of this section may be terminated on the first day of the month following the date when the individual becomes ineligible.

41-5511. DESIGN OF PRODUCTS. (1) The board shall design the individual basic, standard, catastrophic A and catastrophic B health benefit plans, with an emphasis on making coverage available for preventive care, and subject to the deductibles and maximum benefits provided in subsection (2) of this section.

(2) (a) The basic health benefit plan shall provide a deductible of five hundred dollars ($500), with a lifetime maximum benefit of five hundred thousand dollars ($500,000) per carrier;

(b) The standard health benefit plan shall provide a deductible of one thousand dollars ($1,000), with a lifetime maximum benefit of one million dollars ($1,000,000) per carrier;

(c) The catastrophic A health benefit plan shall offer a deductible of two thousand dollars ($2,000) and a lifetime maximum benefit of one million dollars ($1,000,000) per carrier; and

(d) The catastrophic B health benefit plan shall offer a deductible of five thousand dollars ($5,000) and a lifetime maximum benefit of one million dollars ($1,000,000) per carrier.

(3) The board shall establish all other benefit levels, as well as cost sharing arrangements, exclusions and limitations for each health benefit plan. The plan designs for the small employer market shall not necessarily be the same as the plan designs for the individual market.

(4) The board shall also design an individual basic, standard, catastrophic A and catastrophic B health benefit plan which each contain benefit and cost-sharing arrangements that are consistent with the basic method of operation and the benefit plans of managed care organizations, including any restrictions imposed by federal law, which may include cost containment features such as the following:

(a) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(b) Case management;

(c) Selective contracting with hospitals, physicians and other health care providers;

(d) Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions; and

(e) Other managed care provisions.

(5) The board shall submit the health benefit plans or changes described in this section to the director for approval. The director shall promulgate the approved plans in accordance with the provisions of chapter 52, title 67, Idaho Code.

(6) The board may appoint an advisory committee to assist it in developing the health benefit plans prescribed by this section.

SECTION 18. That Section 41-406, Idaho Code, be, and the same is hereby amended to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) Ten percent (10%) shall be deposited in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the insurance refund account on June 30 of each and every year in excess of forty thousand dollars ($40,000) shall be transferred to the general ~~account~~ fund 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.

(b) That portion of the premium tax, payable to the public employee retirement ~~account~~ fund as provided in section 59-1394, Idaho Code, shall be distributed to that ~~account~~ fund.

(c) That portion of the premium tax necessary to cover administrative costs incurred by the department in placing insurance companies or any other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative ~~account~~ fund which is hereby created. There is hereby appropriated out of the insurance insolvency administrative ~~account~~ fund so much thereof as shall be necessary, but not to exceed two hundred thousand dollars ($200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervision~~s~~. A balance of one hundred thousand dollars ($100,000) shall be maintained in this ~~account~~ fund on June 30 of each year.

(d) After all other deductions authorized in this section have been made, if the premium tax remaining exceeds forty-five million dollars ($45,000,000), one-fourth (1/4) of such excess is hereby appropriated and shall be paid to the Idaho high risk individual reinsurance pool established in chapter 55, title 41, Idaho Code.

(e) The balance of the premium tax, fines and penalties shall be

distributed to the general ~~account~~ fund of the state of Idaho.

(~~e~~f) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month, and shall deliver a certified copy of the statement to the state treasurer.

SECTION 19. This act shall be in full force and effect on and after July 1, 2000; provided however, that the basic, standard, catastrophic A and catastrophic B health benefit plans provided for in Section 2 of this act shall not be available until January 1, 2001.

SECTION 20. The President Pro Tempore of the Senate shall appoint five senators, and the Speaker of the House of Representatives shall appoint five representatives to act as a joint legislative oversight committee to monitor the effects of this act. The committee shall report its findings and recommendations to the Second Regular Session of the Fifty-sixth Idaho Legislature in 2002.

SECTION 21. Prior to the initial assessment for the Idaho Individual High Risk Reinsurance Pool of March 1, 2001, as provided for in Section 41-5508, Idaho Code, the Health Insurance Premiums Task Force shall determine a method of limiting the assessments which may be imposed on carriers providing reinsurance by way of excess or stop loss coverage and on carriers selling insurance in the individual market. The Health Insurance Premiums Task Force shall also review options regarding initially limiting enrollment in the Individual High Risk Reinsurance Pool in order to preserve the financial integrity of the pool.

Approved April 17, 2000.

CHAPTER 473
(H.B. No. 755)

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 2001; 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; 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 THE GOVERNOR'S COLLEGE AND UNIVERSITY EXCELLENCE INITIATIVE; MAKING CERTAIN IDAHO CODE PROVISIONS SPE-

CIFICALLY 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, 2000, through June 30, 2001:

FOR:	
General Education Programs	$287,518,800
FROM:	
General Fund	$214,986,500
Agricultural College Endowment Fund	969,800
Charitable Institutions Endowment Earnings Fund	1,211,700
Normal School Endowment Earnings Fund	3,702,500
Science School Endowment Fund	4,132,200
University Endowment Fund	2,995,200
Unrestricted Current Fund	23,339,000
Restricted Current Fund	36,181,900
TOTAL	$287,518,800

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.

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.

SECTION 6. Of the amount appropriated from the General Fund in Section 1 of this act, $1,300,000 shall be used for the Governor's College and University Excellence Initiative.

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, 2000, through June 30, 2001, 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 355, Laws of 1999, to be used for nonrecurring expenditures, for the period July 1, 2000, through June 30, 2001.

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, 2000, 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, 2000, 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 April 17, 2000.

CHAPTER 474
(H.B. No. 757)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2000, FOR THE PURPOSE OF PROVIDING A CONTRIBUTION FROM THE STATE OF IDAHO TO THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Fund to the Office of the Governor for the Military Division for trustee and benefit payments for the period July 1, 1999, through June 30, 2000, the sum of $5,300, representing one dollar for every Idaho woman who has served and was serving in the military as of July 1, 1999, for the purpose of providing a contribution from the state of Idaho to the Women in Military Service for America Memorial. The memorial, located at the gateway to Arlington National Cemetery, was dedicated in October 1997, to honor the almost two million women who have served this

nation with distinction in the military, beginning with the American Revolution. The memorial's education center provides the first complete documentation of the history of all women who have served in the military. It is the intent of the Idaho Legislature that this contribution be made in tribute to Idaho's women veterans. The state of Idaho will be permanently recognized in the memorial for its contribution, along with all but two states who have yet to contribute.

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

Approved April 17, 2000.

CHAPTER 475
(H.B. No. 768)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2001; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT THAT THE STATE BOARD OF EDUCATION EVALUATE, ESTABLISH AND ENFORCE CERTAIN IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM POLICIES; EXPRESSING LEGISLATIVE INTENT THAT THE STATE BOARD OF EDUCATION WILL PROVIDE ALL REQUIRED NOTIFICATIONS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM CONVERSION TO DIGITAL BROADCAST TECHNOLOGY; AND EXPRESSING LEGISLATIVE INTENT THAT IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM PURSUE ALL VIABLE FUNDING OPTIONS TO PAY FOR THE CONVERSION TO DIGITAL BROADCAST TECHNOLOGY.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 966,400	$612,900	$2,019,300	$3,598,600
Federal Grant Fund	758,800	64,400		823,200
TOTAL	$1,725,200	$677,300	$2,019,300	$4,421,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-eight (38) full-time equivalent positions to be funded by

the appropriation in Section 1 of this act, at any point during the period July 1, 2000, through June 30, 2001, 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 the intent of the Legislature that the Idaho State Board of Education (SBOE) evaluate, establish and enforce fiscal, programming and accountability policies for the Idaho Educational Public Broadcasting System (IEPBS) that augment federal public broadcasting system policies or regulations. These Idaho policies are to include the following:

(a) No program shall be broadcast which promotes, supports or encourages violation of Idaho criminal statutes.

(b) The highest priority for IEPBS broadcasts shall be to select programs that encourage, support and strengthen: K-12 education, higher education, public safety, lifelong learning, cultural and family enrichment, character education and virtues resolved by the Legislature in March 1995 (H.C.R. No. 19), and in-depth news coverage, documentaries and information valuable for Idaho citizens.

(c) Any decision to broadcast programs expected to be of a controversial nature, including programming format, shall be monitored by SBOE as the Federal Communications Commission (FCC) license holder for IEPBS.

The State Board of Education shall report to the Joint Finance-Appropriations Committee during the 2001 legislative session on the adoption, implementation and effect of these and any related policies.

SECTION 4. It is the intent of the Legislature that the Idaho State Board of Education, as the FCC license holder for the Idaho Educational Public Broadcasting System (IEPBS), provide the FCC with all required notifications that IEPBS will convert its analog broadcast systems to the FCC digital technological standard by May 1, 2003, as mandated by FCC regulations.

SECTION 5. It is legislative intent that the Idaho State Board of Education and the Idaho Educational Public Broadcasting System (IEPBS) pursue all viable public and private funding sources including capital fund-raising campaigns and actions that will maximize the funds or in-kind contributions needed to pay for the IEPBS conversion to the FCC digital broadcasting standards.

Approved April 17, 2000.

CHAPTER 476
(H.B. No. 769)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2001; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPRO-

PRIATING 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
PUBLIC HEALTH SERVICES:					
FROM:					
General Fund	$2,818,900	$ 1,184,600		$ 2,047,100	$ 6,050,600
Cancer Control Fund	50,000	92,800		257,200	400,000
Emergency Medical Services Fund I & II	1,096,500	571,500		191,700	1,859,700
Emergency Medical Services III				1,400,000	1,400,000
Central Tumor Registry Fund				169,600	169,600
Food Safety Fund				412,000	412,000
Cooperative Welfare Fund (Federal)	3,409,700	6,840,400	$5,000	19,439,600	29,694,700
Cooperative Welfare Fund (Dedicated)	1,694,200	1,520,400		5,148,200	8,362,800
TOTAL	$9,069,300	$10,209,700	$5,000	$29,065,400	$48,349,400

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for Public Health Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Public Health Services for fiscal year 2000, to be used for nonrecurring expenditures only for the period July 1, 2000, through June 30, 2001. 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 Pub-

lic Health Services as noncognizable funds for the period July 1, 2000, through June 30, 2001.

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 April 17, 2000.

CHAPTER 477
(H.B. No. 780)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTION 20 OF HOUSE BILL NO. 750, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO REQUIRE THAT CARRIERS SUBJECT TO THE ACT PROVIDE INFORMATION TO THE DEPARTMENT OF INSURANCE AND THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE DEEMED NECESSARY TO FULFILL THE REQUIREMENTS OF SECTION 20, TO PROVIDE THAT THE CONFIDENTIALITY OF ANY TRADE SECRETS OR PROPRIETARY INFORMATION RECEIVED BE MAINTAINED AND TO PROVIDE FOR PUBLIC DISCLOSURE OF INFORMATION UNDER SPECIFIED CIRCUMSTANCES; AND AMENDING SECTION 21 OF HOUSE BILL NO. 750, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO REQUIRE THAT CARRIERS PROVIDE INFORMATION TO THE DEPARTMENT OF INSURANCE AND THE HEALTH INSURANCE PREMIUMS TASK FORCE DEEMED NECESSARY TO FULFILL THE REQUIREMENTS OF SECTION 21, TO PROVIDE THAT THE CONFIDENTIALITY OF ANY TRADE SECRETS OR PROPRIETARY INFORMATION RECEIVED BE MAINTAINED AND TO PROVIDE FOR PUBLIC DISCLOSURE OF INFORMATION UNDER SPECIFIED CIRCUMSTANCES.

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

SECTION 1. That Section 20 of House Bill No. 750, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 20. The President Pro Tempore of the Senate shall appoint five senators, and the Speaker of the House of Representatives shall appoint five representatives to act as a joint legislative oversight committee to monitor the effects of this act. The committee shall report its findings and recommendations to the Second Regular Session of the Fifty-sixth Idaho Legislature in 2002. Insurance carriers subject to the provisions of this act shall provide to the Department of Insurance and the joint legislative oversight committee all information deemed necessary to fulfill the requirements of this section. The department and the oversight committee shall maintain the confidentiality of any trade secrets or proprietary information exempt from public disclosure under the provisions of Section 9-340D, Idaho Code, provided in accordance with this section. For purposes of this section, the joint legislative oversight committee shall be deemed a public agency as that term is used in Section 9-340D, Idaho Code. The

data and information may be compiled into composite form and made public if information that could be used to identify the reporting insurer is removed.

SECTION 2. That Section 21 of House Bill No. 750, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 21. Prior to the initial assessment for the Idaho Individual High Risk Reinsurance Pool of March 1, 2001, as provided for in Section 41-5508, Idaho Code, the Health Insurance Premiums Task Force shall determine a method of limiting the assessments which may be imposed on carriers providing reinsurance by way of excess or stop loss coverage and on carriers selling insurance in the individual market. The Health Insurance Premiums Task Force shall also review options regarding initially limiting enrollment in the Individual High Risk Reinsurance Pool in order to preserve the financial integrity of the pool. The carriers shall provide to the Department of Insurance and the Health Insurance Premiums Task Force all information deemed necessary to fulfill the requirements of this section. The department and the task force shall maintain the confidentiality of any trade secrets or proprietary information exempt from public disclosure under the provisions of Section 9-340D, Idaho Code, provided in accordance with this section. For purposes of this section, the Health Insurance Premiums Task Force shall be deemed a public agency as that term is used in Section 9-340D, Idaho Code. The data and information may be compiled into composite form and made public if information that could be used to identify the reporting insurer is removed.

Approved April 17, 2000.

CHAPTER 478
(H.B. No. 787)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2001; DIRECTING THE STATE CONTROLLER TO TRANSFER CERTAIN FUNDS AS REQUESTED; TRANSFERRING CERTAIN MONEYS TO THE HISPANIC CULTURAL CENTER FUND, WITH EXPENDITURES SUBJECT TO CERTAIN CONDITIONS; 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, 2000, through June 30, 2001:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DEPARTMENT OF COMMERCE:					
FROM:					
General Fund	$1,918,300	$1,365,100	$72,000	$ 50,000	$ 3,405,400
Tourism and Promotion Fund	491,400	2,172,400	4,000	$ 2,514,300	5,182,100
Federal Grant Fund	406,300	134,000	4,000	15,102,900	15,647,200
Miscellaneous Revenue Fund	109,100	103,200			212,300
Seminars and Publications Fund		365,700			365,700
TOTAL	$2,925,100	$4,140,400	$80,000	$17,667,200	$24,812,700

SECTION 2. The State Controller shall transfer up to $124,100 from the INEEL Settlement Fund to the Department of Commerce's Miscellaneous Revenue Fund, as requested by the Department of Commerce.

SECTION 3. The State Controller shall transfer $50,000 of the General Fund appropriation for Trustee and Benefit Payments in Section 1 of this act to the Hispanic Cultural Center Fund. These moneys shall not be expended from the Hispanic Cultural Center Fund until $2,900,000 has been received from nonstate sources to construct the Hispanic Cultural Center, and specific authorization has been granted by the Joint Finance-Appropriations Committee.

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, 2000, through June 30, 2001, 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 April 17, 2000.

CHAPTER 479
(H.B. No. 802, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAX POLICIES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022O, IDAHO CODE, TO PROVIDE AN INCOME TAX DEDUCTION FOR A TAXPAYER WHO IS A SELF-EMPLOYED INDIVIDUAL TREATED AS AN EMPLOYEE PURSUANT TO SECTION

401(c)(1) OF THE INTERNAL REVENUE CODE, AN AMOUNT EQUAL TO THE AMOUNT PAID BY THE TAXPAYER DURING THE TAXABLE YEAR FOR INSURANCE WHICH CONSTITUTES MEDICAL CARE FOR THE TAXPAYER AND THE SPOUSE AND DEPENDENTS OF THE TAXPAYER WHICH IS NOT OTHERWISE DEDUCTIBLE BY THE TAXPAYER FOR FEDERAL INCOME TAX PURPOSES BECAUSE THE APPLICABLE PERCENTAGE FOR THAT TAXABLE YEAR AS SPECIFIED PURSUANT TO SECTION 162(1) OF THE INTERNAL REVENUE CODE IS LESS THAN ONE HUNDRED PERCENT; AMENDING SECTION 63-3024, IDAHO CODE, TO PROVIDE THAT FOR TAXABLE YEAR 2000 ONLY, THE RATE FOR INDIVIDUAL INCOME TAX SHALL BE DECREASED, TO PROVIDE THAT FOR TAX YEAR 2000 AND EACH YEAR THEREAFTER, THE STATE TAX COMMISSION SHALL PRESCRIBE A FACTOR TO COMPUTE IDAHO TAXABLE INCOME FOR TAX BRACKET PURPOSES SO THAT INFLATION WILL NOT RESULT IN A TAX INCREASE, TO PROVIDE THE FORMULA AND TO PROVIDE DUTIES OF THE STATE TAX COMMISSION; REPEALING SECTION 63-3022N, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022N, IDAHO CODE, TO PROVIDE FOR THE ELIMINATION FROM THE CALCULATION OF IDAHO TAXABLE INCOME ANY MARRIAGE PENALTY THAT MAY EXIST IN THE BASIC STANDARD DEDUCTION PROVIDED IN THE INTERNAL REVENUE CODE, TO PROVIDE FOR ADJUSTMENTS, TO PROVIDE A DEFINITION OF "THE MARRIAGE PENALTY" AND TO PROVIDE PROCEDURES; AMENDING SECTION 63-3029B, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF THE ALLOWABLE TAX CREDIT OF THE INVESTMENT TAX CREDIT AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022O, Idaho Code, and to read as follows:

63-3022O. HEALTH INSURANCE COSTS. With respect to a taxpayer who is a self-employed individual treated as an employee pursuant to section 401(c)(1) of the Internal Revenue Code, an amount equal to the amount paid by the taxpayer during the taxable year for insurance, which constitutes medical care for the taxpayer and the spouse and dependents of the taxpayer which is not otherwise deductible by the taxpayer for federal income tax purposes because the applicable percentage for that taxable year as specified pursuant to section 162(1) of the Internal Revenue Code is less than one hundred percent (100%), shall be allowed as a deduction against taxable income.

SECTION 2. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For ~~each~~ taxable year 2000, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) (i) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When Idaho taxable income is:	The rate is:
Less than $1,000	~~Two~~ One and nine-tenths percent (~~2.0~~1.9%)
$1,000 but less than $2,000	$~~20~~19, plus ~~four~~ three and nine-tenths percent (~~4.0~~3.9%) of the amount over $1,000
$2,000 but less than $3,000	$~~60~~58, plus four and ~~one-half~~ four-tenths percent (4.54%) of the amount over $2,000
$3,000 but less than $4,000	$105~~2~~, plus five and ~~one-half~~ four-tenths percent (5.54%) of the amount over $3,000
$4,000 but less than $5,000	$156~~0~~, plus six and ~~one-half~~ four-tenths percent (6.54%) of the amount over $4,000
$5,000 but less than $7,500	$225~~0~~, plus seven and ~~one-half~~ four-tenths percent (7.54%) of the amount over $5,000
$7,500 but less than $20,000	$4~~12.50~~05, plus seven and ~~eight~~seven-tenths percent (7.87%) of the amount over $7,500
Over $20,000	$1,38~~6~~7.50, plus eight and ~~two~~one-tenth~~s~~ percent (8.~~2~~1%) of the amount over $20,000

(ii) For taxable year 2001 and each taxable year thereafter, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When Idaho taxable income is:	The rate is:
Less than $1,000	Two percent (2.0%)
$1,000 but less than $2,000	$20, plus four percent (4.0%) of the amount over $1,000
$2,000 but less than $3,000	$60, plus four and one-half percent (4.5%) of the amount over $2,000
$3,000 but less than $4,000	$105, plus five and one-half percent (5.5%) of the amount over $3,000
$4,000 but less than $5,000	$160, plus six and one-half percent (6.5%) of the amount over $4,000
$5,000 but less than $7,500	$225, plus seven and one-half percent (7.5%) of the amount over $5,000
$7,500 but less than $20,000	$412.50, plus seven and eight-tenths percent (7.8%) of the amount over $7,500
Over $20,000	$1,387.50, plus eight and two-tenths percent (8.2%) of the amount over $20,000

For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor which shall be used to compute the Idaho income tax brackets provided in subsections (a)(i) and (a)(ii) of this section. The factor shall provide an adjustment to the Idaho tax brackets so that inflation will not result in a tax increase. The

Idaho tax brackets shall be adjusted as follows: multiply the bracket amounts by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted brackets will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States department of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income in the brackets above to arrive at that year's taxable income for tax bracket purposes.

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of Idaho taxable income in fifty dollar ($50.00) steps to fifty thousand dollars ($50,000), rounding such calculations to the nearest dollar. Taxpayers having income within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall promulgate rules defining the conditions upon which such returns shall be filed.

SECTION 3. That Section 63-3022N, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022N, Idaho Code, and to read as follows:

63-3022N. MARRIAGE PENALTY ADJUSTMENT. (1) To eliminate from the calculation of Idaho taxable income any marriage penalty that may exist in the basic standard deductions provided in the Internal Revenue Code, basic federal standard deductions shall be adjusted as provided in this section.

(2) As used in this section, "the marriage penalty" means the difference obtained by subtracting:

(a) The basic standard deduction for joint returns, from

(b) Two (2) times the basic standard deduction for an individual who is not married and who is not a surviving spouse or head of household.

(3) For each taxable year beginning on and after January 1,

2000, the standard deduction in section 63-3022(k)(1), Idaho Code, shall be: on a joint return, the basic federal joint standard deduction plus the marriage penalty, rounded to the nearest dollar, plus the amount of any additional standard deduction for the aged or blind for which a taxpayer may qualify under section 63 of the Internal Revenue Code.

(4) The basic federal standard deduction for an individual for whom a deduction under section 151 of the Internal Revenue Code is allowable to another taxpayer shall not be reduced below the minimum adjusted basic standard deduction provided by section 63 of the Internal Revenue Code.

SECTION 5. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) 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 the sum of:

(a) ~~t~~The tax credit ~~carry-overs~~ carryovers; and

(b) ~~t~~The tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain depreciable property which:

(a) ~~i~~Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code subject to the limitations provided for certain regulated companies in section 46(f) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight;

(b) ~~i~~Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) ~~h~~Has a situs in Idaho.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed ~~forty-five~~ fifty percent (~~45~~50%) of the tax liability of the taxpayer.

(5) If the sum of credit ~~carry-overs~~ carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (4) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit ~~carry-over~~ carryover to the seven (7) succeeding taxable years. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (4) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the qualified investment property for which

the unused credit was granted still maintains Idaho situs. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(6) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to the applicable recapture provisions of the ~~i~~Internal ~~r~~Revenue ~~c~~Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(7) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code shall be disregarded.

(8) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. No credit or ~~carry-over~~ carryover of credit is permitted under this section if the credit or ~~carry-over~~ carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or ~~carry-over~~ carryover is claimed. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(9) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) ~~t~~The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) ~~t~~The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(10) Only for the purposes of subsections (3)(a) and (7) of this section, references to sections of the "~~i~~Internal ~~r~~Revenue ~~c~~Code" mean the sections referred to as they existed in the ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986 prior to November 5, 1990.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2000.

Approved April 17, 2000.

CHAPTER 480
(H.B. No. 805)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 2001; 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; PROVIDING FOR AUTHORITY TO ESTABLISH BASE SALARIES FOR INSTRUCTIONAL, ADMINISTRATIVE AND CLASSIFIED STAFF OTHER PROVISIONS OF LAW NOTWITHSTANDING; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DISTRIBUTIONS OR TRANSFERS OF FUNDING.

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, 2000, through June 30, 2001:

FROM:		
General Fund	$811,964,900	
General Fund - Property Tax Replacement	61,500,000	
Total General Fund		$873,464,900
Dedicated Funds:		
Endowment Funds/Lands	$ 44,597,500	
Cigarette, Tobacco and Lottery Income Taxes	4,700,000	
Miscellaneous Receipts/Balances	7,602,500	
Total Dedicated Funds		$ 56,900,000
TOTAL		$930,364,900

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, 2000, through June 30, 2001:

FROM:	
General Fund	$873,464,900

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 $930,364,900 for the period July 1, 2000, through June 30, 2001.

SECTION 4. Notwithstanding any other provisions of law, the State Superintendent of Public Instruction shall have the authority to determine any base salary changes for instructional, administrative and classified staff under the salary-based apportionment provisions of Section 33-1004E, Idaho Code, within the amounts available in this appropriation, for the period July 1, 2000, through June 30, 2001.

SECTION 5. It is the intent of the Legislature that all distributions or transfers of funding beyond those which are statutorily prescribed be determined by the State Superintendent of Public Instruction.

Approved April 17, 2000.

CHAPTER 481
(H.B. No. 813)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE HUMAN RIGHTS COMMISSION FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FINANCE FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001; AND APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF NURSING WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR ATTORNEY GENERAL FEES FOR FISCAL YEAR 2001.

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

SECTION 1. In addition to any other appropriation there is hereby appropriated to the Department of Environmental Quality for Attorney

General fees, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$55,000
FROM:	
General Fund	$27,500
Department of Environmental Quality Fund (Federal)	22,000
Air Quality Permitting Fund	2,800
Department of Environmental Quality Fund (Receipts)	2,700
TOTAL	$55,000

SECTION 2. In addition to any other appropriation there is hereby appropriated to the State Tax Commission for Attorney General fees, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$38,100
FROM:	
General Fund	$34,300
Administration Services for Transportation Fund	3,800
TOTAL	$38,100

SECTION 3. In addition to any other appropriation there is hereby appropriated to the Human Rights Commission for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$4,300
FROM:	
General Fund	$4,300

SECTION 4. In addition to any other appropriation there is hereby appropriated to the Department of Administration for Attorney General fees, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$9,100
FROM:	
General Fund	$6,000
Permanent Building Fund	3,100
TOTAL	$9,100

SECTION 5. In addition to any other appropriation there is hereby appropriated to the Division of Human Resources for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$1,800
FROM:	
Division of Human Resources Fund	$1,800

SECTION 6. In addition to any other appropriation there is hereby

appropriated to the Public Utilities Commission for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$10,900
FROM:	
Public Utilities Commission Fund	$10,900

SECTION 7. In addition to any other appropriation there is hereby appropriated to the Department of Correction for Attorney General fees, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$17,900
FROM:	
General Fund	$ 8,900
Parolee Supervision Fund	9,000
TOTAL	$17,900

SECTION 8. In addition to any other appropriation there is hereby appropriated to the Department of Health and Welfare for Attorney General fees, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$76,100
FROM:	
General Fund	$38,000
Cooperative Welfare Fund (Federal)	38,100
TOTAL	$76,100

SECTION 9. In addition to any other appropriation there is hereby appropriated to the Department of Finance for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$8,900
FROM:	
State Regulatory Fund	$8,900

SECTION 10. In addition to any other appropriation there is hereby appropriated to the Department of Agriculture for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Operating Expenditures	$6,900
FROM:	
General Fund	$6,900

SECTION 11. In addition to any other appropriation there is hereby appropriated to the Department of Water Resources for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:

Operating Expenditures	$41,900

FROM:

General Fund	$41,900

SECTION 12. In addition to any other appropriation there is hereby appropriated to the Board of Nursing within the Department of Self-Governing Agencies for Attorney General fees, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:

Operating Expenditures	$17,000

FROM:

State Regulatory Fund	$17,000

Approved April 17, 2000.

CHAPTER 482
(H.B. No. 814)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2001; AND PROVIDING ONE ADDITIONAL FULL-TIME EQUIVALENT POSITION.

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

SECTION 1. In addition to the appropriation made in House Bill No. 784, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated $197,200 from the General Fund to the State Controller for Statewide Payroll for the period July 1, 2000, through June 30, 2001.

SECTION 2. In addition to the authorization provided in House Bill No. 784, enacted by the Second Regular Session of the Fifty-fifth Idaho Legislature, the State Controller is authorized one (1) full-time equivalent position for the period July 1, 2000, through June 30, 2001.

Approved April 17, 2000.

CHAPTER 483
(H.B. No. 816)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FAMILY AND COMMUNITY SERVICES FOR MENTAL HEALTH SERVICES FOR FISCAL YEAR 2001.

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

SECTION 1. In addition to any other appropriation for fiscal year 2001, there is hereby appropriated to the Department of Health and Welfare for Family and Community Services for Mental Health Services $625,000 from the General Fund for the period July 1, 2000, through June 30, 2001.

Approved April 17, 2000.

CHAPTER 484
(H.B. No. 817)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2001; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2001; AND APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2001.

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

SECTION 1. In addition to any other appropriation, there is hereby appropriated to the Public Utilities Commission for commissioner salaries and benefit costs, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$9,600
FROM:	
Public Utilities Commission Fund	$9,600

SECTION 2. In addition to any other appropriation, there is hereby appropriated to the State Tax Commission for commissioner salaries and benefit costs, to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$11,100
FROM:	
General Fund	$10,000
Administration Services for Transportation Fund	1,100
TOTAL	$11,100

SECTION 3. In addition to any other appropriation, there is hereby appropriated to the Industrial Commission for commissioner salaries and benefit costs, to be expended according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$9,400
FROM:	
Industrial Administration Fund	$9,400

Approved April 17, 2000.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 107)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO PUBLIC INDEBTEDNESS AND SUBSIDIES BY THE ADDITION OF A NEW SECTION 2A, ARTICLE VIII, TO AUTHORIZE THE LEGISLATURE TO ENACT LAWS AUTHORIZING THE STATE TO ESTABLISH A BOND BANK AUTHORITY TO PURCHASE THE BONDS, NOTES OR OTHER OBLIGATIONS OF A MUNICIPALITY ISSUED OR UNDERTAKEN FOR ANY PURPOSE AUTHORIZED BY LAW AND TO LEND MONEY TO A MUNICIPALITY WITH SUCH LOANS TO BE SECURED BY BONDS, NOTES OR OTHER OBLIGATIONS OF THE MUNICIPALITY ISSUED OR UNDERTAKEN FOR ANY PURPOSE AUTHORIZED BY LAW, TO AUTHORIZE LAWS ENABLING THE BOND BANK AUTHORITY TO OBTAIN FUNDS TO PURCHASE MUNICIPAL BONDS, NOTES OR OTHER OBLIGATIONS OR MAKE LOANS TO MUNICIPALITIES BY ISSUING REVENUE BONDS, NOTES OR OTHER OBLIGATIONS PAYABLE FROM OR SECURED BY MUNICIPAL BONDS, NOTES OR OTHER OBLIGATIONS, PLEDGING SPECIFIC FUNDS OR STATE REVENUES AS A SOURCE OF PAYMENT OR SECURITY FOR BONDS, NOTES OR OTHER OBLIGATIONS ISSUED BY THE AUTHORITY, ESTABLISHING DEBT SERVICE RESERVE OR OTHER RESERVE FUNDS, OBTAINING PRIVATE CREDIT ENHANCEMENT FOR BONDS, NOTES OR OTHER OBLIGATIONS ISSUED BY THE AUTHORITY, ESTABLISHING A REVOLVING LOAN PROGRAM TO PURCHASE MUNICIPAL BONDS, NOTES OR OTHER OBLIGATIONS OR TO LEND MONEY TO MUNICIPALITIES, INVESTING MONEYS HELD BY THE AUTHORITY IN SECURITIES OR OBLIGATIONS DESCRIBED IN THE INDENTURE, TRUST AGREEMENT OR OTHER INSTRUMENT PROVIDING FOR THE AUTHORITY'S ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS, INVESTING ANY OTHER MONEYS HELD BY THE AUTHORITY IN SECURITIES OR OTHER OBLIGATIONS IN WHICH A TRUSTEE MAY INVEST AS PROVIDED BY LAW, AND TAKING SUCH OTHER ACTIONS AND ENTERING INTO SUCH CONTRACTS AND AGREEMENTS DETERMINED TO BE NECESSARY OR APPROPRIATE TO ACCOMPLISH THE PURPOSES OF A BOND BANK AUTHORITY OR THE SECTION, TO AUTHORIZE THE LEGISLATURE TO ENACT LAWS AUTHORIZING MUNICIPALITIES, WITHOUT REGARD TO RESTRICTIONS OR OTHER LIMITATIONS IMPOSED BY STATE LAW BUT SUBJECT TO CONSTITUTIONAL LIMITATIONS IMPOSED ON MUNICIPALITIES, TO ISSUE BONDS, NOTES OR OTHER OBLIGATIONS FOR SALE TO OR AS SECURITY FOR LOANS RECEIVED FROM THE AUTHORITY, TO LEVY AND COLLECT PROPERTY TAXES, FEES, RATES, CHARGES AND OTHER ASSESSMENTS TO PAY OR SECURE THE BONDS, NOTES OR OTHER OBLIGATIONS ISSUED BY THE MUNICIPALITY FOR SALE TO OR AS SECURITY FOR LOANS RECEIVED FROM THE AUTHORITY, TO PLEDGE AND ASSIGN TO THE AUTHORITY OR ITS DESIGNEE PROPERTY TAXES, FEES, RATES, CHARGES AND OTHER ASSESSMENTS ALONG WITH THE RIGHTS TO ENFORCE THE COLLECTION AND APPLICATION THEREOF, AS SECURITY FOR THE BONDS, NOTES OR OTHER OBLIGATIONS ISSUED BY THE MUNICIPALITY

FOR SALE TO OR AS SECURITY FOR LOANS RECEIVED FROM THE AUTHORITY, AND TO TAKE SUCH OTHER ACTIONS AND ENTER INTO SUCH CONTRACTS AND AGREEMENTS AS IT MAY DETERMINE WITH THE AUTHORITY TO BE NECESSARY OR CONVENIENT TO ACCOMPLISH THE PURPOSES OF A BOND BANK AUTHORITY OR THE SECTION, TO PROVIDE THAT SECTION 1 AND SUBSECTION (1) OF SECTION 2 OF ARTICLE VIII SHALL NOT BE A LIMITATION UPON THE AUTHORITY GRANTED BY THE SECTION AND THAT ANY DEBT OR LIABILITY OF THE STATE ARISING FROM THE EXERCISE OF POWERS AUTHORIZED BY THE SECTION SHALL NOT BE DEEMED A DEBT OF THE STATE FOR PURPOSES OF SECTION 1 OF ARTICLE VIII, TO PROVIDE THAT THE PROVISIONS OF THE SECTION SHALL NOT BE CONSTRUED TO REPEAL OR LIMIT ANY AUTHORITY OF A MUNICIPALITY UNDER SECTION 3 OR 4 OF ARTICLE VIII, OR OTHER AUTHORITY EXERCISABLE BY A MUNICIPALITY UNDER THE CONSTITUTION AND LAWS OF IDAHO, INCLUDING ANY AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS, REVENUE BONDS OR TAX ANTICIPATION NOTES OR UNDERTAKE OTHER FINANCIAL OBLIGATIONS AND TO DEFINE "MUNICIPALITY"; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article VIII of the Constitution of the State of Idaho be amended by the addition thereto of a NEW SECTION, to be known and designated as Section 2A, Article VIII of the Constitution of the State of Idaho and to read as follows:

SECTION 2A. MUNICIPAL BOND BANK AUTHORITY. (1) Notwithstanding the provisions of subsection (1) of Section 2 of Article VIII, the legislature may enact laws authorizing the state to establish a bond bank authority to purchase the bonds, notes or other obligations of a municipality issued or undertaken for any purpose authorized by law and to lend money to a municipality with such loans to be secured by bonds, notes or other obligations of the municipality issued or undertaken as authorized by law. To enable the authority to obtain funds to purchase municipal bonds, notes or other obligations or to make loans to municipalities, the legislature may enact laws authorizing the bond bank authority to:

(a) Issue revenue bonds, notes or other obligations payable from or secured by bonds, notes or other obligations of one or more municipalities;

(b) Pledge or otherwise obligate, for and in the name and on behalf of the state as its agent and instrumentality, specific funds or revenues of the state, as a source of payment or security for bonds, notes or other obligations issued by the authority, with such priority over other uses of such funds or revenues as the authority shall determine, in accordance with law, to be necessary or appropriate;

(c) Establish debt service reserve funds or other reserve funds;

(d) Obtain private credit enhancement for bonds, notes or other obligations issued by the authority;

(e) Establish a revolving loan program to purchase municipal bonds, notes or other obligations or to lend money to municipalities;

(f) Invest moneys held by the authority, as proceeds or to pay or secure bonds, notes or other obligations issued by the authority, in such securities or obligations as are described in the indenture, trust agreement or other instrument providing for the issuance of the bonds, notes or other obligations;

(g) Invest any moneys held by the authority, in excess of funds described in paragraph (f) of this subsection, in any securities or other obligations in which a trustee may invest as provided by law;

(h) Take any other actions and enter into such other contracts and agreements as it may determine to be necessary or appropriate to accomplish the purposes of a bond bank authority or this section.

(2) To provide for the sale of municipal bonds, notes or other obligations to the authority and for the issuance of municipal bonds, notes or other obligations for purchase by the authority or as security for loans from the authority, the legislature may enact laws authorizing a municipality, in addition to any other powers municipalities may have, and without regard to the restrictions or requirements that might otherwise apply under the laws of this state, but subject to the requirements of Section 3 of Article VIII, and any other limitations imposed upon municipalities by the Constitution of the State of Idaho, to:

(a) Issue bonds, notes or other obligations for sale to or as security for loans received from the authority, with such interest rate, maturity, redemption, security, remedies and other terms as the municipality may agree with the authority;

(b) Levy and collect property taxes, fees, rates, charges and other assessments to pay or secure the bonds, notes or other obligations issued by the municipality for sale to or as security for loans received from the authority;

(c) Pledge and assign to the authority or its designee property taxes, fees, rates, charges and other assessments, and rights to enforce the collection and application thereof, to pay or secure the bonds, notes or other obligations issued by the municipality for sale to or as security for loans received from the authority;

(d) Take any other actions and enter into such other contracts and agreements as it may determine with the authority to be necessary or appropriate to accomplish the purposes of a bond bank authority or this section.

(3) The provisions of Section 1 and subsection (1) of Section 2 of Article VIII shall not be construed as a limitation upon the authority granted by this section and any debt

or liability of the state arising as a result of the exercise of powers authorized by this section shall not be deemed a debt of the state for purposes of Section 1 of Article VIII. The provisions of this section are supplemental to and shall not be construed as a repeal of or limitation upon any authority of a municipality under Section 3 or 4 of Article VIII, or any other authority lawfully exercisable by a municipality under the Constitution and laws of this state, including, among others, any authority to issue general obligation bonds, revenue bonds or tax anticipation notes or to enter into contracts for or undertake other financial obligations.

(4) For purposes of this section, "municipality" shall include any county, city, municipal corporation, school district, irrigation district, sewer district, water district, highway district or other special purpose district or political subdivision of the state established by law.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article VIII, of the Constitution of the State of Idaho be amended by the addition of a new Section 2A, Article VIII, authorizing the legislature to enact laws establishing a bond bank authority to purchase municipal bonds or other municipal obligations and make loans to municipalities secured by municipal bonds or other municipal obligations; authorizing laws permitting the authority, without an election, to issue revenue bonds payable from or secured by municipal bonds or other obligations, to pledge specific state funds or revenues as a source of payment or security for bonds or other obligations issued by the authority, to establish debt service or other reserve funds, to obtain private credit enhancement for bonds or other obligations issued by the authority, to establish a revolving loan program, to invest moneys held by the authority in securities and other obligations described in the instruments providing for the authority's issuance of bonds or other obligations and in securities or other obligations in which a trustee may invest pursuant to law, and to execute other contracts and take other necessary or appropriate actions to accomplish the purposes of a bond bank authority; authorizing laws permitting municipalities to sell to the authority bonds or other obligations issued in accordance with constitutional limitations or to obtain loans from the authority secured by such bonds or obligations, to levy and collect property taxes, fees, charges and assessments and assign the same to the authority to pay or secure municipal bonds or obligations issued for sale to or as security for loans from the authority, and to execute other contracts and take other necessary or appropriate actions to accomplish the purposes of the bond bank authority; providing that any debt or liability of the state arising from the authority's exercise of its powers shall not be subject to other constitutional limitations and requirements, including voter approval; and defining "municipality" to include any county, city, school district, irrigation district or other special purpose district or political subdivision of the state established by law?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the Senate March 28, 2000
Adopted by the House April 5, 2000

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 1)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 4, ARTICLE IX OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE PUBLIC SCHOOL FUND, TO CHANGE THE NAME OF THE PUBLIC SCHOOL FUND TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO PROVIDE THAT THE FUND SHALL CONSIST OF 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 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; 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; 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. 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 of the Constitution of the State of Idaho be amended to:

1. Change the name of the Public School Fund to the Public School Permanent Endowment Fund;

2. Provide that the fund shall consist of proceeds from the sale of school lands and amounts allocated from the Public School Earnings Reserve Fund;

3. 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; and

4. To provide that 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 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 10, 2000
Adopted by the Senate March 22, 2000

SENATE JOINT MEMORIALS

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE 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 Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on October 19, 1999, the United States Forest Service announced a vast "rulemaking process to propose the protection of the remaining roadless areas within the National Forest System." 64 FR 56306. This rulemaking purportedly includes two draft environmental impact statements, at least one set of draft rules, and a draft environmental assessment; and

WHEREAS, the Notice of Intent (NOI) solicits comments "on the scope of the analysis that should be conducted" and "on the identification of alternatives to the proposal" that will be set out in this multitude of documents. The NOI then provides prospective commentators with slightly more than sixty days to comment on this enormous and poorly defined proposal. The NOI is an unacceptable affront to the promise of meaningful public participation that is the centerpiece of the National Environmental Policy Act (NEPA); and

WHEREAS, more than forty million acres of land in the West could be affected by the actions contemplated in the NOI. A permanent moratorium on Forest Service road development will have a devastating impact on timber communities in the West. The proposed moratorium will destroy attempts to develop recreational economies in the West and deny access to huge areas of the West to all but the able-bodied. In sum, the moratorium will deny thousands of citizens the opportunity to use, enjoy and benefit from the land; and

WHEREAS, the process used by the Forest Service to consider such a potentially severe decision must reflect absolute fairness and deliberation. The NOI demonstrates neither of those traits. No specific proposals are identified. No preliminary findings are referenced; and

WHEREAS, these failures violate one of NEPA's primary objectives of encouraging and facilitating "public involvement in decisions which affect the quality of the human environment." 40 CFR 1500.2(d); and

WHEREAS the NOI states that it "initiates the scoping process." 64 FR 56307. However, the NOI does not identify "the significant issues related to [the] proposed action," as is required by federal regulations. 40 CFR 1501.7. The NOI does not encourage "the participation of affected federal, state and local agencies" and the regulations implementing NEPA anticipate. 40 CFR 1501.7(a)(1); and

WHEREAS, the ambiguity and confusion that characterize the NOI are compounded by the fact that the comment period is so brief. Title 40 CFR 1501.8(b)(1)(i)-(viii) specifically set out considerations that the Forest Service should be using in determining the time limits for soliciting comments on the NOI.

"(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(viii) Other time limits imposed on the agency by law, regulations or executive order."; and

WHEREAS, it should be obvious that all of these factors support a careful, deliberate, consideration of the environmental impacts of the proposed permanent moratorium. The expedited deadline in the NOI is completely inconsistent with 40 CFR 1501.8(b); and

WHEREAS, in an October 28, 1999, letter to forest service managers, Mike Dombeck, Chief of the U.S. Forest Service suggested that the Forest Service is attempting to complete the environmental analysis of a permanent moratorium in a "short time frame." The U.S. Forest Service should not be trying to ramrod a decision that will shut down forty million acres of western lands into "a short time frame." You should be honoring the spirit, not to mention the clear mandate, of NEPA by providing meaningful opportunity for public participation and careful, principled, environmental analysis; and

WHEREAS, the closing date for public comments was set for December 20, 1999. With decisions on the management of over forty million acres of land in the West at stake, the time is clearly not adequate time for officials to thoroughly review and analyze the proposal, and to provide the Forest Service with informed and substantive comment.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that the U.S. Forest Service extend the deadline to submit comments on the NOI by one hundred twenty days. An expedited consideration of this request is appreciated.

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 Chief of the United States Forest Service, 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 15, 2000
Adopted by the House March 31, 2000

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Forest Service (USFS) published in the Federal Register on October 5, 1999, a proposed rule regarding forest service land and resource management planning; and

WHEREAS, the Legislature of the State of Idaho advocates improvements to the forest planning regulations; and

WHEREAS, the USFS needs to simplify, clarify and otherwise improve the planning process as well as reduce the burdensome and costly procedural requirements, and strengthen collaborative relationships with the public and other governmental entities; and

WHEREAS, the USFS organic act calls for multiple use in managing the national forests with meaningful public input; and

WHEREAS, the proposed rules are inconsistent with the legislative direction for multiple uses and high-level sustained yield outputs of the renewable timber resource; and

WHEREAS, timber production must remain a primary use in the National Forest System; and

WHEREAS, the proposed rules would alter the multiple use and sustained yield mandate prescribed by Congress. Moreover, they reverse the multiple use priorities set by Congress by subordinating timber production to achievement of biological diversity and similar ecosystem goals; and

WHEREAS, no other law provides authority for the Forest Service to alter the course of management and primary purposes set by Congress for management of the National Forest System; and

WHEREAS, the proposed rules lack commitment to carrying out economic multiple uses; and

WHEREAS, the proposed rules fail to provide direction on which plan revisions and amendments require environmental impact statements. Procedures and standards should be revised for significant plan amend-

ments; and

WHEREAS, the proposed rules provide no effective date for the adoption of an amendment or plan revision.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we request the United States Forest Service not move forward with final rule based on the October 5, 1999, proposal. Ecological sustainability must start looking at current conditions of the national forests and determining the desired future conditions, which should be healthy forests for the American people to use and enjoy. There should be aggressive, active management, rather than passive management, to restore the health of all land identified as being high risk to insect and disease infestation and/or catastrophic wildfire. Prohibiting management puts our forests at risk to insects, diseases and fire. These proposed rules will cause greater damage to our forests in the long run.

BE IT FURTHER RESOLVED, that the Legislature of the State of Idaho encourages the agency to readdress its entire approach to ecosystem management. The agency needs to streamline and clarify the forest planning and decision-making processes, strengthen relationships with the public, ensure long-term sustainability of forest ecosystems, and promote adaptive management. The proposed rules cannot accomplish these critical goals in its current form. Ecosystem management and forest planning cannot be successful if the process becomes the goal. Ecosystem management must instead be considered a tool to accomplish the goals which are set in law and through the development of forest plans.

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, 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 17, 2000
Adopted by the House March 31, 2000

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE DIRECTOR OF THE IDAHO OFFICE OF THE BUREAU OF LAND MANAGEMENT, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, a developing scenario in Owyhee County has been brought to the attention of the Legislature, and it is appropriate that public

attention be drawn to this situation as representative of other similar events occurring in Idaho; and

WHEREAS, the Bureau of Land Management is charged with management of lands in Owyhee County known as the Cliffs Allotment; and

WHEREAS, the BLM has notified holders of grazing permits in the Cliffs Allotment that the grazing season will be reduced by two and one-half months which is a 53% reduction in the grazing allotment; and

WHEREAS, the area is managed to meet a requirement of six inch stubble height at the end of the grazing season, a goal which the BLM says has not been met despite photographic evidence and independent monitoring to the contrary; and

WHEREAS, federal law requires one year's notice before any significant reduction in grazing is ordered, a requirement which has clearly not been met in this case; and

WHEREAS, a reduction of the size now contemplated would effectively put five ranching families, with a long history in the Cliffs Allotment and evidence of management efforts which have actually improved the conditions of the allotment, out of business; and

WHEREAS, the BLM is acting with callous disregard of the local economy, the law, and the best interests of the land and the people of Idaho; and

WHEREAS, the BLM must be brought to recognize and consider all of the interests which are indigenous to the locale including the legitimate goals of citizens who make their living off the land.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we join together with the citizens of Owyhee County in their grievance against the untenable action of the Bureau of Land Management in limiting grazing permits with a reduction of the grazing season by two and one-half months. Further, we urge thoughtful reconsideration not only of this decision, but the accumulating body of management decisions made by the Bureau of Land Management which are resulting in further reductions in the resources available to Idahoans who live off the land.

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 Director of the Idaho Office of the Bureau of Land Management, 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 15, 2000
Adopted by the House April 3, 2000

(S.J.M. No. 108)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, EACH STATE LEGISLATURE AND THE PRESIDENTIAL CANDIDATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Health Insurance Premiums Task Force was established to identify, explore and address causes for the alarming increase in the costs of health insurance; and

WHEREAS, in the course of its examination the task force received extensive information, data and testimony from consumers, employers and representatives of the health care industry, including carriers, agents, pharmaceutical manufacturers, pharmacists, hospitals, physicians and other health care providers; and

WHEREAS, the task force found that federal and state reforms and mandates, including those requiring guaranteed issue of insurance policies in the individual and small group insurance markets, have created a segment of high risk individuals who must be insured, causing the entire population, and particularly the healthy, to pay much more for health insurance; and

WHEREAS, the task force further found that the dramatic increase in premium rates has driven expanding numbers of healthy individuals into the ranks of the uninsured, resulting in even greater costs to insurers to provide required coverage for the high risk unhealthy population, and greater costs to the remaining insured population; and

WHEREAS, the task force also determined that costs to provide health care and treatment for uninsured individuals is another significant factor in the high cost of health insurance; and

WHEREAS, the task force concluded that among other possible solutions, providing full deductibility from federal income taxes of health insurance premiums for individuals, the self-employed and small employers would bring the healthy back into the insured market, lower costs to employers who must provide coverage, reduce the uninsured population, and restore a balance of risk in the market that will make health insurance more affordable and accessible.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that federal legislation be enacted providing full deductibility from federal income taxes of health insurance premiums for individuals, the self-employed and small groups.

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 and Vice President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the state of Idaho in the Congress of the United States, the President of the Senate and the Speaker of the House of Representatives of each State Legislature, and to the presidential candidates.

Adopted by the Senate March 9, 2000
Adopted by the House April 3, 2000

(S.J.M. No. 109)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, EACH STATE LEGISLATURE AND THE PRESIDENTIAL CANDIDATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, alarming increases in the costs of health care and health insurance have caused a health care crisis of epidemic proportions;

WHEREAS, the Idaho Health Insurance Premiums Task Force was established to identify, explore and address the causes of this crisis; and

WHEREAS, in the course of its examination the task force received extensive information, data and testimony from consumers, employers, and representatives of the health care industry, including carriers, agents, pharmaceutical manufacturers, pharmacists, hospitals, physicians and other health care providers; and

WHEREAS, the task force found that among the factors contributing to inflated health care and insurance costs are an aging population, new and more expensive technologies, advancements in drug therapy and greater reliance upon costly designer pharmaceuticals, as well as increasing consumer demand, utilization and expectations with respect to health care services; and

WHEREAS, the task force further determined that reimbursements to providers for health care services furnished to patients receiving Medicare are significantly below the actual costs to the provider to furnish these health care services; and

WHEREAS, providers are finding it necessary to recoup losses incurred to serve Medicare patients from other sources, including shifting costs to non-Medicare patients, which leads to higher claims expenses to insurers and increased premium rates to the insured; and

WHEREAS, some providers are no longer taking Medicare patients because of the providers' inability to recover their costs, thus reducing provider availability and limiting access to health care for many who are most in need of health care services.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that federal legislation be enacted to increase Medicare reimbursements to levels allowing providers to fully recover the actual costs of providing necessary health care services to Medicare eligible patients.

BE IT FURTHER RESOLVED that the members of the Idaho Legislature respectfully suggest that if the President and Congress are sincere in their resolve to find solutions to the health care crisis they should start by funding Medicare at appropriate levels.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this memo-

rial to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, to the congressional delegation representing the state of Idaho in the Congress of the United States, to the President of the Senate and the Speaker of the House of Representatives of each State Legislature, and to the presidential candidates.

Adopted by the Senate March 9, 2000
Adopted by the House April 3, 2000

(S.J.M. No. 110)

A JOINT MEMORIAL

TO THE FEDERAL SURFACE TRANSPORTATION BOARD IN THE UNITED STATES DEPARTMENT OF TRANSPORTATION, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, freight rail transportation is an essential part of the economy of the state of Idaho; and

WHEREAS, Camas Prairie Rail Net in Lewiston, Idaho has announced its intention to abandon a portion of railroad track serving the Camas Prairie; and

WHEREAS, the timing of this abandonment proposal is not only premature but will likely have a great economic impact on the railroad shippers and receivers in the area at the most inopportune time; and

WHEREAS, a continuation of rail abandonments could have a detrimental effect on the Idaho transportation system and its future viability; and

WHEREAS, any further abandonment of railroad lines could divert companies and jobs out of Idaho; and

WHEREAS, jobs and industries throughout the state of Idaho could be negatively affected by the removal of railroad lines; and

WHEREAS, continued loss of railroad lines will reduce the ability of Idaho's manufacturing, agriculture and retailers from receiving competitive shipping rates; and

WHEREAS, a significant portion of Idaho's freight rail system could be lost should these abandonments continue to be approved; and

WHEREAS, since the federal Surface Transportation Board has not shown any sensitivity toward the needs and concerns of this state and its local communities; and

WHEREAS, many Idaho legislators, rail shippers and receivers, the United Transportation Union, and the Idaho state AFL-CIO have announced their opposition to further abandonment of railroad lines in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the

House of Representatives concurring therein, that we hereby urge the federal Surface Transportation Board to reject any application for rail abandonments by Camas Prairie Rail Net in Idaho that the Idaho Public Utilities Commission, on behalf of this state, has determined through its process to be adverse to the public interest.

BE IT FURTHER RESOLVED that because the Camas Prairie Rail Net line being proposed for abandonment is of such great importance, we respectfully request that the federal Surface Transportation Board conduct a public hearing in the affected area of Idaho, for the purpose of receiving both oral and written testimony.

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 federal Surface Transportation Board in Washington, D.C., and to the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the Senate March 10, 2000
Adopted by the House March 30, 2000

(S.J.M. No. 111)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Environmental Protection Agency (EPA) continues to engage in unilateral actions regarding efforts to expand the existing twenty-one square mile Superfund site to include the entire 1,500 square mile Coeur d'Alene River Basin; and

WHEREAS, the EPA staff members working on Coeur d'Alene Basin issues continue to disregard the views of Idaho's citizens and elected officials; and

WHEREAS, the EPA has already spent many millions of dollars in the Coeur d'Alene Basin outside the existing Superfund site without any meaningful cleanup to date; and

WHEREAS, the EPA has undertaken the steps to complete a Remedial Investigation/Feasibility Study (RI/FS) even though the basin is not listed on the national priorities list; and

WHEREAS, the state of Idaho has been previously granted the leadership role in the Human Health Risk Assessment portion of the RI/FS; and

WHEREAS, the EPA efforts to bifurcate the RI/FS process appear detrimental to current settlement discussions among all of the parties; and

WHEREAS, the state of Idaho, the Governor and the Director of the Department of Environmental Quality, have taken the leadership role in development of a plan to remediate the problems in the basin and have actively gained support of local units of government, local citizens, tribal members and responsible parties.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we strongly support efforts by the Idaho Department of Environmental Quality to assert and maintain the leadership role in designing and implementing a solution to the multiple dilemmas in the Coeur d'Alene Basin.

BE IT FURTHER RESOLVED that we request the Environmental Protection Agency to use its authority to support efforts by the Idaho Department of Environmental Quality to resolve this problem and to refrain from any strategic delays, unilateral decisions or media manipulation.

BE IT FURTHER RESOLVED that we request a letter be sent from the Administrator of the Environmental Protection Agency to the Region 10 office of the EPA instructing the region to fully support and cooperate with the Governor of the State of Idaho and the Director of the Idaho Department of Environmental Quality in reaching a settlement in these matters.

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, to the Administrator of the United States Environmental Protection Agency, 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 31, 2000
Adopted by the House April 4, 2000

HOUSE JOINT MEMORIALS

(H.J.M. No. 6)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on February 2, 1999, H.R. 488, known as the "Northern Rockies Ecosystem Protection Act," was introduced in the U.S. House of Representatives;

WHEREAS, the Act is far reaching and would designate wilderness, wild and scenic rivers, national park and preserve study areas, wildland recovery areas, and biological connecting corridors in five northwest states: Idaho, Montana, Oregon, Washington and Wyoming;

WHEREAS, the Act would create over eighteen million acres of new wilderness alone, approximately five million acres of which would be in Idaho, more than in any other state;

WHEREAS, the Act also designates over a million acres along the Idaho-Oregon border as the Hells Canyon/Chief Joseph National Preserve;

WHEREAS, the Act, a concept presented by the Montana-based environmental group, the Alliance for the Wild Rockies, was first introduced in 1992 to oppose a bill designating wilderness areas only in the state of Montana;

WHEREAS, the members of the Idaho congressional delegation opposed the Act in 1992 and continue to oppose it now;

WHEREAS, the Act is also opposed by the majority of representatives in the Congress from the other affected states: Montana, Oregon, Washington and Wyoming;

WHEREAS, the lands addressed by the Act closely resemble those at issue in President Clinton's current roadless lands initiative, which is also opposed by the state of Idaho and the Idaho congressional delegation;

WHEREAS, setting aside so much acreage in Idaho as wilderness, wild and scenic rivers, national park and preserve study areas, wildland recovery areas, and biological connecting corridors would severely reduce employment and income in many areas of the state in which it is difficult to replace the lost money by other means, and would landlock thousands of acres of state endowment land, thereby reducing funds for public education in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress of the United States to oppose H.R. 488, known as the "Northern Rockies Ecosystem Protection Act."

BE IT FURTHER RESOLVED, that the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, support natural resource planning and environmental management featuring site-specific management decisions made by local decision-makers, local citizens and parties directly and personally affected by land and resource management decisions.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the 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 6, 2000
Adopted by the Senate March 28, 2000

(H.J.M. No. 7)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho is a state which has sixty-six percent of its landmass controlled by the federal government; and

WHEREAS, access to Idaho's public lands is a vital part of Idaho's natural resource economy as well as an important part of our citizens heritage, recreation and enjoyment; and

WHEREAS, Idaho currently has 4,081,315 acres of wilderness which is sufficient; and

WHEREAS, President Clinton has proposed to establish another nine million acres of defacto wilderness in Idaho by declaring certain public lands in the state to be roadless; and

WHEREAS, Idaho Governor Dirk Kempthorne requested a longer comment period for Idaho citizens to study and comment on the roadless plan and his request was summarily denied by the United States Forest Service; and

WHEREAS, the state of Idaho has been compelled to initiate a lawsuit to protect its interests in Idaho land designated as public; and

WHEREAS, roadless areas prevent access to the forests of Idaho and negatively affect forest health by preventing intervention in disease,

insect infestations and fire suppression.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 negating any Presidential Executive Order President Clinton may issue regarding additional defacto wilderness and instructing the United States Forest Service and the Bureau of Land Management to maintain roads and access into the public lands in Idaho.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 6, 2000
Adopted by the Senate March 28, 2000

(H.J.M. No. 8)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on January 19 and 20, 2000, an agricultural summit was held in Boise, Idaho, involving representatives from the governments of the United States and Canada, the provinces of Alberta, Manitoba and Saskatchewan, and the states of Idaho, Oregon, Washington and Montana, and representatives from the beef and potato industries of those provinces and states;

WHEREAS, through discussions, the exchange of information and briefings from government, industry and university personnel, a dialogue was initiated and consensus reached in certain areas of mutual concern;

WHEREAS, both the Alberta and Idaho conference attendees agreed that they would communicate points of agreement to their national governments through a formal communication, which this memorial embodies and constitutes.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the agreements made at the Idaho-Canada Summit, and urge the United States Congress and the United States trade representative to urge the government of Canada to remove the prohibition on bulk shipment of potatoes between the United States and Canada; and to recognize that

United States Department of Agriculture marketing orders should be considered as a quality assurance measure and not as a technical trade barrier.

BE IT FURTHER RESOLVED, that the United States government should make every effort to quickly harmonize and equalize laboratory testing of potatoes so that there is mutual acceptance of each country's respective test results.

BE IT FURTHER RESOLVED, that the dialogue initiated during these meetings should be continued through further meetings of smaller working groups comprised of industry, state and provincial representatives and that their recommendations should be given great weight by their respective national governments.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House March 15, 2000
Adopted by the Senate March 22, 2000

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on January 19 and 20, 2000, an agricultural summit was held in Boise, Idaho, involving representatives from the governments of the United States and Canada, the provinces of Alberta, Manitoba, and Saskatchewan, and the states of Idaho, Oregon, Washington and Montana, and representatives from the beef and potato industries of those provinces and states; and

WHEREAS, through discussions, and the exchange of information and briefings from government and industry, a dialogue was initiated and consensus reached in certain areas of mutual concern; and

WHEREAS, both the Alberta and Idaho conference attendees agreed that they would communicate points of agreement to their national governments through a formal communication, which this memorial embodies and constitutes.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the agreements made at the Idaho-Canada Summit, and urge the United States Congress and the United States trade representative to meet with the

Canadian government to review and reconcile their statistics concerning the cattle and beef industry, so that the industries on both sides of the border have access to accurate, comparable and timely data.

BE IT FURTHER RESOLVED, that the states and provinces involved in the Pacific Northwest Cattle Project meet and develop a consistent set of cattle statistics and a single methodology for gathering and reporting these statistics, and also improve communication through regional meetings, tours and exchanges.

BE IT FURTHER RESOLVED that the United States Department of Agriculture and Agriculture Canada work towards the removal of federal certificates and federal endorsement requirements for the movement of cattle between Canada and the United States within the Northwest region.

BE IT FURTHER RESOLVED that the states and provinces involved should be encouraged to expand the Pacific Northwest Cattle Project for feeder cattle from six months to twelve months access and expand the project to include other classes of cattle.

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 in Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 21, 2000
Adopted by the Senate March 27, 2000

(H.J.M. No. 10)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho is fully committed to achieving and maintaining water quality for public use and recreation and the protection of aquatic ecosystems; and

WHEREAS, substantial progress has already been made toward this objective nationwide through the investment of almost one trillion dollars by the municipal and industrial sectors of the economy and an effective federal, state and local partnership with the private sector, in which the states have primary and lead authority; and

WHEREAS, the state's direct experience demonstrates that achievement of water quality goals depends upon the use of sound science and quality data, an iterative approach to water quality management, a commitment to accommodating economic development, the careful investment of limited resources to maximize environmental benefits, and

broad-based public support; and

WHEREAS, the state's direct experience also demonstrates that the remaining water quality challenges are complex, difficult and site-specific, requiring tailored solutions, better science and monitoring data; and

WHEREAS, the state has many effective regulatory and cooperative programs underway that are achieving better and greater protection of water quality than can be achieved with a prescriptive federal approach; and

WHEREAS, Section 303(d) of the Clean Water Act, pertaining to total maximum daily loads (TMDLs), is but one of the many tools that the state and local governments have to assure effective water quality management and is not always the most efficient and effective; and

WHEREAS, the U.S. Environmental Protection Agency's recently proposed TMDL regulations exceed their authority; impose upon the states many new prescriptive, costly, unattainable and often unnecessary requirements; position the U.S. Environmental Protection Agency to arbitrarily take over state program activities; and halt economic development in many waters far into the future; and

WHEREAS, the proposed regulations impose "unfunded mandates" on the state agencies; and

WHEREAS, the proposed regulations circumvent the state-based best management practices approach under Section 319 of the Clean Water Act to managing nonpoint source runoff from land-based activities, such as forestry, and superimpose a federal regulatory program on millions of landowners, reversing more than two decades of precedent under the Clean Water Act; and

WHEREAS, the proposed regulations contain inconsistent and vague terminology that will lead to more state and federal litigation and misallocation of resources while stifling creativity and development of more cost-effective approaches at the state level.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the United States Environmental Protection Agency should, in partnership with the states, reconsider and significantly revise its TMDL proposed regulations and guidance, while taking a more reasonable approach that:

1. Recognizes the limits of the TMDL statutory tool and relies on the many effective approaches states have undertaken under the Clean Water Act and other statutory authorities in partnership with local government, federal agencies and the private sector;
2. Uses Section 303(e) rather than Section 303(d) to inventory water quality generally and establishes a more focused basis for listing of waters under Section 303(d);
3. Provides states the ability to deal, in the most reasonable, cost-effective manner possible, with complex or difficult water quality situations, such as where legacy pollutants, air deposition and nonpoint sources contribute to impairment;
4. Provides fair and workable procedures for issuing new or renewed permits, which allow flexibility in making reasonable progress in reducing loadings, without imposing unnecessary restrictions stifling economic growth;
5. Postpones the April 2000 listing of 303(d) waters for which

TMDLs will be required until two years after promulgation of changes to the existing regulations;

6. Is performance based, enabling states to take alternative "functionally equivalent" approaches through regulatory and other means states deem appropriate so long as their water quality standards will be achieved; and

7. Focuses the federal government on the priority need for better funding of state monitoring and watershed technical assistance.

BE IT FURTHER RESOLVED that we request the congressional authorizing committees and other interested committees to conduct comprehensive hearings on the proposed rules and the Section 303(d) program in general, and ensure that a comprehensive analysis of the economic and program impacts of the entire TMDL program is completed; and

BE IT FURTHER RESOLVED that due to the continued proliferation of lawsuits, court orders and consent decrees that are placing an onerous burden on many states, the U.S. Environmental Protection Agency should support state efforts to renegotiate those requirements based on improvements made to the national program.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House March 30, 2000
Adopted by the Senate April 5, 2000

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 146)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO STATE TAX COMMISSION RELATING TO TRADE-INS, TRADE-DOWNS AND BARTER.

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 State Tax Commission relating to trade-ins, trade-downs and barter are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 35.01.02, Section 044, rules of the Idaho State Tax Commission relating to trade-ins, trade-downs and barter, adopted as a pending rule under Docket number 35-0102-9902, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 17, 2000
Adopted by the House February 28, 2000

(S.C.R. No. 149)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO RANGELAND RESOURCES COMMISSION RELATING TO NOMINATIONS TO THE COMMISSION.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule

of the Idaho Rangeland Resources Commission relating to nominations to the commission is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 56.01.01, Section 100, Subsection 02 only, rules of the Idaho Rangeland Resources Commission relating to nominations to the commission, adopted as a pending rule under Docket number 56-0101-9901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 22, 2000
Adopted by the House March 23, 2000

(S.C.R. No. 150)

A CONCURRENT RESOLUTION

RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR ADULT LITERACY PROGRAMS AND DECLARING NOVEMBER 2000 TO BE IDAHO LITERACY MONTH WITH THE THEME "PROMOTING LITERACY IN THE 21ST CENTURY."

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

WHEREAS, literacy in the twenty-first century 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 affects economic competitiveness in a global market; and

WHEREAS, technology is rapidly advancing in our society and increased literacy skills empower individuals to meet the increased demands of daily life accordingly; and

WHEREAS, learning does not end with formal education but continues throughout life as individuals acquire new knowledge and skills; and

WHEREAS, literacy empowers parents in their role as their children's first teacher, preparing their children to be ready to learn upon entering school and helping their children to succeed once in school; and

WHEREAS, English as a second language programs empower non-English speaking adults to be successful in society and at work, 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 thirty-one 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 Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that November 2000 be declared "Idaho Literacy Month" for the purpose of focusing public awareness on empowering Idahoans through increased literacy skills with the theme "Promoting Literacy in the 21st Century."

Adopted by the Senate February 23, 2000
Adopted by the House March 23, 2000

(S.C.R. No. 152)

A CONCURRENT RESOLUTION

PROVIDING FINDINGS OF THE LEGISLATURE AND DECLARING APRIL 2000 "IDAHO FINANCIAL LITERACY MONTH" FOR THE PURPOSES OF FOCUSING PUBLIC AWARENESS ON ISSUES OF YOUTH AND ADULT FINANCIAL LITERACY, THE RESPONSIBILITIES AND RIGHTS OF CONSUMERS AND HOW TO DETECT AND AVOID FRAUD.

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 $5.3 billion owed to Idaho institutions alone and is growing an average of $157 million per year; and

WHEREAS, the number of foreclosures of second mortgage loans has tripled in 1999; and

WHEREAS, Idaho's bankruptcy filings, both personal and business, have increased an average of eighteen percent per year over the past five years and, on a nationwide basis, the proportion of bankruptcy filers aged twenty-five years and younger continues to grow;

WHEREAS, research has proved a direct relationship between financial literacy and rates of personal bankruptcy with Idaho being one of the 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, workers understand the need to save for retirement, but six out of ten workers in the private sector reach retirement age with no pension; and the nation has had a negative savings rate for the past five years; and

WHEREAS, educational efforts will help Idahoans learn how to protect themselves and their businesses from unfair and fraudulent transactions and understand and adhere to 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, is partnering with state and national agencies and industry associations to advance and promote financial literacy through antifraud and other consumer protection awareness issues, as well as continuing consumer education.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that April 2000 be declared "Idaho Financial Literacy Month" for the purposes of focusing public awareness on issues of youth and adult financial literacy, the responsibilities and rights of consumers and how to detect and avoid fraud.

Adopted by the Senate February 24, 2000
Adopted by the House April 3, 2000

(S.C.R. No. 153)

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 Second 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 2000 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 50.01.01, Section 450, Subsection 02, paragraph d only, concerning supporting documents regarding commutations, and Subsection 02, paragraph i only, concerning written materials that are a public record, rules of the Commission of Pardons and Parole relating to commutation, adopted as a temporary rule under Docket number 50-0101-9903.

(2) IDAPA 16.04.11, Section 919, the entire section, concerning transportation, and Section 920, Subsection 08 only, concerning vehicle safety, rules of the Department of Health and Welfare relating to developmental disabilities agencies, adopted as a temporary rule under Docket number 16-0411-9901.

A temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the First Regular Session of the Fifty-sixth Idaho Legislature 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 2000 legislative session shall expire by operation of statute upon adjournment of the Second 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 February 24, 2000
Adopted by the House March 6, 2000

(S.C.R. No. 154)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE 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 finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending adminis-

trative 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 2000 legislative session, which impose a fee or charge, be, and the same are approved.

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 February 24, 2000
Adopted by the House March 6, 2000

(S.C.R. No. 155)

A CONCURRENT RESOLUTION

PROVIDING LEGISLATIVE INTENT SUPPORTING CIVIC EDUCATION AND DECLARING THE THIRD FRIDAY OF SEPTEMBER AS IDAHO LEGISLATORS BACK TO SCHOOL DAY.

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

WHEREAS, Idaho was created as a representative democracy in which all governmental power is inherent in the people who exercise that power through the legislative, executive and judicial branches; and

WHEREAS, in recent years, citizen interest in government and knowledge of the political system has declined in part due to a weakening belief in, and a lack of understanding of the virtues and knowledge needed for a successful republican form of government; and

WHEREAS, Benjamin Rush, signer of the Declaration of Independence stated, "There is but one method of rendering a republican form of government durable, and that is by disseminating the seeds of virtue and knowledge through every part of the state by means of proper places and modes of education and this can be done effectively only by the aid of the legislature"; and

WHEREAS, the National Conference of State Legislatures (NCSL) has passed a resolution that says that the operations of the state legislatures and the roles of individual legislators are often little understood by citizens, and that public understanding of the institutions and processes of the government is critical to building public trust and confidence; and

WHEREAS, the NCSL resolution also states that state legislatures need to bring about better understanding of the concept of representative democracy and that education about representative democracy should emphasize the importance of compromise and the difficulty of resolving competing interests in a diverse society; and

WHEREAS, civic education is a vital tool to promote greater understanding of the legislative institution and the role of legislators in

representative democracy; and

WHEREAS, NCSL has urged the nation's state legislatures to promote civic education about representative democracy; and

WHEREAS, NCSL has established America's Legislators Back to School Day, a national day on which state legislators across the nation visit schools and classrooms to talk about the legislature and to observe activities in the schools; and

WHEREAS, legislators will benefit from interacting with students, teachers and administrators.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature of the State of Idaho supports civic education to promote greater understanding of the legislative institution and the role of legislators in representative democracy.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho declares that the third Friday in September shall be designated as Idaho Legislators Back to School Day and urges all members of the legislature to visit schools on that day.

Adopted by the Senate March 2, 2000
Adopted by the House March 23, 2000

(S.C.R. No. 163)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND URGING THE STATE OF IDAHO AND POLITICAL SUBDIVISIONS TO CAREFULLY EXAMINE ANY CONTRACT OR AGREEMENT WITH OUTSIDE CONTRACTORS OR PROVIDERS SO THAT THEY ARE NOT DOING BUSINESS WITH A CORPORATION OR ENTITY THAT IS ABROGATING RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES.

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

WHEREAS, the Second Amendment to the Constitution of the United States provides that "the right of the people to keep and bear arms, shall not be infringed."; and

WHEREAS, Section 11, Article I of the Constitution of the State of Idaho provides "The people have the right to keep and bear arms, which right shall not be abridged..." and "No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition. Nor shall any law permit the confiscation of firearms, except those actually used in the commission of a felony."; and

WHEREAS, these basic fundamental rights guaranteed to the citizens by the United States Constitution and the Constitution of the State of Idaho are the basic cornerstones of a free society; and

WHEREAS, some corporate policies limit services to companies that make or sell guns or provide shooting or training facilities; and

WHEREAS, some departments and institutions of the state of Idaho may do business with such organizations; and

WHEREAS, a corporation or organization that is discriminating against people acting within the law by exercising their fundamental constitutional rights is not a corporation or organization with which state government should do business.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully urge that all departments and institutions of the state of Idaho that do business with outside contractors or service providers should carefully examine contracts when they come up for renewal, and before entering into new contracts with a company or organization, to ensure that the state of Idaho does not do business with entities that knowingly discriminate against Americans exercising their fundamental constitutional rights.

Adopted by the Senate March 17, 2000
Adopted by the House April 3, 2000

(S.C.R. No. 164)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING LEGISLATIVE AUTHORIZATION AND APPROVAL FOR THE LAVA HOT SPRINGS FOUNDATION OF THE STATE OF IDAHO TO ENTER INTO AN AGREEMENT OR AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND PROVIDE CERTAIN IMPROVEMENTS AND RECREATIONAL EQUIPMENT.

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

WHEREAS, current facilities for use of the Lava Hot Springs Foundation are inadequate and new improvements and additional recreational equipment are appropriate to meet the needs of the Lava Hot Springs Foundation; and

WHEREAS, it is advantageous to arrange for financing of the new facilities through the Idaho State Building Authority in order to take advantage of tax-exempt revenue bond financing.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Lava Hot Springs Foundation of the State of Idaho is hereby authorized to enter into an agreement or agreements with the Idaho State Building Authority, upon such terms and conditions as may be reasonable and necessary, for the purpose of financing and providing access improvements and additional recreational facilities for the Lava Hot Springs Foundation.

BE IT FURTHER RESOLVED that this resolution shall for all purposes constitute prior legislative approval in accordance with Section 67-6410, Idaho Code, with respect to the agreement or agreements and the facilities referred to herein.

Adopted by the Senate March 29, 2000
Adopted by the House April 3, 2000

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 32)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-fifth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 17, 2000.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 17, 2000, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 17, 2000
Adopted by the Senate January 17, 2000

(H.C.R. No. 33)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-fifth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 19, 2000.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Repre-

sentatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Wednesday, January 19, 2000, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 19, 2000
Adopted by the Senate January 19, 2000

(H.C.R. No. 35)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE, ADOPTING CERTAIN RECOMMENDATIONS, AND STATING POLICY TOWARD FUNDING RECOMMENDATIONS REGARDING PAY POLICIES FOR STATE EMPLOYEES.

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

WHEREAS, the Legislature has by law provided that the Governor and Division of Human Resources report to the Legislature their recommendations for proposed pay policies, together with the estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 19, 2000, and the report of the Division of Human Resources dated October 1, 1999; and

WHEREAS, the Legislature endorses the Compensation Policy adopted by House Concurrent Resolution No. 58 in the 1994 legislative session, which is restated in part as follows:

1. It is the mission of Idaho state government to provide a high level of responsive service in meeting the needs of its citizens. To accomplish this mission, it is the policy of the state of Idaho to provide a total compensation system that attracts, retains and recognizes employees. The foundation of this system is to reward employees for performance in the achievement of service delivery goals and objectives.
2. It is intended that the state of Idaho pay competitive job market average salaries. Employees should expect to reach the market rate within their assigned pay grade based upon acceptable performance.
3. It is the policy of the Legislature that employees be rewarded and advanced in their assigned pay grade based upon their performance in the achievement of organizational missions, goals, and objectives; and

WHEREAS, the Legislature recognizes the need to maintain spending patterns within established guidelines.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. Recommendations in the report of the Division of Human Resources and not concurred in by the Chief Executive are hereby rejected.

2. Recommendations in the report of the Chief Executive are hereby adopted.
3. The Joint Finance-Appropriations Committee is requested to appropriate an amount not to exceed $14,629,300 from the General Fund to fund these recommendations for state agencies, colleges and universities.
4. For those agencies funded in total or in part from non-General Fund money, the Joint Finance-Appropriations Committee is requested to appropriate in as nearly as possible the same manner as for General Fund funded agencies.
5. To the extent possible, within agencies' appropriations, directors are expected to provide salary increases consistent with the stated legislative policy above. It is further expected that particular emphasis shall be placed on employees who are below the policy rate within their assigned pay grades and who have performed in an acceptable manner in the same job class for five years or more. State agency directors are also encouraged to allocate higher percentage pay increases to lower pay grade employees who have performed in an acceptable manner.
6. The effective date of implementation of these salary adjustments shall be June 11, 2000.

BE IT FURTHER RESOLVED that appropriations measures to fund non-classified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the House February 3, 2000
Adopted by the Senate February 11, 2000

(H.C.R. No. 36)

A CONCURRENT RESOLUTION
PROVIDING FOR 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 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 Second 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 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 the Bureau of Copy and Records Services, 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 10th day of January, 2000, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the Second Regular Session of the Fifty-fifth Idaho Legislature, hereinafter referred to as the Joint Committee, and the Bureau of Copy and Records Services, hereinafter referred to as the Bureau of Copy and Records Services.

WITNESSETH:

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to the Bureau of Copy and Records Services per your letter response of November 30, 1999, for the Second Regular Session and any Extraordinary Sessions of the Fifty-fifth Idaho Legislature upon the following additional terms and conditions:

1. That the Bureau of Copy and Records Services will utilize the Docutech printer 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 the Bureau of Copy and Records Services 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 the Bureau of Copy and Records Services of all the terms and conditions of this contract.

3. That the Bureau of Copy and Records Services 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 the Bureau of Copy and Records Services will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeovers and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That the Bureau of Copy and Records Services 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 the Bureau of Copy and Records Services bond.

8. That a standard lot of printed material will be four hundred fifty (450) copies or less of individual bills, resolutions or memorials at a cost of eighteen dollars ($18.00) 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 the Bureau of Copy and Records Services will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That the Bureau of Copy and Records Services 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 the Bureau of Copy and Records Services and that the Joint Committee may terminate this agreement upon twenty-four (24) hours notice to the Bureau of Copy and Records Services, with no liability accruing to the Joint Committee or the State except for printing already completed and delivered.

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/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

BUREAU OF COPY AND RECORDS SERVICES

By /s/ Mona R. Whittington
MONA R. WHITTINGTON, Supervisor

Adopted by the House February 4, 2000
Adopted by the Senate February 16, 2000

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATIVE COUNCIL INTERIM COMMITTEE ON THE PUBLIC EMPLOYEE RETIREMENT SYSTEM, AFFIRMING THE GOAL OF THE RETIREMENT BOARD TO MAINTAIN A FULLY-FUNDED SYSTEM AT A ONE HUNDRED PERCENT FUNDED RATIO, ENDORSING THE INVESTMENT POLICIES OF THE BOARD, AND STATING THE INTENT OF THE LEGISLATURE THAT THE PUBLIC EMPLOYEE RETIREMENT SYSTEM CONTINUE TO BE FULLY-FUNDED AT A

ONE HUNDRED PERCENT FUNDED RATIO WITH A STABILIZATION RESERVE SUFFICIENT TO ABSORB NORMAL MARKET FLUCTUATIONS, WITHIN ONE STANDARD DEVIATION, WITHOUT A CONTRIBUTION RATE INCREASE, AS DETERMINED BY THE BOARD.

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

WHEREAS, the Legislative Council Interim Committee on the Public Employee Retirement System was charged by the 1999 Idaho Legislature in House Concurrent Resolution No. 21 to undertake and complete a study of the Public Employee Retirement System and options which could provide enhancements or alternatives to existing provisions; and

WHEREAS, H.C.R. No. 21 directed the committee to report its findings, recommendations and proposed legislation to the Second Regular Session of the Fifty-fifth Idaho Legislature; and

WHEREAS, the committee has conducted a thorough review of the system, including an in-depth examination of the current and anticipated financial status of the retirement fund and the investment policies of the Retirement Board; and

WHEREAS, the committee finds that the retirement fund has produced outstanding returns under the investment policies of the board, resulting in a fully-funded system for the first time since the inception of PERSI; and

WHEREAS, the committee recommends adoption of a resolution affirming the board's goal of maintaining a fully-funded system at a 100% funded ratio, endorsing the investment policies of the board, and stating the intent of the Legislature that the system continue to be fully-funded at a 100% funded ratio with a stabilization reserve sufficient to absorb normal market fluctuations, within one standard deviation, without a contribution rate increase, as determined by the board.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the goal of the Retirement Board of the Public Employee Retirement System to maintain a fully-funded system at a 100% funded ratio is hereby affirmed, that the investment policies of the board are hereby endorsed and that it is the intent of the Legislature that the Public Employee Retirement System continue to be fully-funded at a 100% funded ratio with a stabilization reserve sufficient to absorb normal market fluctuations, within one standard deviation, without a contribution rate increase, as determined by the board.

Adopted by the House February 15, 2000
Adopted by the Senate February 28, 2000

(H.C.R. No. 40)

A CONCURRENT RESOLUTION

TO RUBY SAMUELSON, WIFE OF FORMER GOVERNOR DON W. SAMUELSON, HIS SON AND DAUGHTER AND FAMILY MEMBERS.

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

WHEREAS, Don W. Samuelson, a former Idaho Governor and State Senator, died on January 20, 2000; and

WHEREAS, Don Samuelson served in the Idaho State Senate in 1960, 1962 and 1964, including service on the Finance Committee and chairmanship of the Public Resources and Public Recreation Committee; and

WHEREAS, although not a native of Idaho, Don Samuelson became a resident by choice after locating in Sandpoint, Idaho, following his discharge from the U.S. Navy; and

WHEREAS, an astute businessman, Don Samuelson operated the Pend Oreille Sport Shop and later the Don Samuelson Equipment Company, participating in two major Idaho economic interests, recreation activities and the mining and logging industry; and

WHEREAS, as Governor of the State of Idaho, Don Samuelson was recognized for his sincerity, his rugged individualism, and his unwavering commitment to fiscal conservatism; and

WHEREAS, in his personal memoir, "His Hand On My Shoulder: A Life Story of Hunting, Fishing, Love and Politics," Samuelson wrote that "I had the distinct feeling that the good Lord was with me and guiding me throughout my campaign for Governor and the four years that I served in that position."; and

WHEREAS, we salute this fine man and dedicated public servant for his unyielding faith and belief that honesty, integrity, high morals and decency are life's valuable assets and for his perseverance in these values in his personal and political life; and

WHEREAS, Don Samuelson is survived by his wife, Ruby, whose service at his side as the First Lady of Idaho was exemplary and greatly revered, a son and daughter, four grandchildren and four great-grandchildren; and

WHEREAS, it is appropriate that the Legislature of the State of Idaho, on behalf of the citizens of this state which Don Samuelson loved and served with distinction, recognize and memorialize this statesman and express our sympathy to his family.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we extend our sympathy to the family of former Governor Don W. Samuelson at the loss of this stalwart Idaho citizen whose devotion to public service we commend and recognize.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Resolution to Ruby Samuelson, wife of Don W. Samuelson with our deepest feelings of love and warmest best wishes.

Adopted by the House February 16, 2000
Adopted by the Senate February 25, 2000

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DECLARING MARCH 2000, COLORECTAL CANCER AWARENESS MONTH.

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

WHEREAS, colorectal cancer is the second leading cause of cancer deaths in the United States; and

WHEREAS, it is estimated that in 1999, physicians diagnosed 400 new cases of colorectal cancer in Idaho; and

WHEREAS, fewer than 50% of men and women above age 50 receive screenings for colorectal cancer; and

WHEREAS, adopting a healthy diet at a young age can significantly reduce the risk of developing colorectal cancer; and

WHEREAS, March is designated as National Colorectal Cancer Awareness month and National Nutrition Awareness month and the prevention of colorectal cancer is highly dependent upon dietary factors; and

WHEREAS, regular diagnostic screenings can prevent the disease and save many lives; and

WHEREAS, education can help inform the public of methods of prevention and symptoms for early detection of the disease.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that March 2000, is declared "Colorectal Cancer Awareness Month" in Idaho and the Legislature calls upon the people of this state to observe the month by learning about the prevention of colorectal cancer and by encouraging all persons age 50 and older or otherwise at high risk to be screened for the disease.

Adopted by the House March 3, 2000
Adopted by the Senate March 13, 2000

(H.C.R. No. 42)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO TRANSPORTATION DEPARTMENT RELATING TO OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS AND WEATHER RESTRICTIONS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Idaho Transportation Department relating to overlegal permits

for extra-length vehicle combinations and weather restrictions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 39.03.22, Section 200, Subsection 05 only, rules of the Idaho Transportation Department relating to overlegal permits for extra-length vehicle combinations and weather restrictions, adopted as a pending rule under Docket number 39-0322-9901, be, and the same violates the legislative intent of the statute under which authority the rule was adopted and is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 22, 2000
Adopted by the Senate March 16, 2000

(H.C.R. No. 43)

A CONCURRENT RESOLUTION

RECOGNIZING THE DESTRUCTIVE EFFECTS OF SUICIDE AS A MATTER OF GREAT CONCERN TO THE STATE OF IDAHO AND ITS CITIZENS, AND ENCOURAGING EFFORTS DESIGNED TO PREVENT SUICIDE AND REHABILITATE THOSE WHO SURVIVE SUICIDE ATTEMPTS.

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

WHEREAS, nationally, Idaho consistently ranks among the top ten states with the highest rate of suicide; and

WHEREAS, Idaho statistics indicate that suicide is the second leading cause of death for persons 15 to 24 years of age, and the third leading cause of death for persons 25 to 44 years of age; and

WHEREAS, Idaho's suicide rate for persons 10 to 14 years of age is double the national average; and

WHEREAS, the actual number of suicides and suicide attempts may be as great as four times the number reported since they are often classified as either accidents or homicides; and

WHEREAS, while the suicide completion rate per 100,000 has remained relatively stable over the past forty years for the general population, it has nearly tripled for young people over the same time period; and

WHEREAS, the stigma associated with mental illness works against suicide prevention by keeping persons at risk of completing suicide from seeking lifesaving help; and

WHEREAS, suicide is a complex, multifaceted biological, sociological, psychological and societal problem; and

WHEREAS, even though many suicides are currently preventable, there is great need for the development and use of more effective suicide prevention programs; and

WHEREAS, suicide prevention efforts should be encouraged to the maximum extent possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Repre-

sentatives and the Senate concurring therein, that the Legislature and the Governor recognize the destructive effects of suicide as a matter of great concern to the citizens of Idaho and its leaders.

BE IT FURTHER RESOLVED that the Legislature and Governor recognize that, while no single suicide prevention program or effort is appropriate for all populations or communities, strengthening efforts to prevent these tragedies is a state priority.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage efforts dedicated to preventing suicide, responding to people at risk for suicide and people who have attempted suicide, promoting safe and effective treatment for persons at risk of suicidal behavior, supporting those who have lost a loved one to suicide, and developing an effective state strategy for the prevention of suicide.

BE IT FURTHER RESOLVED that the Legislature and Governor support educational efforts to remove the stigma associated with mental health issues and urge that accessibility and affordability issues related to insurance and mental health services be resolved so that all persons at risk for suicide may obtain services.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Idaho Department of Health and Welfare and the Idaho Education Association.

Adopted by the House March 10, 2000
Adopted by the Senate March 20, 2000

(H.C.R. No. 44)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DECLARING APRIL 28 OF EACH YEAR AS "WORKERS MEMORIAL DAY" TO REMEMBER THOSE WHO HAVE SUFFERED AND DIED ON THE JOB AND TO RENEW THE STRUGGLE FOR SAFE JOBS AND SAFE WORKPLACES.

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

WHEREAS, for decades workers have struggled for improved working conditions, dignity and respect on the job; and

WHEREAS, workers have won laws and protections that have made workplaces safer and through their efforts contracts have given workers a voice on the job; and

WHEREAS, the struggle is far from over as over sixty thousand workers die each year from job injuries and illnesses and another six million are injured; and

WHEREAS, thousands of workers are continuing to raise job safety awareness; and

WHEREAS, it is important to remember workers who have been killed and injured, it is even more important to continue the struggle for safe jobs and safe workplaces.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize the

importance of remembering the workforce of America and hereby declare April 28 of each year as "Workers Memorial Day" for the purpose of remembering those who have suffered and died on the job and to renew the struggle for safe jobs and safe workplaces.

Adopted by the House March 6, 2000
Adopted by the Senate March 17, 2000

(H.C.R. No. 45)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF WHETHER THE EXEMPTION OF FARM WORKERS FROM THE MINIMUM WAGE LAW SHOULD BE REPEALED AND WHETHER FARM LABOR CONTRACTORS SHOULD BE REGISTERED WITH THE STATE.

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

WHEREAS, farm workers in Idaho are exempt from the minimum wage law;

WHEREAS, the Idaho Department of Labor estimates that at peak season in July, there are 34,810 agricultural workers in Idaho;

WHEREAS, the U.S. Department of Agriculture reported that in 1998 the average wage rates for Idaho farm workers was $6.60 or above for all hired farm workers;

WHEREAS, the U.S. Department of Agriculture also estimates that about 17 percent of farm workers in the Northwest are paid less than minimum wage;

WHEREAS, many farm workers in Idaho are recruited and provided to agricultural businesses by farm labor contractors, who also pay wages to farm workers;

WHEREAS, farm labor contractors are not required to register with the state;

WHEREAS, some citizens and organizations allege that farm workers are paid low wages due to economic, social and racial biases;

WHEREAS, the issues of whether to repeal the exemption of farm workers from the minimum wage law and whether farm labor contractors should be licensed are important and divisive issues in the state and have been hotly debated in the Idaho Legislature;

WHEREAS, the dispute about these issues is harmful to the state's economy and the national perception of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 whether the exemption of farm workers from the minimum wage law should be repealed and whether farm labor contractors should be registered with the state. The Legislative Council shall appoint to the committee four members from the House of Representatives and four members from the Senate, 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 shall be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House March 14, 2000
Adopted by the Senate March 31, 2000

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND EXPRESSING SUPPORT FOR THE ESTABLISHMENT AND PERPETUAL MAINTENANCE AND OPERATION OF AN IDAHO STATE VETERANS CEMETERY.

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

WHEREAS, Idaho is the only state in the nation without a state or federally-supported cemetery for its wartime veterans; and

WHEREAS, thirty-two states currently have, or are planning, the construction of a state cemetery; and

WHEREAS, Idaho World War II veterans are dying at an alarming rate and deserve to be laid to rest in a field of honor befitting their sacrifices; and

WHEREAS, the federal government will commit funding for one hundred percent of planning, construction and support equipment costs for the establishment of a state veterans cemetery for Idaho; and

WHEREAS, the state of Idaho is obligated to provide the land and perpetual funding for operation and maintenance of the cemetery; and

WHEREAS, a land donor has committed sufficient acreage in the Hidden Hollow subdivision of Boise, Idaho, located north of Dry Creek Cemetery, west of old Highway 55; and for the purposes of applicable taxes, the real property, when accepted by the state of Idaho, shall be considered a gift with the understanding that the property shall revert to the donor if a veterans cemetery is not constructed on such property; and

WHEREAS, funding for the continued operation and maintenance of the state veterans cemetery shall be derived from veterans motor vehicle license plates; and

WHEREAS, preliminary estimates gained through proposed bids for operation and maintenance of the cemetery are less than one hundred thousand dollars annually.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the establishment and perpetual maintenance and operation of an Idaho state veterans cemetery.

BE IT FURTHER RESOLVED that it is the intent of the Legislature that two hundred thousand dollars be appropriated for fiscal year 2001 for cemetery design, and that such amount be reimbursed to the state of Idaho by the federal Veterans Administration.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House March 2, 2000
Adopted by the Senate March 17, 2000

(H.C.R. No. 52)

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 COMMERCIAL PRACTICE OF MAKING UNAUTHORIZED TRANSFERS OF PERSONAL INFORMATION ABOUT AN INDIVIDUAL TO THIRD PARTIES FOR PURPOSES OF COMMERCIAL SOLICITATION.

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

WHEREAS, the Idaho Legislature has expressed a strong policy in favor of protecting the private affairs of Idahoans;

WHEREAS, because of improvements in electronic technology and expanding markets, it is increasingly common for some businesses to make unauthorized transfers of personal information about an individual to third parties to be used for commercial solicitation by the third parties;

WHEREAS, information transferred without authority is often very personal and sensitive, and often includes information about one's personal life, physical health, mental health and financial and pharmaceutical records;

WHEREAS, Idaho citizens are being harmed because they can no longer maintain the privacy of their personal information;

WHEREAS, the Idaho Department of Finance and the Idaho Department of Insurance regulate many of the businesses that acquire personal information in the course of their business;

WHEREAS, in 1999, in response to concerns about unauthorized transfers of personal information, the United States Congress enacted a comprehensive financial privacy law as a part of the recent Gramm-Leach-Bliley Financial Modernization Act;

WHEREAS, Idaho citizens would benefit from improvements in state law that would allow Idaho to enforce the same privacy protections

under state law, in addition to those provided under the federal law, and which would enable customers to instruct their financial institutions and insurance companies to not transfer personal information without the consent of the customer.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 business acquisition, use and practice of making unauthorized transfers of personal information about an individual to third parties for purposes of commercial solicitation. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House March 17, 2000
Adopted by the Senate March 31, 2000

(H.C.R. No. 54)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING THAT APPROPRIATE STEPS BE TAKEN TO ENSURE THAT HISPANIC AND LIMITED-ENGLISH-PROFICIENT STUDENTS RECEIVE A THOROUGH EDUCATION AND DIRECTING A REPORT TO THE LEGISLATURE.

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

WHEREAS, a majority of Hispanic and limited-English-proficient students are falling behind their classroom peers in their academic endeavors; and

WHEREAS, these same students continue to score at least twenty-five percentile points lower than their classroom peers on state standardized tests such as the Iowa Test of Basic Skills (ITBS) and the Test of Academic Proficiency (TAP); and

WHEREAS, more than fifty percent of Hispanic and limited-English-proficient students who took the Idaho Reading Indicator (IRI) during school year 1999-2000 are reading at below grade level; and

WHEREAS, at least forty percent of Hispanic students fail to successfully complete the high school graduation requirements; and

WHEREAS, Hispanic and limited-English-proficient students continue to have a high rate of school failure, despite attempts at remedial intervention such as compensatory education and English as a Second Language (ESL) programs; and

WHEREAS, the proposed adoption of Idaho's Exiting Standards will require these students to meet more rigorous educational requirements in order to graduate from high school.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that it is incumbent upon the State Board of Education and the State Superintendent of Public Instruction that they gather information on each local district's efforts to ensure that Hispanic and limited-English-proficient students receive a thorough education and to report to the First Regular Session of the Fifty-sixth Idaho Legislature on the costs and effectiveness of each method of each district and make recommendations for improving the academic performance of these students.

Adopted by the House March 24, 2000
Adopted by the Senate March 29, 2000

(H.C.R. No. 55)

A CONCURRENT RESOLUTION

AUTHORIZING THE DEPARTMENT OF HEALTH AND WELFARE, IDAHO STATE SCHOOL AND HOSPITAL, TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE CONSTRUCTION OF A LIVING AND TREATMENT FACILITY.

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

WHEREAS, the Department of Health and Welfare, Idaho State School and Hospital, a licensed intermediate care facility for persons with mental retardation, is required to provide services, programs and living facilities which will enhance the client's independence, self-sufficiency and provide for their health needs and personal development in a safe and secure environment; and

WHEREAS, the legislative interim committee appointed to study this and related issues determined that the clients now being referred and admitted for treatment, stabilization and transitional services are individuals with the most difficult behavioral challenges without options for community care in the private sector because they are too dangerous and aggressive or their medical needs are too complex and demanding; and

WHEREAS, the living units at the Idaho State School and Hospital were not designed or built to house clients with these complex behavioral challenges, the facilities are not a safe living environment for either clients or staff, and the facilities do not allow for alternatives in health care licensure to achieve efficiencies and economies in treatment and staffing or alternatives in treatment strategies; and

WHEREAS, the Department of Health and Welfare commissioned an

architectural study which determined the need to replace two functionally obsolete buildings which house the majority of the clients with a new multibed facility that meets current standards established for this type of facility together with infrastructure and site improvements to accommodate and enhance services to clients now served; and

WHEREAS, it is imperative and necessary that this facility be placed in service at the earliest possible time to meet the public health and safety needs.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Health and Welfare 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 such living and treatment facilities as necessary to accommodate up to sixty beds and financing thereof on the site of the existing campus of the Idaho State School and Hospital.

BE IT FURTHER RESOLVED that this resolution constitutes authorization required by the provisions of Section 67-6410, Idaho Code.

Adopted by the House March 27, 2000
Adopted by the Senate March 30, 2000

(H.C.R. No. 56)

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 Second 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 Custom Printing, of Nampa, 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 22nd day of March, 2000, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the Second Regular Session of the Fifty-fifth Idaho Legislature, hereinafter mentioned as party of the first part, and CUSTOM PRINTING, Nampa, 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 Custom Printing, as follows:

PERMANENT JOURNAL
SECOND REGULAR SESSION

227 copies of House Permanent Journal, including 6 hard-bound gold lettered volumes
227 copies of Senate Permanent Journal, including 6 hard-bound gold lettered volumes
466 total copies ..... $48.49 per page
Additional hard-bound
gold lettered volumes ..... $98.49 per volume

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS 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/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

CUSTOM PRINTING

By /s/ Michael B. Cutler
MICHAEL B. CUTLER

Adopted by the House March 28, 2000
Adopted by the Senate March 30, 2000

(H.C.R. No. 58)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ACKNOWLEDGING RECEIPT OF THE IDAHO WOLF CONSERVATION AND MANAGEMENT PLAN DATED APRIL 2000, AND RECOMMENDING THAT THE PLAN BE MADE AVAILABLE FOR PUBLIC COMMENT AND RETURNED TO THE IDAHO WOLF OVERSIGHT COMMITTEE FOR FINAL REVIEW AND SUBMISSION TO THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE.

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

WHEREAS, the process for removing gray wolves (Canis lupus) from the list of endangered species (delisting) under the Endangered Species Act, 16 U.S.C. 1531 et seq., requires that a state have in place an adequate regulatory mechanism to ensure that gray wolves will not again become threatened or endangered; and

WHEREAS, the regulatory mechanism developed by the state must contain a management plan which will be used by the state when the U.S. Fish and Wildlife Service decides to delist gray wolves; and

WHEREAS, the management plan must be approved by the U.S. Fish and Wildlife Service; and

WHEREAS, the management plan must provide appropriate guidance to Idaho officials to assure that this large, aggressive predator will not again be petitioned to be listed as threatened or endangered under the Endangered Species Act; and

WHEREAS, it is critical to the state that the management plan also provide maximum protection for other important interests, such as game populations, domestic livestock, and private property interests; and

WHEREAS, successful management of gray wolves after they are delisted will require an exceptional degree of cooperation and coordination among the states of Idaho, Montana and Wyoming; and

WHEREAS, the Idaho Wolf Oversight Committee has worked for countless hours to bring a gray wolf management plan to the Idaho Legislature for consideration.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature acknowledges receipt of the draft Idaho Wolf Conservation and Management Plan dated April 2000 and expresses appreciation for the work of the Idaho Wolf Oversight Committee. The Legislature neither accepts nor rejects the contents of the plan, but recognizes the importance of delisting and the necessity of a plan for that process. Therefore, we recommend that the plan be submitted to the public for examination, criticism and comments and returned to the Idaho Wolf Oversight Committee for final review and submission to the First Regular Session of the fifty-sixth Idaho Legislature.

Adopted by the House April 3, 2000
Adopted by the Senate April 5, 2000

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, PETE T. CENARRUSA, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Fifty-fifth Legislature of the State of Idaho, Second Regular Session thereof, which convened January 10, 2000, and which adjourned on April 5, 2000, 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 ninth day of May, 2000.

Pete T. Cenarrusa
Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 99-06

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-02

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, DIRK KEMPTHORNE, 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:

Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment. The continued development, maintenance, and monitoring of a systematic program of safety and loss control should be a priority objective for each agency.

Each Department Director or other appointing authority will continue to ensure that potential new state employees are appropriately screened, that new employees are systematically and fully trained in safe work practices and the use of all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that adherence to safety practices is a criterion in employee and supervisor performance evaluations.

Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.

All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General

Safety and Health Standards, the state-adopted building code, the mechanical code and the fire code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of buildings owned or maintained by the State of Idaho where appropriate, construction plans shall be reviewed and approved by the Division of Building Safety, the State Fire Marshal's Office, and the Permanent Building Fund Advisory Council.

The following agencies shall continue to assist state agencies by offering the following services:

The Division of Building Safety shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.

The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.

The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.

The Department of Administration, Bureau of Risk Management, shall, whenever needed or requested, assist agencies in developing their safety and loss control programs. The Department of Administration, Bureau of Risk Management, shall also assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including, but not limited to, general property and casualty loss control, and shall provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.

The Division of Human Resources shall, within available resources, provide training for agency human resources supervisors and management personnel on employment law and practices that impact Safety and Loss Control, as well as develop specific training designed to help promote worker safety and reduce risk of liability, in response to data provided by the Statewide Safety and Loss Control Committee.

A Statewide Safety and Loss Control Committee shall be comprised of the Administrator of the Division of Building Safety, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:

Monitor and maintain a Statewide Safety and Loss Control Program model of a proactive nature supported by a system to track the progress of the program;

Develop strategies and standards to assist agencies with their safety programs;

Review statewide trends in losses and exposures and make cost-effective recommendations;

Aid in the coordination of the services available to maximize efficiency and reduce unnecessary duplication of inspections;

Coordinate the development of existing statewide resources related to safety and loss control activities and the sharing of those resources across all state agencies to provide safety and loss control outreach resource services.

On behalf of the Governor, periodically review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;

Make recommendations to the Governor and Legislature on improving safety and loss control for state government;

Convene and meet on a quarterly basis, or more frequently if necessary, to plan, implement and review the Statewide Safety and Loss Control Program; and

Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 98-02.

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 fifteenth day of July in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-07

CONTINUING THE IDAHO CRIMINAL JUSTICE COUNCIL AND THE DRUG POLICY BOARD FOR THE STATE AND LOCAL ASSISTANCE FOR NARCOTICS CONTROL PROGRAM, REPLACING EXECUTIVE ORDER 95-02

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government; and

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the

criminal justice system and, where possible, create partnerships among criminal justice professionals to achieve this effectiveness and efficiency; and

WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness; and

WHEREAS, under provisions of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, established under the Omnibus Crime Control and Safe Streets Act of 1968, each state is strongly encouraged to establish a drug policy board to serve as a forum for communication and a structure for coordination, with responsibility for development of a statewide drug control strategy; and

WHEREAS, under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, and the Violence Against Women Act of 1994, each state is encouraged to develop and implement a competitive mechanism for award of certain federal grant funds;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, do hereby continue the Idaho Criminal Justice Council and charge this body with the responsibility to facilitate communication among criminal justice professionals, to improve professionalism, create partisanship, and to improve cooperation and coordination at all levels of the criminal justice system, and to disburse such grant funding as may come within it purview with the overall mission of reducing crime in Idaho. Designated representatives of the Idaho Criminal Justice Council, in conjunction with individuals representing state and local officials, components of the criminal justice system, education, and treatment, shall comprise the Idaho Drug Policy Advisory Board, and will actively participate in development of the statewide drug control strategy.

The Idaho Criminal Justice Council shall consist of fifteen (15) members comprised of the following representatives (or their designees) who shall serve at the pleasure of the Governor:

The Attorney General of the State of Idaho
The Director of the Idaho Department of Correction
The Director of the Idaho Department of Law Enforcement
The Director of the Idaho Department of Juvenile Corrections
Two (2) Chiefs of Police
Two (2) Sheriffs
Two (2) Prosecuting Attorneys
One (1) representative of the Idaho Council on Domestic Violence
One (1) representative of the juvenile justice system
One (1) representative of private security organizations
Two (2) citizens-at-large

The Idaho Drug Policy Advisory Board shall consist of ten (10) members comprised of the following representatives (or their designees) who shall serve at the pleasure of the Governor:

Four (4) members of the Idaho Criminal Justice Council
One (1) state narcotics officer
One (1) county narcotics officer
One (1) city narcotics officer
One (1) Health and Physical Education Representative from the Idaho Department of Education
The state narcotics/drug education officer

One (1) Representative of the Parents and Youth Against Drug Abuse Program
One (1) Prevention Education Specialist from the Idaho Department of Health and Welfare
The Law Enforcement Coordinating Council Coordinator

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 twenty-seventh day of July in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-08

CONTINUATION OF CEREMONIES HONORING DR. MARTIN LUTHER KING JR. IDAHO HUMAN RIGHTS DAY REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-14

WHEREAS, in 1983 Congress enacted legislation which established the third Monday of each January as a legal federal holiday in commemoration of Dr. Martin Luther King, Jr.; and

WHEREAS, in 1990 the Idaho Legislature enacted legislation which established the third Monday in January as a legal state holiday known as Martin Luther King, Jr. - Idaho Human Rights Day; and

WHEREAS, Congress, in conjunction with the federal holiday, has created the Martin Luther King, Jr. Federal Holiday Commission to promote appropriate observances including those at the state level; and

WHEREAS, Idaho wishes to ensure that all persons have an opportunity to participate fully in honoring Dr. King on the third Monday in January; and

WHEREAS, the celebration of Dr. King's birthday is intended as a time for all Americans to reaffirm their commitment to the basic principles that underlie our Constitution--equality and justice for all;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the Idaho Human Rights Commission to plan activities to observe Martin Luther King, Jr.-Idaho Human Rights Day in Boise, and, as appropriate, to assist citizens in other communities around the state who are planning local celebration activities. The

Human Rights Commission shall:

1. Review material supplied to the state by the Martin Luther King, Jr. Federal Holiday Commission; disseminate the information to interested citizens and citizen groups; and solicit ideas from Idahoans concerning appropriate activities;
2. Work with citizen and community groups to coordinate and assist them to plan activities honoring Dr. King;
3. Encourage participation by Idaho residents in activities in commemoration of Dr. King's birthday; and
4. Present the Governor with a report on activities of the past year and recommendations on the upcoming celebration. Such reports are due on November 15 of each year.

This Executive Order repeals and replaces Executive Order 95-14.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capital, the sixteenth day of July in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-09

REVIEWING THE STATE'S RESPONSIBILITY FOR SUPERVISING THE PREPARATION AND ADMINISTRATION OF IDAHO'S PLAN UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT; AND REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-09

WHEREAS, the State of Idaho, in accordance with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415 ("JJDPA"), is required to designate a state agency to supervise and administer Idaho's plan under the JJDPA and to establish a state juvenile justice advisory group;

WHEREAS, the first regular session of the 53rd Idaho Legislature established the Idaho Department of Juvenile Corrections ("Department") and amended existing law to create a juvenile corrections system based on principles of accountability, community protection, and competency development;

WHEREAS, the purposes and intent of Idaho's Juvenile Corrections Act of 1995 and the JJDPA was better served by transferring the Idaho Juvenile Justice Commission ("Commission") to the Department;

WHEREAS, the Department was designated as the sole agency for supervising the preparation and administration of Idaho's plan under the JJDPA, and the Office for Juvenile Justice and Delinquency Prevention was abolished effective July 1, 1995; and

WHEREAS, the Commission was transferred from the Office of the Governor to the Department effective July 1, 1995, and has functioned as the advisory group referenced in Title 42, Section 5633(a)(3), United States Code.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by Article IV, Section 5, of the Idaho Constitution, and Section 67-802, Idaho Code, do hereby order that:

1. The composition of membership of the Commission shall be in conformity with the JJDPA. The chairman, vice-chairman, and members of the Commission shall be appointed by, and serve at the pleasure of the Governor. Members shall serve a term of three years, and the chairman and vice-chairman shall serve in such capacities for one year.
2. The Commission shall perform the following functions:
   a. Advise the Department on juvenile justice and delinquency prevention issues;
   b. Participate in the development and review of Idaho's plan under the JJDPA;
   c. Be afforded an opportunity to review and comment on all grant applications under the JJDPA submitted to the Department;
   d. Perform such other duties that the JJDPA requires to be performed by the advisory group referenced in Title 42, Section 5633(a)(3), United States Code;
   e. Perform such other duties that the JJDPA requires to be performed by the supervisory board referenced in Title 42, Section 5671(c)(1), United States Code, and Title 28, Section 31.102(b), Code of Federal Regulations, until such time as the director of the Department may establish another committee, commission, or board within the Department to perform those duties; and
   f. Perform such other duties as requested by the director of the Department, which may include submitting reports to the director of the Department and making decisions on grant applications under the JJDPA submitted to the Department.

This Executive Order repeals and replaces Executive Order No. 95-09.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this sixteenth day of

July in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-10

CONFIRMING THAT THE DISABILITY DETERMINATIONS UNIT TO DISABILITY DETERMINATIONS SERVICE WILL CONTINUE ITS FUNCTIONS IN THE EXECUTIVE OFFICE OF THE GOVERNOR,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-10

WHEREAS, a Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Service; and

WHEREAS, to be in compliance with the federal government's nomenclature, it is deemed appropriate to rename this office to be the Disability Determinations Service;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order that the Disability Determinations Service continue to function in the Executive Office of the Governor.

This Executive Order repeals and replaces Executive Order No. 95-10.

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 thirteenth day of September in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-11

CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION, REPLACING EXECUTIVE ORDER NO. 95-06

WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and

WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birthweight babies, and infant deaths is significantly higher for adolescent mothers; and

WHEREAS, in 1997, approximately 2,789 Idaho females aged 10 to 19 became pregnant, at a rate of 54 pregnancies per week; and

WHEREAS, twenty-eight percent of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents, and
2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.

The Council shall be limited to no more than 17 members appointed by the Governor. The members shall serve two-year terms. A chair of the Council shall be appointed annually by the Governor.

The Council members shall include persons representing:

- public health/welfare
- education
- clergy
- private business
- parents
- adolescents
- local elected officials
- health care providers
- media

The Department of Health and Welfare will provide administrative support to the Council.

This Order replaces Executive Order No. 95-06.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise the twenty-eighth day of

September in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-12

AUTHORIZING THE ESTABLISHMENT OF AN INTERNATIONAL TRADE ADVISORY COMMITTEE

WHEREAS, the promotion of the international business activities and manufactured and agricultural exports contribute to Idaho's increased economic stability and diversification; and

WHEREAS, increased exports foster the retention and expansion of higher-paying jobs in Idaho; and

WHEREAS, building a business environment in Idaho that encourages and favors international trade is crucial to the success of Idaho firms in overseas markets; and

WHEREAS, over 830 Idaho companies either export or are interested in exporting;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby establish the International Trade Advisory Committee. The Committee shall:

Advise the Idaho Department of Commerce and the Idaho State Department of Agriculture on their international programs for Idaho's manufactured goods, services and agricultural products;

Assist the departments with the development of the international strategic plans;

Provide counsel to the departments on target markets and emerging markets;

Support and assist Idaho companies entering or expanding foreign markets; and

Provide advice to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to international business.

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(s). Members of the Committee shall serve without compensation.

The Committee shall consist of persons who are appointed by and serve at the pleasure of the Governor. The membership of the Committee shall include the director of the Idaho State Department of Commerce, the director of the Idaho State Department of Agriculture and

other citizens who are knowledgeable and experienced with international business. One or two of the members shall be selected to serve as chairman/co-chairman. The Committee shall be staffed and supported by the Idaho State Department of Commerce.

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 the First day of November in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-13

AUTHORIZING THE ESTABLISHMENT OF A STATE SCIENCE AND TECHNOLOGY ADVISORY COUNCIL AND THE APPOINTMENT OF A SCIENCE AND TECHNOLOGY ADVISOR

WHEREAS, Idaho has experienced a decade of rapid economic expansion led by growth in new technology industries; and

WHEREAS, the health and expansion of Idaho's future economy will depend on taking full advantage of research and technology; and

WHEREAS, Idaho has impressive resources for technology-based growth, internationally recognized university research programs, globally competitive technology companies, and the Idaho National Engineering and Environmental Laboratory; and

WHEREAS, a recent study of Idaho's science and technology potential recommended the appointment of a Science and Technology Advisor, establishment of a state Science and Technology Advisory Council, and the establishment of a state science and technology strategic plan;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, do hereby establish the Science and Technology Advisory Council and the position of Science and Technology Advisor. The Council shall:

Advise the Idaho State Department of Commerce, the State Board of Education, Idaho's colleges and universities, and other state, local, federal and private sector agencies and organizations on science and technology interests and potentials;

Support the development and publishing of information on the conditions and importance of science and technology to the

State's economy;

Assist with the development and implementation of a state strategic plan for science and technology; and

Assist with the coordination of local, state and federal interests to increase the positive economic impact of Idaho's science and technology resources.

The Science and Technology Advisor shall serve as Chairperson of the Council. The Council shall have regular meetings as determined by the Advisor and an executive committee of the Council. Members of the Council shall serve without compensation.

The Council shall be appointed by and serve at the pleasure of the Governor. The membership of the Council shall include individuals knowledgeable and experienced in science and technology issues. The Council shall also include representation from the Idaho State Department of Commerce, office of the State Board of Education and the office of the Governor. Representatives from the Idaho State Department of Commerce, the office of the State Board of Education and the office of the Governor shall serve as the executive committee. The Council shall be staffed and supported by the Idaho State Department of Commerce.

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 the Twelfth day of November in the year of our Lord nineteen hundred ninety-nine of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred tenth.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-01

ESTABLISHMENT OF NON-SMOKING POLICY IN STATE BUILDINGS REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-02

WHEREAS, it is in the best interest of Idaho citizens for the state to promote public health by increasing the awareness of the dangers and consequences of smoking; and

WHEREAS, it is the state's duty, as an employer, to provide a healthy work environment, and to protect public buildings against fire damage and other related property damage; and

WHEREAS, a uniform state policy relating to smoking in state-owned and state-leased buildings will promote these goals.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, have determined that a non-smoking policy in public buildings is a prudent one; therefore, I hereby direct that the following policy shall continue to govern officers and employees of the State of Idaho:

> All state-owned or state-leased buildings, facilities, or areas occupied by state employees shall be designated as "non-smoking" except for custodial care and full-time residential facilities. The policy governing custodial care and full-time residential facilities may be determined by the directors of such facilities.

FURTHER, I hereby encourage all employees in the State of Idaho to promote a non-smoking policy in all buildings occupied by state employees.

This Executive Order repeals and replaces Executive Order 96-02.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the second day of February in the year of our Lord two-thousand and of the Independence of the United States of America the two hundred twenty-fourth and of the Statehood of Idaho the one hundred eleventh.

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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Assn = Association
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
Dist = District
F&G = Fish and Game
H&W = Health and Welfare
IHFA = Idaho Housing and Finance Association
INEEL = Idaho National Engineering & Environmental Laboratory
MV = Motor Vehicle
PUC = Public Utilities Com
PERSI = Public Employee Retirement System of Idaho

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APPENDIX

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator Larry E. Craig (R)
Senator Mike Crapo (R)

REPRESENTATIVES IN CONGRESS
Helen Chenoweth-Hage (R), First District
Mike Simpson (R), Second District

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STATE ELECTED OFFICIALS

GOVERNOR Dirk Kempthorne (R)

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)

ATTORNEY GENERAL Alan G. Lance (R)

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State Affairs

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2-BONNER & KOOTENAI COUNTIES

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Farmer
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6-NEZ PERCE COUNTY

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7-BENEWAH, CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

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8-ADAMS, BOISE, GEM, IDAHO & VALLEY COUNTIES

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9-GEM, PAYETTE & WASHINGTON COUNTIES

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10-CANYON COUNTY

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17-ADA COUNTY

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20-ELMORE & OWYHEE COUNTIES

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Legislative Council, State Affairs, Ways/Means

Tim Ridinger (R), House Seat B . . . . . 3rd Term
607 West B, P.O. Box 110, Shoshone 83352
Home 886-2958
Hay Hauler Wife - Penny
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
Lawyer 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 Bus 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 436-3584
Senate Line 436-4424
Self-employed Insurance Agent Wife - Linda
VICE CHAIR - Finance (JFAC)
Legislative Council, 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
E-mail: mbell@magiclink.com
Farmer/Homemaker Husband - H. Jack
VICE CHAIR--Appropriations (JFAC)
Agricultural Affairs, Resources/Conservation

25-CASSIA, MINIDOKA & TWIN FALLS COUNTIES

Denton Darrington (R), Senate . . . . . 9th Term
302 S. Highway 77, Declo 83323
Home 654-2712
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
Legislative Council

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 FAX 745-8420
Partner-Ranch/Farm Husband - Thomas D.
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
Finance (JFAC), Resources/Environment

Todd M. Hammond (R), House Seat A . . . . 1st Term
985 Hillview Dr., Rexburg 83440
Home 359-2517 Bus 356-1437
E-mail: thammond@srv.net
College Professor/Attorney Wife - Noelle
Education, Environmental Affairs

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
VICE CHAIR--Resources/Environment,
Finance (JFAC), Local Government/Taxation

Max C. Mortensen (R), House Seat A . . . . . 4th Term
120 N. 7th E., St. Anthony 83445
Home 624-3379 FAX 624-3379
Self-employed Wife - Bonnie
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, Legislative Council
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
E-mail: bmd@srv.net
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 522-5399
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 FAX 522-3230
E-mail: chair@micron.net
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
E-mail: lgagner@aol.com
Multiple Businesses-Real Estate Wife - Linda
VICE CHAIR--Environmental Affairs
Business, 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

J. Stanley Williams (R), Senate . . . . . 1st Term
(Served 1term in House 1998)
1286 W. 200 S., Pingree 83262
Home 684-4932 FAX 684-9211
Farmer/Rancher Wife - Nancy
Agricultural Affairs, Commerce/Human Resources
Education

Dennis M. Lake (R), House Seat A . . . . . 2nd Term
830 Taber Rd., Blackfoot 83221
Home 684-4967 FAX 684-9336
Agribusiness Wife - Luann
Agricultural Affairs, Commerce/Human Resources
Revenue/Taxation

Tom Moss (R), House Seat B . . . . . 1st Term
275 S. 900 W., Blackfoot 83221
Home 684-3800 Bus 785-1940
Wife - Bonny
Health/Welfare, Judiciary/Rules/Administration
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
Sen Office: State Capitol, Rm. 351, 83720-0081
Sen Office: 332-1300
Environmental Engineer Wife - Tammy
PRESIDENT PRO TEM
Agricultural Affairs, Legislative Council
State Affairs

Robert C. Geddes (R), House Seat A . . . . 12th Term
7235 N. 2600 W., Preston 83263
Home 852-1376
Farmer-Retired Wife - Carma
CHAIR--Appropriations, CO-CHAIR--JFAC
JLOC

Clair Cheirrett (R), House Seat B . . . . . 1st Term
670 Webster, Montpelier, 83265
Home 847-2259 Bus 847-1241
Health/Welfare, State Affairs

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, JLOC, 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
E-mail: bcmarley@crsinternet.com
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
Marketing Executive Wife - Analyn
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 FAX 234-4223
E-mail: donnaboe@id.net
ESL Tutor Husband - Roger
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
E-mail: kskunz@poky.srv.net
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