GENERAL LAWS

OF THE

STATE OF IDAHO

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

Convened January 8, 2001
Adjourned March 30, 2001

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 209
(H.B. No. 294)

AN ACT

RELATING TO CHARTER SCHOOLS; AMENDING SECTION 33-5206, IDAHO CODE, TO PROVIDE THAT A NEW OR CONVERSION CHARTER SCHOOL SHALL SPECIFY AN ATTENDANCE AREA FOR ADMISSION PREFERENCE.

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

SECTION 1. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A CHARTER SCHOOL. (1) In addition to any other requirements imposed in this chapter, a charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the attendance area of that school.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a charter school.

(3) Certified teachers in a charter school shall be considered public school teachers. Educational experience shall accrue for service in a charter school and such experience shall be counted by any school district to which the teacher returns after employment in a charter school.

(4) No board of trustees shall require any student enrolled in the school district to attend a charter school.

(5) Upon approval of the petition by the board of trustees, the petitioner shall provide written notice of that approval, including a copy of the petition, to the state board of education. For the purpose of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education.

(6) Each charter school shall annually submit a report to the local board of trustees which approved its charter. In the case of a new charter school whose charter was granted by the state board of education pursuant to section 33-5207, Idaho Code, the annual report shall be submitted to the state board of education. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(j), Idaho Code, a report on student progress based on the charter school's student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the charter school's accreditation report.

Approved March 26, 2001.

CHAPTER 210
(S.B. No. 1226)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2002; 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 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 3,397,000	$ 2,398,500	$ 80,000		$ 5,875,500
Parolee Supervision Fund	59,200	24,000			83,200
Federal Grant Fund	17,400	296,600		$1,750,000	2,064,000
Miscellaneous Revenue Fund	53,100	7,300			60,400
TOTAL	$ 3,526,700	$ 2,726,400	$ 80,000	$1,750,000	$ 8,083,100
II. PRISONS DIVISION:					
A. PRISONS ADMINISTRATION:					
FROM:					
General Fund	$ 806,000	$ 4,647,900			$ 5,453,900
Miscellaneous Revenue Fund	51,400	43,200			94,600
Federal Grant Fund		628,500			628,500
TOTAL	$ 857,400	$ 5,319,600			$ 6,177,000
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$15,609,100	$ 2,391,600	$ 111,200		$ 18,111,900
Penitentiary Endowment Fund		1,205,300			1,205,300
Miscellaneous Revenue Fund	327,600	108,300			435,900
TOTAL	$15,936,700	$ 3,705,200	$ 111,200		$ 19,753,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 4,999,300	$ 1,335,700	$ 80,100		$ 6,415,100
Inmate Labor Fund	708,700	631,400	266,900		1,607,000
Miscellaneous Revenue Fund	89,800	63,400	3,100		156,300
TOTAL	$ 5,797,800	$ 2,030,500	$ 350,100		$ 8,178,400
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,472,900	$ 1,035,700	$ 49,800		$ 3,558,400
Miscellaneous Revenue Fund	40,000	144,100			184,100
TOTAL	$ 2,512,900	$ 1,179,800	$ 49,800		$ 3,742,500
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 4,586,700	$ 1,760,000	$ 235,800		$ 6,582,500
Inmate Labor Fund	768,000	406,200			1,174,200
Miscellaneous Revenue Fund	52,000	41,500			93,500
TOTAL	$ 5,406,700	$ 2,207,700	$ 235,800		$ 7,850,200
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 7,002,700	$ 1,807,600	$ 74,000		$ 8,884,300
Miscellaneous Revenue Fund	41,500	54,300			95,800
TOTAL	$ 7,044,200	$ 1,861,900	$ 74,000		$ 8,980,100
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,433,600	$ 276,600	$ 47,700		$ 1,757,900
Inmate Labor Fund	328,900	472,700	8,700		810,300
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,762,500	$ 755,500	$ 56,400		$ 2,574,400
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 3,405,900	$ 975,900	$ 70,200		$ 4,452,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund		52,300			52,300
Inmate Labor Fund	214,500	27,700			242,200
Miscellaneous Revenue Fund	208,100	20,600			228,700
TOTAL	$ 3,828,500	$ 1,076,500	$ 70,200		$ 4,975,200
DIVISION TOTAL	$43,146,700	$18,136,700	$ 947,500		$ 62,230,900
III. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 2,137,200	$10,722,400	$ 3,900		$ 12,863,500
Federal Grant Fund	532,600	828,800			1,361,400
Miscellaneous Revenue Fund		124,500			124,500
TOTAL	$ 2,669,800	$11,675,700	$ 3,900		$ 14,349,400
IV. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$11,770,600	$ 1,710,700	$ 284,800		$ 13,766,100
Parolee Supervision Fund	1,646,000	197,900	42,900		1,886,800
Inmate Labor Fund	152,300	1,184,500			1,336,800
Miscellaneous Revenue Fund		34,300			34,300
TOTAL	$13,568,900	$ 3,127,400	$ 327,700		$ 17,024,000
V. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$20,193,800	$1,265,000		$ 21,458,800
VI. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 1,031,600	$ 243,300	$ 19,400		$ 1,294,300
Miscellaneous Revenue Fund		20,300			20,300
TOTAL	$ 1,031,600	$ 263,600	$ 19,400		$ 1,314,600
GRAND TOTAL	$63,943,700	$56,123,600	$2,643,500	$1,750,000	$124,460,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand four hundred seventeen and fifty-six one-hundredths (1,417.56) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 27, 2001.

CHAPTER 211
(H.B. No. 165)

AN ACT

RELATING TO REGISTRATION OF CONTROLLED SUBSTANCES; AMENDING SECTION 37-2718, IDAHO CODE, TO PROVIDE NOTIFICATION TO THE RESPECTIVE BOARDS OF PROFESSIONAL LICENSURE, TO AUTHORIZE ACTION BY THE BOARD OF PROFESSIONAL LICENSURE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 37-2719, IDAHO CODE, TO ALLOW THE BOARD OF PHARMACY TO RECOVER CERTAIN COSTS OF PROSECUTION.

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

SECTION 1. That Section 37-2718, Idaho Code, be, and the same is hereby amended to read as follows:

37-2718. REVOCATION AND SUSPENSION OF REGISTRATION. (a) A registration under section 37-2717, Idaho Code, to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:

(1) ~~h~~Has furnished false or fraudulent material information in any application filed under this act;

(2) ~~h~~Has been found guilty of a felony or misdemeanor under any state ~~o~~r federal law relating to any controlled substance; or

(3) ~~h~~Has had his federal registration suspended or revoked to manufacture~~,~~ distribute, or dispense controlled substances;

(4) ~~h~~Has violated any rule of the board promulgated under this chapter~~,~~ or any federal regulation relating to controlled substances; provided, however, that no revocation or suspension procedure be initiated under this paragraph without the ~~concurrence--of~~ board first giving notice of the procedure to the state licensing board with authority over the registrant's professional license.

(b) ~~The n~~otice required in paragraph (a)(4) of this section shall be given immediately in the event action is taken without an order to show cause as allowed under section 37-2719(b), Idaho Code. In all other cases, such notice shall be given as early as reasonably practicable without risking compromise of the board's investigation but no later than the earlier of:

(1) Issuance of an order to show cause under section 37-2719(a), Idaho Code; or

(2) Setting of a hearing for approval of a resolution of the matter

through informal proceedings.

(c) Revocation or suspension procedures arising solely from "practice related issues" shall be referred by the board to such registrant's state licensing board.

(1) Upon such referral, the registrant's state licensing board shall commence such investigation of the referred matter as it deems necessary and shall take action upon the registrant's license or shall inform the board of pharmacy, in writing, that it has investigated the referred matter and has concluded that no action is necessary.

(2) For purposes of this section, the term "practice related issues" refers to issues involving questions regarding the professional conduct of the registrant within the scope of the registrant's profession.

(d) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(ce) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(df) The board shall promptly notify the bureau and the state licensing board with authority over the registrant's professional license of all orders suspending or revoking registration and all forfeitures of controlled substances.

(g) In the event a state licensing board with authority over a registrant's professional license takes an action against the registrant in any fashion which suspends, restricts, limits or affects the registrant's ability to manufacture, distribute or dispense any controlled substance, the professional licensing board shall promptly notify the board of pharmacy of the action.

(1) Upon such action, the board of pharmacy shall be authorized to issue its order suspending, restricting, limiting or otherwise affecting the registrant's controlled substance registration in the same fashion as the professional licensing board action.

(2) The board of pharmacy order may be issued without further hearing or proceeding, but shall be subject to the effect of any reversal or modification of the professional licensing board action by reason of any appeal or rehearing.

SECTION 2. That Section 37-2719, Idaho Code, be, and the same is hereby amended to read as follows:

37-2719. ORDER TO SHOW CAUSE. (a) Except as set forth in section 37-2718(g), Idaho Code, bBefore denying, suspending or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the

basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with chapter 52, title 67, Idaho Code, without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 37-2718, Idaho Code, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

(c) In conjunction with a proceeding for denying, suspending or revoking a registration, or refusing a renewal of registration, and upon a finding of grounds for such denial, suspension, revocation or refusal to renew, the board may also impose an administrative fine not to exceed the costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts.

Approved March 28, 2001.

CHAPTER 212
(H.B. No. 225)

AN ACT

RELATING TO WORKER'S COMPENSATION AND OCCUPATIONAL DISEASES; AMENDING SECTION 72-438, IDAHO CODE, TO FURTHER DEFINE OCCUPATIONAL DISEASES INCLUDING INFECTIOUS HEPATITIS VIRUSES AND TUBERCULOSIS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-438, Idaho Code, be, and the same is hereby amended to read as follows:

72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or inclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distil-

lates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benzol (dinitro-benzol, anilin and others) or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to Roentgenray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof or exposure thereto.

(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(12) Cardiovascular or pulmonary or respiratory diseases of a paid fireman, employed by a municipality, village or fire district as a regular member of a lawfully established fire department, caused by overexertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment.

(13) Acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), other manifestations of human immunodeficiency virus (HIV) infections, ~~and~~ infectious hepatitis ~~B~~ viruses ~~(HBV)--infections~~ and tuberculosis in any occupation involving exposure to human blood or body fluids.

Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards which are common to the public in general and which are not within the meaning of section 72-102(~~21~~8)(a), Idaho Code, and the diseases enumerated in subsection (12) pertaining to paid firemen shall not be subject to the limitations prescribed in section 72-439, Idaho Code.

Approved March 28, 2001.

CHAPTER 213
(H.B. No. 251)

AN ACT

RELATING TO ENERGY SAVINGS PERFORMANCE CONTRACTS; AMENDING SECTION 67-5711, IDAHO CODE, TO PROVIDE THAT CERTAIN BIDDING PROCEDURES SHALL NOT APPLY TO PERFORMANCE CONTRACTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5711C, IDAHO CODE, TO PROVIDE A CODE CITATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5711D, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR PERFORMANCE CONTRACTS, TO PROVIDE FOR REQUESTS FOR QUALIFICATIONS, TO PROVIDE FOR NOTICE, TO PROVIDE FOR PUBLIC INSPECTION, TO PROVIDE FOR AWARDS OF PERFORMANCE CONTRACTS, TO PROVIDE FOR INSTALLMENT PAYMENT AGREEMENTS AND LEASE-PURCHASE AGREEMENTS, TO PROVIDE FOR TERMS OF PERFORMANCE CONTRACTS AND TO PROVIDE FOR MONITORING AND REPORTS.

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

SECTION 1. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance exceeds the sum of thirty thousand dollars ($30,000) for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses, provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5711C, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair or maintenance other than preventive maintenance of public buildings under the jurisdiction and control of the board of regents of the University of Idaho; provided further, that the bidding procedures required by this section and section 67-5711C, Idaho Code, shall not apply to performance contracts as provided in section 67-5711D, Idaho Code; provided further, that public works for the Idaho transportation department, the department of fish and game, the department of parks and recreation, and the department of lands, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and

game, the department of parks and recreation, and the department of lands in the letting of contracts for public works, from complying with the procedures of section 67-5711C, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund advisory council may adopt rules consistent with existing law, including rules for a program of inspection and maintenance, to carry out the provisions of this act.

SECTION 2. That Section 67-5711C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder after receipt of competitive sealed bidding except as otherwise provided in sections 67-5713~~1~~B, 67-5711D and 67-5714~~B~~3, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 and 67-5725, Idaho Code.

(5) With respect to a project having a written cost estimate of greater than two thousand five hundred dollars ($2,500) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

(6) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

SECTION 3. 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 67-5711D, Idaho Code, and to read as follows:

67-5711D. ENERGY SAVINGS PERFORMANCE CONTRACTS. (1) Definitions. As used in this section:

(a) "Cost-savings measure" means any facility improvement, repair or alteration, or any equipment, fixture or furnishing to be added or used in any facility that is designed to reduce energy consumption and energy operating costs or increase the energy efficiency of facilities for their appointed functions that are cost effective. "Cost-savings measure" includes, but is not limited to, one (1) or more of the following:

(i) Procurement of low-cost energy supplies of all types, including electricity, natural gas and water;

(ii) Insulating the building structure or systems in the building;

(iii) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;

(iv) Automated or computerized energy control systems;

(v) Heating, ventilation or air conditioning system modifications or replacements;

(vi) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system;

(vii) Energy recovery systems;

(viii) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(ix) Installing new or modifying existing day lighting systems;

(x) Installing or modifying renewable energy and alternate energy technologies;

(xi) Building operation programs that reduce energy costs including, but not limited to, computerized programs, training and other similar activities;

(xii) Steam trap improvement programs that reduce energy costs;

(xiii) Devices that reduce water consumption; and

(xiv) Any additional building infrastructure improvements that produce energy cost savings, significantly reduce energy con-

sumption or increase the energy efficiency of the facilities for their appointed functions and are in compliance with all applicable state building codes.

(b) "Director" means the director of the department of administration or the director's designee.

(c) "Energy cost savings" means any expenses that are eliminated or avoided on a long-term basis as a result of equipment installed or modified, or services performed by a qualified energy service company or a qualified provider, but does not include merely shifting personnel costs or similar short-term cost savings.

(d) "Financial grade energy audit" means a comprehensive building energy systems audit performed by a professional engineer licensed in the state of Idaho for the purpose of identifying and documenting feasible energy and resource conservation measures and cost-savings factors.

(e) "Performance contract" means a contract between the director and a qualified provider or a qualified energy service company for evaluation, recommendation and implementation of one (1) or more cost-savings measures. A performance contract may be structured as either:

(i) A guaranteed energy savings performance contract, which shall include, at a minimum, the design and installation of equipment and, if applicable, operation and maintenance of any of the measures implemented. Guaranteed annual savings must meet or exceed the total annual contract payments made by the director or the user agency for such contract, including financing charges to be incurred over the life of the contract; or

(ii) A shared savings contract, which shall include provisions mutually agreed upon by the director and the qualified provider or qualified energy service company as to the rate of payments based upon energy cost savings and a stipulated maximum energy consumption level over the life of the contract;

(f) "Person" means an individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entity as recognized by the state of Idaho.

(g) "Qualified energy service company" means a person with a record of established projects or with demonstrated technical, operational, financial and managerial capabilities to implement performance contracts and who currently holds an Idaho public works contractor license.

(h) "Qualified provider" means a person who is experienced in the design, implementation and installation of energy efficiency and facility improvement measures, who has the ability to secure necessary financial measures to support energy savings guarantees and the technical capabilities to ensure such measures generate energy cost savings, and who currently holds an Idaho public works contractor license.

(2) Performance contracts. The director of the department of administration, subject to the approval of the permanent building fund advisory council, may enter into a performance contract with a qualified provider or qualified energy service company to reduce energy consumption or energy operating costs. Cost-savings measures implemented under such contracts shall comply with all applicable state building codes.

(3) Requests for qualifications. The director of the department of administration shall request qualifications from qualified providers and qualified energy service companies inviting them to submit information describing their capabilities in the areas of:

(a) Design, engineering, installation, maintenance and repairs associated with performance contracts;

(b) Experience in conversions to a different energy or fuel source, so long as it is associated with a comprehensive energy efficiency retrofit;

(c) Postinstallation project monitoring, data collection and reporting of savings;

(d) Overall project experience and qualifications;

(e) Management capability;

(f) Ability to assess the availability of long-term financing;

(g) Experience with projects of similar size and scope; and

(h) Other factors determined by the director to be relevant and appropriate relating to the ability of the qualified provider or qualified energy service company to perform the project.

(4) Notice. Adequate public notice of the request for qualifications shall be given at least fourteen (14) days prior to the date set forth therein for the opening of the responses to the request for qualifications. Such notice may be provided electronically or by publication in a newspaper of general circulation in the area where the work is located.

(5) Public inspection. All records of the department or an agency relating to the award of a performance contract shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 and 67-5725, Idaho Code.

(6) Award of performance contract.

(a) The director shall select up to three (3) qualified providers or qualified energy service companies who have responded to the request for qualifications. Factors to be considered in selecting the successful qualified provider or qualified energy service company shall include, but not be limited to:

(i) Fee structure;

(ii) Contract terms;

(iii) Comprehensiveness of the proposal and cost-savings measures;

(iv) Experience of the qualified provider or qualified energy service company;

(v) Quality of the technical approach of the qualified provider or qualified energy service company; and

(vi) Overall benefits to the state.

(b) Notwithstanding the provisions of section 67-5711C, Idaho Code, the director may, following the request for qualifications and the expiration of the specified notice period, award the performance contract to the qualified provider or qualified energy service company which best meets the needs of the project and whose proposal may or may not represent the lowest cost among the proposals submitted pursuant to this section.

(c) Upon award of the performance contract, the successful qualified provider or qualified energy service company shall prepare a financial grade energy audit which, upon acceptance by the director, shall become a part of the final performance contract.

(7) Installment payment and lease-purchase agreements. Pursuant to this section, the director may enter into a performance contract, payments for which shall be made by the user agency. Such performance contracts may be financed as installment payment contracts or lease-purchase agreements for the purchase and installation of cost-savings measures. Financing implemented through another person other than the qualified provider or qualified energy service company is authorized.

(8) Terms of performance contract.

(a) Each performance contract shall provide that all payments between parties, except obligations upon termination of the contract before its expiration, shall be made over time and that the objective of such performance contract is the implementation of cost-savings measures and energy cost savings.

(b) A performance contract, and payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective, subject to appropriation by the legislature, for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed twenty-five (25) years. The permissible length of the contract may also reflect the useful life of the cost-savings measures.

(c) Performance contracts may provide for payments over a period of time not to exceed deadlines specified in the performance contract from the date of the final installation of the cost-savings measures.

(d) Performance contracts entered pursuant to this section may be amended or modified, upon agreement by the director and the qualified provider or qualified energy service company, on an annual basis.

(9) Monitoring and reports. During the term of each performance contract, the qualified provider or qualified energy service company shall monitor the reductions in energy consumption and cost savings attributable to the cost-savings measures installed pursuant to the performance contract and shall annually prepare and provide a report to the director documenting the performance of the cost-savings measures.

Approved March 28, 2001.

CHAPTER 214
(H.B. No. 322)

AN ACT

RELATING TO THE ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS FOR DISABLED VETERANS; AMENDING SECTION 65-506, IDAHO CODE, TO PROVIDE THAT VETERANS PREFERENCE POINTS SHALL BE USED BY ALL DISABLED VETERANS AND WIDOWS OR WIDOWERS OF DISABLED VETERANS AND TO DEFINE INITIAL APPOINTMENT; AMENDING SECTION 65-507, IDAHO CODE, TO PROVIDE A DEFINITION FOR DISABLED VETERAN, TO DELETE THE DEFINITION FOR DISABLED WAR VETERAN AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5309, IDAHO CODE, TO PROVIDE THAT VETERANS PREFERENCE POINTS SHALL BE USED BY ALL DISABLED VETERANS AND WIDOWS OR WIDOWERS OF DISABLED VETERANS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 65-506, Idaho Code, be, and the same is hereby amended to read as follows:

65-506. ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS. (1) Five (5) points shall be added to the earned rating of any war veteran and the widow or widower of any war veteran as long as he or she remains unmarried, when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examination under merit system or civil service plan of selecting employees: The names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating.

(2) Ten (10) points shall be added to the earned rating of ~~any disabled war veteran,~~ veterans discharged under honorable conditions who qualify as disabled veterans because they have served on active duty in the armed forces at any time and have a present service connected disability of ten percent (10%) or more. Ten (10) points shall also be added to the earned rating of the widow or widower of any disabled ~~war~~ veteran as long as he or she remains unmarried, the ~~wife~~ spouse of any eligible disabled veteran who ~~himself~~ is physically unable to perform the work in the position to which the ~~wife~~ spouse seeks to apply the preference, when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examinations under merit system or civil service plan of selecting employees: The names of all ten (10) point preference eligibles resulting from any merit system or civil service examination shall be placed at the top of the register above the names of all nonpreference eligibles in accordance with their augmented rating.

The additional points added by reason of veteran's preference shall be used only for the purpose of initial appointment and not for the purpose of promotions.

(3) For the purpose of this section, an initial appointment shall meet the following criteria:

(a) The appointment shall be the first time a qualified veteran is hired by a county, municipal government or state agency and subsequent separation from the county, municipal government or state agency shall not result in the award of new preference points with such employer.

(b) Preference points shall only be applied if the county, municipal government or state agency is using a point system to rank candidates for the particular opening.

SECTION 2. That Section 65-507, Idaho Code, be, and the same is hereby amended to read as follows:

65-507. DISABLED VETERAN DEFINED. The term "disabled ~~war~~ veteran" as used in this ~~act~~ chapter means any individual ~~who has served on military duty in the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purposes of awarding federal veterans benefits as may be defined in~~

~~title 38, U.S. code, chapter 1, section 101(11); and has been separated therefrom~~ discharged under honorable conditions~~; and~~ who has ~~established the~~ served on active duty in the armed forces at any time and has a present ~~existence of a service connected~~ service connected disability~~; and is receiving compensation, disability retirement benefits, or pension under public statute as administered by the department of veterans affairs or a military department~~ of ten percent (10%) or more.

SECTION 3. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expira-

tion of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the division maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran and the widow or widower of any war veteran as long as he or she remains unmarried. Pursuant to section 65-506, Idaho Code, ~~ten~~ (10) points shall be added to the earned rating of any disabled ~~war~~ veteran, the widow or widower of any disabled ~~war~~ veteran as long as he or she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ten (10) top ranking available eligibles plus the names of all individuals with scores identical to the tenth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An ~~inter-agency~~ interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from

holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.

2. Inefficiency, incompetency, or negligence in the performance of duties.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing for five percent (5%) shift differential pay.

Approved March 28, 2001.

CHAPTER 215
(S.B. No. 1175)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF EXAMINERS FOR FISCAL YEAR 2001; 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 379, Laws of 2000, there is hereby appropriated to 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, 2000, through June 30, 2001:

I. BOARD OF EXAMINERS:

FOR:	
Trustee and Benefit Payments	$124,000
FROM:	
General Fund	$124,000

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

Approved March 28, 2001.

CHAPTER 216
(S.B. No. 1180)

AN ACT
APPROPRIATING MONEYS FOR THE IDAHO WOMEN'S COMMISSION FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Idaho Women's Commission the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$30,300	$12,200	$42,500
Miscellaneous Revenue Fund		6,700	6,700
TOTAL	$30,300	$18,900	$49,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Women's Commission is authorized no more than fifty-two hundredths (0.52) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 217
(S.B. No. 1181)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INSURANCE REGULATION:					
FROM:					
Self-Governing Operating Fund	$3,088,000	$1,763,300	$240,500		$5,091,800
Miscellaneous Revenue Fund	48,300	8,900	1,500		58,700
Federal Grant Fund	146,100	55,400		$2,500	204,000
TOTAL	$3,282,400	$1,827,600	$242,000	$2,500	$5,354,500
II. STATE FIRE MARSHAL					
FROM:					
Self-Governing State Fire Marshal Fund	$ 547,800	$ 267,400	$ 44,500		$ 859,700
GRAND TOTAL	$3,830,200	$2,095,000	$286,500	$2,500	$6,214,200

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, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 218
(S.B. No. 1184)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2002; LIMITING AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE AERONAUTICS FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRPORT DEVELOPMENT GRANTS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amounts, to be expended for the designated programs according to the designated expense classes from the listed fund sources for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT:					
FROM:					
State Highway Fund (Dedicated)	$11,329,100	$ 6,721,000	$ 752,100		$ 18,802,200
State Highway Fund (Federal)	227,300	148,600			375,900
State Highway Fund (Billing)	69,000	64,800			133,800
TOTAL	$11,625,400	$ 6,934,400	$ 752,100		$ 19,311,900
II. PLANNING:					
FROM:					
State Highway Fund (Dedicated)	$ 438,700	$ 264,900	$ 127,100		$ 830,700
State Highway Fund (Federal)	1,732,600	1,066,200			2,798,800
State Highway Fund (Billing)		41,500			41,500
TOTAL	$ 2,171,300	$ 1,372,600	$ 127,100		$ 3,671,000
III. MOTOR VEHICLES:					
FROM:					
State Highway Fund (Dedicated)	$11,181,300	$ 5,805,800	$ 406,000		$ 17,393,100
State Highway Fund (Billing)		45,000			45,000
TOTAL	$11,181,300	$ 5,850,800	$ 406,000		$ 17,438,100
IV. HIGHWAY OPERATIONS:					
FROM:					
State Highway Fund (Dedicated)	$58,305,100	$32,397,500	$ 16,564,400		$107,267,000
State Highway Fund (Federal)	11,689,200	5,594,100			17,283,300
Idaho Traffic Safety Fund (Federal)				$ 2,000,000	2,000,000
State Highway Fund (Billing)		432,900			432,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway Fund (Local)	221,500	94,900			316,400
TOTAL	$70,215,800	$38,519,400	$ 16,564,400	$ 2,000,000	$127,299,600
V. CAPITAL FACILITIES:					
FROM:					
State Highway Fund (Dedicated)			$ 2,800,000		$ 2,800,000
VI. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway Fund (Dedicated)			$ 56,456,800		$ 56,456,800
State Highway Fund (Federal)			189,572,100	$ 4,033,600	193,605,700
State Highway Fund (Local)			4,566,800		4,566,800
TOTAL			$250,595,700	$ 4,033,600	$254,629,300
VII. AERONAUTICS:					
FROM:					
General Fund				$ 350,000	$ 350,000
State Aeronautics Fund (Dedicated)	$ 674,700	$ 435,800	$ 50,000	950,000	2,110,500
State Aeronautics Fund (Federal)		264,600			264,600
State Aeronautics Fund (Billing)	138,300	143,100			281,400
TOTAL	$ 813,000	$ 843,500	$ 50,000	$ 1,300,000	$ 3,006,500
VIII. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Fund (Dedicated)	$ 151,500	$ 55,300	$ 4,400	$ 312,000	$ 523,200
State Highway Fund (Federal)	332,100	44,700		2,836,700	3,213,500
TOTAL	$ 483,600	$ 100,000	$ 4,400	$ 3,148,700	$ 3,736,700
GRAND TOTAL	$96,490,400	$53,620,700	$271,299,700	$10,482,300	$431,893,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred thirty-six (1,836) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 4. The Idaho Transportation Department is authorized to transfer up to $71,300 from the State Highway Fund to the State Aeronautics Fund during the fiscal year. It is legislative intent that the moneys transferred be used to offset operating costs of the aircraft pool program or be used to establish a reserve for capital replacement costs of the aircraft pool program.

SECTION 5. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Highway Fund appropriated for the Contract Construction and Right-of-Way Acquisition program for fiscal year 2001, to be used for Contract Construction and Right-of-Way Acquisition only for the period July 1, 2001, through June 30, 2002.

SECTION 6. All unexpended and unencumbered moneys previously appropriated to the Idaho Transportation Department from funds deposited to the restricted disaster State Highway Fund are hereby reappropriated to the Idaho Transportation Department for the period July 1, 2001, through June 30, 2002.

SECTION 7. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Aeronautics Fund appropriated for trustee and benefit payments for fiscal year 2001, to be used for Airport Development Grants for the period July 1, 2001, through June 30, 2002.

Approved March 28, 2001.

CHAPTER 219
(S.B. No. 1186)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 196,200	$ 69,800		$ 266,000
Industrial Special Indemnity Fund	162,600	77,000		239,600
Indirect Cost Recovery Fund	526,400	269,300		795,700
Administration and Accounting Services Fund	24,000			24,000
TOTAL	$ 909,200	$ 416,100		$ 1,325,300
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 541,000	$ 471,800	$ 233,600	$ 1,246,400
Indirect Cost Recovery Fund	309,400	76,100	64,200	449,700
Administration and Accounting Services Fund	1,554,400	989,400	126,500	2,670,300
TOTAL	$2,404,800	$ 1,537,300	$ 424,300	$ 4,366,400
III. PUBLIC WORKS:				
FROM:				
General Fund	$ 78,900	557,200	$1,643,800	$ 2,279,900
Permanent Building Fund	1,342,900	2,843,300	3,400,500	7,586,700
Administration and Accounting Services Fund	1,501,600	3,888,800	40,000	5,430,400
TOTAL	$2,923,400	$ 7,289,300	$5,084,300	$15,297,000
IV. PURCHASING:				
FROM:				
General Fund	$ 805,900	$ 251,900	$ 10,800	$ 1,068,600
Federal Surplus Property Revolving Fund	179,400	252,400	27,600	459,400
Administration and Accounting Services Fund	714,400	1,167,800	84,500	1,966,700
TOTAL	$1,699,700	$ 1,672,100	$ 122,900	$ 3,494,700
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 192,000	$ 324,700		$ 516,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 61,200			$ 61,200
Administration and Accounting Services Fund	286,800	$ 378,100		664,900
TOTAL	$ 348,000	$ 378,100		$ 726,100
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 249,300	$ 442,800		$ 692,100
Retained Risk Fund	417,600	184,000		601,600
TOTAL	$ 666,900	$ 626,800		$ 1,293,700
GRAND TOTAL	$9,144,000	$12,244,400	$5,631,500	$27,019,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-three and sixty-hundredths (173.60) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 220
(S.B. No. 1187)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2002; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE TREASURER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR LUMP SUM	TOTAL
FROM:				
General Fund	$866,800	$424,100		$1,290,900
State Treasurer LGIP Fund			$228,500	228,500
Treasurer's Office - Professional Services Fund			310,900	310,900
TOTAL	$866,800	$424,100	$539,400	$1,830,300

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, 2002, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 3. Of the amount appropriated for Operating Expenditures in Section 1 of this act, $358,500, 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, 2001, through June 30, 2002, 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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002.

SECTION 5. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 6. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 221
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 2002.

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

SECTION 1. There is hereby appropriated $10,000,000 from the General Fund to be deposited in the Catastrophic Health Care Cost Fund for the period July 1, 2001, through June 30, 2002.

Approved March 28, 2001.

CHAPTER 222
(S.B. No. 1189)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2001; 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 379, Laws of 2000, there is hereby appropriated to 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, 2000, through June 30, 2001:

I. BOARD OF MEDICINE:

FOR:	
Operating Expenditures	$57,500
FROM:	
State Regulatory Fund	$57,500

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

Approved March 28, 2001.

CHAPTER 223
(S.B. No. 1190)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Aging the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON AGING:					
FROM:					
General Fund	$498,200	$102,200	$7,200	$4,371,200	$ 4,978,800
Federal Grant Fund	393,700	232,500		5,199,800	5,826,000
Miscellaneous Revenue Fund		18,700			18,700
TOTAL	$891,900	$353,400	$7,200	$9,571,000	$10,823,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fifteen (15) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 224
(S.B. No. 1197)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF LAND COMMISSIONERS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
Endowment Administrative Fund	$290,700	$147,500	$6,500	$444,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Miscellaneous Revenue Fund	112,700	44,600	2,500	159,800
TOTAL	$403,400	$192,100	$9,000	$604,500

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, 2001, through June 30, 2002, 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, 2001, through June 30, 2002.

SECTION 4. It is legislative intent that for fiscal year 2002, the Endowment Fund Investment Board transfer $69,640,000 as follows: $47,675,000 from the Public School Earnings Reserve Fund to the Public School Income Fund; $1,280,000 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; $4,673,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; $4,068,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; $1,566,000 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; $4,709,000 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; $2,024,000 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and $3,645,000 from the University Earnings Reserve Fund to the University Income Fund.

Approved March 28, 2001.

CHAPTER 225
(S.B. No. 1202)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 30,500	$ 8,400			$ 38,900
II. BOARD OF PHARMACY:					
FROM:					
State Regulatory Fund	$ 460,900	$ 255,200	$ 2,900		$ 719,000
III. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 209,100	$ 201,100	$ 700		$ 410,900
IV. BOARD OF DENTISTRY:					
FROM:					
State Regulatory Fund	$ 143,700	$ 128,100	$ 2,000		$ 273,800
V. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 197,300	$ 194,900	$ 5,000		$ 397,200
VI. BOARD OF MEDICINE:					
FROM:					
State Regulatory Fund	$ 571,000	$ 691,400	$28,800		$1,291,200
VII. BOARD OF NURSING:					
FROM:					
State Regulatory Fund	$ 376,500	$ 305,900	$ 7,800		$ 690,200
VIII. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 759,400	$ 598,600	$ 9,700	$ 50,000	$1,417,700
IX. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 714,400	$ 361,000	$15,600		$1,091,000
X. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 28,100	$ 17,900			$ 46,000
XI. BOARD OF OPTOMETRY:					
FROM:					
State Regulatory Fund	$ 2,500	$ 54,500			$ 57,000
XII. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 11,900	$ 12,400			$ 24,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XIII. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 285,200	$ 171,700	$ 7,000		$ 463,900
XIV. BOARD OF VETERINARY MEDICINE:					
FROM:					
State Regulatory Fund	$ 93,300	$ 98,800			$ 192,100
XV. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General Fund	$ 87,500	$ 28,700	$ 5,600		$ 121,800
Federal Grant Fund	172,900	84,500		$15,400	272,800
Miscellaneous Revenue Fund	83,300	46,000		10,000	139,300
TOTAL	$ 343,700	$ 159,200	$ 5,600	$25,400	$ 533,900
XVI. BOARD OF EXAMINERS:					
FROM:					
General Fund				$ 7,600	$ 7,600
GRAND TOTAL	$4,227,500	$3,259,100	$85,100	$83,000	$7,654,700

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, 2001, through June 30, 2002, 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 ..... Ten and one-half (10.5)
Board of Accountancy ..... Four (4)
Board of Dentistry ..... Two (2)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Board of Medicine ..... Twelve and one-half (12.5)
Board of Nursing ..... Eight (8)
Bureau of Occupational Licenses ..... Seventeen (17)
Idaho Real Estate Commission ..... Fifteen (15)
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 ..... Six (6)
Board of Veterinary Medicine ..... Two (2)
Commission on Hispanic Affairs ..... Six (6)
Board of Examiners ..... Zero (0)

Approved March 28, 2001.

CHAPTER 226
(S.B. No. 1203)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery in the Department of Self-Governing Agencies the following amounts, to be expended for administrative costs according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$ 2,327,700
Operating Expenditures	8,019,800
Capital Outlay	153,800
TOTAL	$10,501,300
FROM:	
State Lottery Fund	$10,501,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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

Approved March 28, 2001.

CHAPTER 227
(S.B. No. 1204)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2002; 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 State Appellate Public Defender the following amounts, to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$ 845,500
Operating Expenditures	388,300
Capital Outlay	2,300
TOTAL	$1,236,100
FROM:	
General Fund	$1,236,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than thirteen (13) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 228
(S.B. No. 1205)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2002; PROVIDING FOR THE TRANSFER OF CERTAIN FUNDS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND REAPPROPRIATING FUNDS FOR THE SPECIAL LITIGATION PROGRAM.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$13,083,700	$ 839,600	$176,900	$14,100,200
Federal Grant Fund	119,300	65,400		184,700
Consumer Protection Fund	65,200	51,300		116,500
TOTAL	$13,268,200	$ 956,300	$176,900	$14,401,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$1,753,700	$ 10,000	$ 1,763,700
GRAND TOTAL	$13,268,200	$2,710,000	$186,900	$16,165,100

SECTION 2. Upon the closing of fiscal year 2001, the State Controller shall, at the request of the Office of the Attorney General, transfer any remaining cash balance to the General Fund from the State Legal Services 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 eighty-three and fifteen-hundredths (183.15) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 5. There is hereby reappropriated to the Attorney General for the Special Litigation Program any unexpended and unencumbered balance of the General Fund as appropriated for the Special Litigation Program for fiscal year 2001, to be used for the period July 1, 2001, through June 30, 2002.

Approved March 28, 2001.

CHAPTER 229
(S.B. No. 1206)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2002; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND CAPPING THE AMOUNT ALLOCATED FOR ADMINISTRATIVE OVERHEAD IN THE GUARDIAN AT LITEM PROGRAM.

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, 2001, through June 30, 2002:

FROM:	
General Fund	$23,545,600
Guardian Ad Litem Fund	457,900
ISTARS Technology Fund	1,807,100
Federal Grant Fund	418,800
Miscellaneous Revenue Fund	312,500
TOTAL	$26,541,900

SECTION 2. There is hereby appropriated $457,900 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 2001, through June 30, 2002.

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.

SECTION 4. It is legislative intent that the amount allocated for administrative overhead to the administrative agency selected by the Idaho Supreme Court for the Guardian Ad Litem Program be capped at $30,000 for the period July 1, 2001, through June 30, 2002.

Approved March 28, 2001.

CHAPTER 230
(S.B. No. 1207)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND INCREASING THE LIMIT AUTHORIZED FOR FOREST PEST DEFICIENCY WARRANTS FROM $250,000 TO $4,000,000 FOR FISCAL YEAR 2002.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 544,500	$ 393,100				$ 937,600
Department of Lands Fund	409,900	279,200	$ 6,500			695,600
Endowment Administrative Fund	1,076,100	916,300	36,500			2,028,900
Federal Grant Fund	55,500	128,200				183,700
TOTAL	$ 2,086,000	$1,716,800	$ 43,000			$ 3,845,800
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 963,700	$ 118,000	$ 21,000			$ 1,102,700
Department of Lands Fund	1,805,200	1,553,300	69,600			3,428,100
Endowment Administrative Fund	4,940,800	3,076,500	535,000	$483,300		9,035,600
Community Forestry Fund				79,700		79,700
Federal Grant Fund	514,600	239,600		158,300		912,500
TOTAL	$ 8,224,300	$4,987,400	$625,600	$721,300		$14,558,600
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 719,600	$ 269,200	$ 18,500			$ 1,007,300
Department of Lands Fund	17,400	133,700				151,100
Abandoned Mine Reclamation Fund		251,500				251,500
Land and Building Rental Fund	1,000	62,800				63,800
Endowment Administrative Fund	1,687,500	722,800	117,400			2,527,700
TOTAL	$ 2,425,500	$1,440,000	$135,900			$ 4,001,400
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,356,400	$ 2,356,400
Department of Lands Fund					4,245,800	4,245,800
Fire Suppression Deficiency Fund					124,000	124,000
Federal Grant Fund					424,900	424,900
TOTAL					$7,151,100	$ 7,151,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 294,700	$ 61,400	$ 2,500			$ 358,600
GRAND TOTAL	$13,030,500	$8,205,600	$807,000	$721,300	$7,151,100	$29,915,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred forty-seven and sixty-one hundredths (247.61) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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. The director of the Department of Lands, with the approval of the State Board of Land Commissioners, has declared a zone of tussock moth infestation in the Moscow Mountain area and has estimated the costs of suppression and eradication to be between $2,000,000 and $4,000,000. In accordance with Section 38-602, Idaho Code, the State Board of Land Commissioners may issue deficiency warrants against the General Fund to suppress and eradicate forest pests. Because costs cannot be accurately determined at this time, the limit authorized in Section 38-602, Idaho Code, is hereby increased from $250,000 to $4,000,000 for fiscal year 2002. Costs for treatments other than to state lands shall be reimbursed according to cooperative agreements approved by the State Board of Land Commissioners.

Approved March 28, 2001.

CHAPTER 231
(S.B. No. 1208)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture, the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,384,700	$529,600	$61,000	$2,450,000	$4,425,300
Resource Conservation and Rangeland Development Fund		40,600			40,600
Federal Grant Fund	122,300	150,400			272,700
TOTAL	$1,507,000	$720,600	$61,000	$2,450,000	$4,738,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-five (25) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 232
(S.B. No. 1209)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2002; GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HAZARDOUS MATERIALS' MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2001; 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 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General Fund	$ 1,441,400	$1,094,500	$ 30,600	$203,000	$ 2,769,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund		164,100			164,100
Miscellaneous Revenue Fund		38,800			38,800
TOTAL	$ 1,441,400	$1,297,400	$ 30,600	$203,000	$ 2,972,400
II. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 575,900	$ 587,100	$ 4,400		$ 1,167,400
Federal Grant Fund	6,255,800	5,589,000	13,200		11,858,000
Professional Services Fund	522,600				522,600
TOTAL	$ 7,354,300	$6,176,100	$ 17,600		$13,548,000
III. DISASTER SERVICES:					
FROM:					
General Fund	$ 747,300	$ 96,000	$ 34,000		$ 877,300
Federal Grant Fund	581,500	568,900		$413,400	1,563,800
Indirect Cost Recovery Fund		68,300			68,300
TOTAL	$ 1,328,800	$ 733,200	$ 34,000	$413,400	$ 2,509,400
IV. BUREAU OF HAZARDOUS MATERIALS:					
FROM:					
General Fund	$ 178,400	$ 112,500	$247,500		$ 538,400
Federal Grant Fund		188,400		$ 77,600	266,000
TOTAL	$ 178,400	$ 300,900	$247,500	$ 77,600	$ 804,400
GRAND TOTAL	$10,302,900	$8,507,600	$329,700	$694,000	$19,834,200

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, 2001, through June 30, 2002.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred eighty-seven and eighty-hundredths (187.80) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 284, Laws of 2000, there is hereby appropriated to the Office of the Governor for the Military Division 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:

A. DISASTER SERVICES:

FOR:	
Capital Outlay	$56,500
FROM:	
General Fund	$56,500

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 passage and approval.

Approved March 28, 2001.

CHAPTER 233
(S.B. No. 1217)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2002; AND APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PANHANDLE HEALTH DISTRICT FOR FISCAL YEAR 2002.

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

SECTION 1. There is hereby appropriated $10,458,400 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 2001, through June 30, 2002.

SECTION 2. In addition to the appropriation made in Section 1 of this act, there is hereby appropriated $98,000 from the General Fund to be deposited in the Public Health Trust Fund for the Panhandle Health District for the period July 1, 2001, through June 30, 2002.

Approved March 28, 2001.

CHAPTER 234
(S.B. No. 1218)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2002; 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 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Electrical Fund	$ 213,700	$ 23,500		$ 237,200
Building Fund	52,800	5,700		58,500
Plumbing Fund	137,400	15,200		152,600
Manufactured Housing Fund	5,500	600		6,100
Public Works Contractors Licensing Fund	21,400	2,800		24,200
Miscellaneous Revenue/ Industrial Safety Fund	47,000	5,200		52,200
Miscellaneous Revenue/ Logging Fund	18,900	2,100		21,000
Miscellaneous Revenue/ Building Bureau NCSBCS Fund	1,400	100		1,500
Federal Grant Fund	7,400	800		8,200
TOTAL	$ 505,500	$ 56,000		$ 561,500
II. BUILDING SAFETY:				
FROM:				
Electrical Fund	$2,526,200	$ 680,800	$132,100	$3,339,100
Building Fund	669,900	204,400	8,300	882,600
Plumbing Fund	1,613,500	536,100	88,500	2,238,100
Manufactured Housing Fund	52,500	18,800	900	72,200
Public Works Contractors Licensing Fund	246,700	136,700	4,100	387,500
Miscellaneous Revenue/ Industrial Safety Fund	533,200	275,500	31,800	840,500
Miscellaneous Revenue/ Logging Fund	255,400	74,200	56,300	385,900
Miscellaneous Revenue/ Building Bureau NCSBCS Fund	21,400	7,800	900	30,100
Federal Grant Fund	109,000	47,300	900	157,200
TOTAL	$6,027,800	$1,981,600	$323,800	$8,333,200
GRAND TOTAL	$6,533,300	$2,037,600	$323,800	$8,894,700

SECTION 2. 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 eighteen (118) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 235
(S.B. No. 1219)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2002.

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 from the listed funds for the period July 1, 2001, through June 30, 2002:

A. LEGISLATIVE SERVICES OFFICE:	
FROM:	
General Fund	$3,913,800
Miscellaneous Revenue Fund	44,000
Professional Services Fund	1,105,700
TOTAL	$5,063,500
B. LEGISLATIVE TECHNOLOGY:	
FROM:	
General Fund	$ 209,400
C. OFFICE OF PERFORMANCE EVALUATIONS:	
FROM:	
General Fund	$ 634,700
GRAND TOTAL	$5,907,600

Approved March 28, 2001.

CHAPTER 236
(S.B. No. 1220)

AN ACT
APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

FROM:	
General Fund	$25,197,600
Equine Education Fund	135,000
Federal Grant Fund	4,594,600
Miscellaneous Revenue Fund	181,900
TOTAL	$30,109,100

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 contained in Section 1, Chapter 441, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, 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 March 28, 2001.

CHAPTER 237
(S.B. No. 1222)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:					
FROM:					
General Fund	$ 469,500	$1,000,900	$40,400		$1,510,800
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General Fund	$ 654,200	$ 62,500	$10,500	$2,085,600	$2,812,800
Unrestricted Current Fund	22,600	32,300		102,800	157,700
TOTAL	$ 676,800	$ 94,800	$10,500	$2,188,400	$2,970,500
III. IDEP DENTAL EDUCATION:					
FROM:					
General Fund	$ 198,400	$ 13,600	$ 8,200	$ 503,900	$ 724,100
Unrestricted Current Fund	80,200				80,200
TOTAL	$ 278,600	$ 13,600	$ 8,200	$ 503,900	$ 804,300
IV. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General Fund				$ 804,500	$ 804,500
V. FAMILY PRACTICE RESIDENCIES:					
FROM:					
General Fund	$ 405,500	$ 103,900	$ 1,500	$ 502,700	$1,013,600
GRAND TOTAL	$1,830,400	$1,213,200	$60,600	$3,999,500	$7,103,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty and thirty-nine hundredths (20.39) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 380, Laws of 2000, for each respective program to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for each respective program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 28, 2001.

CHAPTER 238
(S.B. No. 1224)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2002; 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 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General Fund	$ 460,800	$114,000		$ 574,800
II. CENTRALIZED UNIFORM COMMERCIAL CODE:				
FROM:				
General Fund	$1,142,100	$405,400	$74,800	$1,622,300
III. COMMISSION ON UNIFORM LAWS:				
FROM:				
General Fund		$ 27,800		$ 27,800
GRAND TOTAL	$1,602,900	$547,200	$74,800	$2,224,900

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. There is hereby reappropriated to the Secretary of State, any unexpended and unencumbered cash balance of any appropriation made to the Secretary of State for fiscal year 2001, to be used for non-recurring expenditures only for the period July 1, 2001, through June 30, 2002.

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

If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is zero, the reappropriation of General Fund money in Section 3 of this act is hereby declared to be null and void.

If the unexpended and unencumbered balance in the General Fund on June 30, 2001, 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 3 of this act shall be in the proportion that the General Fund reappropriation for the Secretary of State bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 5. 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, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 239
(S.B. No. 1225)

AN ACT
APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2002 AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Executive Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
I. GOVERNOR'S OFFICE ADMINISTRATION:				
General Fund	$1,298,300	$291,700	$35,000	$1,625,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. GOVERNOR'S EXPENSE ALLOWANCE:				
TO BE EXPENDED PURSUANT TO SECTION 67-808d, IDAHO CODE:				
FROM:				
General Fund		$ 9,900		$ 9,900
III. SOCIAL SERVICES:				
FROM:				
Miscellaneous Revenue Fund	$ 33,600	$ 7,500		$ 41,100
Federal Grant Fund	344,700	72,800		417,500
TOTAL	$ 378,300	$ 80,300		$ 458,600
IV. ACTING GOVERNOR PAY:				
FROM:				
General Fund	$ 19,200			$ 19,200
GRAND TOTAL	$1,695,800	$381,900	$35,000	$2,112,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-five (25) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 240
(S.B. No. 1229)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$295,700	$236,700	$23,400	$461,600	$1,017,400
Federal Grant Fund	244,200	129,400		185,700	559,300
Miscellaneous Revenue Fund	—	55,200		16,300	71,500
TOTAL	$539,900	$421,300	$23,400	$663,600	$1,648,200

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, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 241
(S.B. No. 1230)

AN ACT

APPROPRIATING MONEYS FROM THE IDAHO MILLENNIUM INCOME FUND TO THE STATE TREASURER FOR THE PURPOSES SPECIFIED FOR FISCAL YEAR 2002; 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 from the Idaho Millennium Income Fund to the State Treasurer $2,756,500 to be expended for trustee and benefit payments as specified in Section 2 of this act for the period July 1, 2001, through June 30, 2002.

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, 2001, through June 30, 2002:

(a) $506,500 for the Public Health Districts to continue 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.

(b) $735,000 for the Catastrophic Health Care Cost Program for tobacco-related disease treatment as determined by a physician, by way of reducing the county deductible payment pursuant to Section 3 of this act.

(c) $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.

(d) $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. Of the amount specified, $50,000 will be used for the Buhl School District Substance Abuse Pilot Program.

(e) $200,000 for the Children's Trust Account Board in the Department of Health and Welfare to expand youth-asset building activities to more Idaho communities.

(f) $150,000 for the Idaho Supreme Court to expand the status offender pilot program into other judicial districts to identify high-risk youth and provide services and monitoring aimed at stopping and deescalating the cycle toward incarceration.

(g) $400,000 for the Public Health Services Division within the Department of Health and Welfare for coordinating efforts to reduce adolescent pregnancy through a media campaign to raise awareness of the human and societal risks associated with adolescent pregnancy.

(h) $95,000 for the Center for Health Policy at Boise State University for surveillance and evaluation. This will be a cooperative effort among Boise State University, Idaho State University, and the University of Idaho whereby the universities would begin evaluating the continuum of substance abuse programs in Idaho. The Center for Health Policy should collaborate with the Department of Health and Welfare and to the extent possible utilize the baseline data being developed by the Bureau of Health Promotion so as to avoid duplication in efforts.

GRAND TOTAL: $2,756,500

SECTION 3. It is legislative intent that the Catastrophic Health Care Cost Program Board use the funds appropriated in Section 2(b) of this act to temporarily reduce the $10,000 deductible paid by counties for the costs of caring for indigent persons with tobacco-related 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, 2001, through June 30, 2002, 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(b) of this act.

SECTION 4. It is legislative intent that if the total amount of moneys appropriated in Section 2 of this act is 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 March 28, 2001.

CHAPTER 242
(S.B. No. 1234)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Industrial Commission the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration Fund	$2,118,900	$ 971,000	$205,000	$1,147,300	$ 4,442,200
Federal Grant Fund	2,700	2,300			5,000
Miscellaneous Revenue Fund		20,800			20,800
TOTAL	$2,121,600	$ 994,100	$205,000	$1,147,300	$ 4,468,000
II. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,641,800	$ 655,000	$ 57,500		$ 3,354,300
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation Fund	$ 409,900	$ 183,700	$ 2,000	$2,105,400	$ 2,701,000
Federal Grant Fund				524,700	524,700
TOTAL	$ 409,900	$ 183,700	$ 2,000	$2,630,100	$ 3,225,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$1,380,600	$ 460,800	$ 19,000		$ 1,860,400
GRAND TOTAL	$6,553,900	$2,293,600	$283,500	$3,777,400	$12,908,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-eight and one-half (138.5) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 243
(S.B. No. 1235)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

DIVISION OF VETERANS SERVICES:

FROM:	
General Fund	$ 2,091,800
Miscellaneous Revenue Fund	6,986,000
Veterans Services Endowment Income Fund	734,800
Federal Grant Fund	6,908,900
TOTAL	$16,721,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than two hundred ninety-nine and thirty-two hundredths (299.32) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 244
(S.B. No. 1236)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Labor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. WAGE AND HOUR:			
FROM:			
General Fund	$325,900	$171,000	$496,900
Miscellaneous Revenue Fund		10,400	10,400
TOTAL	$325,900	$181,400	$507,300
II. RURAL PARTNERSHIP:			
FROM:			
Federal Grant Fund	$ 90,900	$ 50,200	$141,100
Miscellaneous Revenue Fund		24,300	24,300
Unemployment Penalty and Interest Fund		20,000	20,000
TOTAL	$ 90,900	$ 94,500	$185,400
GRAND TOTAL	$416,800	$275,900	$692,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than seven (7) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 245
(S.B. No. 1239)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND PROVIDING FOR THE TRANSFER OF MONEYS FOR AN AQUIFER RECHARGE STRUCTURE FOR FISCAL YEAR 2002; APPROPRIAT-

ING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2001; APPROPRIATING AND PROVIDING FOR THE TRANSFER OF MONEYS TO THE REVOLVING DEVELOPMENT FUND AND THE WATER MANAGEMENT FUND; AND DECLARING AN EMERGENCY FOR SECTIONS 4 AND 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 860,600	$ 442,900	$176,500		$ 1,480,000
Water Administration Fund	37,000	21,100			58,100
Indirect Cost Recovery Fund	264,000	133,700	40,000		437,700
TOTAL	$ 1,161,600	$ 597,700	$216,500		$ 1,975,800
II. PLANNING AND TECHNICAL SERVICES:					
FROM:					
General Fund	$ 1,990,100	$ 979,600		$ 927,800	$ 3,897,500
Indirect Cost Recovery Fund	59,600	9,400			69,000
Miscellaneous Revenue Fund	42,400	498,300			540,700
Federal Grant Fund	378,800	2,094,600			2,473,400
TOTAL	$ 2,470,900	$3,581,900		$ 927,800	$ 6,980,600
III. ENERGY RESOURCES:					
FROM:					
General Fund	$ 32,600	$ 2,900			$ 35,500
Petroleum Price Violation Fund	451,400	1,612,700	$ 6,000		2,070,100
Indirect Cost Recovery Fund	45,800	128,400			174,200
Miscellaneous Revenue Fund	303,900	1,035,800			1,339,700
Federal Grant Fund	474,300	594,300			1,068,600
TOTAL	$ 1,308,000	$3,374,100	$ 6,000		$ 4,688,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. SNAKE RIVER BASIN ADJUDICATION:					
FROM:					
General Fund	$ 1,802,600	$ 919,300	$ 31,200		$ 2,753,100
Water Resources Adjudication Fund				$ 500,000	500,000
TOTAL	$ 1,802,600	$ 919,300	$ 31,200	$ 500,000	$ 3,253,100
V. WATER MANAGEMENT:					
FROM:					
General Fund	$ 2,883,200	$ 577,500	$ 82,700		$ 3,543,400
Water Administration Fund	590,000	104,400			694,400
Indirect Cost Recovery Fund	45,900	6,700			52,600
Miscellaneous Revenue Fund	418,400	107,300			525,700
Federal Grant Fund	112,000	189,600			301,600
TOTAL	$ 4,049,500	$ 985,500	$ 82,700		$ 5,117,700
GRAND TOTAL	$10,792,600	$9,458,500	$336,400	$1,427,800	$22,015,300

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, 2001, through June 30, 2002, 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 $60,000 from the General Fund for the period July 1, 2001, through June 30, 2002. Upon the request of the chairman of the Idaho Water Resource Board, the State Controller shall transfer that amount to the Water Management Fund to be used to construct an aquifer recharge structure on the Northside Canal at Sugarloaf.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 445, Laws of 2000, there is hereby appropriated to the Idaho Department of Water Resources the following amounts, to be expended for the designated 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
I. PLANNING AND TECHNICAL SERVICES:			
FROM:			
General Fund		$215,000	$215,000
Miscellaneous Revenue Fund	$43,100	125,000	168,100
Federal Grant Fund		225,000	225,000
TOTAL	$43,100	$565,000	$608,100

SECTION 5. There is hereby appropriated $400,000 from the General Fund for the period July 1, 2000, through June 30, 2001. Of that amount, the State Controller shall transfer $200,000 to the Idaho Water Resource Board Revolving Development Fund to be used according to Section 42-1752, Idaho Code; and the State Controller shall transfer $200,000 to the Water Management Fund to be used according to Section 42-1760, Idaho Code.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 4 and 5 of this act shall be in full force and effect on and after passage and approval.

Approved March 28, 2001.

CHAPTER 246
(S.B. No. 1240)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 415,700	$ 382,000	$ 25,900	$ 7,800	$ 831,400
Facilities Maintenance Fund	49,200	106,400			155,600
Agriculture in the Classroom Fund		20,900			20,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Administration and Accounting Services Fund	593,400	102,900			696,300
TOTAL	$ 1,058,300	$ 612,200	$ 25,900	$ 7,800	$ 1,704,200
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 983,800	$ 261,500	$ 75,500	$ 473,500	$ 1,794,300
Agricultural Fees - Livestock Disease Control Fund	481,000	259,800	48,000		788,800
Agricultural Fees - Dairy Inspection Fund	728,400	252,700	145,000		1,126,100
Agricultural Fees - Egg Inspection Fund	80,500	25,000			105,500
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200
Seminars and Publications Fund		96,500			96,500
Federal Grant Fund	312,300	490,000		$ 860,000	1,662,300
TOTAL	$ 2,592,000	$1,389,700	$268,500	$1,333,500	$ 5,583,700
III. AGRICULTURAL RESOURCES:					
FROM:					
General Fund	$ 471,700	$ 568,300			$ 1,040,000
Agricultural Fees - Pesticides Fund	1,136,900	498,200	$128,300		1,763,400
Federal Grant Fund	405,800	166,200			572,000
TOTAL	$ 2,014,400	$1,232,700	$128,300		$ 3,375,400
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 611,200	$ 95,300	$ 96,500	$ 101,400	$ 904,400
Agricultural Inspection Fund	989,100	245,000	43,300	60,000	1,337,400
Agricultural Fees - Commercial Feed and Fertilizer Fund	553,500	169,900	123,000		846,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Honey Advertising Fund	400	6,000			6,400
Federal Grant Fund	37,500	5,300			42,800
TOTAL	$ 2,191,700	$ 521,500	$262,800	$ 161,400	$ 3,137,400
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 855,600	$ 207,500	$ 50,000		$ 1,113,100
Agricultural Inspection Fund	171,500	55,700		$ 3,700	230,900
Agricultural Fees - Organic Food Products Fund	82,900	30,600			113,500
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,639,000	839,800	140,000	463,200	10,082,000
TOTAL	$ 9,749,000	$1,133,600	$190,000	$ 466,900	$11,539,500
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 301,400	$ 217,700	$ 4,000		$ 523,100
Agricultural Inspection Fund	35,000	100			35,100
Agricultural Loans Fund	12,700	15,000		$ 5,200	32,900
Seminars and Publications Fund		234,600			234,600
USDA Publications Fund		63,700			63,700
Federal Grant Fund				41,700	41,700
TOTAL	$ 349,100	$ 531,100	$ 4,000	$ 46,900	$ 931,100
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$ 160,900	$ 160,900
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		144,100	144,300
TOTAL		$ 200		$ 405,000	$ 405,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 48,900	$ 5,900			$ 54,800
Agricultural Fees - Sheep Industry Regulation Fund	68,300	29,300			97,600
Sheep and Goat Disease Indemnity Fund		20,300			20,300
TOTAL	$ 117,200	$ 55,500			$ 172,700
GRAND TOTAL	$18,071,700	$5,476,500	$879,500	$2,421,500	$26,849,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy-seven and thirty-one hundredths (177.31) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2001.

CHAPTER 247
(H.B. No. 24, As Amended)

AN ACT

RELATING TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; AMENDING SECTION 54-1201, IDAHO CODE, TO REQUIRE REGISTRATION OF PERSONS PRACTICING OR OFFERING TO PRACTICE PROFESSIONAL ENGINEERING OR PROFESSIONAL LAND SURVEYING FOR A PROJECT PHYSICALLY LOCATED IN IDAHO; AMENDING SECTION 54-1202, IDAHO CODE, TO REVISE A DEFINITION AND TO PROVIDE A DEFINITION FOR "BUSINESS ENTITY"; AMENDING SECTION 54-1208, IDAHO CODE, TO PROVIDE REFERENCE TO BUSINESS ENTITIES; AMENDING SECTION 54-1213, IDAHO CODE, TO PROVIDE REFERENCE TO BUSINESS ENTITIES; AMENDING SECTION 54-1215, IDAHO CODE, TO PROVIDE THAT CERTAIN DOCUMENTS SHALL BE MARKED AS "PRELIMINARY," "DRAFT" OR "NOT FOR CONSTRUCTION," TO PROVIDE REFERENCE TO BUSINESS ENTITY AND TO DELETE REQUIREMENTS RELATING TO TEMPORARY PERMITS ISSUED TO ENGINEERING REGISTRANTS OF OTHER STATES; AMENDING SECTION 54-1216, IDAHO CODE, TO DELETE REFERENCES TO BIENNIAL RENEWALS AND TO PROVIDE REFERENCES TO BUSINESS ENTITIES; AMENDING SECTION 54-1220, IDAHO CODE, TO ALLOW PARTIES TO BRING CERTAIN CHARGES BASED ON VIOLATIONS OF CHAPTER PROVISIONS OR BOARD RULES AND TO PROVIDE REFERENCES TO BUSINESS ENTITIES; AMENDING SECTION 54-1221, IDAHO CODE, TO PROVIDE REF-

ERENCE TO A BUSINESS ENTITY; AMENDING SECTION 54-1223, IDAHO CODE, TO DELETE REFERENCE TO EMPLOYEES OF PERSONS PRACTICING UNDER TEMPORARY PERMITS AND TO PROVIDE REFERENCES TO BUSINESS ENTITIES; AND AMENDING SECTION 54-1235, IDAHO CODE, TO PROHIBIT THE SECRETARY OF STATE FROM ACCEPTING CERTAIN FILINGS FROM ANY PERSON UNLESS THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS SHALL HAVE ISSUED A LETTER INDICATING THAT PERSON HAS A LICENSED PROFESSIONAL IN RESPONSIBLE CHARGE OF THE PROFESSIONAL ACTIVITIES OF THE SOLE PROPRIETORSHIP OR BUSINESS ENTITY, TO PROVIDE THE BOARD MAY WAIVE ANY OBJECTION UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE REFERENCES TO BUSINESS ENTITIES AND TO PRECLUDE A BUSINESS ENTITY FROM FILING ORGANIZATIONAL PAPERS WITH THE SECRETARY OF STATE UNLESS A CERTIFICATE OF AUTHORIZATION HAS BEEN ISSUED OR THE BOARD HAS WAIVED THE REQUIREMENT.

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

SECTION 1. That Section 54-1201, Idaho Code, be, and the same is hereby amended to read as follows:

54-1201. DECLARATION OF POLICY. To safeguard life, health and property, every person practicing or offering to practice professional engineering or professional land surveying, as herein defined, for any project physically located in this state, shall submit evidence of his qualifications and be registered as hereinafter provided; and it shall be unlawful for any person to ~~practice or~~ offer to practice professional engineering or professional land surveying for any project physically located in this state, or to use in connection with his name or otherwise assume, use or advertise any title or descri~~ption te~~nding to convey the impression that he is a registered or licensed professional engineer or professional land surveyor, unless such person has been duly registered or is exempted under the provisions of this chapter. Except as exempted by section 54-1223, Idaho Code, an engineer shall be allowed to practice professional engineering as defined in this chapter only when he has become duly registered or licensed as a professional engineer by the board under this chapter. The practice of professional engineering or professional land surveying shall be deemed a privilege granted by the Idaho board of registration of professional engineers and professional land surveyors through the board, based on qualifications of the individuals as evidenced by the person's certificate of registration, which shall not be transferable.

SECTION 2. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this 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 engi-

neer 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 for any project physically located in this state, 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 for any project physically located in this state 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 for any project physically located in this state 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 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, construc-

tion 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.

(m) Business Entity. The term "business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

SECTION 3. 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 chapter and the regulation of proceedings before the board. These actions by the board shall be binding upon persons registered under this chapter and shall be applicable to ~~corporations~~ business entities 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 chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other pertinent data in any disciplinary matters or in any case wherever a violation of this 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 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 4. 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 one hundred dollars ($100). The total application fee shall accompany the application.

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 fifty dollars ($50.00). The application fee shall accompany the application.

The maximum application fee for ~~corporations~~ business entities seeking a certificate of authorization shall be two hundred dollars ($200). The application fee shall accompany the application.

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.

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 5. 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. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "preliminary," "draft," "not for construction" or with similar words to distinguish the document from a final document.

(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~~ business entity, 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.

(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 6. 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~~ business entities 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~~ business entity 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~~ business entity 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~~ business entities, by the payment of a renewal fee to be fixed by the board at not more than one hundred fifty dollars ($150). The failure on the part of any registrant or certificate holder to renew his or its certificate biennially in the month in which they were born or in the month of July in the case of ~~corporations~~ business entities, as required above shall not deprive such person or ~~corporation~~ business entity 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 biennium delinquent, but in no event more than three hundred dollars ($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 biennial renewal fee shall not be more than thirty dollars ($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 7. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules ~~of-professional-responsibility-for-professional engineers,-professional-land-surveyors-and-corporations-with-certificate of-authorization~~ promulgated by the board against any individual registrant or against any ~~corporation~~ business entity 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 director of the board. The executive 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~~ business entity 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~~ business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over registrants whose licenses are not current provided the action relates to services performed when the license was current and valid.

SECTION 8. That Section 54-1221, Idaho Code, be, and the same is hereby amended to read as follows:

54-1221. REISSUANCE OF CERTIFICATES. The board, upon petition of an individual or a ~~corporation~~ business entity, may reissue or reinstate a certificate of registration or authorization, provided three (3) or more members of the board vote in favor of such reissuance or reinstatement. A new certificate of registration or certificate of authorization, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board, and upon payment of such reasonable charge therefor as shall be fixed by the board to cover the estimated cost of investigation and such reissuance, but not exceeding ten dollars ($10.00) in any case.

SECTION 9. 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.

(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~~ business entity, on property owned or leased by the individual~~, firm, partnership~~ or ~~corporation~~ business entity, or in which the individual~~, firm, partnership~~ or ~~corporation~~ business entity has an interest, estate or possessory right and which affects exclusively the property or interests of the individual~~, firm, partnership~~ or ~~corporation~~ business entity; 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~~ business entity 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~~ business entity as long as the services provided by them are for internal ~~corporate or company~~ business entity 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 10. That Section 54-1235, Idaho Code, be, and the same is hereby amended to read as follows:

54-1235. PRACTICE BY ~~CORPORATIONS~~ A BUSINESS ENTITY. (1) The practice of or offer to practice professional engineering or professional land surveying, as defined in this chapter, by professional engineers or professional land surveyors, through a ~~corporation~~ business entity, or by a ~~corporation~~ business entity through professional engineers or professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such ~~corporation~~ business entity, who act in its behalf as professional engineers or professional land surveyors in this state are registered as provided by this chapter, or are persons lawfully practicing under the exemptions enumerated in this chapter, and further provided that said ~~corporation~~ business entity, except utilities regulated by the Idaho public utilities commission, has been issued a certificate of authorization by the board as provided by this chapter. No ~~corporation~~ business entity shall be relieved of responsibility for the conduct or acts of

its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in this chapter, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such ~~corporation~~ business entity. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying as defined in this chapter, which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them.

(2) A ~~corporation~~ business entity organized pursuant to this section may provide or offer to provide allied professional services as defined in section 30-1303, Idaho Code, in connection with the providing of engineering or land surveying services, by persons licensed in allied professions acting as employees or officers, provided such persons are duly licensed or otherwise legally authorized to render such allied professional services within this state.

(3) A ~~corporation~~ business entity desiring a certificate of authorization for engineering, for land surveying, or for both, shall file with the board a description of the engineering or land surveying service to be offered or practiced in the state, an application upon a form to be prescribed by the board and the designation required by the following paragraph, accompanied by the application fee.

(4) Such ~~corporation~~ business entity shall file with the board a designation of an individual or individuals duly registered and certified to practice professional en~~gineering or~~ professional land surveying in this state who shall be in responsible charge of the practice of professional engineering or land surveying, as applicable, by said ~~corporation~~ business entity in this state. In the event there shall be a change in the individual or individuals in responsible charge, such changes shal~~l be designated~~ in writing and filed with the board within thirty (30) days after the effective date of such change.

If all requirements of this chapter are met, the board shall issue to such ~~corporation~~ business entity a certificate of authorization for professional engineering, for land surveying, or for both; provided, however, the board may refuse to issue a certificate if any facts exist which would entitle the board to suspend or revoke an existing certificate.

A professional engineer or professional land surveyor who renders occasional, part-time or consulting engineering or land surveying services to or for a ~~firm~~ business entity may not be designated as the person in responsible charge for the professional activities of the ~~firm~~ business entity.

(5) The secretary of state shall not accept for filing from any person any assumed business name which includes within its name any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued a letter indicating that the person has a licensed professional in responsible charge of the professional activities of the sole proprietorship or business entity. The board may notify the secretary of state, in writing, that it waives any objection to the name if the per-

son is clearly not governed by chapter 12, title 54, Idaho Code. The secretary of state shall not ~~issue a certificate of incorporation as a domestic corporation or a certificate of authority as a foreign corporation authorized to do business in this state to a firm~~ accept for filing the organizational documents of an Idaho business entity, or authorize the transaction of business by any foreign business entity which includes, among objects for which it is established or within its name, any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued for said applicant a certificate of authorization or a letter indicating the eligibility of said applicant to receive such certificate. The board may notify the secretary of state, in writing, that it waives any objection to the name or purpose of any business entity if it is clearly not governed by chapter 12, title 54, Idaho Code. The ~~firm~~ business entity applying shall ~~supply~~ include such certificate or letter from the board with ~~its application for incorporation or registration with any~~ filings submitted to the secretary of state.

Approved March 28, 2001.

CHAPTER 248
(H.B. No. 52)

AN ACT
RELATING TO THE STATE MILITIA; AMENDING SECTION 46-112, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES FOR THE ADJUTANT GENERAL.

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

SECTION 1. That Section 46-112, Idaho Code, be, and the same is hereby amended to read as follows:

46-112. DUTIES OF THE ADJUTANT GENERAL. The duties of the adjutant general are:

(1) To be chief of staff to the commander-in-chief and administrative head of the military division of the office of governor.

(2) To be custodian of all military records and property of the national guard and organized militia.

(3) To publish and distribute all orders from the governor as commander-in-chief and perform such other duties as the governor may direct.

(4) Subject to the provisions of section 67-5303(j), Idaho Code, to employ such clerical and other personnel as may be required in the military division of the office of the governor.

(5) To pay the members of the national guard when such members are to be paid from state funds.

(6) To attend to the care, maintenance, repair and safekeeping of all federal equipment issued to the state of Idaho for the use of the national guard.

(7) To be custodian of the seal of the office of adjutant general and to deliver the same to his successor.

(8) To organize such units and recruit such personnel, with the

consent of the governor, as may be authorized by federal law and regulations, and as may be required for the security of the state of Idaho.

(9) To supervise the training of the national guard and the organized militia.

(10) To make such returns and reports as may be required by the federal laws and regulations.

(11) To coordinate the planning and execution of state activities pertaining to the inauguration of the governor of the state of Idaho and the other elected state executive officers.

Approved March 28, 2001.

CHAPTER 249
(H.B. No. 70)

AN ACT

RELATING TO LICENSING REQUIREMENTS FOR PESTICIDE DEALERS; AMENDING SECTION 22-3406, IDAHO CODE, TO REQUIRE THAT AN APPLICANT FOR A PESTICIDE DEALER'S LICENSE WHO SELLS RESTRICTED-USE PESTICIDES MUST OBTAIN A PROFESSIONAL APPLICATOR'S LICENSE IN ADDITION TO MEETING OTHER EXISTING REQUIREMENTS.

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

SECTION 1. That Section 22-3406, Idaho Code, be, and the same is hereby amended to read as follows:

22-3406. PESTICIDE DEALERS. No person shall act as a pesticide dealer without first obtaining a pesticide dealer's license issued by the department.

(1) Licensing:

(a) Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by rule; and

(b) an applicant who sells restricted-use pesticides must pass the department's examination and obtain a professional applicator's license in order to demonstrate his knowledge of how to use and handle pesticides in areas relevant to the operation he intends to undertake; and

(c) such application shall be due as prescribed by rule; and

(d) a license shall be required for each location, outlet, or warehouse from which such pesticides are distributed; and

(e) for an applicant selling restricted-use pesticides an examination fee will be charged as prescribed by rule and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date.

(2) Records and Reports:

(a) Restricted-use pesticides or devices: The director shall require a pesticide dealer to keep accurate sale and distribution records of restricted-use pesticides or devices as prescribed by rule;

(i) The director may also require a pesticide dealer to maintain other records and furnish reports for restricted-use pesticides or devices he determines necessary to implement the provisions of this act; and

(ii) Records shall be maintained for three (3) years and be available for inspection and reproduction by the director at all reasonable times; and

(iii) The dealer shall be required to post total sales of each restricted-use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by rule.

(b) General use pesticides: The director shall require a pesticide dealer to keep accurate sale and distribution records as prescribed by rule of general use pesticides except those exempted in subsection (4) of this section.

(i) Records shall be maintained for three (3) years and be available for inspection and reproduction by the director at all reasonable times; and

(ii) The dealer shall be required to report total sales of each general use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by rule; and

(iii) The director may require dealers to furnish other reports of these records in the case of emergency as provided by rule.

(3) Pesticide dealers shall sell restricted-use pesticides (RUP) only to licensed professional and private applicators, and dealers; however, pesticide dealers may sell an RUP to an unlicensed person provided the application of the RUP is made by a licensed professional applicator or licensed private applicator.

(4) Exemptions:

(a) A manufacturer's representative or wholesale distributor shall be exempt from subsection (1) of this section provided such representative or distributor does not have a warehouse in Idaho that pesticides are sold, stored or distributed from; and

(b) federal, state and other governmental agencies are exempt from the examination and licensing fees of this section; and

(c) the director may exempt a pesticide from the provisions of subsection (1) or (2) of this section by rule if it is determined that licensing or recordkeeping is not necessary for selling the pesticide.

(5) A user of a pesticide, without obtaining a pesticide dealer's license, may for the exclusive purpose of keeping it from becoming a waste, distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide.

Approved March 28, 2001.

CHAPTER 250
(H.B. No. 74)

AN ACT

RELATING TO THE DEPARTMENT OF AGRICULTURE; REPEALING CHAPTER 11, TITLE 22, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 426, LAWS OF 1990; REPEALING SECTIONS 22-2203, 22-2204, 22-2205, 22-2206 AND 22-2213, IDAHO CODE; AND AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 22, IDAHO CODE, GOVERNING SOIL AND PLANT AMENDMENTS, 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 FOR SUBMISSION OF FORMULAS, TO REQUIRE LABELS WITH CERTAIN INFORMATION, TO REQUIRE PAYMENT OF TONNAGE FEES, TO REQUIRE TONNAGE REPORTS, TO PROVIDE FOR INSPECTION, SAMPLING AND ANALYSIS, TO PROVIDE A PENALTY FOR SHORT WEIGHTS, TO PROVIDE PENALTIES FOR DEFICIENT ANALYSIS, 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 VIOLATIONS, TO PROVIDE REMEDIES FOR VIOLATIONS, TO PROVIDE FOR DISPOSITION OF MONEYS RECEIVED, TO PROVIDE FOR COOPERATION WITH OTHER GOVERNMENT AGENCIES, TO PROVIDE THAT ENACTMENT DOES NOT AFFECT EXISTING LIABILITY, TO PROVIDE THAT THE CHAPTER DOES NOT APPLY TO WHOLESALE TRANSACTIONS, TO PROVIDE SEVERABILITY AND TO PROVIDE FOR STATEMENTS OF UNIFORM INTERPRETATION AND POLICY.

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

SECTION 1. That Chapter 11, Title 22, Idaho Code, as added by Section 1, Chapter 426, Laws of 1990, be, and the same is hereby repealed.

SECTION 2. That Sections 22-2203, 22-2204, 22-2205, 22-2206 and 22-2213, Idaho Code, be, and the same are hereby repealed.

SECTION 3. 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 22, Title 22, Idaho Code, and to read as follows:

CHAPTER 22
SOIL AND PLANT AMENDMENTS

22-2201. SHORT TITLE. This act may be known and cited as the "Soil and Plant Amendment Act of 2001."

22-2202. ADMINISTRATION. This chapter shall be administered by the Idaho department of agriculture.

22-2203. DEFINITIONS. As used in this chapter:

(1) "Aged" means exposed to weathering and/or natural decay, such that the original material is significantly altered.

(2) "Biosolid(s)" means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regu-

lated under the code of federal regulations, 40 CFR 503, as amended.

(3) "Brand" means the term, designation, trademark, product name or other specific designation under which individual soil amendments or plant amendments are offered for sale.

(4) "Bulk" means in nonpackaged form or in packages of one (1) cubic yard or more.

(5) "Bulk density" means dry weight per unit of volume.

(6) "Compost" means a biologically stable material derived from the composting process.

(7) "Composting" means the biological decomposition of organic matter. It is accomplished by mixing and piling in such a way to promote aerobic and/or anaerobic decay. The process inhibits pathogens, viable weed seeds and odors.

(8) "Coproduct" means a chemical substance produced for a commercial purpose during the manufacture, processing, use or disposal of another chemical substance or mixture.

(9) "Customer formula mix" means a soil amendment or plant amendment which is prepared to the specifications of the final purchaser.

(10) "Deficiency" means the amount of ingredient found by analysis to be less than that guaranteed, which may result from a lack of ingredients or lack of uniformity.

(11) "Department" means the Idaho department of agriculture.

(12) "Director" means the director of the Idaho department of agriculture or his duly authorized representative.

(13) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend soil amendments or plant amendments, or to offer for sale, sell, barter or otherwise supply soil amendments and plant amendments in this state.

(14) "Distributor" means any person who distributes.

(15) "Horticultural growing media" means any substance or mixture of substances which is promoted as or is intended to function as a growing medium for the managed growth of horticultural crops in containers and shall be considered a plant amendment for the purposes of this chapter.

(16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of soil amendments or plant amendments.

(17) "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil amendment or plant amendment.

(18) "Labeling" means all written, printed or graphic matter, upon or accompanying any soil amendment or plant amendment, or advertisements, brochures, posters, or television or radio announcements used in promoting the sale of the soil amendment or plant amendment.

(19) "Manipulation" means actively processed or treated in any manner.

(20) "Manufacture" means to compound, produce, granulate, mix, blend, repackage or otherwise alter the composition of soil amendment or plant amendment materials.

(21) "Micronutrients" means boron (B); chlorine (Cl); cobalt (Co); copper (Cu); iron (Fe); manganese (Mn); molybdenum (Mo); sodium (Na); and zinc (Zn).

(22) "Minimum percentage" means that percent of plant or soil amending ingredient that must be present in a product before the product will be accepted for registration when mentioned in any form or manner.

(23) "Mulch" means any organic or inorganic soil surface cover used to help retain moisture longer in the soil by retarding evaporation, to discourage weed growth, to help maintain a constant temperature by insulating the soil, to discourage runoff and soil erosion by shielding the soil surface from water abrasion or to promote water absorption and retention.

(24) "Official sample" means any sample of soil amendment or plant amendment taken by the director or his agent.

(25) "Organic" refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives.

(26) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, wood wastes from logging and milling operations and food wastes. "Organic waste-derived material" does not include products that contain biosolids as defined in subsection (2) of this section.

(27) "Other ingredients" means the nonsoil amending or nonplant amending ingredients present in soil amendments or plant amendments.

(28) "Percent" or "percentage" means by weight.

(29) "Person" means individual, partnership, association, firm or corporation.

(30) "Plant amendment" means any natural or synthetic substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants except commercial fertilizers, soil amendments, limes, unmanipulated animal manure and vegetable organic waste-derived materials, pesticides, mulch and other materials which may be exempted by rule.

(31) "Processed" means deliberately treated or manipulated to modify or transform physical, chemical, or biological characteristics of the natural state of a substance.

(32) "Raw" means in the natural state, and not prepared, modified, processed or manipulated for use.

(33) "Registrant" means the person(s) who registers soil amendments or plant amendments under this chapter.

(34) "Soil amendment" means:

(a) Any substance which is intended to improve the physical, chemical or biological characteristics of the soil to favor plant growth; or

(b) Any material which is represented as having a primary function of enhancing, changing or modifying soil microorganism reproduction, activity or population, or material which is represented as having the primary function of forming or stabilizing soil aggregates in soil to which it is to be applied and thereby improving the resistance of the soil to the slaking action of water, increasing the soil's water and air permeability or infiltration, improving the resistance of the surface of the soil to crusting, improving ease of cultivation of soil, or otherwise favorably modifying the structural or physical properties of soil; and

(c) "Soil amendment" does not include commercial fertilizers, plant amendments, limes, gypsum, unmanipulated animal manures and vegetable organic waste-derived materials, pesticides, mulch and other material which may be exempted by rule of the department.

(35) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(36) "Verification of label claims" means explanatory information describing how the registrant determined the truthfulness and accuracy of the registrant's words or statements describing the product according to recognized standards.

(37) "Waste-derived soil amendment" or "waste-derived plant amendment" means any soil amendment or plant amendment that is 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 any soil amendment or plant amendment derived from biosolids or biosolid products regulated under the code of federal regulations, 40 CFR 503, as amended.

(38) "Weight" means the weight of material as offered for sale.

(39) "Wood" means the hard fibrous material located beneath the bark of trees, which constitutes the greatest part of the stems of trees and shrubs.

When not specifically stated in this section or otherwise designated by the department in rule, the department will be guided by the definitions of general terms, fertilizer materials and soil and plant amendment materials as set forth in the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), or the Merck Index, published by Merck & Co., Inc.

22-2204. AUTHORITY TO ADOPT RULES. The department shall administer, enforce, and carry out 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, sampling, records, analysis, form, minimum percentages, soil amending or plant amending ingredients, exempted materials, investigational allowances, definitions, labels, labeling, misbranding, mislabeling and disposal of soil amendments and plant amendments and their containers. The adoption of rules shall be subject to public hearing as prescribed by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

22-2205. PRODUCTS -- REGISTRATION REQUIRED. (1) Each separately identifiable soil amendment or plant amendment product shall be registered before being distributed in this state. The application for registration shall be submitted to the department on a form furnished by the department, and shall be accompanied by a nonrefundable fee of one hundred dollars ($100) per product and a label of each product, unless a current label is on file at the department. Companies planning to mix customer formula soil amendments or plant amendments shall include the statement "customer formula mixes" under the "products" column on the registration application form. Upon approval by the department, a certificate of registration shall be furnished to the applicant.

(2) In determining whether a label statement of an ingredient is appropriate, the department may require the submission of a written statement describing the method of laboratory analysis used, the source of all ingredient material and any reference material relied on to support the label statement or guarantee of the ingredients.

(3) Upon receipt of a complete application for registration of a product, the department may test and analyze an official sample of the product to determine whether the contents of the official sample conform

to the label. In his discretion, the director may also require an applicant for registration of a soil amendment or a plant amendment to submit any data concerning the efficacy or safety of the product for its intended use.

(4) Refusal to register, denial, suspension.

(a) If it appears to the director that composition of the soil amendment or plant amendment does not warrant the proposed claims for it, or if the soil amendment or plant amendment and its labeling or other material required to be submitted do not comply with this chapter or rules adopted under this chapter, the director shall notify the applicant of the manner in which the soil amendment or plant amendment labeling or other material required to be submitted fails to comply with this chapter so as to give the applicant an opportunity to make the necessary corrections. If the applicant does not make the required changes within ninety (90) days from the receipt of the notice, the director may refuse to register the soil amendment or plant amendment. The applicant may request a hearing as provided in the administrative procedure act, chapter 52, title 67, Idaho Code.

(b) When the director determines that a soil amendment or plant amendment or its labeling does not comply with this chapter or rules adopted under this chapter, or when necessary to prevent unreasonable adverse effects on the environment, the director may refuse to register or may suspend, revoke or modify the registration of the soil amendment or plant amendment in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code.

(5) Registrations are effective through the last day of the calendar year in which they are issued. If a registration is being renewed, the director may suspend the requirement that a soil amendment or plant amendment be analyzed if there is no material change in the label for the product.

(6) If the application for renewal of the soil amendment or plant amendment registration provided for in this section is not submitted before February 1 of any one (1) year, a penalty of ten dollars ($10.00) per product shall be assessed and added to the original fee. The applicant shall pay the penalty before the renewal soil amendment or plant amendment registration may be issued.

(7) Any waste-derived soil amendment or waste-derived plant amendment distributed as a single ingredient product or blended with other soil amendments or plant amendment ingredients must be identified as "waste-derived soil amendment or plant amendment" by the applicant in the application for registration.

(8) An applicant applying to register a waste-derived soil amendment or plant amendment shall state in the application the concentration of metals or metalloids including, but not limited to, arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and selenium (Se). The applicant shall provide a laboratory report or other documentation verifying the levels of the metals or metalloids in the waste-derived soil amendment or plant amendment.

(9) A distributor is not required to register a soil amendment or plant amendment product that is already registered under this chapter, so long as the label remains unchanged.

22-2206. SUBMISSION OF FORMULAS. The department may require submission of the complete formula of any soil amendment or plant amendment and the source(s) of all ingredients if it is deemed necessary for the registration of any soil amendment or plant amendment product or 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.

22-2207. LABELING INFORMATION REQUIRED. (1) Soil amendment or plant amendment labels. The following information shall be considered the label and shall appear in a readable and conspicuous form on the face or display side of any container, or on the invoice if delivered in bulk, in which soil amendments or plant amendments are offered for sale:

(a) Net weight or volume;

(b) Brand name;

(c) Content or guaranteed analysis; soil amending or plant amending ingredients:

"Name of ingredient" ..... %
(identify and list all)
Total other ingredients ..... %

(d) Purpose of product;

(e) Directions for application;

(f) Name and mailing address of the registrant.

(g) Other information required by rule for the type of product being registered.

(2) No information or statement shall appear on any package, label or labeling which is false or misleading to the purchaser as to the use, analysis, type or composition of the soil amendment or plant amendment.

(3) The director may require verification of label claims made for any soil amendment or plant amendment. If no claims are made he may require proof of usefulness and value of the soil amendment or plant amendment. For evidence of proof, the director may rely on experimental data, evaluations or advice supplied from sources such as the director of the agricultural experiment station. The verification of label claims shall be relevant to the stated uses for which the product is intended. The director may accept or reject other sources of proof as additional evidence in evaluating soil amendments and plant amendments.

(4) Soil amending or plant amending ingredients may be listed or guaranteed on labels or labeling of soil amendments or plant amendments with the permission of the director. The director may allow a soil amending or plant amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided to the director to substantiate the value and usefulness of the soil amending or plant amending ingredient. The director may rely on outside sources such as the director of the agricultural experiment station for assistance in evaluating the data submitted. When a soil amending or plant amending ingredient is permitted to be listed or guaranteed, it must be determinable by laboratory methods and is subject to inspection and analysis. The director may prescribe methods and procedures of inspection and analysis of the soil amending and plant amending ingredient. The director may stipulate by rule the quantities of soil amending or plant amending ingredient(s) required in a soil amendment or plant amendment.

(5) The director may allow labeling by volume rather than weight as provided in subsection (1)(a) of this section.

(6) Each delivery of a customer formula mix soil amendment or a plant amendment shall contain those ingredients specified by the purchaser, and those ingredients and the amounts of each shall be shown on the statement or invoice. A record of all invoices of customer formula mixes shall be kept by the registrant for a period of one (1) year and shall be available to the department upon request.

(7) Each delivery of a customer formula mix soil amendment or a plant amendment shall be accompanied by either a statement, invoice, delivery slip or label, containing the following information:

(a) Net weight or volume;

(b) The brand;

(c) The name and address of the registrant or manufacturer, or both;

(d) The name and address of the purchaser; and

(e) The soil amending or plant amending ingredients and amounts.

22-2208. TONNAGE FEE. (1) The registrant of soil amendments or plant amendments distributed for sale or other remuneration in this state shall pay to the department a tonnage fee of fifteen cents (15¢) per ton, on a dry weight basis. For liquid formulations or ingredients, the tonnage fee shall be based on weight per gallon basis.

(2) Semiannual tonnage fee reporting periods shall be January 1 to June 30 and July 1 to December 31 of each year.

(3) Every registrant who distributes soil amendments or plant amendments in the state shall file with the department a semiannual statement for the reporting period setting forth the number of net tons of each soil amendment or plant amendment distributed in this state during the reporting period. The statement is due on or before thirty (30) days following the close of the filing period and upon filing the statement the registrant shall pay the tonnage fee at the rate stated in this section. If the tonnage report is not filed and the tonnage fees are 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.

(4) The registrant is ultimately responsible for paying tonnage fees. When more than one (1) person is involved in the distribution of a soil amendment or plant amendment, the last person who has the soil amendment or plant amendment registered or who has distributed a soil amendment or plant amendment to a nonregistrant, dealer or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment are made by a prior distributor of the soil amendment or plant amendment.

(5) A minimum tonnage fee shall be five dollars ($5.00) per reporting period.

(6) Records of the number of net tons of each soil amendment or plant amendment distributed in this state shall be maintained for a period of five (5) years. The director may examine the records to verify the reported tonnage of plant amendments and soil amendments distributed in this state.

(7) Collected tonnage fees shall be used to pay the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this chapter.

22-2209. TONNAGE REPORTS — REQUIRED. (1) The registrant distributing or selling soil amendments or plant amendments to a nonregistrant or consumer shall furnish to the department a report showing the amounts in tons of each registered brand of plant amendment and soil amendment, and the form in which the plant amendment and soil amendment was distributed, dry or liquid. In the case of soil amendments or plant amendments distributed to an intermediate distributor, the registrant or distributor shall list the current name, address, telephone number, and amount in tons of each soil amendment and plant amendment product distributed 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.

22-2210. INSPECTION -- SAMPLING -- ANALYSIS. (1) The department shall inspect, sample, analyze and test soil amendments or plant amendments distributed within this state at a time and place and to an extent as it deems necessary to determine whether the soil amendments or plant amendments comply with this chapter. The department may stop any commercial vehicle transporting soil amendments or plant amendments on the public highways and direct it to the nearest scales approved by the department to check weights of soil amendments or plant amendments being delivered or to take samples of the product being transported. Also, the department may, 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 soil amendments or plant amendments 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, such as, but not limited to, the association of American plant food control officials (AAPFCO) and the association of official analytical chemists, international (AOAC).

(3) In determining for administrative purposes whether a soil amendment or plant amendment is deficient in any component, the department shall be guided solely by the official sample as defined in section 22-2203(24), 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 written 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 the analyses of samples made by the department indicate deficiencies in the soil amendments or plant amendments examined, below guaranteed analysis and in excess of the tolerances specified in rules adopted under this chapter, the department shall immediately notify the manufacturer and/or distributor of the soil amendments or plant amendments of the results of the analyses. The manufacturer or distributor of the soil amendments or plant amendments may, upon written request, obtain from the department a portion of the sample(s) in question. If the manufacturer or distributor does not 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 recognized by the department to

have the requisite ability in soil amendments, plant amendments or fertilizer analyses, who shall be named by the department. The umpire analyses shall be made at the expense of the manufacturer or distributor requesting the umpire analyses. 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.

22-2211. SHORT WEIGHT -- PENALTY. If any soil amendment or plant amendment in the possession of the consumer is found by the director to be short in weight, the registrant of the soil amendment or plant amendment shall, within thirty (30) days after official notification from the department, submit to the department a penalty payment of three (3) times the value of the actual shortage.

22-2212. PENALTIES FOR DEFICIENT ANALYSIS. (1) If the analysis shows that any soil amendment or plant amendment falls short of the guaranteed analysis in any one (1) soil amending or plant amending ingredient or in total soil amending or plant amending ingredients, a penalty shall be assessed in favor of the department as follows:

(a) A penalty of three (3) times the value of the deficiency if the deficiency in any one (1) soil amending ingredient is more than:

(i) Twenty percent (20%) of the guarantee on any one (1) soil amendment or plant amendment in which the soil amending or plant amending ingredient is guaranteed up to and including twenty percent (20%).

(ii) Four percent (4%) under guarantee on any one (1) soil amendment or plant amendment in which the soil amending or plant amending ingredient is guaranteed twenty and one-tenth percent (20.1%) and above.

(b) A penalty of three (3) times the value of the total soil amending or plant amending ingredient deficiency shall be assessed when the total deficiency is more than two percent (2%) under the calculated total soil amending or plant amending ingredient guarantee.

(c) When a soil amendment or plant amendment is subject to penalties under both (a) and (b) above, only the larger penalty shall be assessed.

(2) All penalties assessed under this section shall be paid to the department within ninety (90) days after the date of notice from the director to the registrant. The department shall deposit the amount of the penalty into the commercial feed and fertilizer fund, as stipulated in section 22-2220, Idaho Code.

(3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification for penalties imposed under subsection (1) of this section.

(4) The penalties payable in subsection (1) of this section do not limit the consumer's right to bring a civil action in damage against the registrant paying the civil penalties.

22-2213. ASSESSMENT OF PENALTIES. For the purpose of determining commercial values to be applied under this section, the director shall determine from the registrant's sales invoice the values charged for the plant amending or soil amending ingredients. If no invoice is available or if the invoice fails to provide sufficient information, the director may use prevailing market prices to determine values. The values so determined shall be used in determining and assessing penalties.

22-2214. MISBRANDING. No person shall distribute a misbranded soil amendment or plant amendment in this state. A soil amendment or plant amendment is deemed to be misbranded if:

(1) Its labeling is false or misleading in any material respect; or

(2) It is distributed under the name or brand of another soil amendment or plant amendment, unless the distribution is proper under section 22-2205, Idaho Code; or

(3) It is not labeled as required in section 22-2207, Idaho Code, and according to the rules of the department adopted under this chapter. The rules shall give due regard to the commonly accepted definitions and terms, as stated or provided in section 22-2203, Idaho Code; or

(4) It purports to be or is represented as a soil amendment or plant amendment, or is represented as containing a soil amendment or plant amendment, unless the soil amendment or plant amendment conforms to the definitions of identity, if any, prescribed by rules of the department. In adopting the rules, the department shall give due regard to commonly accepted definitions and official terms, as stated or provided in section 22-2203, Idaho Code; or

(5) It does not conform to the ingredient form, minimums, labeling and investigational allowances in the rules adopted by the department.

22-2215. ADULTERATION. No person shall distribute an adulterated soil or plant amendment. A soil amendment or plant amendment is deemed to be adulterated if:

(1) It contains any deleterious or harmful substance, or organism 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 and directions for use, which may be necessary to protect plant life, animals, humans, aquatic life, soil or water, are not shown on the label; or

(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.

22-2216. PUBLICATION OF INFORMATION. The department shall publish the following information at least annually and in a form it deems proper: the total tonnage of soil amendments and plant amendments distributed; the total number of official samples analyzed and the number of deficient official samples analyzed; and any other information the department deems fit.

22-2217. STOP-SALE ORDERS. The director may issue and enforce a written "stop-sale, use or removal" order to the manufacturer, distributor, owner or custodian of any soil amendment or plant amendment, or any lot thereof, if he determines that:

(1) A soil amendment or plant amendment is not properly registered or whose registration has been revoked under this chapter;

(2) The proper tonnage fees or tonnage reports have not been submitted to the department pursuant to section 22-2208 or 22-2209, Idaho Code; or

(3) A soil amendment or plant amendment is misbranded or adulterated.

The order may require the person to whom it is directed to hold the soil amendment or plant amendment, or lot thereof, which is the subject of the order, at a designated place until the requirements of this chapter are satisfied and all costs and expenses reasonably incurred by the department in connection with the withdrawal are paid by or on behalf of the person to whom the order was directed.

22-2218. VIOLATIONS. It is unlawful to:

(1) Distribute a misbranded soil amendment or plant amendment;

(2) Fail, refuse or neglect to place upon or attach to each container of distributed soil amendment or plant amendment a label containing the information required by this chapter;

(3) Fail, refuse or neglect to deliver to a purchaser of bulk soil amendments or plant amendments, a statement containing the information required by this chapter;

(4) Distribute a soil amendment or plant amendment which has not been registered with the department;

(5) Distribute a soil amendment or plant amendment containing viable noxious weed seeds, as specified in section 22-2215(3), Idaho Code;

(6) Distribute an adulterated soil amendment or plant amendment;

(7) Distribute a soil amendment or plant amendment weighing less than that which it is purported to weigh;

(8) Distribute a soil amendment or plant amendment different from the guaranteed analysis purported on the label;

(9) Fail or refuse to provide, keep or maintain records and information as required by this chapter;

(10) Fail to stop distribution of a soil amendment or plant amendment product under a stop-sale order as authorized under section 22-2217, Idaho Code; or

(11) Fail to disclose to the director, when requested, sources of potentially deleterious components, which components shall be established by rule.

22-2219. REMEDIES FOR VIOLATION. (1) A person convicted of violating this chapter or the rules adopted under this chapter or who impedes, obstructs, hinders or otherwise prevents or attempts to prevent the director or a duly authorized agent from the performance of his 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 a commercial soil and plant amendment product, 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) A person who violates or fails to comply with this chapter or any rules adopted under this chapter may be assessed a civil penalty by

the department or its duly authorized agent of not more than ten thousand dollars ($10,000) for each offense and shall be liable to the department for reasonable attorney's fees. The department may assess a civil penalty 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 under the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. If the director is unable to collect the penalty or if a person fails to pay all or a set portion of the civil penalty as determined by the department, the department may recover the amount in an action in the appropriate district court. A person against whom the director has assessed a civil penalty under 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 this 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) A prosecuting attorney to whom any violation is reported shall, without delay, cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction. Before the director reports a violation for prosecution by a prosecuting attorney, the director shall give the person charged with the violation an opportunity 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 adopter under this chapter notwithstanding the existence of other remedies of law. An injunction shall be issued without bond.

22-2220. DISPOSITION OF MONEYS. All moneys received by the director from the registration of soil amendments and plant amendments and from the payment of moneys derived from the registration and inspection fees charged on soil amendments and plant amendments, and moneys collected for violations of this chapter or rules adopted under this chapter, 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 fund shall be used to carry out the purposes of this chapter.

22-2221. COOPERATION WITH OTHER GOVERNMENT AGENCIES. The director may cooperate with and enter into agreements with other government 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.

22-2222. NO EFFECT ON EXISTING LIABILITY. The enactment of this chapter does not terminate or modify any civil or criminal liability which exists on July 1, 2001.

22-2223. NOT APPLICABLE TO WHOLESALE TRANSACTIONS. This chapter does not restrict or preclude sales or exchanges of soil amendments or plant amendments to each other by importers, manufacturers or manipula-

tors who mix soil amendment or plant amendment materials for sale or prevent the free and unrestricted shipments of soil amendments or plant amendments to manufacturers or manipulators who have registered their products as required in this chapter.

22-2224. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not effect 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.

22-2225. STATEMENT OF UNIFORM INTERPRETATION AND POLICY. When not otherwise stated in this chapter or rules adopted under this chapter, the statements of uniform interpretation and policy as adopted in the annual publication of the American plant food control officials shall guide the department when making the decisions in the areas covered by AAPFCO statements of uniform interpretation and policy.

Approved March 28, 2001.

CHAPTER 251
(H.B. No. 155)

AN ACT

RELATING TO REAL ESTATE AGENCY REPRESENTATION AND DISCLOSURE; AMENDING SECTION 54-2085, IDAHO CODE, TO REVISE THE AGENCY DISCLOSURE BROCHURE REQUIRED FOR REPRESENTATION CONFIRMATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2085, Idaho Code, be, and the same is hereby amended to read as follows:

54-2085. 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~~ chapter. 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, an attachment thereto, 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

Check one (1) box in Section 1 below and one (1) box in Section 2 below to confirm that ~~in~~ this transaction, the brokerage(s) involved had the following relationship(s) ~~with~~ the BUYER(S) and SELLER(S). ~~("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:~~

Section 1:

A. ☐ The broker working with the BUYER(S) is acting as an AGENT for the BUYER(S).

B. ☐ The broker working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S).

C. ☐ The broker working with the BUYER(S) is acting as a NONAGENT for the BUYER(S).

Section 2:

A. ☐ The broker working with the SELLER(S) is acting as an AGENT for the SELLER(S).

B. ☐ The broker working with the SELLER(S) is acting as a LIMITED DUAL AGENT for the SELLER(S).

C. ☐ The broker working with the SELLER(S) is acting as a NONAGENT for the SELLER(S).

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~~ chapter 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 54-2058 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.

Approved March 28, 2001.

CHAPTER 252
(H.B. No. 292)

AN ACT

RELATING TO EDUCATION OF STUDENTS IN JUVENILE DETENTION FACILITIES; AMENDING SECTION 33-1002B, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS WHICH EDUCATE STUDENTS IN A JUVENILE DETENTION FACILITY WITH A SUMMER SCHOOL PROGRAM SHALL BE ELIGIBLE FOR A TUITION-EQUIVALENCY ALLOWANCE IN ADDITION TO SUPPORT UNIT FUNDING; AMENDING SECTION 33-1002C, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS WHICH EDUCATE STUDENTS IN A JUVENILE DETENTION FACILITY MAY ESTABLISH A SUMMER SCHOOL PROGRAM WHICH SHALL BE INCLUDED IN THE CALCULATION OF THE DISTRICT'S EXCEPTIONAL EDUCATION SUPPORT UNITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1002B, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002B. PUPIL TUITION-EQUIVALENCY ALLOWANCES. 1. Districts which educate pupils placed by Idaho court order in licensed group homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil calculated on a daily basis. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

2. Districts which educate pupils placed by Idaho court order in a juvenile detention facility with a summer school program shall be eligible for an allowance equivalent to one half (1/2) of the previous year's local annual tuition rate per pupil calculated on a daily basis. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

3. Districts which educate school age special education students who, due to the nature and ~~severity~~ of their disabilities are residing in licensed public or private residential facilities or homes, and whose parents are not patrons of the district, shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child plus the excess cost rate that is annually determined by the state superintendent of public instruction. This district allowance shall be in addition to exceptional education support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

SECTION 2. That Section 33-1002C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002C. ~~ALTERNATIVE--SECONDARY--SCHOOL~~ SUMMER SCHOOL PROGRAM SUPPORT UNITS -- ALTERNATIVE SECONDARY SCHOOL -- JUVENILE DETENTION FACILITY. (1) Alternative secondary schools approved by the state board of education may establish a summer school program of not less than two

hundred twenty-five (225) hours of instruction which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the alternative school secondary support units calculated for the school district for the succeeding school term.

(2) Districts which educate pupils placed by court order in a juvenile detention facility may establish a summer school program which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the exceptional education school support units calculated for the school district for the succeeding school term.

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

Approved March 28, 2001.

CHAPTER 253
(H.B. No. 306)

AN ACT
RELATING TO SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION AND THE INDUSTRIAL COMMISSION; AMENDING SECTION 61-215, IDAHO CODE, TO PROVIDE A SALARY INCREASE; AND AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE A SALARY INCREASE.

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. Commencing on July 1, ~~1999~~ 2000, the annual salary of members of the public utilities commission shall be seventy-~~five~~seven thousand six hundred twenty-five dollars ($~~75,000~~7,625), which amount shall be increased on July 1, 20~~00~~1, by ~~three~~ four and one-half percent (~~3~~4 1/2%), and shall be paid from sources set by the legislature.

SECTION 2. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, ~~1999~~ 2000, the annual salary of each member of the industrial commission shall be seventy-~~three~~ five thousand five hundred fifty-five dollars ($~~73,000~~5,555), which amount shall be increased on July 1, 20~~00~~1, by ~~three~~ four and one-half percent (~~3~~4 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 March 28, 2001.

CHAPTER 254
(H.B. No. 307)

AN ACT

RELATING TO THE INVESTMENT OF PUBLIC FUNDS; AMENDING SECTION 57-720, IDAHO CODE, TO PROVIDE FOR SEPARATE ACCOUNTING OF EARNINGS RESERVE FUNDS AND PERMANENT ENDOWMENT FUNDS AND TO PROVIDE FOR CERTAIN ALLOCATION OF GAINS AND LOSSES BETWEEN THE PERMANENT ENDOWMENT FUNDS AND THE EARNINGS RESERVE FUNDS AT THE END OF EACH FISCAL YEAR; AMENDING SECTION 57-724, IDAHO CODE, TO PROVIDE FOR GAINS AND LOSSES TO PERMANENT ENDOWMENT FUNDS, TO PROVIDE A METHOD OF DETERMINATION OF GAINS AND LOSSES TO PERMANENT ENDOWMENT FUNDS, TO PROVIDE FOR CERTAIN TRANSFERS TO MAKE UP LOSSES TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO PROVIDE FOR CERTAIN LEGISLATIVE TRANSFERS OR APPROPRIATIONS, AND TO PROVIDE THAT LOSSES TO PERMANENT ENDOWMENT FUNDS OTHER THAN PUBLIC SCHOOL PERMANENT ENDOWMENT FUNDS SHALL BE MADE UP FROM CERTAIN EARNINGS RESERVE FUND MONEYS; AND AMENDING SECTION 57-724A, IDAHO CODE, TO REVISE THE DEFINITION OF EARNINGS.

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

SECTION 1. That Section 57-720, Idaho Code, be, and the same is hereby amended to read as follows:

57-720. PERMANENT ENDOWMENT FUNDS -- EARNINGS RESERVE FUNDS -- INCOME FUNDS -- INVESTMENT POLICY REGULATIONS -- ANNUAL AUDIT. The investment board or its investment manager(s) may, and are hereby authorized to, invest the permanent endowment funds and the earnings reserve funds of the state of Idaho. Earnings reserve funds shall be accounted for separately from permanent endowment funds. Gains and losses as defined in section 57-724, Idaho Code, shall be annually allocated between the permanent endowment funds and the earnings reserve funds at the end of each fiscal year. This allocation shall be made based upon the proportion that the market value of the permanent endowment funds and the market value of the earnings reserve funds bear to the combined market value of both sets of funds, at the end of the fiscal year. The investment board shall formulate investment policy regulations governing the investment of ~~permanent~~ endowment funds and earnings reserve funds. The regulations shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such regulations shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this act.

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

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

SECTION 2. That Section 57-724, Idaho Code, be, and the same is hereby amended to read as follows:

57-724. DETERMINATION OF GAINS AND LOSSES. Gains and losses to permanent endowment funds shall be determined ~~as follows:~~ by comparing

~~(1) T~~the current market value of the permanent endowment fund as of the end of the fiscal year, excluding ~~unrealized capital gains and losses; compared to~~

~~(2) All amounts allocated under section 4, article IX, constitution of the state of Idaho excluding all amounts allocated from the earnings reserve fund~~ funds transferred to the permanent endowment fund from the earnings reserve fund or funds deposited as a result of land sales or mineral royalties, to the market value of the permanent endowment fund at the end of the prior fiscal year.

Losses to the public school permanent endowment fund shall be made up ~~from earnings reserve funds or by legislative appropriation~~ as follows:

(1) The state board of land commissioners may annually transfer any funds in the public school earnings reserve fund that it determines will not be needed for administrative costs or scheduled distributions to the public school income fund in the following fiscal year to the public school permanent endowment fund, to make up for any prior losses in value.

(2) If funds transferred from the earnings reserve fund are insufficient to make up any losses in value to the public school permanent endowment fund, then the remaining loss shall be made up, within four (4) years, by legislative transfer or appropriation. If subsequent gains, as determined pursuant to the provisions of this section, or transfers from the earnings reserve fund, make up for any remaining loss before this four (4) year period expires, then no legislative transfer or appropriation shall be necessary.

Losses to permanent endowment funds other than the public school permanent endowment fund shall be made up from earnings reserve fund moneys that the state board of land commissioners determines will not be needed for administrative costs or scheduled distributions to each endowment's respective income fund.

SECTION 3. That Section 57-724A, Idaho Code, be, and the same is hereby amended to read as follows:

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

gains as defined in section 57-724, Idaho Code. "Earnings" does not include mineral royalties, or land sale proceeds~~, or unrealized gains or losses from the investment of endowment funds~~.

Approved March 28, 2001.

CHAPTER 255
(H.B. No. 316)

AN ACT
RELATING TO TECHNOLOGICAL INSTRUCTION; AMENDING SECTION 33-1003C, IDAHO CODE, TO PROVIDE FOR CONTINUING TECHNOLOGICAL INSTRUCTION BY SPECIAL APPLICATION OF THE SCHOOL FOUNDATION PROGRAM.

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, 1999-2000 and 2000-2001, i~~In order to acquire and maintain technology for individualized computer and/or distance learning programs, a school district may use 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 March 28, 2001.

CHAPTER 256
(H.B. No. 321, As Amended)

AN ACT

RELATING TO UNLAWFUL POSSESSION AND USE OF DESTRUCTIVE DEVICES OR BOMBS; AMENDING SECTION 18-3318, IDAHO CODE, TO DEFINE "SHRAPNEL" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-3319, IDAHO CODE, TO PROVIDE REFERENCE TO BOMBS, TO PROVIDE THAT THE UNLAWFUL POSSESSION OF AN ASSEMBLED BOMB OR ASSEMBLED DESTRUCTIVE DEVICE BY CERTAIN PERSONS SHALL CONSTITUTE A FELONY AND TO PROVIDE THAT A PERSON WHO POSSESSES A BOMB OR DESTRUCTIVE DEVICE WHICH BY ITS DESIGN WILL PROPEL SHRAPNEL IS GUILTY OF A FELONY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-3318, Idaho Code, be, and the same is hereby amended to read as follows:

18-3318. DEFINITIONS. Definitions as used in sections 18-3319, 18-3320 and 18-3321, Idaho Code~~.~~:

(1) "Bomb" means any chemical or mixture of chemicals contained in such a manner that it can be made to explode with fire or force, and combined with the method or mechanism intended to cause its explosion. The term includes components of a bomb only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed bomb can be readily assembled. "Bomb" does not include: rifle, pistol or shotgun ammunition and their components~~,~~; fireworks~~,~~; boating, railroad and other safety flares or propellants used in model rockets or similar hobby activities.

(2) "Destructive device" means:

(a) Any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-fourth (1/4) ounce;

(v) Mine;

(vi) Similar device.

(b) Any type of weapon, by whatever name known, which will, or which may be imminently converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than .700 inches in diameter, except rifled and unrifled shotguns or shotgun shells.

(c) Components of a destructive device only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed destructive device can be readily assembled.

(d) The term "destructive device" shall not include:

(i) Any device which is neither designed nor redesigned for use as a weapon;

(ii) Any device which, although originally designed for use as

a weapon, has been redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(iii) Otherwise lawfully owned surplus military ordnance;

(iv) Antiques or reproductions thereof and rifles held for sporting, recreational, investment or display purposes; or

(v) Rifle, pistol or shotgun ammunition and their components.

(3) "Shrapnel" means any metal, ceramic, glass, hard plastic or other material of sufficient hardness to puncture human skin when propelled by force of the bomb or destructive device to which it is attached or in which it is contained.

SECTION 2. That Section 18-3319, Idaho Code, be, and the same is hereby amended to read as follows:

18-3319. UNLAWFUL POSSESSION OF BOMBS OR DESTRUCTIVE DEVICES. (1) Any person who knowingly, intentionally, or recklessly possesses or controls a bomb or destructive device for a purpose unlawful pursuant to title 18, Idaho Code, is guilty of a felony, punishable by up to a five thousand dollar ($5,000) fine and five (5) years in prison.

(2) Any person who knowingly possesses an assembled bomb or assembled destructive device and who:

(a) Has been convicted of a felony; or

(b) Has been found guilty of any crime where such conviction results in the person being prohibited from possessing or owning firearms; or

(c) Is in possession or control of any substance or paraphernalia in violation of section 37-2732B, 37-2734A or 37-2734B, Idaho Code, or the felony provisions of section 37-2732, Idaho Code;

is guilty of a felony, punishable by up to a five thousand dollar ($5,000) fine and five (5) years in prison.

(3) Any person who possesses a bomb or destructive device which by its design will propel shrapnel is guilty of a felony, punishable by up to a five thousand dollar ($5,000) fine and five (5) years in prison.

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

Approved March 28, 2001.

CHAPTER 257
(H.B. No. 352)

AN ACT

RELATING TO LOCAL GOVERNMENT HOUSING AUTHORITIES; AMENDING SECTION 31-4210, IDAHO CODE, TO INCREASE THE NUMBER OF COMMISSIONERS A GOVERNING BODY OF A COUNTY MAY APPOINT TO THE BOARD OF HOUSING AUTHORITY COMMISSIONERS, TO SPECIFY TERM LENGTHS FOR COMMISSIONERS, TO PROVIDE THAT THE NUMBER OF COMMISSIONERS MAY BE ALTERED UPON RESOLUTION BY A GOVERNING BODY OF A COUNTY, TO PROVIDE THAT THE SERVICE OF A HOUSING ASSISTANCE RECIPIENT APPOINTED AS A COMMISSIONER PURSUANT TO FEDERAL LAW SHALL BE CONTINGENT UPON HIS CONTINUED RECEIPT OF

HOUSING ASSISTANCE AND TO PROVIDE THAT A MAJORITY OF THE APPOINTED COMMISSIONERS SHALL CONSTITUTE A QUORUM; AND AMENDING SECTION 50-1910, IDAHO CODE, TO INCREASE THE NUMBER OF COMMISSIONERS THE MAYOR MAY APPOINT TO THE BOARD OF HOUSING AUTHORITY COMMISSIONERS, TO SPECIFY TERM LENGTHS FOR COMMISSIONERS, TO PROVIDE THAT THE NUMBER OF COMMISSIONERS MAY BE ALTERED UPON RESOLUTION BY A GOVERNING BODY OF A CITY, TO PROVIDE THAT THE SERVICE OF A HOUSING ASSISTANCE RECIPIENT APPOINTED AS A COMMISSIONER PURSUANT TO FEDERAL LAW SHALL BE CONTINGENT UPON HIS CONTINUED RECEIPT OF HOUSING ASSISTANCE AND TO PROVIDE THAT A MAJORITY OF THE APPOINTED COMMISSIONERS SHALL CONSTITUTE A QUORUM.

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

SECTION 1. That Section 31-4210, Idaho Code, be, and the same is hereby amended to read as follows:

31-4210. COMMISSIONERS -- APPOINTMENT -- QUALIFICATIONS -- TENURE. When a governing body of a county adopts a resolution as aforesaid, it shall appoint five (5) or seven (7) persons as commissioners of the authority created for said county. Commissioners of the authority shall serve terms of five (5) years. If the governing body of a county appoints five (5) persons as commissioners of the authority, t~~T~~he commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, except that all vacancies shall be filled for the unexpired term. If the governing body of a county appoints seven (7) persons as commissioners of the authority, the commissioners who are first appointed shall be designated to serve terms as follows: one (1) commissioner for a one (1) year term, two (2) commissioners for two (2) year terms, two (2) commissioners for three (3) year terms, one (1) commissioner for a four (4) year term and one (1) commissioner for a five (5) year term, except that all vacancies shall be filled for the unexpired term. Upon resolution by a governing body of a county, after an authority has been created with either five (5) or seven (7) commissioners, the number of commissioners may be increased from five (5) to seven (7) or reduced from seven (7) to five (5). No commissioner of any authority may be an officer or employee of the county for which ~~the~~ authority is created. A ~~commissioner~~ shall hold office until his successor has been appointed and qualified. A certificate of appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The service of a housing assistance recipient appointed as a commissioner pursuant to 42 U.S.C. section 1437(b) shall be contingent upon his continued receipt of housing assistance. A commissioner shall receive no compensation for his services for the authority in any capacity, but he shall be enti~~tled to~~ the necessary expenses, including travel expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners. ~~Three (3)~~ A majority of the appointed commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present. The bylaws of the authority shall designate which of the commissioners

appointed shall be the first chairman and such chairman shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the commissioners shall select a chairman from their number, a vice chairman, and may employ a secretary, an executive director who shall serve as an at-will employee of the commissioners, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the prosecuting attorney of the county or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

SECTION 2. That Section 50-1910, Idaho Code, be, and the same is hereby amended to read as follows:

50-1910. APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint, with the approval of the city council, five (5) or seven (7) persons as commissioners of the authority created for said city. Commissioners of the authority shall serve five (5) year terms. If the mayor appoints, with the approval of the city council, five (5) persons as commissioners of the authority, t~~The~~ commissioners, who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, except that all vacancies shall be filled for the unexpired term. If the mayor appoints, with the approval of the city council, seven (7) persons as commissioners of the authority, the commissioners who are first appointed shall be designated to serve terms as follows: one (1) commissioner for a one (1) year term, two (2) commissioners for two (2) year terms, two (2) commissioners for three (3) year terms, one (1) commissioner for a four (4) year term and one (1) commissioner for a five (5) year term, except that all vacancies shall be filled for the unexpired term. Upon resolution by a governing body of a city, after an authority has been created with either five (5) or seven (7) commissioners, the number of commissioners may be increased from five (5) to seven (7) or reduced from seven (7) to five (5). No commissioner of any authority may be an officer or employee of the city for which the authority is created. A ~~commissioner~~ shall hold office until his successor has been appointed and been qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The service of a housing assistance recipient appointed as a commissioner pursuant to 42 U.S.C. section 1437(b) shall be contingent upon his continued receipt of housing assistance. A commissioner shall receive no compensation for his services for the authority in any capacity, but he shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners. ~~Three (3)~~ A majority of the appointed commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by

the authority upon a vote of a majority of the commissioners present. The bylaws of the authority shall designate which of the commissioners appointed shall be the first chairman and such chairman shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the commissioners shall select a chairman from their number, a vice chairman, and may employ a secretary, an executive director who shall serve as an at-will employee of the commissioners, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the city attorney of the city or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

Approved March 28, 2001.

CHAPTER 258
(H.B. No. 353)

AN ACT

RELATING TO AUDITORIUM OR COMMUNITY CENTER DISTRICTS; AMENDING SECTION 67-4902, IDAHO CODE, TO REVISE THE DEFINITION OF AN AUDITORIUM OR COMMUNITY CENTER DISTRICT; AMENDING SECTION 67-4904, IDAHO CODE, TO CLARIFY PETITION CONTENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4907, IDAHO CODE, TO PROVIDE REQUIREMENTS IF THE PETITION FOR FORMATION OF A DISTRICT PROPOSED A PROPERTY TAX AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4911, IDAHO CODE, TO REVISE WHEN ELECTIONS MAY BE HELD AND TO REQUIRE ADEQUATE POLLING PLACES; AMENDING SECTION 67-4913, IDAHO CODE, TO PROVIDE THAT FOR AN AUDITORIUM DISTRICT ESTABLISHED AFTER JULY 1, 2001, THE PROPERTY TAX SHALL NOT EXCEED THE MAXIMUM TAX RATE AUTHORIZED IN THE PETITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-4917B, IDAHO CODE, TO PROVIDE THAT FOR AN AUDITORIUM DISTRICT ESTABLISHED AFTER JULY 1, 2001, THE SALES TAX SHALL NOT EXCEED THE MAXIMUM TAX RATE AUTHORIZED IN THE PETITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4918, IDAHO CODE, TO PROVIDE THAT NO AUDITORIUM DISTRICT ESTABLISHED AFTER JULY 1, 2001, SHALL LEVY OR IMPOSE A TYPE OF TAX NOT AUTHORIZED IN THE PETITION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 49, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4931, IDAHO CODE, TO PROVIDE APPLICATION OF THE CAMPAIGN FINANCE REPORTING LAW TO AUDITORIUM AND COMMUNITY CENTER DISTRICTS AND TO PROVIDE CONTRIBUTION LIMITS TO A CANDIDATE FOR DIRECTOR OF AN AUDITORIUM DISTRICT AT AN AUDITORIUM DISTRICT ELECTION.

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

SECTION 1. That Section 67-4902, Idaho Code, be, and the same is hereby amended to read as follows:

67-4902. DEFINITIONS. An auditorium or community center district is one to build, operate, maintain, market and manage for public, commercial and/or industrial purposes by any available means public auditoriums, exhibition halls, convention centers, sports arenas and facilities of a similar nature, and for that purpose any such district shall have the power to construct, maintain, manage, market and operate such facilities.

A district ~~may be entirely within or entirely without, or partly within and partly without~~ organized after July 1, 2001, shall consist of a single contiguous area comprising all or part of one (1) or more municipalities or counties~~, and the district may consist of noncontiguous tracts or parcels of property~~.

The word "board" as used in this chapter shall mean the board of directors of a district.

A "qualified elector" of a district, within the meaning of and entitled to vote under this chapter, is a person who resides in the district and is otherwise qualified under section 34-104, Idaho Code.

Wherever the term "publication" is used in this chapter it means publication twice, the first time not less than twelve (12) days prior to an election, and the second time not less than five (5) days prior to an election, as provided in section 34-1406, Idaho Code.

SECTION 2. That Section 67-4904, Idaho Code, be, and the same is hereby amended to read as follows:

67-4904. PETITION -- CONTENTS -- AMENDMENTS. The organization of a district shall be initiated by a petition filed in the office of the clerk of the court vested with jurisdiction, in a county in which the major part of the real property in the proposed district is situated. The petition shall be signed by not less than ten percent (10%) of the qualified electors who reside within the boundaries of the proposed district, and not less than ten (10) of whom shall reside in each election precinct which is wholly or partially within the boundaries of any such proposed district.

The petition shall set forth:

(1) The name of the proposed district consisting of a chosen name preceding the words, "auditorium or community center district."

(2) A general description of the facilities to be constructed ~~or~~ and any marketing programs ~~or both~~ for such facilities within and for the district.

(3) The estimated cost of the proposed facilities ~~or~~ and any marketing programs ~~or both~~ for such facilities and the estimated annual budget for the proposed district.

(4) The maximum tax rate that the board will be authorized to levy or impose.

(5) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable a property owner to determine whether or not his property is within the district.

(~~5~~6) A prayer for the organization of the district.

No petition with the requisite signatures shall be declared null and void on account of alleged ~~defects~~ clerical errors or nonmaterial errors in the description of the territory, but the court may at any time permit the petition to be amended to conform to the facts by correcting any

clerical or nonmaterial errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one (1) petition. All such petitions filed prior to the hearing on the first petition filed, shall be considered by the court the same as though filed with the first petition placed on file.

SECTION 3. That Section 67-4907, Idaho Code, be, and the same is hereby amended to read as follows:

67-4907. HEARINGS ON PETITIONS -- ELECTION FOR ORGANIZATION AND OFFICERS. On the day fixed for such hearing or at an adjournment thereof the court shall, if the petition proposes a property tax, ascertain from the tax rolls of the county or counties in which the district is located or into which ~~it ex~~tends, the total number ~~of taxpay~~ers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the district court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited directly or indirectly by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and that the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to be held in the district.

Such election shall be held and conducted in the same manner as general elections in this state.

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the election of the directors, provided that all matters may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until the second, and two (2) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation except that districts formed prior to January 1, 1987, or districts with twenty-five thousand (25,000) or more population shall have no power to levy and collect ~~ad-valorem~~ property taxes.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

SECTION 4. That Section 67-4911, Idaho Code, be, and the same is hereby amended to read as follows:

67-4911. ELECTIONS -- TERMS OF OFFICE. On ~~the first Tuesday of February~~ an election date as provided for in section 34-106(1), Idaho Code, in the second calendar year after the organization of any district, and ~~on the first Tuesday of February ev~~ every second year thereafter an election shall be held, which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified

electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years. Provided, a member of the board once in office shall serve until his successor is elected, qualified and takes office.

Not later than 5:00 p.m. on the sixth Friday before any such election, nominations may be filed with the secretary of the board and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The board shall provide for holding such election and shall appoint judges to conduct it. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the board may direct. Adequate polling places shall be provided throughout the district boundaries for all elections. The returns of the election shall be certified to and shall be canvassed and declared ~~by the board. The candidate or c~~andidates, according to the number of directors to be elected, receiving the most votes, shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board shall declare such candidates elected as directors, and the secretary of the board shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district.

SECTION 5. That Section 67-4913, Idaho Code, be, and the same is hereby amended to read as follows:

67-4913. TAXES. In addition to the other means providing revenue for such districts as herein provided, in those districts formed after January 1, 1987, or in those districts with twenty-five thousand (25,000) or fewer population, the board shall have power and authority to levy and collect ~~ad-valorem~~ property taxes on and against all taxable property within the district, provided said ~~ad-valorem~~ property taxes shall not exceed a levy of four-hundredths percent (.04%) of market value for assessment purposes for all levies provided in sections 67-4913, 67-4914, 67-4915, 67-4916 and 67-4917, Idaho Code; provided that for any auditorium district established after July 1, 2001, such property tax shall not exceed the maximum tax rate authorized in the petition. Districts with a population of more than twenty-five thousand (25,000) persons shall not have the power and authority to levy and collect ~~ad-valorem~~ property taxes on and against all taxable property within the district.

SECTION 6. That Section 67-4917B, Idaho Code, be, and the same is hereby amended to read as follows:

67-4917B. HOTEL/MOTEL ROOM SALES TAX. The board shall have power and authority to levy a sales tax of not to exceed five ~~per-cent~~ percent (5%) of the receipts derived by hotels and motels within the district from the furnishing of hotel and motel rooms, except no tax shall be imposed where residence therein is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days, and except that no tax shall be charged on the sale of rooms by the Idaho Ronald McDonald House; provided that for any auditorium district established after July 1, 2001, such sales tax shall not exceed the maximum tax rate authorized in the petition. The levy and collection of said sales tax shall not be subject to the limitations or other pro~~visions of sec~~tions 67-4913, 67-4914, 67-4915 and 67-4916, Idaho Code. The revenues received by the district from such sales tax shall be deposited in the depository of the district. Promptly following the adoption by the board of the resolution to levy such tax, the secretary of the board shall certify to the state tax commission that such levy has been adopted and shall state the effective date thereof and shall transmit to the commission a certified copy of such resolution. The effective date of any such levy shall not be earlier than the first day of the month not less than sixty (60) days following certification of such levy to the commission.

SECTION 7. That Section 67-4918, Idaho Code, be, and the same is hereby amended to read as follows:

67-4918. INCLUSION OF PROPERTY PETITIONED -- HEARING -- ORDER. The boundaries of any district organized under the provisions of this act may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever, except that no district organized prior to January 1, 1987, shall ever have the power to levy and collect ~~ad-valorem~~ property taxes, even though the boundaries of the district may be adjusted to reduce the population of the district to less than one hundred thousand (100,000); nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made; and provided further, no auditorium district established after July 1, 2001, shall levy or impose a type of tax not authorized in the petition.

SECTION 8. That Chapter 49, 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 67-4931, Idaho Code, and to read as follows:

67-4931. APPLICATION OF CAMPAIGN REPORT LAW TO AUDITORIUM DISTRICT ELECTIONS. The provisions of sections 67-6601 through 67-6616, Idaho Code, and sections 67-6623 through 67-6628, Idaho Code, insofar as they relate to the reporting of campaign contributions and expenditures are hereby made applicable to all auditorium district elections, except that the clerk of the board of the auditorium district shall stand in place of the secretary of state. The term "measure" as applied to auditorium districts shall include elections for the creation or dissolution of an auditorium district. Aggregate contributions made by a corporation, political committee, other recognized legal entity or an individual,

other than a candidate, to a candidate for director of an auditorium district in an auditorium district election shall be limited to one thousand dollars ($1,000). For purposes of complying with reporting deadlines, an election to form an auditorium district or to elect directors of an auditorium district shall be deemed to be a general election.

Approved March 28, 2001.

CHAPTER 259
(H.B. No. 365)

AN ACT

RELATING TO THE APPLICATION OF HISTORIC PRESERVATION ACTIVITIES BY COUNTIES OR CITIES TO STATE-OWNED PROPERTIES AND FACILITIES; AMENDING SECTION 67-4606, IDAHO CODE, TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ALLOW THE DESIGNATION, REGULATION, CONDITIONING OR ACQUISITION OF PROPERTIES OR FACILITIES OWNED BY THE STATE OR ITS SUBDIVISIONS; AMENDING SECTION 67-4607, IDAHO CODE, TO PROVIDE THAT NOTHING IN CHAPTER 46, TITLE 67, IDAHO CODE, SHALL AUTHORIZE OR BE CONSTRUED TO ALLOW THE DESIGNATION, REGULATION, CONDITIONING OR RESTRICTION BY ORDINANCE OR OTHER MEANS OF ANY PROPERTY OR FACILITY OWNED BY THE STATE OF IDAHO AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4608, IDAHO CODE, TO CREATE AN EXCEPTION AS PROVIDED IN SECTION 67-4607(d) AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4612, IDAHO CODE, TO PROVIDE THAT NOTHING IN CHAPTER 46, TITLE 67, IDAHO CODE, SHALL AUTHORIZE OR BE CONSTRUED TO ALLOW THE DESIGNATION, REGULATION, CONDITIONING OR RESTRICTION BY ORDINANCE OR OTHER MEANS OF ANY PROPERTY OR FACILITY OWNED BY THE STATE OF IDAHO; AMENDING SECTION 67-4614, IDAHO CODE, TO PROVIDE THAT NOTHING IN CHAPTER 46, TITLE 67, IDAHO CODE, SHALL AUTHORIZE OR BE CONSTRUED TO ALLOW THE DESIGNATION, REGULATION, CONDITIONING OR RESTRICTION BY ORDINANCE OR OTHER MEANS OF ANY PROPERTY OR FACILITY OWNED BY THE STATE OF IDAHO AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4616, IDAHO CODE, TO PROVIDE THAT NOTHING IN CHAPTER 46, TITLE 67, IDAHO CODE, SHALL AUTHORIZE OR BE CONSTRUED TO ALLOW THE DESIGNATION, REGULATION, CONDITIONING OR RESTRICTION BY ORDINANCE OR OTHER MEANS OF ANY PROPERTY OR FACILITY OWNED BY THE STATE OF IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4606, Idaho Code, be, and the same is hereby amended to read as follows:

67-4606. ACQUISITION OF PROPERTY. (1) All lands, buildings, structures, sites or areas acquired by funds appropriated by a county or city shall be acquired in the name of the county or city unless otherwise provided by the governing board. So long as owned by the county or city, historic properties may be maintained by or under the supervision and control of the county or city. However, all lands, buildings or structures acquired by a historic preservation commission from funds other

than those appropriated by a county or city may be acquired and held in the name of the historic preservation commission, the county or municipality, or both.

(2) Nothing in this ~~act~~ chapter shall be construed to ~~prevent~~ allow the designation, regulation, conditioning, restriction or acquisition of historic buildings, structures, sites or areas, or other properties or facilities owned by the state or any of its political subdivisions, agencies or instrumentalities.

SECTION 2. That Section 67-4607, Idaho Code, be, and the same is hereby amended to read as follows:

67-4607. HISTORIC DISTRICTS. A county or city may establish by ordinance one (1) or more historic districts within the area of its jurisdiction. No historic district or districts shall be designated until the following requirements are met:

a. The local historic preservation commission appointed by the governing body of the county or city shall make an investigation of the historical, architectural, archeological and cultural significance of the buildings, structures, features, sites or surroundings included in any such proposed historic district. The commission shall report its findings to the local planning board for their consideration and recommendation.

b. Sixty (60) days after such transmittal the commission shall hold a public hearing thereon after due notice, which shall include written notice, postage prepaid, to the owners of all properties to be included in such district.

c. The commission shall submit a final report with its recommendations and a draft of a proposed ordinance to the county or city governing body. Any such ordinance may, from time to time, be amended in the same manner.

d. Nothing in this chapter shall authorize or be construed to allow the designation, regulation, conditioning or restriction by ordinance or other means of any property or facility owned by the state of Idaho.

SECTION 3. That Section 67-4608, Idaho Code, be, and the same is hereby amended to read as follows:

67-4608. CERTIFICATE OF APPROPRIATENESS. Except as provided in section 67-4607 d., Idaho Code, a~~A~~fter the designation of a historic district, no exterior portion of any building or other structure ~~(including~~ walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor aboveground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic preservation commission. The county or city shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures. A certificate of appropriateness shall be required whether or not a building permit is required. For purposes of this ~~act~~ chapter, "exterior features" shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and tex-

ture of the building material and type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures and natural features such as trees and shrubbery. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. The commission shall not consider interior arrangement and shall take no action under this section except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features in the historic district which would be incongruous with the historical, architectural, archeological or cultural aspects of the district.

SECTION 4. That Section 67-4612, Idaho Code, be, and the same is hereby amended to read as follows:

67-4612. SPECIAL RESTRICTIONS. In addition to any power or authority of a county or city to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing body of any county or municipality is empowered to provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of historic properties; provided however, that nothing in this chapter shall authorize or be construed to allow the designation, regulation, conditioning or restriction by ordinance or other means of any property or facility owned by the state of Idaho.

SECTION 5. That Section 67-4614, Idaho Code, be, and the same is hereby amended to read as follows:

67-4614. DESIGNATION AS HISTORIC PROPERTY. The local governing body of any county or city may adopt an ordinance designating one (1) or more historic properties on the following criteria: historical, architectural, archeological and cultural significance; suitability for preservation or restoration; educational value; cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and the administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs. In order for any historic property to be designated in the ordinance, it must in addition meet the criteria established for inclusion of the property in the national register of historic places. For each designated historic property, the ordinance shall require that the waiting period set forth in section 67-4615, Idaho Code, be observed prior to its demolition, material alteration, remodeling or removal. The ordinance shall also provide for a suitable sign or marker on or near the property indicating that the property has been so designated; provided however, that nothing in this chapter shall authorize or be construed to allow the designation, regulation, conditioning or restriction by ordinance or other means of any property or facility owned by the state of Idaho.

SECTION 6. That Section 67-4616, Idaho Code, be, and the same is hereby amended to read as follows:

67-4616. CHANGE IN USE OF HISTORIC PROPERTY. (1) A historic property designated by ordinance as herein provided may be demolished, mate-

rially altered, remodeled, relocated or put to a different use only after one hundred eighty (180) days' written notice of the owner's proposed action has been given to the local historic preservation commission. During this period, the commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the property. During this period, or at any time prior thereto following notice of designation to the owner as provided in section 67-4615 ~~(d.)~~, Idaho Code, and where such action is reasonably necessary or appropriate for the continued preservation of the property, the commission may enter into negotiations with the owner for the acquisition by gift, purchase, or exchange of the property or any interest therein. The commission may reduce the waiting period required by this section in any case where the owner would suffer extreme hardship, unless a reduction in the required period were allowed. The commission shall have the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by the commission insuring the continued maintenance of the historical, architectural, archeological or cultural integrity and character of the property.

(2) Nothing in this ~~act~~ chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature in or on a historic property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a building inspector or similar official certifies to the commission that such action is required for the public safety because of an unsafe or dangerous condition.

(3) Nothing in this act shall authorize or be construed to allow the designation, regulation, conditioning or restriction by ordinance or other means of any property or facility owned by the state of Idaho.

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

Approved March 28, 2001.

CHAPTER 260
(H.B. No. 351)

AN ACT

RELATING TO COUNTY HOUSING AUTHORITIES; AMENDING SECTION 31-4203, IDAHO CODE, TO REVISE DEFINITIONS, TO PROVIDE THAT A COUNTY HOUSING AUTHORITY MAY CONTINUE TO OWN AND OPERATE HOUSING PROJECTS FOR WHICH IT HAS BECOME FINANCIALLY OBLIGATED WITHIN A CITY THAT CREATES A HOUSING AUTHORITY OR WITHIN AN AREA ANNEXED BY A CITY THAT HAS CREATED OR SUBSEQUENTLY CREATES A HOUSING AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4204, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS OF COUNTY HOUSING AUTHORITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4209, IDAHO CODE, TO AUTHORIZE THE COUNTY TO LEND MONEY TO A COUNTY HOUSING AUTHORITY AND TO PROVIDE FOR REIMBURSEMENT TO THE COUNTY; AMENDING SECTION 31-4216,

IDAHO CODE, TO PROVIDE THAT BONDS MAY BE REPAID FROM ALL OR PART OF THE HOUSING AUTHORITY'S REVENUES OR ASSETS GENERALLY AND TO AUTHORIZE THE HOUSING AUTHORITY TO PLEDGE ANY INCOME OR REVENUES OR A MORTGAGE OF ANY HOUSING PROJECT OR OTHER PROPERTY OF THE AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4218, IDAHO CODE, TO PROVIDE FOR A MORTGAGE OF THE AUTHORITY'S REAL OR PERSONAL PROPERTY TO SECURE THE PAYMENT OF BONDS OR OTHER OBLIGATIONS; AMENDING SECTION 31-4224, IDAHO CODE, TO DELETE LIMITATIONS ON THE POWER OF AN AUTHORITY TO MORTGAGE ITS OWN PROPERTY; AMENDING SECTION 50-1903, IDAHO CODE, TO PROVIDE THAT A COUNTY HOUSING AUTHORITY MAY CONTINUE TO OWN AND OPERATE HOUSING PROJECTS FOR WHICH IT HAS BECOME FINANCIALLY OBLIGATED WITHIN A CITY OR AREA ANNEXED BY A CITY AFTER THE CITY CREATES A HOUSING AUTHORITY OR THE AREA IS ANNEXED BY A CITY WHICH HAS A HOUSING AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-4203, Idaho Code, be, and the same is hereby amended to read as follows:

31-4203. 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) "Authority" or "~~H~~housing ~~A~~authority" shall mean any of the public corporations created by section 31-4205, 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 ~~pruposes~~ purposes; or

(2) ~~t~~To 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 for necessary, convenient or desirable appurtenances, roads, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or

(3) ~~t~~To accomplish a combination of the foregoing.

The term "~~H~~housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith; to buildings, and the land, equipment, facilities and other real or personal property, which do not contain dwelling units or other living accommodations for persons of low income when such buildings are utilized for administrative, community, health, recreational, welfare or other purposes by or for low-income persons or senior citizens, and redevelopment projects carried out by an authority at the request of local government when such projects include dwelling units which are sold or rented to persons of low income.

(c) "Governing body" shall mean the council, board of commissioners, board of trustees or other body having charge of the fiscal affairs of the state public body.

(d) "Federal government" shall include the United States of America, the United States department of housing ~~authority~~ and urban development, or any other agency ~~of~~ or instrumentality, corporate or otherwise, of the United States of America.

(e) "County" or "counties" shall include all counties in the state of Idaho as designated in chapter 1, title 31, Idaho Code.

(f) "Clerk" shall mean the county clerk or the officer charged with the duties customarily imposed on such clerk.

(g) "Area of operation" shall mean the entire county except within the corporate limits of cities in the county which have presently, or hereafter create, a housing authority under title 50, chapter 19, Idaho Code; provided however, that a county housing authority may continue to own and operate any housing project for which it has become financially obligated which is located in a city that subsequently creates a housing authority or is located in an area annexed by a city that has created or subsequently creates a housing authority.

(h) "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.

(i) "Person of low income" shall mean persons or families who lack the amount of income which is necessary, ~~(~~as determined by the authority undertaking the housing project~~)~~, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings without overcrowding.

(j) "Bonds" shall mean any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to this chapter.

(k) "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.

(l) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessors demising, to the authority, property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

SECTION 2. That Section 31-4204, Idaho Code, be, and the same is hereby amended to read as follows:

31-4204. POWERS OF AUTHORITY. A housing authority shall constitute an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority, including the power to contract with other

housing authorities for services; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this ~~act~~ chapter, to carry into effect the powers and purposes of the authority.

(b) Within the area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof; and, notwithstanding anything to the contrary contained in this ~~act~~ chapter or in any other provision of law, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this ~~act~~ chapter, to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain ~~options~~ upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property or any interest therein; to acquire, by the exercise of the power of eminent domain, any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance; to rent or sell and to agree to rent or sell dwellings forming part of the housing projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which banks may legally invest funds, subject to the control of the housing authority; to purchase its own bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be ~~cancelled~~ canceled.

(f) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the

state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(g) Acting through one (1) or more commissioners or other person or persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof, under oath, at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring attendance of witnesses or the production of books and papers, and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available, to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation), its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(h) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(i) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing or refinancing of land, buildings or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(j) Any housing project shall be subject to the requirement that the dwelling units made available to persons of low income, together with functionally related and subordinate facilities, shall occupy at least thirty percent (30%) of the interior space of any individual building other than a detached single-family or duplex residential building or mobile or manufactured home and shall occupy at least fifty percent (50%) of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile or manufactured home parks, the mobile or manufactured home lots made available to persons of low income shall be at least fifty percent (50%) of the total number of mobile or manufactured home lots in the park.

(k) To exercise all or any part or combination of powers herein granted.

SECTION 3. That Section 31-4209, Idaho Code, be, and the same is hereby amended to read as follows:

31-4209. DONATIONS BY COUNTY. Any county, in which a housing authority has been created, shall have the power, from time to time, to lend or donate money to such authority or to agree to take such action; provided, however, that ~~nothing contained in this provision or in any other provision of law shall be construed as authorizing the state or any state public body to give credit or make loans to~~ when a housing authority has the money available therefor it shall make reimbursement for all such loans made to it.

SECTION 4. That Section 31-4216, Idaho Code, be, and the same is hereby amended to read as follows:

31-4216. BOND ISSUES. An authority shall have power to issue bonds, from time to time, in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. In order to carry out the purposes of this ~~act~~ chapter, an authority may issue, upon proper resolution, bonds on which the principal and interest are payable:

(a) ~~e~~Exclusively from the income and revenue of a housing project financed with the proceeds of such bonds~~,~~; or

(b) ~~e~~Exclusively from such income and revenues together with grants and contributions from the federal government or other source in aid of such project; or

(c) From all or part of its revenues or assets generally.

Any such bonds may be additionally secured by a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority. Any pledge made by the authority shall be valid and binding from the time when the pledge is made and recorded; the revenues, moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have notice thereof.

Neither the commissioners of any authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority shall state on their face that they shall not be a debt of the county, the state or any political subdivision thereof and neither the county, the state nor any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds other than those of said authority. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

SECTION 5. That Section 31-4218, Idaho Code, be, and the same is hereby amended to read as follows:

31-4218. POWERS TO SECURE PAYMENT OF BONDS. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees and revenues, or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right

to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(~~c~~d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for the redemption and to provide the terms and conditions thereof.

(~~d~~e) To covenant, subject to the limitations contained in this act, as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(~~e~~f) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(~~f~~g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(~~g~~h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation; and to covenant and prescribe as to default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and to the terms and conditions upon which such declaration and its consequences may be waived.

(~~h~~i) To vest, in trustee or trustees or the holders of bonds or any proportion of them, the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession of any housing project or part thereof, and, so long as said authority shall continue in default, to retain such possession and use, operate and manage said project, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee, to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(~~i~~j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants as will tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

SECTION 6. That Section 31-4224, Idaho Code, be, and the same is hereby amended to read as follows:

31-4224. LIMITATIONS ON POWER OF AUTHORITY. Nothing in this ~~act~~ chapter or any other law shall be construed as authorizing a housing authority to levy or collect taxes or assessments, to create any indebtedness payable out of taxes or assessments, or in any manner to pledge the credit of the county, the state or any subdivision thereof~~;--nor shall any provision of this act or other law be construed as authorizing a--housing--authority--to mortgage or otherwise encumber property of any kind,-real,-personal,-or-mixed,-or-any-interest-therein,-but--this--section--shall-not-be-construed-as-preventing-the-pledge-of-the-revenues-of a-housing-authority-as-authorized-in-this-act~~.

SECTION 7. That Section 50-1903, Idaho Code, be, and the same is hereby amended to read as follows:

50-1903. 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) "Authority" or "housing authority" shall mean any of the public corporations created by section ~~59-1905~~ 50-1905, Idaho Code.

(b) "Housing project" shall mean any work or undertaking: (1) 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) to 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 for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (3) to accomplish a combination of the foregoing. The term "~~H~~housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith; to buildings, and the land, equipment, facilities and other real or personal property, which do not contain dwelling units or other living accommodations for persons of low income when such buildings are utilized for administrative, community, health, recreational, welfare or other purposes by or for low-income persons or senior citizens, and redevelopment projects carried out by an authority at the request of local government when such projects include dwelling units which are sold or rented to persons of low income.

(c) "Governing body" shall mean the city council, board of commissioners, board of trustees or other body having charge of the fiscal affairs of the state public body.

(d) "Federal government" shall include the United States of America, the United States department of housing and urban development~~,~~ 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. "The city" shall include those having a special charter and shall mean the particular city for which a particular housing authority is created.

(f) "Clerk" shall mean the clerk of the city or the officer charged

with the duties customarily imposed on such clerk.

(g) "Area of operation" shall include the city and the area within five (5) miles of the territorial boundaries thereof; provided, however, that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city as herein defined. Provided however, that a county housing authority may continue to own and operate any housing project for which it has become financially obligated which is located in a city that subsequently creates a housing authority or in an area annexed by a city that has or subsequently creates a housing authority.

(h) "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.

(i) "Person of low income" shall mean persons or families who lack the amount of income which is necessary, ~~(~~as determined by the authority undertaking the housing project~~)~~, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings without overcrowding.

(j) "Bonds" shall mean any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to this chapter.

(k) "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.

(l) "Obligee of the authority" or "~~O~~obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessors demising, to the authority, property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 28, 2001.

CHAPTER 261
(S.B. No. 1023)

AN ACT

RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT; REPEALING CHAPTER 10, TITLE 68, IDAHO CODE; AMENDING TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 68, IDAHO CODE, TO PROVIDE A NEW UNIFORM PRINCIPAL AND INCOME ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FIDUCIARY DUTIES AND GENERAL PRINCIPLES, TO PROVIDE A TRUSTEE'S POWER TO ADJUST, TO PROVIDE FOR NOTICE OF PROPOSED ACTION, TO PROVIDE FOR DETERMINATION AND DISTRIBUTION OF NET

INCOME, TO PROVIDE FOR DISTRIBUTION TO RESIDUARY AND REMAINDER BENEFICIARIES, TO PROVIDE WHEN THE RIGHT TO INCOME BEGINS AND ENDS, TO PROVIDE FOR APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS WHEN DECEDENT DIES OR INCOME INTEREST BEGINS, TO PROVIDE FOR APPORTIONMENT WHEN INCOME INTEREST ENDS, TO PROVIDE FOR CHARACTER OF RECEIPTS, TO PROVIDE FOR DISTRIBUTION FROM A TRUST OR ESTATE, TO PROVIDE FOR BUSINESS AND OTHER ACTIVITIES CONDUCTED BY A TRUSTEE, TO PROVIDE FOR PRINCIPAL RECEIPTS, TO PROVIDE FOR RENTAL PROPERTY, TO PROVIDE FOR AN OBLIGATION TO PAY MONEY, TO PROVIDE FOR INSURANCE POLICIES AND SIMILAR CONTRACTS, TO PROVIDE THAT INSUBSTANTIAL ALLOCATIONS ARE NOT REQUIRED, TO PROVIDE FOR DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR PAYMENTS, TO PROVIDE FOR LIQUIDATING AN ASSET, TO PROVIDE FOR MINERALS, WATER, AND OTHER NATURAL RESOURCES, TO PROVIDE FOR TIMBER, TO PROVIDE FOR PROPERTY NOT PRODUCTIVE OF INCOME, TO PROVIDE FOR DERIVATIVES AND OPTIONS, TO PROVIDE FOR ASSET-BACKED SECURITIES, TO PROVIDE FOR DISBURSEMENTS FROM INCOME, TO PROVIDE FOR DISBURSEMENTS FROM PRINCIPAL, TO PROVIDE FOR TRANSFERS FROM INCOME TO PRINCIPAL FOR DEPRECIATION, TO PROVIDE FOR TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL, TO PROVIDE FOR INCOME TAXES, TO PROVIDE FOR ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES, TO PROVIDE FOR UNIFORM APPLICATION AND CONSTRUCTION, TO PROVIDE SEVERABILITY AND TO PROVIDE FOR APPLICATION TO EXISTING TRUSTS AND ESTATES.

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

SECTION 1. That Chapter 10, Title 68, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 10, Title 68, Idaho Code, and to read as follows:

CHAPTER 10
UNIFORM PRINCIPAL AND INCOME ACT

PART 1.
DEFINITIONS AND FIDUCIARY DUTIES

68-10-101. SHORT TITLE. This chapter may be cited as the "Uniform Principal and Income Act."

68-10-102. DEFINITIONS. In this chapter:

(1) "Accounting period" means a calendar year unless another twelve (12) month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve (12) month period that begins when an income interest begins or ends when an income interest ends.

(2) "Beneficiary" includes, in the case of a decedent's estate, an heir and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

(3) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

(4) "Income" means money or property that a fiduciary receives as

current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in part 4 of this chapter.

(5) "Income beneficiary" means a person to whom net income of a trust is or may be payable.

(6) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

(7) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(8) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this chapter to or from income during the period.

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

(10) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.

(11) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.

(12) "Terms of a trust" means the manifestation of the intent of a trustor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct. Nothing herein shall require a trustee to look beyond the terms of a written instrument for the manifestation of the intent of a trustor.

(13) "Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.

68-10-103. FIDUCIARY DUTIES -- GENERAL PRINCIPLES. (a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of parts 2 and 3 of this chapter, a fiduciary:

(1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter;

(2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this chapter, and no inference that the fiduciary has improperly exercised the discretion arises from the fact that the fiduciary has made an allocation contrary to a provision of this chapter;

(3) Shall administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) In exercising the power to adjust under section 68-10-104(a), Idaho Code, or a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one (1) or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

68-10-104. TRUSTEE'S POWER TO ADJUST. (a) A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor in accordance with the Idaho uniform prudent investor act, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in section 68-10-103(a), Idaho Code, that the trustee is unable to comply with section 68-10-103(b), Idaho Code.

(b) In deciding whether and to what extent to exercise the power conferred by subsection (a) of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

(1) The nature, purpose and expected duration of the trust;

(2) The intent of the trustor;

(3) The identity and circumstances of the beneficiaries;

(4) The needs for liquidity, regularity of income and preservation and appreciation of capital;

(5) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the trustor;

(6) The net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and

(9) The anticipated tax consequences of an adjustment.

(c) A trustee may not make an adjustment:

(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed,

in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who is the trustee or has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment; or

(7) If the trustee is a beneficiary of the trust.

(d) If subsection (c)(5), (6) or (7) of this section applies to a trustee and there is more than one (1) trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(e) A trustee may release the entire power conferred by subsection (a) of this section or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (c)(1) through (6) of this section or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (c) of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual.

(f) Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a) of this section.

(g) Unless a request has been made by a beneficiary that the trustee consider an adjustment, nothing in this section or in this chapter is intended to create or imply a duty to make an adjustment, and a trustee is not liable for not considering whether to make an adjustment or for choosing not to make an adjustment.

68-10-105. NOTICE OF PROPOSED ACTION. (a) A trustee may give a notice of proposed action regarding a matter governed by this chapter as provided in this section. For the purpose of this section, a proposed action includes a course of action and a decision not to take action.

(b) The trustee shall mail notice of the proposed action to all adult beneficiaries who are receiving, or are entitled to receive,

income under the trust or to receive a distribution of principal if the trust were terminated at the time the notice is given. If all beneficiaries of the trust are incapacitated persons, then notice shall be mailed to each of the incapacitated person's guardians or conservators who are appointed in accordance with chapter 5, title 15, Idaho Code.

(c) Notice of proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.

(d) The notice of proposed action shall state that it is given pursuant to this section and shall include all of the following:

(1) The name and mailing address of the trustee;

(2) A copy of the trust instrument, if any;

(3) A description of the action proposed to be taken and an explanation of the reasons for the action;

(4) The time within which objections to the proposed action can be made, which shall be at least thirty (30) days from the mailing of the notice of proposed action;

(5) The date on or after which the proposed action may be taken or is effective;

(6) A statement that the recipient may petition for a judicial determination of the proposed action;

(7) A form on which consent or objection to the proposed action may be indicated.

(e) A beneficiary may object or consent to the proposed action by mailing a written objection or consent to the trustee at the address stated in the notice of proposed action within the time period specified in the notice of proposed action.

(f) A trustee is not liable to a beneficiary for an action regarding a matter governed by this chapter if the trustee does not receive a written objection to the proposed action from the beneficiary within the applicable period and the other requirements of this section are satisfied. If no beneficiary entitled to notice objects under this section, the trustee is not liable to any current or future beneficiary with respect to the proposed action.

(g) If the trustee receives a written objection within the applicable period, either the trustee or a beneficiary may petition the court to have the proposed action taken as proposed, taken with modifications, or denied. In the proceeding, a beneficiary objecting to the proposed action has the burden of proving that the trustee's proposed action should not be taken. A beneficiary who has not objected is not estopped from opposing the proposed action in the proceeding. If the trustee decides not to implement the proposed action, the trustee shall notify the beneficiaries of the decision not to take the action and the reasons for the decision, and the trustee's decision not to implement the proposed action does not itself give rise to liability to any current or future beneficiary. A beneficiary may petition the court to have the action taken, and has the burden of proving that it should be taken.

PART 2.
DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

68-10-201. DETERMINATION AND DISTRIBUTION OF NET INCOME. After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in parts 3 through 5 of this chapter which apply to trustees and the rules in subsection (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in parts 3 through 5 of this chapter which apply to trustees and by:

(A) Including in net income all income from property used to discharge liabilities;

(B) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(C) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under subsection (2) of this section or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(4) A fiduciary shall distribute the net income remaining after distributions required by subsection (3) of this section in the manner described in section 68-10-202, Idaho Code, to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in subsection (1) of this section because of a payment described in section 68-10-501 or 68-10-502, Idaho Code, to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's

death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

68-10-202. DISTRIBUTION TO RESIDUARY AND REMAINDER BENEFICIARIES. (a) Each beneficiary described in section 68-10-201(4), Idaho Code, is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one (1) distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income, the following rules apply:

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

(2) The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

(3) The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

PART 3.
APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

68-10-301. WHEN RIGHT TO INCOME BEGINS AND ENDS. (a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;
(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or
(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

68-10-302. APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS WHEN DECEDENT DIES OR INCOME INTEREST BEGINS. (a) A trustee shall allocate an income receipt or disbursement other than one to which section 68-10-201(1), Idaho Code, applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which section 68-10-401, Idaho Code, applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

68-10-303. APPORTIONMENT WHEN INCOME INTEREST ENDS. (a) In this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent (5%) of the trust

immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its trustor relating to income, gift, estate, or other tax requirements.

PART 4.
ALLOCATION OF RECEIPTS DURING ADMINISTRATION OF TRUST

68-10-401. CHARACTER OF RECEIPTS. (a) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which section 68-10-402, Idaho Code, applies, a business or activity to which section 68-10-413, Idaho Code, applies, or an asset-backed security to which section 68-10-415, Idaho Code, applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) A trustee shall allocate the following receipts from an entity to principal:

(1) Property other than money;

(2) Money received in one (1) distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent (20%) of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

(f) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

68-10-402. DISTRIBUTION FROM TRUST OR ESTATE. A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 68-10-401 or 68-10-415, Idaho Code, applies to a receipt from the trust.

68-10-403. BUSINESS AND OTHER ACTIVITIES CONDUCTED BY TRUSTEE. (a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

(1) Retail, manufacturing, service and other traditional business activities;

(2) Farming;

(3) Raising and selling livestock and other animals;

(4) Management of rental properties;

(5) Extraction of minerals and other natural resources;

(6) Timber operations; and

(7) Activities to which section 68-10-414, Idaho Code, applies.

68-10-404. PRINCIPAL RECEIPTS. A trustee shall allocate to principal:

(1) To the extent not allocated to income under this chapter, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this part;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in section 68-10-502(a)(7), Idaho Code, or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate

award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

(6) Other receipts as provided in sections 68-10-408 through 68-10-415, Idaho Code.

68-10-405. RENTAL PROPERTY. To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

68-10-406. OBLIGATION TO PAY MONEY. (a) An amount received as interest, whether determined at a fixed, variable or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

(b) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one (1) year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one (1) year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

(c) This section does not apply to an obligation to which section 68-10-409, 68-10-410, 68-10-411, 68-10-412, 68-10-414 or 68-10-415, Idaho Code, applies.

68-10-407. INSURANCE POLICIES AND SIMILAR CONTRACTS. (a) Except as otherwise provided in subsection (b) of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income or, subject to section 68-10-403, Idaho Code, loss of profits from a business.

(c) This section does not apply to a contract to which section 68-10-409, Idaho Code, applies.

68-10-408. INSUBSTANTIAL ALLOCATIONS NOT REQUIRED. If a trustee determines that an allocation between principal and income required by

section 68-10-409, 68-10-410, 68-10-411, 68-10-412 or 68-10-415, Idaho Code, is insubstantial, the trustee may allocate the entire amount to principal unless one (1) of the circumstances described in section 68-10-104(c), Idaho Code, applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in section 68-10-104(d), Idaho Code, and may be released for the reasons and in the manner described in section 68-10-104(e), Idaho Code. An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent (10%); or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent (10%) of the total value of the trust's assets at the beginning of the accounting period.

68-10-409. DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR PAYMENTS. (a) In this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one (1) or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus or stock-ownership plan.

(b) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(e) This section does not apply to payments to which section 68-10-410, Idaho Code, applies.

68-10-410. LIQUIDATING ASSET. (a) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right and right to receive payments during a period of more than one (1) year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to

section 68-10-409, Idaho Code, resources subject to section 68-10-411, Idaho Code, timber subject to section 68-10-412, Idaho Code, an activity subject to section 68-10-414, Idaho Code, an asset subject to section 68-10-415, Idaho Code, or any asset for which the trustee establishes a reserve for depreciation under section 68-10-503, Idaho Code.

(b) A trustee shall allocate to income ten percent (10%) of the receipts from a liquidating asset and the balance to principal.

68-10-411. MINERALS, WATER AND OTHER NATURAL RESOURCES. (a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income;

(2) If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal;

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety percent (90%) must be allocated to principal and the balance to income;

(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2) or (3) of this subsection, ninety percent (90%) of the net amount received must be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent (90%) of the amount must be allocated to principal and the balance to income.

(c) This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water or other natural resources on the effective date of this chapter, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee before the effective date of this chapter. If the trust acquires an interest in minerals, water or other natural resources after the effective date of this chapter, the trustee shall allocate receipts from the interest as provided in this chapter.

68-10-412. TIMBER. (a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from

the land under the lease or contract and applying the rules in paragraphs (1) and (2) of this subsection; or

(4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph (1), (2) or (3) of this subsection.

(b) In determining net receipts to be allocated pursuant to subsection (a) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(d) If a trust owns an interest in timberland on the effective date of this chapter, the trustee may allocate net receipts from the sale of timber and related products as provided in this chapter or in the manner used by the trustee before the effective date of this chapter. If the trust acquires an interest in timberland after the effective date of this chapter, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.

68-10-413. PROPERTY NOT PRODUCTIVE OF INCOME. (a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 68-10-104, Idaho Code, and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by section 68-10-104(a), Idaho Code. The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

68-10-414. DERIVATIVES AND OPTIONS. (a) In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which give a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(b) To the extent that a trustee does not account under section 68-10-403, Idaho Code, for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(c) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to princi-

pal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a trustor of the trust for services rendered, must be allocated to principal.

68-10-415. ASSET-BACKED SECURITIES. (a) In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which section 68-10-401 or 68-10-409, Idaho Code, applies.

(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(c) If a trust receives one (1) or more payments in exchange for the trust's entire interest in an asset-backed security in one (1) accounting period, the trustee shall allocate the payments to principal. If a payment is one (1) of a series of payments that will result in the liquidation of the trust's interest in the security over more than one (1) accounting period, the trustee shall allocate ten percent (10%) of the payment to income and the balance to principal.

PART 5.
ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

68-10-501. DISBURSEMENTS FROM INCOME. A trustee shall make the following disbursements from income to the extent that they are not disbursements to which section 68-10-201(2)(B) or (2)(C), Idaho Code, applies:

(1) One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

(2) One-half (1/2) of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

68-10-502. DISBURSEMENTS FROM PRINCIPAL. (a) A trustee shall make the following disbursements from principal:

(1) The remaining one-half (1/2) of the disbursements described in section 68-10-501(1) and (2), Idaho Code;

(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements

made to prepare property for sale;

(3) Payments on the principal of a trust debt;

(4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(5) Premiums paid on a policy of insurance not described in section 68-10-501(4), Idaho Code, of which the trust is the owner and beneficiary;

(6) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws, rules or regulations and other payments made to comply with those laws, rules or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

68-10-503. TRANSFERS FROM INCOME TO PRINCIPAL FOR DEPRECIATION. (a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion or gradual obsolescence of a fixed asset having a useful life of more than one (1) year.

(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(2) During the administration of a decedent's estate; or

(3) Under this section if the trustee is accounting under section 68-10-403, Idaho Code, for the business or activity in which the asset is used.

(c) An amount transferred to principal need not be held as a separate fund.

68-10-504. TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL. (a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one (1) or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(b) Principal disbursements to which subsection (a) of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset,

including special assessments;

(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements and broker's commissions;

(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(5) Disbursements described in section 68-10-502(a)(7), Idaho Code.

(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a) of this section.

68-10-505. INCOME TAXES. (a) A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid proportionately:

(1) From income to the extent that receipts from the entity are allocated to income; and

(2) From principal to the extent that:

(A) Receipts from the entity are allocated to principal; and

(B) The trust's share of the entity's taxable income exceeds the total receipts described in paragraphs (1) and (2)(A) of this subsection.

(d) For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

68-10-506. ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES. (a) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection (b) of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving, or a distribution from, the estate or trust; or

(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust or beneficiary.

(b) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust or beneficiary are decreased, each estate, trust or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable

contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

PART 6.
MISCELLANEOUS PROVISIONS

68-10-601. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

68-10-602. 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.

68-10-603. [RESERVED.]

68-10-604. [RESERVED.]

68-10-605. APPLICATION OF CHAPTER TO EXISTING TRUSTS AND ESTATES. This chapter applies to every trust or decedent's estate existing on the effective date of this chapter except as otherwise expressly provided in the will or terms of the trust or in this chapter.

Approved March 31, 2001.

CHAPTER 262
(S.B. No. 1031)

AN ACT
RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-3-916, IDAHO CODE, TO PROVIDE REFERENCES TO TRUSTS AND OTHER DISPOSITIVE INSTRUMENTS IN THE APPORTIONMENT OF ESTATE TAXES.

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

SECTION 1. That Section 15-3-916, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-916. APPORTIONMENT OF ESTATE TAXES. (a) For purposes of this section:

(1) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax;

(2) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "Person interested in the estate" means any person entitled to

receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "Tax" means the federal estate tax and the Idaho estate tax and interest and penalties imposed in addition to the tax;

(6) "Fiduciary" means personal representative or trustee.

(b) Unless the will, trust or other dispositive instrument otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will, trust or other dispositive instrument directs a method of apportionment of tax different from the method described in this code, the method described in the will, trust or other dispositive instrument controls.

(c) (1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b) of this section, because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d) (1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this act.

(2) If property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e) (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devise is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) of this section, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954 [U.S.C., tit. 26, sec. 2053(d)], as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three (3) months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the three (3) months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectable at a time following the death of the decedent but thereafter became uncollectable. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

Approved March 31, 2001.

CHAPTER 263
(S.B. No. 1059)

AN ACT

RELATING TO THE DISPOSITION OF DECEASED PERSON'S REMAINS; AMENDING SECTION 54-1142, IDAHO CODE, TO ENUMERATE PERSONS AUTHORIZED TO CONTROL THE DISPOSITION OF THE REMAINS OF A DECEASED PERSON IF THE DECEDENT HAS NOT MADE A PREARRANGED FUNERAL PLAN, TO PROVIDE THAT THE AUTHORITY TO CONTROL THE DISPOSITION OF THE REMAINS OF A DECEASED PERSON IS RELINQUISHED IF A PERSON IS CHARGED WITH MURDER OR VOLUNTARY MANSLAUGHTER IN CONNECTION WITH THE DECEDENT'S DEATH AND TO PROVIDE THAT SUCH AUTHORITY SHALL BE RETURNED IF THE CHARGES ARE DROPPED OR THE PERSON IS ACQUITTED, TO DEFINE TERMS, TO PROVIDE THAT CERTAIN INDIVIDUALS MAY PERMIT OR PERFORM AUTOPSIES UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT INDIVIDUALS PERMITTING OR PERFORMING AUTOPSIES SHALL NOT BE LIABLE UNLESS THEY HAVE ACTUAL NOTICE OF CERTAIN FACTS, TO PROVIDE THAT PHYSICIANS MAY NOT RELY UPON ORAL AUTHORIZATION FOR THE PERFORMANCE OF AN AUTOPSY IF THE PHYSICIAN KNOWS THE DECEASED PERSON OPPOSED AUTOPSIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1142, Idaho Code, be, and the same is hereby amended to read as follows:

54-1142. AUTHORITY IN ABSENCE OF PREARRANGED FUNERAL PLAN. (1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, the right to control the disposition of the remains of a deceased person vests in, and devolves upon the following in the order named:

~~A.~~(a) ~~A~~ The person ~~or entity~~ designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document;

(b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;

(c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;

~~B.~~(d) The competent surviving spouse of the decedent;

~~C.~~(e) A majority of the competent surviving adult children of the decedent, provided that less than one-half (1/2) of the competent surviving adult children shall be vested with the right to control the disposition of the remains of the decedent if they have used reasonable efforts to notify all other competent surviving adult children of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of more than one-half (1/2) of all competent surviving adult children;

~~D.~~(f) The competent surviving parents or parent of the decedent, provided that if one (1) of the competent surviving parents is absent, the remaining competent surviving parent shall be vested with the right to control the disposition of the remains of the decedent after reasonable efforts have been made and are unsuccessful in locating the absent competent surviving parent;

(g) The person appointed by a court of competent jurisdiction as the personal representative or administrator of the estate of the decedent;

~~E.~~(h) The person nominated as the personal representative of the estate of the decedent ~~named~~ in the will of the decedent; ~~or appointed otherwise by court order;~~

~~F.~~(i) ~~A~~ The competent adult person or persons entitled to inherit from the decedent under the intestate succession laws of the state of Idaho, ~~respectively~~ in the next degrees of kinship, provided that if there is more than one (1) competent surviving adult person of the same degree of kinship, the majority of those persons, and provided further that less than the majority of competent surviving adult persons of the same degree of kinship shall be vested with the right to control the disposition of the remains of the decedent if those persons have used reasonable efforts to notify all other competent surviving adult persons of the same degree of kinship of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of one-half (1/2) or more of all competent surviving adult persons of the same degree of kinship.

(2) If any person to whom the right of control has vested pursuant to the foregoing has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death, and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next qualifying person as listed above as if the charged person did not exist; provided however, that if the charges against such person are dropped, or if such person is acquitted of the charges, the right of control is returned to the person.

(3) For purposes of this section:

(a) "Adult" means an individual who is eighteen (18) years of age or older;

(b) "Child" means a natural or adopted child of the decedent;

(c) "Competent" means the individual has not been declared incompe-

tent by a court of law, or who has been declared competent by a court of law after a prior declaration of incompetence;

(d) "Durable power of attorney" means a power of attorney described in section 15-5-501, Idaho Code, or any similar document properly executed under the laws of another jurisdiction; and

(e) "Durable power of attorney for health care" means the document described in section 39-4505, Idaho Code, or any similar document properly executed under the laws of another jurisdiction;

(f) "Will" means any testamentary device which is valid under the Idaho probate code, including, but not limited to, sections 15-2-503, 15-2-504 and 15-2-506, Idaho Code, whether or not originally executed in, or under the laws of, the state of Idaho.

(4) (a) A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist in, and a physician may perform, an autopsy of any remains of a decedent in its custody:

(i) If the decedent, prior to his death, authorizes an autopsy in his will or in another written instrument, including, but not limited to, a durable power of attorney for health care; or

(ii) Upon the receipt of a written authorization signed by, telegrammed from, or received by facsimile transmission from, a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer; or

(iii) Upon the receipt of an oral authorization obtained by telephone, and recorded on tape or other recording device, from a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer.

(b) A cemetery authority or a licensed funeral director of a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to the authorization provided in paragraph (a) of this subsection unless he has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects and regardless of whether the will may not be offered for, or admitted to, probate until a later date.

(c) This subsection shall not authorize the obtaining of an oral authorization by telephone, recorded on tape or other recording device, for the autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased person was, at the time of his death, a member of a religion or group which opposes autopsies.

Approved March 31, 2001.

CHAPTER 264
(S.B. No. 1158, As Amended)

AN ACT

RELATING TO THE SALE OF BONDS, NOTES AND OTHER OBLIGATIONS OF PUBLIC ENTITIES; AMENDING SECTION 42-4110, IDAHO CODE, TO AUTHORIZE THE SALE OF WATER OR SEWER DISTRICT REVENUE BONDS AT PUBLIC OR PRIVATE SALE, TO AUTHORIZE SALE BY ELECTRONIC BIDDING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 57-214, IDAHO CODE, TO AUTHORIZE SALE OF MUNICIPAL BONDS AT PUBLIC OR PRIVATE SALE, TO AUTHORIZE THE PUBLIC SALE OF BONDS, NOTES OR OTHER OBLIGATIONS BY ELECTRONIC BIDDING, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 57-215, IDAHO CODE, TO PROVIDE FOR NOTICE OF PUBLIC SALE OF BONDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 57-216, IDAHO CODE, TO SPECIFY THE CONTENTS OF A NOTICE OF PUBLIC SALE OF BONDS, TO PROVIDE FOR ELECTRONIC BIDDING, TO REQUIRE A DEPOSIT IN SUCH AMOUNT AS THE GOVERNMENT BODY DEEMS NECESSARY AND TO AUTHORIZE THE USE OF A SURETY BOND AS BID SECURITY, TO PROVIDE FOR PRIVATE SALE; AMENDING CHAPTER 2, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-232, IDAHO CODE, TO PROVIDE A DEFINITION OF PRIVATE SALE OF BONDS, NOTES OR OTHER OBLIGATIONS; AMENDING CHAPTER 2, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-233, IDAHO CODE, TO PROVIDE FOR THE SALE OF BONDS, NOTES OR OTHER OBLIGATIONS BY ELECTRONIC BIDDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-4110, Idaho Code, be, and the same is hereby amended to read as follows:

42-4110. BONDS -- FORM -- CONDITIONS. ~~All--r~~Revenue bonds issued under authority of this act shall be sold, executed and delivered at public or private sale in the ~~same~~ manner as provided by the municipal bond law. ~~for--the--sale-of-general-obligation-negotiable-coupon-bonds Revenue bonds may also~~ be sold by electronic bidding as provided in section 57-233, Idaho Code. The resolution authorizing the issuance of said bonds shall prescribe the form of bonds. Said bonds shall bear interest at a rate or rates, payable annually, or at such lesser intervals as may be prescribed by resolution; may be in one (1) or more series, bear such date or dates, mature at such time or times, and be redeemable before maturity at the option of the district; may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution may provide. Said bonds shall be sold at not less than par with accrued interest. Pending preparation of the bonds, interim certificates, in such form and with such provisions as the commissioners may determine, may be issued. Said bonds and interim certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

Notwithstanding the provisions of the municipal bond law, the governing body in any proceedings authorizing bonds under this act may:

(a) ~~p~~Provide for the initial issuance of one (1) or more bonds, in

this act called "bond," aggregating the amount of the entire issue;

(b) ~~m~~Make such provision for ~~instalment~~ installment payments of the principal amount of any such bond as it may consider desirable;

(c) ~~p~~Provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the ~~indorsing~~ endorsing or payments of interest on such bonds; and

(d) ~~f~~Further make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both.

SECTION 2. That Section 57-214, Idaho Code, be, and the same is hereby amended to read as follows:

57-214. SALE OF BONDS -- PROCEDURE -- MINIMUM PRICE. Funding and refunding bonds shall be sold as provided in sections 57-214 ~~to~~ through 57-218, ~~inclusive~~ Idaho Code, or they may be issued by way of exchange for unpaid indebtedness or outstanding bonds to be funded or refunded thereby, as may be determined by any such governing body.

All other bonds shall be sold, after notice given as provided in section 57-215, Idaho Code, at private sale as provided in section 57-232, Idaho Code, or after notice given as herein provided, at public sale at a regular or special meeting of the ~~governing~~ body of the issuer corporation, and any funding or refunding bonds shall be sold in like manner, if so ordered by any such governing body. No bonds shall be sold for less than par and accrued interest to date of delivery. Any bonds, notes or other obligations may be sold by electronic bidding as provided in section 57-233, Idaho Code.

SECTION 3. That Section 57-215, Idaho Code, be, and the same is hereby amended to read as follows:

57-215. SALE OF BONDS -- NOTICE AND REQUEST FOR BIDS -- PUBLICATION. (1) If bonds are sold at public sale, ~~n~~Notice of the intention to sell any such bonds and requesting bids therefor shall be published in the name of the governing body of any ~~such issuer~~ in the official newspaper thereof for at least three (3) consecutive publications therein at weekly intervals. The date of sale thereof, as therein designated, shall be after the lapse of at least twenty-one (21) full days from and after the date of the first publication of such notice, counting the date of the first publication (as the ~~first pub~~lication) as the first of such twenty-one (21) days; and if said corporation shall not have designated an official newspaper the publication shall be had in any newspaper published ~~and~~ of general circulation within the corporate limits of said issuing corporation as specially designated or approved by any such governing body; and if there shall be no newspaper published within the corporate limits of any such issuing corporation, such notice shall be published in a newspaper of general circulation in the county of such issuing corporation as designated or approved by any such governing body. The mayor or chairman or presiding officer of any such corporation

and the clerk or secretary thereof shall cause such publication to be made and given as prescribed herein, subject to the direction, designation or approval of any such governing body as herein set forth. It shall be proper to commence the publication of such notice of sale prior to, or contemporaneous with, the publication of the notice of the election at which the proposition of the issuance of any such bonds shall be submitted: provided only, that such bonds shall not be sold until their issuance shall have been duly authorized.

(2) If bonds are sold at private sale, notice of the intention to sell such bonds at private sale shall be published once in the name of the issuer in a newspaper of general circulation within the issuer's boundaries at least three (3) days prior to the time scheduled by the issuer for approving the private sale of such bonds. Failure to comply with this requirement shall not invalidate the sale of the bonds, so long as the issuer has made a good faith effort to comply.

SECTION 4. That Section 57-216, Idaho Code, be, and the same is hereby amended to read as follows:

57-216. SALE OF BONDS -- CONTENTS OF NOTICE -- BIDS -- DEPOSIT BY BIDDER -- ACCEPTANCE OR REJECTION OF BIDS. ~~Such~~ A notice of public sale shall set forth the intention of the issuing corporation to sell such bonds or a specified part thereof and shall request and require sealed or electronic bids therefor and require bidders to submit bids specifying (a) the lowest rate of interest and premium, if any above par, at which the bidder will purchase such bonds, or (b) the lowest rate of interest at which the bidder will purchase such bonds at par, and shall require each such bid (except any bid which may be received from the state of Idaho or its department of finance) to be accompanied by a cashier's check, ~~or~~ a certified check, or surety bond made payable to the issuing corporation in ~~an~~ such amount ~~equaling five per cent (5%) of the amount of any such bid~~ as the governing body deems necessary or by a cash deposit in like amount, which such cashier's check, ~~or~~ certified check, surety bond or cash deposit shall be returned to any such bidder if his bid be not accepted, and which cashier's check, ~~or~~ certified check, surety bond or cash deposit of any successful bidder who shall fail, neglect, or refuse to accept the bonds so sold to complete and to pay therefor in accordance with the terms of such successful bid within thirty (30) days following the acceptance thereof, shall be forfeited to the issuing corporation. Such notice shall state the maximum rate of interest which such bonds may legally bear and that none of the bonds shall be sold for less than par and accrued interest to date of delivery thereof, and shall specify the place and designate the day and hour, respectively, as the place where, and the time prior to which, any such sealed or electronic bids will be received for the purchase of such bonds; and at said place and time so specified in such notice and fixed or approved by the governing body as the place and time for the consideration of any such bids the said governing body and the mayor, chairman, or other chief executive officer or presiding officer of the governing body shall meet in public special or regular meeting for the purpose of considering such bids, awarding the bonds, or rejecting any and all bids therefor. At such meeting or at an adjournment thereof the said bonds shall be sold to the bidder making the best bid therefor, subject, as aforesaid, to the right of any such governing body to reject any and

all bids and to readvertise any such bonds for sale in the manner herein prescribed, or at private sale, until said bonds have been sold.

SECTION 5. That Chapter 2, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-232, Idaho Code, and to read as follows:

57-232. SALE OF BONDS -- DEFINITION OF PRIVATE SALE. Whenever the term "private sale" appears in reference to the sale of bonds, notes or other obligations of any public entity of the state of Idaho, the term "private sale" means the sale of bonds, notes or other obligations pursuant to a written contract, and not to the award of sealed or electronic bids submitted at public sale. "Written contract" means a written contract between the issuer of the bonds, notes or other obligations, as seller, and the purchaser, which contract shall specify the principal amounts, maturities, interest rates, redemption provisions, if any, and other relevant terms of the sale.

SECTION 6. That Chapter 2, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-233, Idaho Code, and to read as follows:

57-233. SALE OF BONDS -- ELECTRONIC BIDDING. Whenever a public entity is authorized to sell bonds, notes or other obligations at public sale, the governing body may, in its discretion, provide for the sale of such bonds, notes or other obligations pursuant to any system of electronic bidding which the governing body, in the exercise of its sound discretion, deems fair to potential bidders which produces the lowest effective interest rate to the issuer.

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

Approved March 31, 2001.

CHAPTER 265
(S.B. No. 1246)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,875,200	$ 862,700	$181,600	$ 25,000	$2,944,500
Federal Grant Fund	175,100	203,000	25,000	$606,900	1,010,000
Miscellaneous Revenue Fund		24,300	25,000	26,000	75,300
TOTAL	$2,050,300	$1,090,000	$231,600	$657,900	$4,029,800

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, 2001, through June 30, 2002, 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 435, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Library Board bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 31, 2001.

CHAPTER 266
(S.B. No. 1247)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts, to be expended from the listed funds for the period July 1, 2001, through June 30, 2002:

FROM:	
General Fund	$7,371,800
Idaho School for the Deaf and the Blind Income Fund	209,800
Federal Grant Fund	117,100
Miscellaneous Revenue Fund	94,600
TOTAL	$7,793,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho School for the Deaf and the Blind is authorized no more than one hundred twenty-three and fifty-two hundredths (123.52) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho School for the Deaf and the Blind, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 61, Laws of 2000, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is zero, the reappropriation granted in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Idaho School for the Deaf and the Blind bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 31, 2001.

CHAPTER 267
(S.B. No. 1251)

AN ACT
APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$273,200
Operating Expenditures	61,400
Capital Outlay	3,200
TOTAL	$337,800
FROM:	
General Fund	$337,800

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, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 268
(S.B. No. 1252)

AN ACT
APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	$ 3,770,100	$10,341,500	$ 281,600	$14,393,200
Administration and Accounting Fund		24,700		24,700
Multistate Tax Compact Fund			9,400	9,400
Administration Services for Transportation Fund	381,400	954,300	84,900	1,420,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Abandoned Property Trust-Unclaimed Property Fund		23,200	1,700	24,900
Seminars and Publications Fund		28,400		28,400
TOTAL	$ 4,151,500	$11,372,100	$ 377,600	$15,901,200
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 9,471,900	$ 1,566,400	$ 40,800	$11,079,100
Multistate Tax Compact Fund	597,200	340,800		938,000
Administration and Accounting Fund		22,800		22,800
Administration Services for Transportation Fund	1,172,600	243,600	1,800	1,418,000
Abandoned Property Trust-Unclaimed Property Fund	367,200	86,600	200	454,000
TOTAL	$11,608,900	$ 2,260,200	$ 42,800	$13,911,900
III. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,595,100	$ 1,338,000	$ 175,500	$ 4,108,600
Administration and Accounting Fund	51,900	20,100		72,000
Administration Services for Transportation Fund	415,500	176,300	19,800	611,600
Seminars and Publications Fund		18,300		18,300
TOTAL	$ 3,062,500	$ 1,552,700	$ 195,300	$ 4,810,500
IV. COUNTY SUPPORT:				
FROM:				
General Fund	$ 2,249,700	$ 620,900	$ 3,700	$ 2,874,300
Seminars and Publications Fund		96,200	4,200	100,400
TOTAL	$ 2,249,700	$ 717,100	$ 7,900	$ 2,974,700
GRAND TOTAL	$21,072,600	$15,902,100	$ 623,600	$37,598,300

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, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 269
(S.B. No. 1259)

AN ACT

RELATING TO THE LIEUTENANT GOVERNOR; AMENDING SECTION 67-809, IDAHO CODE, TO INCREASE THE RATE OF PER DIEM THE LIEUTENANT GOVERNOR SHALL RECEIVE WHEN THE LEGISLATURE IS IN OR OUT OF SESSION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-809, Idaho Code, be, and the same is hereby amended to read as follows:

67-809. DUTIES OF ~~LIEUTENANT-GOVERNOR~~ LIEUTENANT GOVERNOR -- ACTUAL AND NECESSARY EXPENSES. (1) The ~~lieutenant-governor~~ lieutenant governor shall perform on a ~~day-to-day~~ day to day basis such duties in and for the government of this state as the governor may ~~from time-to-time~~ time to time direct. The ~~lieutenant-governor~~ lieutenant governor shall perform such additional duties as the governor may deem necessary and desirable to promote the improvement of state government and the development of the human, natural and industrial resources of this state. At the written direction of the governor, the ~~lieutenant-governor~~ lieutenant governor may represent the state in negotiations, compacts, hearings and other matters dealing with the states or the federal government. He shall cooperate with all state and local governmental agencies to promote and encourage the orderly development of the resources of Idaho.

The ~~lieutenant-governor~~ lieutenant governor shall also exercise the powers and privileges of the office of governor and presidency of the senate as provided by ~~article IV, sections~~ 12 and 13, article IV of the ~~Idaho~~ constitution of the state of Idaho.

(2) The ~~lieutenant-governor~~ lieutenant governor shall be entitled to receive the following expense allowances:

(a) As unvouchered expense ~~allowances:~~

(i) While performing the duties of acting governor, the difference between the daily salary of ~~lieutenant-governor~~ lieutenant governor and the daily salary of governor, which amount shall be in addition to the salary as ~~lieutenant-governor~~ lieutenant governor. Such amount shall not be paid for any day on which the ~~lieutenant-governor~~ lieutenant governor claims an unvouchered expense allowance as president of the senate.

(ii) For each day spent serving as president of the senate during a legislative session, the ~~sum--of--forty-four--dollars ($44.00)--if-the-lieutenant-governor-does-not-maintain-his-primary-residence-in-Ada-County.~~

~~(iii)--For-each-day-spent-serving-as-president--of--the--senate during--a--legislative--session,-the-sum-of-twenty-five-dollars ($25.00)-if-the-lieutenant-governor-maintains-his-primary-residence-in-Ada-County~~ per diem authorized for a member of the legislature by the citizen's committee on legislative compensation.

~~(iv)~~ (iii) Actual mileage expense reimbursement for coming to and returning from any regular, extraordinary or organizational session of the legislature at the same rate as mileage expense reimbursement is made for other state officers and employees.

(iv) For each day actually spent in the office serving as ~~lieutenant-governor~~ lieutenant governor while the legislature is not in session, the ~~sum-of-forty-four--dollars--($44.00)--if the-lieutenant-governor-does-not-maintain-his-primary-residence in--Ada-County~~ same daily amount of per diem enumerated in subsection (2)(a)(ii) of this section.

~~(v)~~ For each day actually spent in the office serving as ~~lieutenant-governor~~ lieutenant governor when the legislature is not in session, the sum of twenty-five dollars ($25.00) if the ~~lieutenant-governor~~ lieutenant governor maintains his primary residence in Ada County.

(b) As vouchered expense allowances:

(i) Actual and necessary expenses incurred while serving as president of the senate during a legislative session, subject to the same requirements and limitations as if a member of the legislature.

(ii) Actual and necessary expenses incurred while serving as ~~lieutenant-governor~~ lieutenant governor or as acting governor.

(3) Unvouchered expense allowances and vouchered expense reimbursement for duties performed as president of the senate shall be paid from the legislative fund. All other compensation and/or allowances for duties performed as the ~~lieutenant-governor~~ lieutenant governor shall be paid from the appropriation made for the office of the ~~lieutenant-governor~~ lieutenant governor.

(4) The actual and necessary expenses of the ~~lieutenant-governor~~ lieutenant governor while performing his official duties as ~~lieutenant-governor~~ lieutenant governor or as acting governor are hereby expressly exempted from the provisions of sections 67-2007 and ~~section~~ 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

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

Approved March 31, 2001.

CHAPTER 270
(H.B. No. 121, As Amended in the Senate)

AN ACT

RELATING TO THE IDAHO INCOME TAX ACT; AMENDING SECTION 63-3022, IDAHO CODE, TO CLARIFY THE ADJUSTMENT TO TAXABLE INCOME INCLUDING ADJUSTMENTS FOR TAXES PAID OTHER STATES, FOR NET OPERATING LOSSES OF TRUSTS AND ESTATES AND FOR CERTAIN LUMP SUM DISTRIBUTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3022C, IDAHO CODE, TO CORRECT A REFERENCE TO THE DIVISION OF ENVIRONMENTAL QUALITY; AMENDING SECTION 63-3022K, IDAHO CODE, TO STRIKE REDUNDANT LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3022L, IDAHO CODE, TO CLARIFY THE ELECTION TO PAY TAX OF CERTAIN PARTNERS, SHAREHOLDERS OR MEMBERS OF A CORPORATION, PARTNERSHIP OR TRUST; AMENDING SECTION 63-3022O, IDAHO CODE, TO CORRECT A CROSS REFERENCE; AMENDING SECTION 63-3029B, IDAHO CODE, TO COORDINATE THE INVESTMENT TAX CREDIT WITH OTHER CREDITS; AMENDING SECTION 63-3029F, IDAHO CODE, TO INCREASE THE LIMITATION ON THE NEW JOBS CREDIT AND TO COORDINATE THE CREDIT WITH OTHER CREDITS; AMENDING SECTION 63-3046, IDAHO CODE, TO REMOVE INCONSISTENCIES BETWEEN PROVISIONS RELATING TO PENALTIES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE FOR SECTIONS 1 THROUGH 7, AND DECLARING AN EMERGENCY FOR SECTION 8 OF THIS ACT.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022M, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax ~~refunds used in arriving at taxable~~ income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be

in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate~~,~~:

(1) ~~D~~distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. ~~In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section 63-3024, Idaho Code~~

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income, and provided that appropriate adjustments shall be made in determining the deductions and exemptions allowed pursuant to section 63-3026A(4), Idaho Code.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any year in which such corporation did not transact

business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state ~~income~~ or local taxes measured by net income and as ~~specified~~ defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution ~~deducted from--gross-income-pursuant-to-section-402(d)(3)-of-the-Internal-Revenue Code~~ excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(l) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(~~o~~n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars ($4,000) per tax year.

SECTION 2. That Section 63-3022C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022C. DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE. (1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars ($5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less

than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. Alternative energy device shall also include either a natural gas heating unit, or a propane heating unit, or a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the ~~division~~ department of environmental quality ~~of--the department--of-health-and-welfare~~ or its agent for destruction in accordance with applicable federal and state rules.

SECTION 3. That Section 63-3022K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022K. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing on and after January 1, 1995, annual contributions to a medical savings account not exceeding two thousand dollars ($2,000) for the account holder and interest earned on a medical savings account shall be deducted from taxable income by the account holder, if such amount has not been previously deducted or excluded in arriving at taxable income. For married individuals the maximum deduction shall be computed separately for each individual. Contributions to the account shall not exceed the amount deductible under this section.

(2) For the purpose of this section, the following terms have the following meanings unless the context clearly denotes otherwise:

(a) "Account holder" means an individual, in the case of married individuals each spouse, including a self-employed person, on whose behalf the medical savings account is established.

(b) "Dependent" means a person for whom a deduction is permitted under section 151(b) or (c) of the Internal Revenue Code if a deduction for the person is claimed for that person on the account holder's Idaho income tax return.

(c) "Dependent child" means a child or grandchild of the account holder who is not a dependent if the account holder actually pays the eligible medical expenses of the child or grandchild and the child or grandchild is any of the following:

(i) Under nineteen (19) years of age, or enrolled as a full-time student at an accredited college or university.

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care necessary for his or her health, guidance or well-being and not otherwise

emancipated, self-supporting, married or a member of the armed forces of the United States.

(iii) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and professional service corporation as defined in section 41-3403, Idaho Code, or nonprofit mutual insurer regulated under title 41, Idaho Code.

(e) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in section 213(d) of the Internal Revenue Code, ~~medical insurance premiums, dental~~ and long-term care expenses of the account holder and the spouse, dependents and dependent children of the account holder.

(f) "Long-term care expenses" means expenses incurred in providing custodial care in a nursing facility as defined in section 39-1301, Idaho Code, and for insurance premiums relating to long-term care insurance under chapter 46, title 41, Idaho Code.

(g) "Medical savings account" means an account established with a depository to pay the eligible medical expenses of the account holder and the dependents and dependent children of the account holder. Medical savings accounts shall carry the name of the account holder, a designated beneficiary or beneficiaries of the account holder and shall be designated by the depository as a "medical savings account."

(3) Upon agreement between an employer and employee, an employer may establish and contribute to the employee's medical savings account or contribute to an employee's existing medical savings account. The total combined annual contributions by an employer and the account holder shall not exceed two thousand dollars ($2,000) for the account holder. Employer contributions to an employee's medical savings account shall be owned by the employee.

(4) Funds held in a medical savings account may be withdrawn by the account holder at any time. Withdrawals for the purpose of paying eligible medical expenses shall not be subject to the tax imposed in this chapter. The burden of proving that a withdrawal from a medical savings account was made for an eligible medical expense is upon the account holder and not upon the depository or the employer of the account holder. Other withdrawals shall be subject to the following restrictions and penalties:

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

(b) After an account holder reaches fifty-nine and one-half (59 1/2) years of age, withdrawals may be made for eligible medical expenses or for any other reason without penalty, but subject to the tax imposed by this section.

(c) Upon the death of an account holder, the account principal, as well as any interest accumulated thereon, shall be distributed without penalty to the designated beneficiary or beneficiaries.

(d) Funds withdrawn which are later reimbursed shall be taxable unless redeposited into the account within sixty (60) days of the reimbursement. Deposits of reimbursed eligible medical expenses shall not be included in calculating the amount deductible.

(e) Funds deposited in a medical savings account which are deposited in error or unintentionally and which are withdrawn within thirty (30) days of being deposited shall be treated as if the amounts had not been deposited in the medical savings account. Funds withdrawn from a medical savings account which are withdrawn in error or unintentionally and which are redeposited within thirty (30) days of being withdrawn shall be treated as if the amounts had not been withdrawn from the medical savings account.

(f) Funds withdrawn which are, not later than the sixtieth day after the day of the withdrawal, deposited into another medical savings account for the benefit of the same account holder are not a withdrawal for purposes of this section and shall not be included in calculating the amount deductible.

(5) Reporting. -- Depositories shall provide to the state tax commission the following information regarding medical savings accounts: the name of the account holder, the address of the account holder, the taxpayer identification number of the account holder, deposits made during the tax year by the account holder, withdrawals made during the tax year by the account holder, interest earned on the proceeds of a medical savings account or other information deemed necessary by the commission. Reports shall be filed annually on or before the last day of February following the year to which the information in the report relates.

(6) Any medical care savings account established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, may be continued pursuant to the provisions of this section and all duties, privileges and liabilities imposed in this section upon medical care savings accounts and the beneficiaries of those accounts shall apply to medical care savings accounts and their beneficiaries established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, as if the medical care savings account were a medical savings account established pursuant to this section.

(7) (a) If the account holder's surviving spouse acquires the account holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, the medical savings account shall be treated as if the spouse were the account holder.

(b) If, by reason of the death of the account holder, any person acquires the account holder's interest in a medical savings account in a case to which subparagraph (7)(a) of this section does not apply:

(i) Such account shall cease to be a medical savings account as of the date of death; and

(ii) An amount equal to the fair market value of the assets in

such account on such date shall be includable, if such person is not the estate of such holder, in such person's Idaho taxable income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's Idaho taxable income for the last taxable year of such holder.

(c) The amount includable in Idaho taxable income under subparagraph (b) of this subsection (7) by any person, other than the estate, shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within one (1) year after such date.

SECTION 4. That Section 63-3022L, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022L. INDIVIDUALS WHO ARE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP OR BENEFICIARIES OF A TRUST OR ESTATE. (1) Individuals who are officers, directors, shareholders, partners or members of a corporation or partnership transacting business in Idaho or who are beneficiaries of a trust or estate with income taxable in Idaho may elect to have Idaho tax relating to income described in subsection (2) of this section reported and paid by the corporation, partnership, trust or estate. Income subject to the election in this subsection shall be taxed at the rate applicable to corporations. The election shall be made on the return of the corporation, partnership, trust or estate from which the income is received. The election in this section is not available to an individual who has Idaho taxable income in addition to income described in subsection (2) of this section.

(2) The election in subsection (1) of this section applies to:

(a) Wages, salary and other compensation paid by the corporation, partnership, trust or estate to such officers, directors, shareholders, partners, members or beneficiaries to the extent the compensation is Idaho taxable income of the individual to whom it is paid; ~~under section 63-3026A, Idaho Code;~~ and

(b) The share of any income, loss, deduction or credit of an S corporation, partnership, trust or estate required to be included on such shareholder's, partner's, member's or beneficiary's ~~federal~~ Idaho return. ~~except that such amount shall first be apportioned and allocated in the manner provided in section 63-3027, Idaho Code.~~

(c) When the gross income attributable to an individual under paragraphs (a) and (b) of this subsection (2) is less than the filing requirement of the individual under section 63-3030, Idaho Code, the income is not income under this subsection.

(3) If no election is made and an officer, director, shareholder, partner, member, or beneficiary of a corporation, partnership, trust or estate transacting business in Idaho fails to file an Idaho income tax return reporting all or any part of the items described in subsection (2) of this section or fails to pay any tax due thereon, such corporation, partnership, trust or estate shall be liable for tax on such items at the rate applicable to corporations.

(4) The provisions of this section shall not apply to a corporation, other than an S corporation, with less than fifty percent (50%) of its income taxable within this state.

SECTION 5. That Section 63-3022O, Idaho Code, be, and the same is hereby amended 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(~~l~~1) of the Internal Revenue Code is less than one hundred percent (100%), shall be allowed as a deduction against taxable income.

SECTION 6. 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) The tax credit carryovers; and

(b) 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) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight;

(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) 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 fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(5) If the sum of 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 (4) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the 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 Internal Revenue 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 Internal Revenue 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 carryover of credit is permitted under this section if the credit or carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or 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) 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) 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 "Internal Revenue Code" mean the sections referred to as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

SECTION 7. That Section 63-3029F, Idaho Code, be, and the same is hereby amended 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 amount of this and all other credits allowed under this chapter except for the credits allowed under section~~s 63-3024A, 63-3025B and~~ 63-3029, Idaho Code, ~~taken during any taxable year~~ shall not exceed ~~forty-five~~ fifty percent (450%) of the tax ~~otherwise imposed on~~ liability of the taxpayer. ~~for the taxable year for which such credit is allowed.~~ The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(3) If the sum of the credit carryovers from the credit allowed by subsection (2) of t~~his section a~~nd 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 8. That Section 63-3046, Idaho Code, be, and the same is hereby amended to read as follows:

63-3046. PENALTIES AND ADDITIONS TO THE TAX IN CASE OF DEFICIENCY. (a) If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the defi-

ciency (in addition to such deficiency) shall be so assessed, collected and paid.

(c) (1) In the event the return required by this chapter is not filed, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed. ~~or the penalty amounts to twenty-five percent (25%) of the tax due on such returns.~~

(d2) In the event the return required by this chapter is filed but the tax shown thereon to be due is not paid, there may be collected a penalty of one-half percent (0.5%) of the tax due on such return for each month elapsing after the later of the due date of such return or the date the return was filed until the tax is paid. ~~or the penalty amounts to twenty-five percent (25%) of the tax due on such returns.~~

(ed) (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

(2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

(i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or

(ii) Five thousand dollars ($5,000).

(3) In the case of a corporation, paragraph (ed)(2)(ii) of this section shall be applied by substituting ten thousand dollars ($10,000) for five thousand dollars ($5,000).

(4) For purposes of paragraph (ed)(2) of this section, the term "understatement" means the excess of:

(i) The amount of tax required to be shown on the return for the taxable year, over

(ii) The amount of the tax imposed which is shown on the return.

(5) The amount of the understatement under paragraph (4) shall be reduced by that portion of the understatement which is attributable to:

(i) The tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) Any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

(6) In the case of any item attributable to a tax shelter as defined in section 6661 of the Internal Revenue Code:

(i) Paragraph (5)(ii) shall not apply, and

(ii) Paragraph (5)(i) shall not apply unless (in addition to meeting the requirements of such paragraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

(7) The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.

(fe) (1) Any person who fails to file a statement of payment to

another person required by this chapter, including the duplicate statement of tax withheld on wages, on the date prescribed therefor (including any extension of time for filing) shall, be subject to a penalty of two dollars ($2.00) for each month or part of a month each statement is not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed two thousand dollars ($2,000).

(2) Any employer required to register under the provisions of section 63-3035, Idaho Code, who fails to register after receiving written notice from the state tax commission of the requirement to register shall be subject to a penalty of one hundred dollars ($100) for each month or part of a month after the date of the notice during which the failure occurs.

(3) The penalties provided in this subsection shall not apply if the person shows that the failure to register is due to reasonable cause and not to willful neglect.

~~(4) The state tax commission shall give notice of any penalty provided in this subsection and shall assess the penalties in the manner provided for deficiencies of tax.~~

(~~e~~f) If the penalty to be added to the tax by subsection (a), (b), (c)(1)~~,~~ (d)~~,~~ or (e) ~~or (f)~~ of this section or by section 63-3033, Idaho Code, is less than ten dollars ($10.00), the penalty to be added to the tax shall be a minimum of ten dollars ($10.00).

(g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.

(h) A processing charge to be determined and established annually by the state tax commission shall be collected from any person who draws or delivers a check, draft or order for the payment of money in complete or partial satisfaction of the tax imposed by this chapter if that person does not have sufficient funds in or credit with the bank or depository upon which the check, draft or order is drawn. Money collected under this subsection shall be paid to the state tax commission to defer costs of handling such checks, drafts or orders.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 7 of this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001; and Section 8 of this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 2001.

CHAPTER 271
(H.B. No. 176, As Amended in the Senate)

AN ACT

RELATING TO THE OUTFITTERS AND GUIDES LICENSING BOARD; AMENDING SECTION 36-2102, IDAHO CODE, TO REVISE THE DEFINITION OF "LICENSE YEAR" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-2103, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CERTAIN PERSONS FURNISHING LIVESTOCK AND EQUIPMENT TO A HUNTER OR FISHERMAN AND TO MAKE TECHNICAL CORREC-

TIONS; AMENDING SECTION 36-2107, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT EACH NONRESIDENT LICENSEE, PERMITTEE OR TAGHOLDER REPORT TO THE DEPARTMENT OF FISH AND GAME THE NUMBER OF EACH SPECIES OF BIG GAME TAKEN AND OTHER INFORMATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-2108, IDAHO CODE, TO CHANGE DATES FOR IMPOSITION OF A PENALTY FOR INCOMPLETE APPLICATIONS.

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

SECTION 1. That Section 36-2102, Idaho Code, be, and the same is hereby amended to read as follows:

36-2102. DEFINITIONS. (a) "Person" includes any individual, firm, partnership, corporation or other organization or any combination thereof.

(b) "Outfitter" includes any person who, while engaging in any of the acts enumerated herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions. Any firm, partnership, corporation or other organization or combination thereof operating as an outfitter shall designate one (1) or more individuals as agents who shall, together with the licensed outfitter, be held responsible for the conduct of the licensed ~~outfitter~~'s operations and who shall meet all of the qualifications of a licensed outfitter.

(c) "Guide" is any natural person who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed. Any such person not employed by a licensed outfitter who offers or provides facilities or services as specified in subsection (b) of this section shall be deemed in violation of the provisions of this chapter, except: (1) any employee of the state of Idaho or the United States when acting in his official capacity, or (2) any natural person who is employed by a licensed outfitter solely for the following activities: caring for, grooming or saddling of livestock, cooking, woodcutting, and transporting people, equipment and personal property on public roads shall be exempt from the provisions of this chapter.

(d) "Board" means the Idaho outfitters and guides licensing board.

(e) "Resident" means a person who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license.

(f) "Nonresident" means any person not included in subsection (e) ~~above~~ of this section.

(g) "License year" means that period of time beginning on ~~April 1~~ the date an outfitter's or guide's license is issued and ending ~~with March 31 of~~ on the anniversary of the date of issuance in the following year.

(h) "Individual" means any person other than a partnership, corporation or any other organization or combination thereof.

SECTION 2. That Section 36-2103, Idaho Code, be, and the same is hereby amended to read as follows:

36-2103. EXCEPTIONS. The foregoing definitions of the terms "outfitter" and "guide" will not apply to a person who~~, for accommodation and not for compensation or gain or promise thereof,~~ furnishes, rents or leases, whether or not for compensation or gain or promise thereof, a pack or saddle horse, or other equipment, to a hunter or a fisherman ~~when such furnishing is for a temporary use~~. A person so furnishing, renting or leasing a pack or saddle horse or other equipment, shall not be considered an "outfitter" or "guide" if, on an incidental basis, they accompany a hunter, not to include extended camping, for the purpose of maintaining the safety and well-being of the livestock used to retrieve harvested big game. Additionally, the foregoing definition of "outfitter" and "guide" shall not apply to members of a nonprofit organization if the organization meets the following criteria: (i) it is exempt from the payment of federal income taxes under section 501(c)(3) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code; (ii) its purpose is to provide outdoor experiences to young persons under ~~the age of~~ twenty-one (21) years of age and to its leaders; and (iii) it provides outfitting and guiding services to its own bona fide members on a not for profit basis. If the members of the nonprofit organization provide outfitting or guiding services to persons who are not its members and leaders, the provisions of this chapter shall apply to that organization, its members and leaders.

SECTION 3. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest, shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure ~~and regulations~~ to carry into effect the provisions of this act including, but not limited to, ~~regulations~~ rules prescribing all requisite qualifications of training, experience, knowledge of rules ~~and regulations~~ of governmental bodies, condition and type of gear and equipment, examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter and make and enforce any and all reasonable rules which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality

in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it, and for that purpose the board may request a district court to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state of Idaho where such witness resides or may be found. Subpoenas shall be served and returned in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in district court criminal cases, which fees and mileage shall be paid from any funds in the state treasury available therefor in the same manner as other expenses of the board are paid. Disobedience of any subpoena issued by the district court or the refusal by any witness in failing to testify concerning any matter regarding which he may lawfully be interrogated, or the failure to produce any books, records or papers shall constitute a contempt of the district court of any county where such disobedience or refusal occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if such contempt be found, punish said witness as in any other case of disobedience of a subpoena issued from such court or refusal to testify therein.

(g) The board shall have the power to appoint an executive director to serve at the pleasure of the board. The executive director shall carry out such administrative duties as delegated to the director by the board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any action or decision of the executive director. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.

(h) The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by the Idaho peace officer standards and training advisory council, shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

(i) By August 1 of each year, the board shall provide to the director of the department of fish and game, in a manner and form prescribed by the director, the number of each species of big game taken in each management unit by clients of licensed outfitters between July 1 of the immediately preceding calendar year and June 30 of the current calendar year.

~~By January 15 of each year, each nonresident licensee, permittee or tagholder shall provide to the department of fish and game, in a manner and form provided by the director, the number of each species of big game taken by that person in each management unit in the previous calen-~~

~~dar--year.--And,--if--such--person-was-accompanied-by-or-had-in-employ-a licensed-outfitter,-the-name-and-license-number-of-such-outfitter--shall also-be-provided-on-such-form.~~

(j) The board shall by rule designate the number of deer or elk tags allocated pursuant to section 36-408(d), Idaho Code, among the authorized operating areas within the game management area, unit or zone.

SECTION 4. 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~~ the end of the outfitter's license year; ~~in which application for such license is made;~~ this does not apply to a new applicant for an outfitter's license. A seventy-five dollar ($75.00) fee shall be charged for every amendment to an outfitter's license other than an incidental amendment, and a ten dollar ($10.00) fee shall be charged for every incidental amendment to an outfitter's license and every amendment to a guide's license.

4. A one-time application fee for outfitters not to exceed four hundred dollars ($400), a one-time application fee for designated agents not to exceed fifty dollars ($50.00), and a one-time application fee for guides not to exceed ten dollars ($10.00) shall be established annually by the board and shall be used for application related expenses. The board shall establish by rule a policy to refund unused application fees.

Approved March 31, 2001.

CHAPTER 272
(H.B. No. 206, As Amended in the Senate)

AN ACT

RELATING TO ADMINISTRATION OF ELECTIONS; AMENDING SECTION 34-702A, IDAHO CODE, TO GOVERN THE METHOD OF WRITE-IN VOTES ON OPTICAL SCAN BALLOTS; AMENDING SECTION 34-904, IDAHO CODE, TO AUTHORIZE A SEPARATE BALLOT FOR THE OFFICE OF PRECINCT COMMITTEEMAN; AMENDING SECTION 34-2401, IDAHO CODE, TO FURTHER DEFINE A VOTING MACHINE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-2409, IDAHO CODE, TO PROVIDE ADDITIONAL QUALIFICATIONS FOR VOTING MACHINES AND TO MAKE TECHNICAL CORRECTIONS; AND REPEALING SECTION 34-2428, IDAHO CODE.

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

SECTION 1. That Section 34-702A, Idaho Code, be, and the same is hereby amended to read as follows:

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county office. Such declaration of intent shall be filed not later than fourteen (14) days before the day of election. The secretary of state shall prescribe the form for said declaration.

In those counties which utilize optical scan ballots an elector shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

SECTION 2. That Section 34-904, Idaho Code, be, and the same is hereby amended to read as follows:

34-904. PRIMARY ELECTION BALLOTS. There shall be a single primary election ballot on which the complete ticket of each political party shall be printed; however, a county may use a separate ballot for the office of precinct committeeman. Each political ticket shall be separated from the others by a perforated line that will enable the elector to deta~~ch the ticket o~~f the political party voted from those remaining. All candidates who have filed their declarations of candidacy and are subsequently certified shall be listed under the proper office titles on their political party ticket. The secretary of state shall design the primary election ballot to allow for write-in candidates under each office title.

The office titles shall be listed in order beginning with the highest federal office and ending with precinct offices. The secretary of state has the discretion and authority to arrange the classifications of offices as provided by law.

It is not necessary to print a primary ballot for a political party which does not have candidates for more than half of the federal or statewide offices on the ballot if no more than one (1) candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election is necessary for that party if such is the case and shall certify to the county clerk the names of candidates for that party for the general election ballot only.

SECTION 3. That Section 34-2401, Idaho Code, be, and the same is hereby amended to read as follows:

34-2401. DEFINITIONS. As used in this ~~act~~ chapter:

(1) "Ballot" means any material used on which votes are cast for offices and candidates and measures which do not appear on ballot labels or a ballot which is used to record votes which are cast for offices and candidates and measures in a voting system which does not use ballot cards.

(2) "Ballot card" means the tabulating card or cards of any size upon which the voter records his vote.

(3) "Ballot label" means the cards, papers, booklet or other mate-

rial containing the names of offices and candidates and measures to be voted on.

(4) "Election" means all state, county, city, district and other political subdivision elections including bond issue elections.

(5) "Governing body" means the board of county commissioners of any county or the governing body of any city, district or other political subdivision elections including bond issue elections.

(6) "Measure" means a proposed law, act or part of an act of the legislative assembly or amendment to the ~~Idaho C~~constitution of the state of Idaho to be submitted to the people for their approval or rejection at an election. "Measure" also means other propositions which can be submitted to the voters at any election by counties, cities, districts or other political subdivisions.

(7) "Model" means a mechanically operated model of a portion of the face of the machine illustrating the means of voting.

(8) "Precinct" includes all election districts.

(9) "Voting machine" means:

(a) Any mechanical or electronic device which will record every vote cast by any voter on candidates and measures and which will either internally or externally total all votes cast on that device;

(b) Any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot card.

(10) "Vote tally system" means one (1) or more pieces of machinery or equipment necessary to examine and tally automatically paper ballots having marks placed thereon by a written mark or by a marking stamp. The examination shall be accomplished by either mark sensing or optical scanning.

SECTION 4. That Section 34-2409, Idaho Code, be, and the same is hereby amended to read as follows:

34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOPTION. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this ~~act~~ chapter, and can safely be used by voters at elections under the provisions of this ~~act~~ chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED).

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not ~~more than~~ three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of

state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

SECTION 5. That Section 34-2428, Idaho Code, be, and the same is hereby repealed.

Approved March 31, 2001.

CHAPTER 273
(H.B. No. 309)

AN ACT

RELATING TO ABORTION; AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-601, IDAHO CODE, TO PROVIDE THAT STATE STATUTES, RULES AND CONSTITUTIONAL PROVISIONS SHALL BE INTERPRETED TO PREFER LIVE CHILDBIRTH OVER ABORTION; AMENDING SECTION 18-601, IDAHO CODE, TO REDESIGNATE THE SECTION; AND AMENDING SECTION 56-209c, IDAHO CODE, TO DELETE LANGUAGE PROVIDING THAT PUBLIC FUNDS MAY BE USED TO PAY FOR ABORTIONS IF TWO CONSULTING PHYSICIANS RECOMMEND THAT THE ABORTION IS NECESSARY TO SAVE THE HEALTH OF THE MOTHER.

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

SECTION 1. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-601, Idaho Code, and to read as follows:

18-601. INTERPRETATION OF STATE STATUTES AND THE STATE CONSTITUTION. The supreme court of the United States having held in the case of "Planned Parenthood v. Casey" that the states have a "profound interest" in preserving the life of preborn children, Idaho hereby expresses the fundamental importance of that "profound interest" and it is hereby declared to be the public policy of this state that all state statutes, rules and constitutional provisions shall be interpreted to prefer, by all legal means, live childbirth over abortion.

SECTION 2. That Section 18-601, Idaho Code, be, and the same is hereby amended to read as follows:

18-60~~1~~2. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds:

(a) That children have a special place in society that the law should reflect;

(b) That minors too often lack maturity and make choices that do not include consideration of both immediate and long-term consequences;

(c) That the medical, emotional and psychological consequences of abortion and childbirth are serious and can be lasting, particularly when the patient is immature;

(d) That the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of bearing a child or of having an abortion are not necessarily related;

(e) That parents, when aware that their daughter is pregnant or has had an abortion are in the best position to ensure that she receives adequate medical attention during her pregnancy or after her abortion;

(f) That except in rare cases, parents possess knowledge regarding their child which is essential for a physician to exercise the best medical judgment for that child;

(g) That when a minor is faced with the difficulties of an unplanned pregnancy, the best interests of the minor are always served when there is careful consideration of the rights of parents in rearing their child and the unique counsel and nurturing environment that parents can provide;

(h) That informed consent is always necessary for making mature health care decisions.

(2) It is the intent of the legislature in enacting section 18-609A, Idaho Code, to further the following important and compelling state interests recognized by the United States supreme court in:

(a) Protecting minors against their own immaturity;

(b) Preserving the integrity of the family unit;

(c) Defending the authority of parents to direct the rearing of children who are members of their household;

(d) Providing a pregnant minor with the advice and support of a parent during a decisional period;

(e) Providing for proper medical treatment and aftercare when the life or physical health of the pregnant minor is at serious risk in the rare instance of a sudden and unexpected medical emergency.

SECTION 3. That Section 56-209c, Idaho Code, be, and the same is hereby amended to read as follows:

56-209c. DENIAL OF PAYMENT FOR ABORTIONS UNDER CERTAIN CONDITIONS. No funds available to the department of health and welfare, by appropriation or otherwise, shall be used to pay for abortions, unless it is the recommendation of two (2) consulting physicians that an abortion is necessary to save the life ~~or health~~ of the mother, or unless the pregnancy is a result of rape or incest as determined by the courts.

Approved March 31, 2001.

CHAPTER 274
(H.B. No. 334)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2002; 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 Finance the following amount, to be expended according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$2,579,200
Operating Expenditures	662,700
Capital Outlay	122,000
TOTAL	$3,363,900
FROM:	
State Regulatory Fund	$3,363,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than forty-three (43) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 275
(H.B. No. 335)

AN ACT
APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF FINANCIAL MANAGEMENT:					
FROM:					
General Fund	$1,969,500	$300,700	$24,600		$2,294,800
Miscellaneous Revenue Fund	23,300	7,500			30,800
TOTAL	$1,992,800	$308,200	$24,600		$2,325,600
II. SILVER VALLEY TRUST FUND:					
FROM:					
Silver Valley Trust Fund	$ 63,600	$350,000		$350,000	$ 763,600
GRAND TOTAL	$2,056,400	$658,200	$24,600	$350,000	$3,089,200

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, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 276
(H.B. No. 337)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office of Species Conservation the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$419,400	$111,100		$ 530,500
Federal Grant Fund		300,000	$1,888,000	2,188,000
TOTAL	$419,400	$411,100	$1,888,000	$2,718,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 277
(H.B. No. 340)

AN ACT

RELATING TO ABORTIONS; AMENDING SECTION 18-605, IDAHO CODE, TO REVISE PENALTIES RELATING TO UNLAWFUL ABORTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-609A, IDAHO CODE, TO PROVIDE THAT A PETITION MAY BE FILED IN THE COUNTY WHERE THE MINOR RESIDES OR THE COUNTY WHERE THE ABORTION IS CAUSED OR PERFORMED, TO PROVIDE FOR INITIATION OF AN INVESTIGATION OR FILING OF AN INFORMATION, COMPLAINT OR PETITION AGAINST A PERSON OTHER THAN THE PETITIONER BASED UPON CERTAIN ALLEGATIONS OF WHICH THE COURT IS MADE AWARE DURING A PETITION HEARING AND TO PROVIDE THAT IF A MINOR WOULD HAVE BEEN PRIVILEGED TO WITHHOLD INFORMATION OR EVIDENCE THAT WAS REQUIRED AS PROOF UNDER SECTION 18-609A, IDAHO CODE, THEN HER ANSWERS GIVEN, EVIDENCE PRODUCED AND INFORMATION DIRECTLY OR INDIRECTLY DERIVED FROM HER ANSWERS MAY NOT BE USED AGAINST HER IN A CRIMINAL CASE EXCEPT THAT SHE MAY BE PROSECUTED OR SUBJECTED TO PENALTY OR FORFEITURE FOR ANY PERJURY, FALSE SWEARING OR CONTEMPT COMMITTED IN ANSWERING, FAILING TO ANSWER OR PRODUCING OR FAILING TO PRODUCE EVIDENCE AS REQUIRED BY THE COURT; REPEALING SECTION 18-614, IDAHO CODE; AND AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-614, IDAHO CODE, TO PROVIDE FOR DEFENSES TO PROSECUTION.

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

SECTION 1. That Section 18-605, Idaho Code, be, and the same is hereby amended to read as follows:

18-605. UNLAWFUL ABORTIONS -- PROCUREMENT OF -- PENALTY. (1) Every person not licensed or certified to provide health care in Idaho who, except as permitted by this ~~act~~ chapter, provides, supplies or administers any medicine, drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent thereby to ~~produce~~ cause or perform an abortion shall be guilty of a felony and shall be fined not to exceed five thousand dollars ($5,000) and/or imprisoned in ~~the~~ state prison for not less than two (2) and not more than five (5) years.

(2) Any person licensed or certified to provide health care pursuant to title 54, Idaho Code, and who, except as permitted by the provisions of this chapter, provides, supplies or administers any medicine,

drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent to cause or perform an abortion shall:

(a) For the first violation, be subject to professional discipline and be assessed a civil penalty of not less than one thousand dollars ($1,000), payable to the board granting such person's license or certification;

(b) For the second violation, have their license or certification to practice suspended for a period of not less than six (6) months and be assessed a civil penalty of not less than two thousand five hundred dollars ($2,500), payable to the board granting such person's license or certification; and

(c) For each subsequent violation, have their license or certification to practice revoked and be assessed a civil penalty of not less than five thousand dollars ($5,000), payable to the board granting such person's license or certification.

(3) Any person who is licensed or certified to provide health care pursuant to title 54, Idaho Code, and who knowingly violates the provisions of this chapter is guilty of a felony punishable as set forth in subsection (1) of this section, separate from and in addition to the administrative penalties set forth in subsection (2) of this section.

SECTION 2. That Section 18-609A, Idaho Code, be, and the same is hereby amended to read as follows:

18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS.

(1) (a) No person shall knowingly cause or perform an abortion upon a minor unless:

(i) The attending physician has secured the written informed consent of the minor and the written informed consent of the minor's parent; or

(ii) The minor is emancipated and the attending physician has received written proof of emancipation and the minor's written informed consent; or

(iii) The minor has been granted the right of self-consent to the abortion by court order pursuant to paragraph (b) of this subsection and the attending physician has received the minor's written informed consent; or

(iv) A court has found that the causing or performing of the abortion, despite the absence of informed consent of a parent, is in the best interests of the minor and the court has issued an order, pursuant to paragraph (b)(iv)2. of this subsection, granting permission for the causing or performing of the abortion, and the minor is having the abortion willingly, pursuant to paragraph (f) of this subsection; or

(v) A medical emergency exists for the minor so urgent that there is insufficient time for the physician to obtain the informed consent of a parent or a court order and the attending physician certifies such in the pregnant minor's medical records. In so certifying, the attending physician must include the factual circumstances supporting his professional judgment that a medical emergency existed and the grounds for the determination that there was insufficient time to obtain the informed consent of a parent or a court order. Immediately

after an abortion pursuant to this paragraph, the physician shall, with due diligence, attempt to provide a parent of an unemancipated minor actual notification of the medical emergency. If the parent cannot be immediately contacted for such actual notification, the physician shall, with due diligence, attempt to provide actual notification to a parent for an eight (8) hour period following the causing or performing of the abortion and shall, until a parent receives such notification, ensure that the minor's postabortion medical needs are met. Notwithstanding the above, a physician shall, within twenty-four (24) hours of causing or performing an abortion pursuant to this paragraph, provide actual notification of the medical emergency by:

1. Conferring with a parent or agent designated by the parent, and providing any additional information needed for the minor's proper care, and, as soon as practicable thereafter, securing the parent's written acknowledgement of receipt of such notification and information; or

2. Providing such actual notification in written form, addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent with written acknowledgement of such receipt by the parent returned to the physician; or

3. Providing such actual notification in written form and mailing it by certified mail, addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee so that a postal employee can only deliver the notice to the authorized addressee.

For the purposes of this section, "actual notification" includes, but is not limited to, a statement that an abortion was caused or performed, a description of the factual circumstances supporting the physician's judgment that the medical emergency existed and a statement of the grounds for the determination that there was insufficient time to obtain the informed consent of a parent or a court order.

If the physician causing or performing such abortion reasonably believes that the minor is homeless or abandoned so that the parents cannot be readily found or that the minor has suffered abuse or neglect such that the minor's physical safety would be jeopardized if a parent were notified that the abortion was caused or performed, the physician shall, in lieu of notifying a parent as required above, make a report to a law enforcement agency pursuant to section 16-1619, Idaho Code, and a petition shall be filed pursuant to section 16-1605, Idaho Code, which petition shall include a reference to this code section. Upon adjudication that the minor comes within the purview of chapter 16, title 16, Idaho Code, either on the basis of homelessness or abandonment such that no parent can be found, or on the basis of abuse or neglect such that the minor's physical safety would be in jeopardy if a parent were notified that the abortion was performed, the court shall, as a part of the decree, also order that the physician's duty to so notify a parent is relieved. In any other event, unless the

court enters a finding that the best interests of the child require withholding notice to a parent, the court shall order that a parent receive actual notification of the medical emergency and the causing or performing of the abortion.

(b) A proceeding for the right of a minor to self-consent to an abortion pursuant to paragraph (a)(iii) of this subsection or for a court order pursuant to paragraph (a)(iv) of this subsection, may be adjudicated by a court as follows:

(i) The petition shall be filed in the ~~judicial district~~ county where the minor resides or the county where the abortion is caused or performed. A minor shall have the legal capacity to make and prosecute a petition and appeal as set out herein. A guardian ad litem may assist the minor in preparing her petition and other documents filed pursuant to this section and may seek appointment as set forth below. A guardian ad litem, whether prospective or appointed, must be an attorney properly licensed in this state. The court shall ensure that the minor is given assistance in filing the petition if the minor so desires a guardian ad litem but no qualified guardian ad litem is available.

(ii) The petition shall set forth:

1. The initials of the minor;
2. The age of the minor;
3. The name and address of each parent, guardian, or, if the minor's parents are deceased or the minor is abandoned and no guardian has been appointed, the name and address of any other person standing in loco parentis of the minor;
4. That the minor has been fully informed of the risks and consequences of the abortion procedure to be performed;
5. A claim that the minor is mature, of sound mind and has sufficient intellectual capacity to consent to the abortion for herself;
6. A claim that, if the court does not grant the minor the right to self-consent to the abortion, the court should find that causing or performing the abortion, despite the absence of the consent of a parent, is in the best interest of the minor and give judicial consent to the abortion; and
7. If so desired by the minor, a request that the court appoint a guardian ad litem, or, alternatively, if no guardian ad litem is requested, that the court should consider whether appointment of a guardian ad litem for the minor is appropriate.

The petition shall be signed by the minor and, if she has received assistance from a prospective guardian ad litem in preparing the petition, by the guardian ad litem.

(iii) A hearing on the merits of the petition shall be held as soon as practicable but in no event later than five (5) days from the filing of the petition. The petition shall be heard by a district judge on the record in a closed session of the court. The court shall appoint a qualified guardian ad litem for the minor if one is requested in the petition. If no quali-

fied guardian ad litem is available, the court may appoint some other person to act in the capacity of a guardian ad litem, who shall act to fulfill the purposes of this section and protect the confidentiality and other rights of the minor.

At the hearing, the court shall, after establishing the identity of the minor, hear evidence relating to the emotional development, maturity, intellect and understanding of the minor; the nature of the abortion procedure to be performed and the reasonably foreseeable complications and risks to the minor from such procedure, including those related to future childbearing; the available alternatives to the abortion; the relationship between the minor and her parents; and any other evidence that the court may find relevant in determining whether the minor should be granted the right to self-consent to the abortion or whether the court's consent to causing or performing of the abortion, despite the absence of consent of a parent, is in the best interests of the minor.

(iv) The order shall be entered as soon as practicable, but in no event later than five (5) days after the conclusion of the hearing. If, by clear and convincing evidence, the court finds the allegations of the petition to be true and sufficient to establish good cause, the court shall:

1. Find the minor sufficiently mature to decide whether to have the abortion and grant the petition and give the minor the right of self-consent to the abortion, setting forth the grounds for so finding; or

2. Find the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor and give judicial consent to the abortion, setting forth the grounds for so finding.

If the court does not find the allegations of the petition to be true or if good cause does not appear from the evidence heard, the court shall deny the petition, setting forth the grounds on which the petition is denied.

If, in hearing the petition, the court becomes aware of allegations which, if true, would constitute a violation of any section of title 18, Idaho Code, by a person other than the petitioner, or would bring a child within the purview of chapter 16, title 16, Idaho Code, the court shall order, upon entry of final judgment in the proceeding under this subsection, that an appropriate investigation be initiated or an appropriate information, complaint or petition be filed. Such allegations shall be forwarded by the court with due consideration for the confidentiality of the proceedings under this section. If, but for the requirements for proof as set forth in this section, the minor would have been privileged to withhold information given or evidence produced by her, the answers given or evidence produced and any information directly or indirectly derived from her answers may not be used against the minor in any manner in a criminal case, except that she may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering or failing to answer, or in producing or failing to produce, evidence as required by the court.

(c) A notice of appeal from an order issued under the provisions of this subsection shall be filed within two (2) days from the date of issuance of the order. The record on appeal shall be completed and the appeal shall be perfected as soon as practicable, but in no event later than five (5) days from the filing of notice of appeal. Because time may be of the essence regarding the performance of the abortion, appeals pursuant to this subsection shall receive expedited appellate review.

(d) Except for the time for filing a notice of appeal, a court may enlarge the times set forth pursuant to this subsection upon request of the minor or upon other good cause appearing, with due consideration for the expedited nature of these proceedings.

(e) No filing, appeal or other fees shall be charged for cases or appeals brought pursuant to this section.

(f) If a minor desires an abortion, then she shall be orally informed of, and, if possible, sign the written consent required by this act, in the same manner as an adult person. No abortion shall be caused or performed on any minor against her will, except that an abortion may be performed against the will of a minor pursuant to court order if the abortion is necessary to preserve the life of the minor.

(g) All records contained in court files of judicial proceedings arising under the provisions of this subsection, and subsection (3) of this section, shall be confidential and exempt from disclosure pursuant to section 9-340G, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names of the parties to actions brought pursuant to this section will not be disclosed to the public.

(2) The administrative director of the courts shall compile statistics for each county for each calendar year, accessible to the public, including:

(a) The total number of petitions filed pursuant to paragraph (b) of subsection (1) of this section; and

(b) The number of such petitions filed where a guardian ad litem was requested and the number where a guardian ad litem or other person acting in such capacity was appointed; and

(c) The number of such petitions for which the right to self-consent was granted; and

(d) The number of such petitions for which the court granted its informed consent; and

(e) The number of such petitions which were denied; and

(f) For categories described in paragraphs (c), (d) and (e) of this subsection, the number of appeals taken from the court's order in each category; and

(g) For each of the categories set out in paragraph (f) of this subsection, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed.

(3) In addition to any other cause of action arising from statute or otherwise, any person injured by the causing or performing of an abortion on a minor in violation of any of the requirements of paragraph (a) of subsection (1) of this section, shall have a private right of action to recover all damages sustained as a result of such violation, including reasonable attorney's fees if judgment is rendered in favor of

the plaintiff.

(4) Statistical records.

(a) The vital statistics unit of the department of health and welfare shall, in addition to other information required pursuant to section 39-261, Idaho Code, require the complete and accurate reporting of information relevant to each abortion performed upon a minor which shall include, at a minimum, the following:

(i) Whether the abortion was performed following the physician's receipt of:

1. The written informed consent of a parent and the minor; or

2. The written informed consent of an emancipated minor for herself; or

3. The written informed consent of a minor for herself pursuant to a court order granting the minor the right to self-consent; or

4. The written informed consent of a court pursuant to an order which includes a finding that the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor; or

5. The professional judgment of the attending physician that the performance of the abortion was immediately necessary due to a medical emergency and there was insufficient time to obtain consent from a parent or a court order.

(ii) If the abortion was performed due to a medical emergency and without consent from a parent or court order, the diagnosis upon which the attending physician determined that the abortion was immediately necessary due to a medical emergency.

(b) The knowing failure of the attending physician to perform any one (1) or more of the acts required under this subsection is grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject the physician to assessment of a civil penalty of one hundred dollars ($100) for each month or portion thereof that each such failure continues, payable to the center for vital statistics and health policy, but such failure shall not constitute a criminal act.

(5) As used in this section:

(a) "Cause or perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage upon a minor known to be pregnant.

(b) "Emancipated" means any minor who has been married or is in active military service.

(c) (i) "Medical emergency" means a sudden and unexpected physical condition which, in the reasonable medical judgment of any ordinarily prudent physician acting under the circumstances and conditions then existing, is abnormal and so complicates the medical condition of the pregnant minor as to necessitate the immediate causing or performing of an abortion:

1. To prevent her death; or

2. Because a delay in causing or performing an abortion will create serious risk of immediate, substantial and irreversible impairment of a major physical bodily function of the patient.

(ii) The term "medical emergency" does not include:

1. Any physical condition that would be expected to occur in normal pregnancies of women of similar age, physical condition and gestation; or

2. Any condition that is predominantly psychological or psychiatric in nature.

(d) "Minor" means a woman less than eighteen (18) years of age.

(e) "Parent" means one (1) parent of the unemancipated minor, or a guardian appointed pursuant to chapter 5, title 15, Idaho Code, if the minor has one.

SECTION 3. That Section 18-614, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-614, Idaho Code, and to read as follows:

18-614. DEFENSES TO PROSECUTION. (1) No physician shall be subject to criminal or administrative liability for causing or performing an abortion upon a minor in violation of any provision of subsection (1) of section 18-609A, Idaho Code, if prior to causing or performing the abortion the physician obtains either positive identification or other documentary evidence from which a reasonable person would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the evidence, a legible photocopy of such evidence in the physician's office file for the woman. This defense is an affirmative defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.

(2) If, due to a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, there was insufficient time for the physician to confirm that the woman, due to her age, did not then come within the provisions of subsection (1) of section 18-609A, Idaho Code, the physician shall not be subject to criminal or administrative liability for performing the abortion in violation of subsection (1)(a)(v) of section 18-609A, Idaho Code, if, as soon as possible but in no event longer than twenty-four (24) hours after performing the abortion, the physician obtained positive identification or other documentary evidence from which a reasonable person would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the evidence, a legible photocopy of such evidence in the physician's office file for the woman. This defense is an affirmative defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.

(3) If after performing an abortion under circumstances of a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, the physician, after reasonable inquiry, is unable to determine whether or not the woman is a minor, the physician shall not be subject to criminal, civil or administrative liability for taking any action that would have been required by subsection (1)(a)(v) of section 18-609A, Idaho Code, if the woman had been a minor at the time the abortion was caused or performed.

(4) For purposes of this section, "positive identification" means a lawfully issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military card, bearing the person's photograph and date of birth, the person's valid passport or a certified copy of the person's birth certificate.

Approved March 31, 2001.

CHAPTER 278
(H.B. No. 341)

AN ACT
APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2002; 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 Public Utilities Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission Fund	$3,025,500	$1,222,200	$115,000	$4,362,700
Federal Grant Fund	31,200	17,200	9,400	57,800
TOTAL	$3,056,700	$1,239,400	$124,400	$4,420,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 31, 2001.

CHAPTER 279
(H.B. No. 356, As Amended in the Senate)

AN ACT
RELATING TO SALARIES OF MEMBERS OF THE IDAHO STATE TAX COMMISSION; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE A SALARY INCREASE FOR TAX COMMISSIONERS.

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

SECTION 1. 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. Commencing on July 1, ~~1999~~2001, 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%)~~ seventy thousand three hundred two dollars ($70,302).

(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.

Approved March 31, 2001.

CHAPTER 280
(H.B. No. 374)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2002; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2002; AND APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2002.

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, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$12,600
FROM:	
Public Utilities Commission Fund	$12,600

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, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$14,500
FROM:	
General Fund	$13,100
Administration Services for Transportation Fund	1,400
TOTAL	$14,500

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, 2001, through June 30, 2002:

FOR:	
Personnel Costs	$12,300
FROM:	
Industrial Administration Fund	$12,300

Approved March 31, 2001.

CHAPTER 281
(S.B. No. 1075)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420A, IDAHO CODE, TO ESTABLISH AN IDAHO STATE CAPITOL COMMISSION LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds 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 operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall 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 subsections (2) and (3) of section 49-426, Idaho Code.

(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.

(5) Registration fees shall not be subject to refund.

(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.

(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, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-420, 49-420A and 49-420B, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-~~five~~ dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-420A, Idaho Code, ~~and to read~~ as follows:

49-420A. IDAHO STATE CAPITOL COMMISSION PLATES. (1) On and after January 1, 2002, and through December 31, 2006, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state capitol commission plates in lieu of regular license plates. On and after January 1, 2007, the department shall not issue new plates pursuant to this section nor shall it renew any plates previously issued under this section, the provisions of section 49-443, Idaho Code, relating to time period for validity of plates, notwithstanding.

(2) The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho state capitol commission plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho capitol endowment income fund established in section 67-1611, Idaho Code, and shall be used exclusively for the purposes of chapter 16, title 67, Idaho Code.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) Notwithstanding the provisions of section 49-402C, Idaho Code, the Idaho state capitol commission license plate shall be of a color and

design acceptable to the Idaho state capitol commission, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans. The design shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho state capitol commission.

(6) Sample Idaho state capitol commission license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be deposited in the Idaho capitol endowment income fund. No additional fee shall be charged for personalizing sample plates.

SECTION 3. This act shall be in full force and effect on and after January 1, 2002.

Approved April 2, 2001.

CHAPTER 282
(H.B. No. 342)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2002.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

IDAHO STATE CAPITOL COMMISSION:

FOR:	
Personnel Costs	$ 29,500
Operating Expenditures	205,300
TOTAL	$234,800
FROM:	
Capitol Endowment Income Fund	$234,800

Approved April 2, 2001.

CHAPTER 283
(H.B. No. 344)

AN ACT

DIRECTING THE STATE CONTROLLER TO TRANSFER GENERAL FUNDS TO THE CAPITOL ENDOWMENT INCOME FUND; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION; DIRECTING THE IDAHO STATE CAPITOL COMMISSION TO REPORT PROGRESS OF THE CAPITOL RESTORATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller is directed to transfer $32,000,000 from the General Fund to the Capitol Endowment Income Fund upon the effective date of this act.

SECTION 2. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amount to be expended for the Capitol restoration from the listed fund for the period July 1, 2000, through June 30, 2005:

FROM:

Capitol Endowment Income Fund	$32,000,000

SECTION 3. The Idaho State Capitol Commission shall report to the Joint Finance-Appropriations Committee each legislative session regarding the progress of the Capitol restoration.

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 passage and approval.

Approved April 2, 2001.

CHAPTER 284
(S.B. No. 1014, As Amended)

AN ACT

RELATING TO CRIMINAL HISTORY CHECKS; AMENDING SECTION 23-907, IDAHO CODE, TO PROVIDE THAT INVESTIGATIONS RELATING TO APPLICATIONS FOR RETAIL LIQUOR LICENSES SHALL INCLUDE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS, TO PROVIDE FOR THE SUBMISSION OF FINGERPRINTS AND FEES FOR SUCH INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1003, IDAHO CODE, TO PROVIDE THAT INVESTIGATIONS RELATING TO APPLICATIONS FOR BREWERS', DEALERS' AND WHOLESALERS' LICENSES SHALL INCLUDE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS, TO PROVIDE FOR THE SUBMISSION OF FINGERPRINTS AND FEES FOR SUCH INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1010, IDAHO CODE, TO PROVIDE THAT INVESTIGATIONS RELATING TO APPLICATIONS FOR LICENSES TO SELL BEER AT RETAIL SHALL INCLUDE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS, TO PROVIDE FOR THE SUBMISSION OF FINGERPRINTS AND FEES FOR SUCH INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1307, IDAHO CODE, TO PROVIDE THAT INVESTIGATIONS RELATING TO APPLICATIONS FOR RETAIL WINE LICENSES, WINE BY THE DRINK LICENSES AND WINE DISTRIBUTOR'S LICENSES SHALL INCLUDE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS, TO PROVIDE FOR THE SUBMISSION OF FINGERPRINTS AND FEES FOR SUCH INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1308A, IDAHO CODE, TO PROVIDE THAT INVESTIGATIONS RELATING TO APPLICATIONS FOR WINERY LICENSES SHALL INCLUDE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS, TO PROVIDE FOR THE SUBMISSION OF FINGERPRINTS AND FEES FOR SUCH INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-907, Idaho Code, be, and the same is hereby amended to read as follows:

23-907. INVESTIGATION OF APPLICATIONS. Upon receipt of an application for a license under this act, accompanied by the necessary license fee, the director, within ninety (90) days thereafter, shall cause to be made a thorough investigation of all matters pertaining thereto. The investigation shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application. If ~~he~~ the director shall determine that the contents of the application are true, that such applicant is qualifi~~ed~~ to receive a license, that his prem~~ises~~ are suitable for the carrying on of the business, and that the requirements of this act and the rules ~~and regulations~~ promulgated by the director are met and complied with, he shall issue such license; otherwise the application shall be denied and the license fee, less the costs and expenses of investigation, returned to the applicant.

In making the investigation required by this section the director shall have the power to investigate and examine the books and records of the licensee and any person having a financial interest in any business to be conducted on the licensed premises, including, but not limited to, their bank accounts, returns filed under the Idaho Property Relief Act, 1931, as amended, and any other sources of information deemed desirable by the director and not specifically prohibited by law.

SECTION 2. That Section 23-1003, Idaho Code, be, and the same is hereby amended to read as follows:

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture, or any dealer or wholesaler import or sell, beer within the state of Idaho he shall apply to the director for a license so to do. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all the qualifications and none of the disqualifications of a licensee. To determine qualification for a license, the director shall cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application. The application shall also be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications he shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification applied for requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this

act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. Said territory will be the territory agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing contained herein shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by such wholesaler on the notice provided for in ~~subparagraph~~ subsection (b) ~~hereof~~ of this section, the dealer or wholesaler who has designated the geographical territory in which the sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of his designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the provisions of chapter 4, title 8, Idaho Code, and the Idaho Rules of Civil Procedure. Upon proof to the court that a wholesaler has made a sale of beer outside his designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside his designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of his brewery at his licensed premises or one (1) remote retail location, or both. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(e) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, may be issued a brewer's pub license. Upon payment of a retailer's annual license fee, and subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer may, at his licensed brewery, at one (1) remote retail location, or both, sell at retail the products of any brewery by the individual bottle, can or glass. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, on the products of his brewery, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(f) A brewer licensed under the provisions of subsections (d) or (e) of this section may be licensed as a wholesaler for the sale of beer to retailers other than at the licensed brewery and one (1) remote retail location and shall not be required to pay an additional fee therefor. Such brewer shall, however, comply with and be subject to all other regulations or provisions of law which apply to a wholesaler's license, save and except as such laws may restrict such sales at the licensed brewery or one (1) other remote retail location. The holder of a brew pub license shall not be disqualified from holding a retail wine license or wine by the drink license for the sale of wine at the brew

pub premises on the grounds that said licensee is also licensed as a wholesaler.

SECTION 3. That Section 23-1010, Idaho Code, be, and the same is hereby amended to read as follows:

23-1010. LICENSE TO SELL BEER AT RETAIL -- APPLICATION PROCEDURE AND FORM -- SHOWING OF ELIGIBILITY FOR LICENSE AND DISQUALIFICATIONS. (1) Every person who shall apply for a state license to sell beer at retail shall tender the license fee to, and file written application for license with, the director. The application shall be on a form prescribed by the director which shall require such information concerning the applicant, the premises for which license is sought and the business to be conducted thereon by the applicant as the director may deem necessary or advisable, and which shall enable the director to determine that the applicant is eligible and has none of the disqualifications for license, as provided for in this section. Such information shall include the following:

(a) The name and place of residence of the applicant and length of his residence within the state of Idaho, and if the applicant is a partnership, the names, places of residence and lengths of residence within the state of Idaho of each partner, and, if the applicant is a corporation or association, the date and place of incorporation or organization, the location of its principal place of business in Idaho and the names and places of residence of its officers, directors or members of its governing board, and of the person who manages or will manage the business of selling beer at retail;

(b) The particular place for which the license is desired, designating the same by a street and number, if practicable, or by such other apt description as definitely locates such place, and the name of the owner of the premises for which license is sought;

(2) The application shall affirmatively show:

(a) That the applicant is the bona fide owner of the business which will be engaged in the sale of beer at retail and with respect to which license is sought;

(b) That the condition of the place or building wherein it is proposed to sell beer at retail conforms to all laws and ~~regulations~~ rules of the state of Idaho and to the ordinances of the county and municipality applicable thereto relating to public health and safety and to the zoning ordinances of the municipality applicable thereto;

(c) That there is no stamp or permit outstanding and in force which has been issued to any person by the United States government for the premises for which license to sell beer at retail is sought which stamp or permit denotes payment of any special tax imposed by the United States government on a retail dealer in liquor or wines, unless said premises are premises for which a retail license for sale of liquor ~~by-the-drink~~ by the drink, issued under the provisions of chapter 9, title 23, Idaho Code, is in force and effect;

(d) That the individual applicant, or each partner of a partnership applicant, or a corporation applicant or an association applicant is qualified to do business within the state of Idaho;

(e) That the applicant, if an individual, is not less than nineteen (19) years of age;

(f) That within three (3) years immediately preceding the date of

filing the application the applicant has not been convicted of the violation of any law of the state of Idaho, any other state, or of the United States, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquors, or, within said time, suffered the forfeiture of a bond for failure to appear in answer to charges of any such violation;

(g) That within five (5) years immediately preceding the date of filing the application the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;

(h) That within three (3) years next preceding the date of filing said application the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law of this state, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked.

(3) To determine qualification for a license, the director shall also cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

(4) The affirmative showing required with respect to an applicant under paragraphs (e), (f), (g)~~,~~ and (h) of subsection (2) of this section shall also be required to be made with respect to each partner of a part~~nership ap~~plicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant.

(~~4~~5) The application must be subscribed and sworn to by the individual applicant, or by a partner of a partnership applicant, or by an officer or manager of a corporation or association applicant, before a notary public or other person authorized by law to administer oaths.

(~~5~~6) If an applicant shall be unable to make any affirmative showing required in this section or if an application shall contain a false material statement, knowingly made, the same shall constitute a disqualification for license and license shall be refused. If license is received on any application containing a false material statement, knowingly made, such license shall be revoked. If at any time during the period for which license is issued a licensee becomes unable to make the affirmative showings required by this section, license shall be revoked, or, if disqualification can be removed, the license shall be suspended until the same shall be removed. The procedure to be followed upon refusal, revocation or suspension of license as herein provided for shall be in accordance with the procedure set forth in this act.

(~~6~~7) All licenses issued hereunder shall expire at 1:00 o'clock A.M. on January 1 of the following year and shall be subject to renewal upon proper application.

SECTION 4. That Section 23-1307, Idaho Code, be, and the same is hereby amended to read as follows:

23-1307. QUALIFICATIONS FOR RETAIL WINE LICENSE, WINE BY THE DRINK LICENSE, AND DISTRIBUTOR'S LICENSE. (1) No retail wine license, wine by

the drink license, or wine distributor's license shall be issued to an applicant who at the time of making the application:

(~~1~~a) If a corporation, has not qualified as required by law to do business in the state of Idaho;

(~~2~~b) Has had a wine distributor's license, retail wine license, wine by the drink license, or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(~~3~~c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(~~4~~d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application;

(~~5~~e) If an individual or partnership, either the individual or at least one (1) of the partners of a partnership is not nineteen (19) years of age or older;

(~~6~~f) If the application is for a retail wine license or wine by the drink license, the director finds that the applicant does not possess a retail beer license issued by the director, except that licensed wineries which do not sell wine by the drink shall not be required to possess a retail beer license as a prerequisite to a retail wine license.

(2) To determine qualification for a license, the director shall also cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

SECTION 5. That Section 23-1308A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1308A. QUALIFICATIONS FOR WINERY LICENSE. (1) No winery license shall be issued to an applicant who at the time of making the application:

(a) Has not executed an agreement in writing with the director that such winery and every person employed by it or acting as its agents other than distributors and retailers, will faithfully comply with and observe all the provisions of the laws of the state of Idaho relating to the manufacturing, sale and distribution of wine and all rules ~~and regulations~~ adopted by the director pursuant to this act;

(b) Has had a winery license, a wine distributor's license, retail wine license, wine ~~by the drink~~ by the drink license or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5)

years from the date of making such application.

(2) To determine qualification for a license, the director shall cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

Approved April 2, 2001.

CHAPTER 285
(S.B. No. 1032)

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING SECTION 41-1836, IDAHO CODE, TO INCREASE THE MAXIMUM TOTAL EXEMPTION OF BENEFITS DUE AND PAYABLE UNDER ANNUITY CONTRACTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1836, Idaho Code, be, and the same is hereby amended to read as follows:

41-1836. EXEMPTION OF PROCEEDS -- ANNUITY CONTRACTS -- ASSIGNABILITY OF RIGHTS. (1) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payments sought to be avoided on the ground of fraud.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed ~~three~~ one thousand two hundred and fifty dollars ($~~3~~51,250) per month for the length of time represented by such ~~instalments~~ installments, and that such periodic payments in excess of ~~three~~ one thousand two hundred and fifty dollars ($~~3~~51,250) per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of ~~three~~ one thousand

two hundred and fifty dollars ($~~351~~,250) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in ~~instalments~~ installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

(3) An annuity contract within the meaning of this section shall be any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not such sums are payable to one (1) or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated time during life or lives, or for a specified term or terms.

Approved April 2, 2001.

CHAPTER 286
(S.B. No. 1043, As Amended)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION AND NOTIFICATION ACT; AMENDING SECTION 18-8319, IDAHO CODE, TO PROVIDE THAT NOTIFICATION OF THE SEXUAL OFFENDER CLASSIFICATION BOARD'S DESIGNATION OF AN OFFENDER AS A VIOLENT SEXUAL PREDATOR WILL BE SERVED UPON THE OFFENDER WITHIN TEN WORKING DAYS OF THE DESIGNATION AND UPON THE SHERIFF IN ACCORDANCE WITH THE OFFENDER'S STATUS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 18-8319, Idaho Code, be, and the same is hereby amended to read as follows:

18-8319. NOTICE OF THE BOARD'S DETERMINATION. (1) Subject to the exception identified in section 18-8320, Idaho Code, the offender and the sheriff of the county in which the offender resides or intends to reside upon release shall be notified by the board that an offender has been designated as a violent sexual predator. This notice shall be in the form of the board's written findings.

(2) The board shall serve a copy of its written findings to the offender ~~at the same time the board serves the copy to the sheriff~~ within ten (10) working days of the date that designation has been made. Service of the written findings will be made upon the sheriff in accordance with the offender's status.

(a) Notice shall be served upon the sheriff of the county in which the offender resides within ten (10) working days of the date that designation has been made, if the offender is not incarcerated.

(b) If the offender is awaiting release from incarceration, notice shall be made upon the sheriff of the county in which the offender intends to reside no less than seven (7) days prior to the offender's release.

(c) In the event the offender has not specified a residence plan prior to his release, notice shall be made upon the sheriff of the county in which the offender is released from incarceration, and upon the sheriff of the county in which the offender initially resides and registers after release.

(3) The board's notice to the offender shall also inform the offender:

(a) That the offender may challenge the designation as a violent sexual predator by judicial review;

(b) That unless application is made to the court of the county in which the offender resides or intends to reside on or before the date set forth in the notice, which shall be no more than fourteen (14) calendar days after the notice is given, the offender shall be deemed to have waived the right to challenge the designation;

(c) That the offender has the right to retain counsel and that counsel will be provided by the court if the offender cannot afford counsel; and

(d) How such application should be made if counsel is not retained. If counsel is not retained, a simple letter delivered to the courthouse in the county of the offender's residence, which encloses a copy of the board's written findings and indicates the offender's objection or disagreement with it, shall suffice.

(4) Upon determining that the offender has not received the board's notice pursuant to this section, the board shall notify the sheriff of the county in which the offender resides. This notice shall be in writing and shall be delivered in a manner which will ensure receipt by the sheriff. Upon request of the board, the sheriff may personally serve the offender with the board's notice, or the sheriff may verify the offender's address and advise the board in order that notice may once again be served. If, after the second attempt to serve the offender, the board or sheriff determines that the offender has evaded service or attempted to evade service, the matter shall be referred for prosecution pursuant to section 18-8311(3), Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001.

Approved April 2, 2001.

CHAPTER 287
(S.B. No. 1053)

AN ACT
RELATING TO REIMBURSEMENT OF ATTORNEY'S FEES BY CERTAIN NEEDY PERSONS; AMENDING SECTION 19-854, IDAHO CODE, TO PROVIDE FOR REIMBURSEMENT TO THE COUNTY BY CERTAIN NEEDY PERSONS WHO HAVE RECEIVED SERVICES OF AN ATTORNEY PROVIDED AT PUBLIC EXPENSE, TO PROVIDE THAT THE IMMEDIATE INABILITY OF THE NEEDY PERSON TO PAY THE REIMBURSEMENT SHALL NOT ALONE RESTRICT THE COURT FROM ORDERING REIMBURSEMENT AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-854, Idaho Code, be, and the same is hereby amended to read as follows:

19-854. DETERMINATION OF NEED -- FACTORS CONSIDERED -- PARTIAL PAYMENT BY ACCUSED -- REIMBURSEMENT. (a) The determination of whether a person covered by section 19-852, Idaho Code, is a needy person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under section 19-858, Idaho Code, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is a needy person.

(b) In determining whether a person is a needy person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail does not necessarily prevent him from being a needy person. In each case, the person shall, subject to the penalties for perjury, certify in writing or by other record such material factors relating to his ability to pay as the court prescribes.

(c) To the extent that a person covered by section 19-852, Idaho Code, is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court may order him to provide for their payment.

(d) A needy person who receives the services of an attorney provided by the county may be required by the court to reimburse the county for all or a portion of the cost of those services. The immediate inability of the needy person to pay the reimbursement shall not, in and of itself, restrict the court from ordering reimbursement.

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 2, 2001.

CHAPTER 288
(S.B. No. 1118)

AN ACT

RELATING TO RETIREMENT BENEFITS; AMENDING SECTION 11-604A, IDAHO CODE, TO FURTHER DEFINE "EMPLOYEE BENEFIT PLAN" AND TO FURTHER GOVERN COMMUNITY PROPERTY INTEREST IN AN INDIVIDUAL RETIREMENT ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

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

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

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

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

(b) Any plan or arrangement, whether funded by a trust, an annuity contract, an insurance contract, or an individual account, that is described in sections 401(a), 403(a), 403(b), 408 or 408A of the Internal Revenue Code of 1986, as amended, or section 409 of the Internal Revenue Code as in effect before January 1, 1984. The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance pursuant to a college savings program described in chapter 54, title 33, Idaho Code. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Idaho or any political subdivision of the state, or by any agent or instrumentality of any of the foregoing.

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

(6) Unless contrary to applicable federal law, nothing contained in subsection (3), (4) or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an individual retirement account held in the name of, or on account of, the other spouse, the "account holder spouse". At the death of the non-account holder spouse, the account holder spouse may transfer or distribute the community property interest of the non-account holder spouse in the account holder spouse's individual retirement account to the non-account holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the non-account holder spouse, or the law of intestate succession if applicable, and that distributee may, but shall not be required to, obtain an order from a court of competent jurisdiction, including a nonjudicial dispute resolution agreement, or other order, entered to confirm the distribution. For purposes of subsection (3) of this section, the distributee of the non-account holder spouse's community property interest in an individual retirement account shall be considered a person entitled to the full protection of subsection (3) of this section. The non-account holder spouse's consent to a beneficiary designation by the account holder spouse with respect to an individual retirement account shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation or transfer of the non-account holder spouse's community property interest in an individual retirement account. For purposes of this subsection, the term

"non-account holder spouse" means the spouse of the person in whose name the individual retirement account is maintained. The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the Internal Revenue Code of 1986, as amended, a Roth individual retirement account as described in section 408A of the Internal Revenue Code of 1986, as amended, and an individual retirement bond as described in section 409 of the Internal Revenue Code as in effect before January 1, 1984.

Approved April 2, 2001.

CHAPTER 289
(S.B. No. 1140, As Amended)

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING SECTION 18-3908, IDAHO CODE, TO PROVIDE FOR VIOLATIONS FOR RUNNING WATER ACROSS CERTAIN PUBLIC HIGHWAYS, ROADS OR STREETS BY FLOODING OR SPRINKLER IRRIGATION, TO PROVIDE CERTAIN CONDITIONS TO APPLICATION OF THE SECTION, TO PROVIDE FOR INFRACTIONS AND MISDEMEANORS AND TO PROVIDE FOR CERTAIN EXCEPTIONS; AMENDING SECTION 18-3914, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR VIOLATIONS DEFINED IN THE CHAPTER AS INFRACTIONS.

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

SECTION 1. That Section 18-3908, Idaho Code, be, and the same is hereby amended to read as follows:

18-3908. FLOODING HIGHWAYS. Any person who runs water either by flooding or sprinkler irrigation across any public highway, road or street, without first constructing a good and sufficient ditch or ditches to convey the same, or who fails to bridge such ditch or ditches, or to keep such bridge or ditches in good repair, or to ensure that the flow from the sprinkler does not flood the public highway, road or street and all persons, companies or corporations who suffer any water used by them for the purpose of irrigation, or any other purposes, to flow into or upon any public highway, road or street, in any other manner than that authorized by law, are guilty of an infraction on the first offense, and shall be guilty of a misdemeanor for each offense thereafter per calendar year, and upon conviction thereof must be fined in any sum not less than one dollar ($1.00) nor more than fifty dollars ($50.00), together with the costs of suit, and for a second offense, double said fine and costs; and it is hereby made the duty of all road supervisors, constables and marshals, to make complaint before the proper court, for violations of this section, whenever notified or having knowledge thereof. A person may not be charged under the provisions of this chapter if the flooding from a sprinkler or other water conveyance system is a result of mechanical failure, wind or other climatic condition, or other circumstances outside of the control of the person.

SECTION 2. That Section 18-3914, Idaho Code, be, and the same is hereby amended to read as follows:

18-3914. VIOLATION A MISDEMEANOR. A violation of this chapter and regulations authorized by this act is a misdemeanor unless the violation is defined as an infraction.

Approved April 2, 2001.

CHAPTER 290
(S.B. No. 1156, As Amended)

AN ACT

RELATING TO ADVERSE POSSESSION OF REAL PROPERTY; AMENDING SECTIONS 5-208 AND 5-210, IDAHO CODE, TO PROVIDE THAT ADVERSE POSSESSION SHALL NOT BE CONSIDERED ESTABLISHED IF A WRITTEN INSTRUMENT HAS BEEN RECORDED IN THE REAL ESTATE RECORDS KEPT BY THE COUNTY RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED AND SUCH WRITTEN INSTRUMENT DECLARES THAT IT WAS NOT THE INTENT OF A PARTY TO SUCH INSTRUMENT, BY PERMITTING POSSESSION OR OCCUPATION OF REAL PROPERTY, TO THEREBY DEFINE PROPERTY BOUNDARIES OR OWNERSHIP, TO PROVIDE THAT A PERSON CLAIMING ADVERSE POSSESSION MUST PRESENT CLEAR AND CONVINCING EVIDENCE THAT CERTAIN REQUIREMENTS HAVE BEEN MET 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 5-208, Idaho Code, be, and the same is hereby amended to read as follows:

5-208. CLAIM UNDER WRITTEN INSTRUMENT — POSSESSION DEFINED. (1) Except as provided in subsection (2) of this section, ~~F~~for the purpose of constituting an adverse possession by a person claiming a title founded upon a written ~~instrument~~, or a judgment or decree, land is deemed to have been possessed and occupied in the following cases:

~~1.~~(a) Where it has been usually cultivated or improved.

~~2.~~(b) Where it has been protected by a substantial ~~inclosure~~ enclosure.

~~3.~~(c) Where, although not ~~inclosed~~ enclosed, it has been used for the supply of fuel, or of fencing timber for the purposes of husbandry, or for pasturage, or for the ordinary use of ~~the~~ occupant.

~~4.~~(d) Where a known farm or single lot has been partly improved, the portion of such farm or lot that may have been left not cleared, or not ~~inclosed~~ enclosed, according to the usual course and custom of the adjoining country, shall be deemed to have been occupied for the same length of time as ~~the~~ part improved and cultivated.

(2) Notwithstanding the provisions of subsection (1) of this section, adverse possession shall not be considered established under the provisions of any sections of this code if a written instrument has been recorded in the real estate records kept by the county recorder of the county in which the property is located and such written instrument

declares that it was not the intent of a party to such instrument, by permitting possession or occupation of real property as set forth in subsection (1) of this section, to thereby define property boundaries or ownership.

(3) For purposes of establishing adverse possession pursuant to this section, a person claiming adverse possession must present clear and convincing evidence that the requirements of subsections (1) or (2) of this section have been met.

SECTION 2. That Section 5-210, Idaho Code, be, and the same is hereby amended to read as follows:

5-210. ORAL CLAIM -- POSSESSION DEFINED -- PAYMENT OF TAXES. For the purpose of constituting an adverse possession, by a person claiming title not founded upon a written instrument, judgment or decree, land is deemed to have been possessed and occupied in the following cases only:

(1~~.~~) Where it has been protected by a substantial ~~inclosure~~ enclosure.

(2~~.~~) Where it has been usually cultivated or improved.

Provided, however, that in no case shall adverse possession be considered established under the provisions of any sections of this code unless it shall be shown that the land has been occupied and claimed for the period of five (5) years continuously, and the party or persons, their predecessors and grantors, have paid all the taxes, state, county or municipal, which have been levied and assessed upon such land according to law. Provided further, that adverse possession shall not be considered established under the provisions of any sections of this code if a written instrument has been recorded in the real estate records kept by the county recorder of the county in which the property is located and such written instrument declares that it was not the intent of a party to such instrument, by permitting possession or occupation of real property, to thereby define property boundaries or ownership. Provided further, that for purposes of establishing adverse possession pursuant to this section, a person claiming adverse possession must present clear and convincing evidence that the requirements of subsection (1) or (2) of this section have been met.

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, 2001.

Approved April 2, 2001.

CHAPTER 291
(S.B. No. 1164, As Amended)

AN ACT

RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2220A, IDAHO CODE, TO PROVIDE THAT CERTAIN LAWS RELATING TO THE REPORTING OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES SHALL APPLY TO

MAGISTRATE RETENTION ELECTIONS AND THAT THE CLERK OF THE DISTRICT COURT SHALL STAND IN PLACE OF THE SECRETARY OF STATE; AMENDING SECTION 67-6602, IDAHO CODE, TO CLARIFY THE DEFINITION OF "PUBLIC OFFICE" AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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 1-2220A, Idaho Code, and to read as follows:

1-2220A. REPORTING OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES -- MAGISTRATE RETENTION ELECTIONS. The provisions of sections 67-6601 through 67-6616, Idaho Code, and sections 67-6623 through 67-6629, Idaho Code, insofar as they relate to the reporting of campaign contributions and expenditures, are hereby made applicable to all magistrate retention elections except that, with the exception of section 67-6623(f), the clerk of the district court shall stand in place of the secretary of state as it relates to the provisions cited in this section.

SECTION 2. That Section 67-6602, Idaho Code, be, and the same is hereby amended to read as follows:

67-6602. DEFINITIONS. As used in this act chapter, the following terms have the following meanings:

(a) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(2) Announces publicly or files for office.

(b) "Compensation" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five

dollars ($25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

(d) "Election" means any general, special or primary election.

(e) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(f) "Expenditure" includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(g) "Independent expenditure" means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, "expressly advocating" means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(h) "Lobby" and "lobbying" each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(i) "Lobbyist" includes any person who lobbies.

(j) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed, directly or indirectly, and all persons by whom he is compensated for acting as a lobbyist.

(k) "Measure" means any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general reviews it and gives it a ballot title.

(l) "Nonbusiness entity" means any group (of two (2) or more individuals), corporation, association, firm, partnership, committee, club or other organization which:

(1) Does not have as its principal purpose the conduct of business

activities for profit; and

(2) Received during the preceding calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(m) "Person" means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(n) "Political committee" means:

(1) Any person specifically designated to support or oppose any candidate or measure; or

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars ($500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(3) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars ($5,000) in a calendar year.

(o) "Political treasurer" means an individual appointed by a candidate or political committee as provided in section 67-6603, Idaho Code.

(p) "Public office" means any state office or position, ~~including~~ state senator, state representative, and judge of the district court that is filled by election.

Approved April 2, 2001.

CHAPTER 292
(S.B. No. 1237)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURE OF FUNDS; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS TO THE FISH AND GAME FUND; 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 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 2,430,300	$ 2,560,900	$ 158,000	$364,500	$ 5,513,700
Fish and Game Set-aside Fund	100	19,600			19,700
Fish and Game Depredation Fund		1,800			1,800
Fish and Game Expendable Trust Fund		4,800			4,800
Fish and Game Nonexpendable Trust Fund		1,700			1,700
Fish and Game Federal Fund	2,461,700	2,213,200	124,300		4,799,200
TOTAL	$ 4,892,100	$ 4,802,000	$ 282,300	$364,500	$10,340,900
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund	$ 6,248,700	$ 1,153,300	$ 735,100		$ 8,137,100
Fish and Game Set-aside Fund		10,500			10,500
Fish and Game Expendable Trust Fund		20,800			20,800
TOTAL	$ 6,248,700	$ 1,184,600	$ 735,100		$ 8,168,400
III. FISHERIES:					
FROM:					
Fish and Game Fund	$ 3,888,800	$ 2,182,900	$1,202,500		$ 7,274,200
Fish and Game Set-aside Fund	141,200	177,900	90,000		409,100
Fish and Game Expendable Trust Fund	217,200	50,400			267,600
Fish and Game Nonexpendable Trust Fund		32,700			32,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Federal Fund	8,195,900	3,949,200	2,580,000		14,725,100
TOTAL	$12,443,100	$ 6,393,100	$3,872,500		$22,708,700
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$ 2,932,500	$ 3,143,600	$ 320,900		$ 6,397,000
Fish and Game Set-aside Fund	448,000	309,600	1,100		758,700
Fish and Game Expendable Trust Fund	283,400	375,500	35,400		694,300
Fish and Game Nonexpendable Trust Fund	9,300	1,900			11,200
Fish and Game Federal Fund	2,777,800	1,097,000	97,000		3,971,800
TOTAL	$ 6,451,000	$ 4,927,600	$ 454,400		$11,833,000
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund	$ 1,236,100	$ 461,000	$ 135,900		$ 1,833,000
Fish and Game Set-aside Fund	63,100	117,600			180,700
Fish and Game Expendable Trust Fund		25,000			25,000
Fish and Game Federal Fund	457,100	333,400			790,500
TOTAL	$ 1,756,300	$ 937,000	$ 135,900		$ 2,829,200
VI. ENGINEERING:					
FROM:					
Fish and Game Fund	$ 772,400	$ 67,700	$ 95,400		$ 935,500
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund	$ 599,500	$ 91,100	24,400		$ 715,000
Fish and Game Set-aside Fund	13,000				13,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Federal Fund	1,527,200	406,700	61,600		1,995,500
TOTAL	$ 2,139,700	$ 497,800	$ 86,000		$ 2,723,500
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund	$ 407,000	$ 661,100			$ 1,068,100
Fish and Game Set-aside Fund	34,900	1,385,900	$ 408,100		1,828,900
Fish and Game Primary Depredation Fund				$200,000	200,000
Fish and Game Secondary Depredation Fund				200,000	200,000
TOTAL	$ 441,900	$ 2,047,000	$ 408,100	$400,000	$ 3,297,000
GRAND TOTAL	$35,145,200	$20,856,800	$6,069,700	$764,500	$62,836,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred eleven (511) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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, 2001, through June 30, 2002, the Department of Fish and Game will continue the $150,000 pheasant stocking effort developed in cooperation with local sportsmen's groups. Prior to stocking pheasants outside of wildlife management areas, predator control should be implemented to maximize survival of pheasants. Funding allocated for predator control may be used for this purpose.

SECTION 4. There is hereby appropriated and the State Controller is directed to transfer the sum of $116,800 from the General Fund to the Fish and Game Fund.

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 2, 2001.

CHAPTER 293
(S.B. No. 1248)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$1,373,800	$ 597,200	$142,500	$ 2,700	$2,116,200
Federal Grant Fund	831,100	143,900		69,500	1,044,500
Miscellaneous Revenue Fund	79,800	126,500		29,600	235,900
TOTAL	$2,284,700	$ 867,600	$142,500	$101,800	$3,396,600
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 152,800	$ 159,700			$ 312,500
Miscellaneous Revenue Fund	156,200	126,700	$ 800		283,700
TOTAL	$ 309,000	$ 286,400	$ 800		$ 596,200
GRAND TOTAL	$2,593,700	$1,154,000	$143,300	$101,800	$3,992,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than fifty-one and thirty-six hundredths (51.36) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 434, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Idaho State Historical Society bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 2, 2001.

CHAPTER 294
(S.B. No. 1253)

AN ACT

RELATING TO EXEMPT PROPERTY AND ALLOWANCES UNDER THE UNIFORM PROBATE CODE; AMENDING SECTION 15-1-201, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING PART 2, CHAPTER 4, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-2-401, IDAHO CODE, TO PROVIDE APPLICATION OF LAW TO THE ESTATE OF A DECEDENT WHO DIES DOMICILED IN IDAHO; AMENDING SECTION 15-2-401, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE HOMESTEAD ALLOWANCE; AMENDING SECTION 15-2-402, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO INCREASE THE AMOUNT OF EXEMPT PROPERTY AND TO PROVIDE THAT IT SHALL BE IN ADDITION TO ANY HOMESTEAD OR HOMESTEAD ALLOWANCE; AMENDING SECTION 15-2-403, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE FAMILY ALLOWANCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-2-404, IDAHO CODE, TO REDESIGNATE THE SECTION, TO INCREASE THE LIVING ALLOWANCE TO EIGHTEEN THOUSAND DOLLARS IN A LUMP SUM OR ONE THOUSAND FIVE HUNDRED DOLLARS PER MONTH FOR ONE YEAR, TO REVISE PROCEDURES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTIONS 15-2-602 AND 15-3-906, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 15-1-201, Idaho Code, be, and the same is hereby amended to read as follows:

15-1-201. GENERAL DEFINITIONS. Subject to additional definitions contained in the subsequent chapters which are applicable to specific chapters or parts, and unless the context otherwise requires, in this code:

(1) "Application" means a written request to the registrar for an order of informal probate or appointment under part 3 of chapter 3 of this code.

(2) "Augmented estate" means the estate described in section 15-2-202 of this code.

(3) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

(4) "Child" includes any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(5) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term does not include estate or inheritance taxes, other tax obligations arising from activities or transactions of the estate, demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(6) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents, minors, incapacitated and disabled persons. This court in this state is known as the district court.

(7) "Conservator" means a person who is appointed by a court to manage the estate of a protected person and includes limited conservators as described by section 15-5-420, Idaho Code.

(8) "Determination of heirship of community property" shall mean that determination required by the provisions of section 15-3-303 of this code upon an application for informal probate not accompanied by presentation of a will.

(9) "Determination of heirship" shall mean that determination of heirship required by section 15-3-409 of this code upon a finding of intestacy.

(10) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

(11) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee or trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(12) "Disability" means cause for a protective order as described by subsection (b)(1) of section 15-5-401 of this code.

(13) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For the purpose of this provision "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(14) "Emancipated minor" shall mean any male or female who has been married.

(15) "Estate" means all property of the decedent, including community property of the surviving spouse subject to administration, prop-

erty of trusts, and property of any other person whose affairs are subject to this code as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate which is described in section 15-2-403 of this code.

(17) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(18) "Foreign personal representative" means a personal representative of another jurisdiction.

(19) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(20) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment and includes limited guardians as described by section 15-5-304, Idaho Code, but excludes one who is merely a guardian ad litem.

(21) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(22) "Incapacitated person" is as defined in section 15-5-101 of this code.

(23) "Informal proceedings" means those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(24) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(25) "Issue" of a person means all his lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this code.

(26) "Lease" includes an oil, gas, or other mineral lease.

(27) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(28) "Minor" means a male under eighteen (18) years of age or a female under eighteen (18) years of age.

(29) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(30) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

(31) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal entity.

(32) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this code by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(33) "Person" means an individual, a corporation, an organization,

or other legal entity.

(34) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(35) "Petition" means a written request to the court for an order after notice.

(36) "Proceeding" includes action at law and suit in equity.

(37) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(38) "Protected person" is as defined in section 15-5-101 of this code.

(39) "Protective proceeding" is as defined in section 15-5-101 of this code.

(39A) "Quasi-community property" is the property defined by section 15-2-201 of this code.

(40) "Registrar" refers to magistrates or judges of the district court who shall perform the functions of registrar as provided in section 15-1-307 of this code.

(41) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(42) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(43) "Special administrator" means a personal representative as described by sections 15-3-614 through 15-3-618 of this code.

(44) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(45) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(46) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under his will or this code.

(47) "Supervised administration" refers to the proceedings described in part 5, chapter 3, of this code.

(48) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(49) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in chapter 6 of this code, custodial arrangements pursuant to chapter 8, title 68, Idaho Code, business trusts providing for certificates to be

issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(50) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(51) "Ward" is as defined in section 15-5-101 of this code.

(52) "Will" is a testamentary instrument and includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

(53) "Separate property" includes all property of either the husband or the wife owned by him or her before marriage, and that acquired afterward either by gift, bequest, devise or descent, or that which either he or she acquires with proceeds of his or her separate property, by way of moneys or other property.

(54) "Community property" includes all other property acquired after marriage by either husband or wife, including the rents and profits of the separate property of the husband and wife, unless, by the instrument by which any such property is acquired by the wife, it is provided that the rents and profits thereof be applied to her sole and separate use. Real property conveyed by one (1) spouse to the other shall be presumed to be the sole and separate estate of the grantee.

SECTION 2. That Part 2, Chapter 4, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-2-401, Idaho Code, and to read as follows:

15-2-401. APPLICABLE LAW. This part applies to the estate of a decedent who dies domiciled in this state. Rights to the homestead allowance, exempt property, and the family allowance for a decedent who dies not domiciled in this state are governed by the law of the decedent's domicile at death.

SECTION 3. That Section 15-2-401, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-40~~1~~2. HOMESTEAD ALLOWANCE. ~~If no homestead has been selected during life and set aside, a surviving spouse of a decedent who was domiciled in this state is entitled to a homestead allowance of four thousand dollars ($4,000) or ten thousand dollars ($10,000) if there are dependent issue living with the surviving spouse. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to ten thousand dollars ($10,000) divided by the number of minor and dependent children of the decedent if the same condition exists~~ If a surviving spouse of a decedent is entitled to the homestead pursuant to section 55-1010, Idaho Code, then no person is entitled to a homestead allowance. If a surviving spouse of a decedent is not entitled to the homestead pursuant to section 55-1010, Idaho Code, then the surviving spouse of a decedent is entitled to a homestead allowance. If there is no surviving spouse, and if no homestead passes to the minor children and/or dependent children of the decedent as set forth in section 55-1010, Idaho Code, each minor

child and each dependent child of the decedent is entitled to a homestead allowance in the amount determined hereafter divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. The hHomestead allowance is in addition ~~to any share~~ passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided in the will, or by intestate succession, or by way of elective share. The amount of the homestead allowance shall be the sum set forth in the provisions of section 55-1003, Idaho Code, as those provisions are in effect on the date of the decedent's death.

SECTION 4. That Section 15-2-402, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-40~~2~~3. EXEMPT PROPERTY. In addition to ~~the~~ any homestead or homestead allowance, the decedent's surviving spouse ~~of a decedent who was domiciled in this state~~ is entitled from the estate to value, not ~~exceeding three ten thousand five hundred~~ dollars (~~$3,5~~10,000) in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances and personal effects. If there is no surviving spouse, the decedent's children ~~of the decedent~~ are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of ~~security~~ interests, plus that of other exempt property, is less than ~~three~~ ten thousand ~~five hundred~~ dollars (~~$3,5~~10,000), or if there is not ~~three~~ ten thousand ~~five hundred~~ dollars (~~$3,5~~10,000) worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the ~~three~~ ten thousand ~~five hundred~~ dollar (~~$3,5~~10,000) value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to any assets to make up a deficiency of exempt property shall abate as necessary to permit prior payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided in the will, or by intestate succession, or by way of elective share.

SECTION 5. That Section 15-2-403, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-40~~3~~4. FAMILY ALLOWANCE. (a) In addition to the right to a homestead or homestead allowance and exempt property, ~~if the decedent was domiciled in this state,~~ the decedent's surviving spouse ~~or the surviving spouse~~ and minor children whom the decedent was obligated to support and children who were in ~~fact being supported~~ by ~~him~~ the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than one (1) year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic ~~instalments~~ installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children, or persons having their care and custody~~; but in case any~~. If a minor child or dependent child is not living with the surviving spouse, the allowance may be made

partially to the child or ~~his~~ the child's guardian or other person having ~~his~~ the child's care and custody, and partially to the spouse, as their needs may appear. The family allowance is exempt from and has priority over all claims ~~but not over the homestead allowance~~ except the homestead.

(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided in the will, or by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates ~~his~~ the right to allowances not yet paid.

SECTION 6. That Section 15-2-404, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-4045. SOURCE -- DETERMINATION -- DOCUMENTATION. If the estate is otherwise sufficient, property specifically devised ~~is~~ may not be used to satisfy rights to the homestead allowance and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there ~~are~~ is no guardian~~s~~ of ~~the~~ a minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as a homestead allowance or exempt property. ~~He~~ The personal representative may determine the family allowance in a lump sum not exceeding ~~six~~ eighteen thousand dollars ($618,000) or periodic ~~instalments~~ installments not exceeding one thousand five hundred dollars ($1,500) per month for one (1) year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which ~~relief~~ may ~~provide~~ include a family allowance ~~larger or smaller~~ other than that which the personal representative determined or could have determined.

SECTION 7. That Section 15-2-602, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-602. CHOICE OF LAW AS TO MEANING AND EFFECT OF WILLS. The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in his instrument unless the application of that law is contrary to the provisions relating to the elective share described in 15-2-201 through 15-2-209, the provisions relating to the exempt property and allowances described in 15-2-401 through 15-2-4045 or any other public policy of this state otherwise applicable to the disposition.

SECTION 8. That Section 15-3-906, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-906. DISTRIBUTION IN KIND -- VALUATION -- METHOD. (a) Unless a contrary intention is indicated by the will, the distributable assets of

a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to him, and a spouse or child who has selected particular assets of an estate as provided in section 15-2-402~~3~~3 of this code shall receive the items selected.

(2) Any homestead or family allowance or devise payable in money may be satisfied by value in kind provided:

(A) the person entitled to the payment has not demanded payment in cash;

(B) the property distributed in kind is valued at fair market value as of the date of its distribution, and

(C) no residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than thirty (30) days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) The residuary estate shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests. In other cases, residuary property may be converted into cash for distribution.

(b) After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within thirty (30) days after mailing or delivery of the proposal.

Approved April 2, 2001.

CHAPTER 295
(S.B. No. 1258)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2001; 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 411, Laws of 2000, there is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$444,000
Veterans Services Endowment Income Fund	131,000
TOTAL	$575,000

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 2, 2001.

CHAPTER 296
(H.B. No. 35, As Amended, As Amended in the Senate)

AN ACT

RELATING TO INSURANCE PRODUCER LICENSING; AMENDING SECTION 9-340B, IDAHO CODE, TO CREATE A PUBLIC RECORDS EXEMPTION FOR RECORDS FURNISHED TO THE DEPARTMENT OF INSURANCE REGARDING TERMINATION OF AN APPOINTMENT, EMPLOYMENT, CONTRACT OR OTHER INSURANCE BUSINESS RELATIONSHIP BETWEEN AN INSURER AND A PRODUCER; REPEALING CHAPTER 10, TITLE 41, IDAHO CODE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 41, IDAHO CODE, TO PROVIDE FOR PURPOSE AND SCOPE, TO PROVIDE FOR MEANING OF TERMS, TO PROVIDE FOR DEFINITIONS, TO PROVIDE FOR REQUIREMENT OF LICENSES, TO PROVIDE FOR EXCEPTIONS TO LICENSING, TO PROVIDE FOR APPLICATIONS FOR EXAMINATIONS, TO PROVIDE FOR APPLICATIONS FOR PRODUCER LICENSES, TO PROVIDE FOR PRODUCER LICENSES, TO PROVIDE FOR NONRESIDENT PRODUCER LICENSES, TO PROVIDE FOR SERVICE OF PROCESS FOR NONRESIDENT PRODUCERS, TO PROVIDE FOR ISSUANCE OF AND REFUSAL TO ISSUE LICENSES, TO PROVIDE FOR EXEMPTION FROM EXAMINATION, TO PROVIDE FOR CONTINUATION AND EXPIRATION OF LICENSES AND FOR CONTINUING EDUCATION, TO PROVIDE FOR NOTIFICATION OF USE OF ASSUMED NAMES, TO PROVIDE FOR TEMPORARY LICENSING, TO PROVIDE FOR ADMINISTRATIVE PENALTIES, SUSPENSIONS, REVOCATIONS AND REFUSALS OF LICENSES, TO PROVIDE FOR COMMISSIONS, TO PROVIDE FOR APPOINTMENTS, TO PROVIDE FOR NOTIFICATION TO DIRECTOR OF TERMINATION, TO PROVIDE FOR RECIPROCITY, TO PROVIDE FOR REPORTING OF ACTIONS, TO PROVIDE THAT INSURERS MUST ACCEPT BUSINESS THROUGH LICENSED PRODUCERS ONLY, TO PROVIDE FOR COUNTERSIGNATURE OF POLICIES AND FOR GRANTING OF POWER OF ATTORNEY, TO PROVIDE FOR REPORTING AND ACCOUNTING FOR PREMIUMS, TO PROVIDE THAT THE DIRECTOR MAY PROMULGATE RULES, TO PROVIDE FOR PROCEDURE FOLLOWING SUSPENSION, REVOCATION OR REFUSAL TO CONTINUE A LICENSE AND FOR REINSTATEMENT, TO PROVIDE FOR RETURN OF LICENSES, TO PROVIDE FOR INACTIVE STATUS AND TO PROVIDE THAT THE PROVISIONS OF THE CHAPTER ARE SEVERABLE; AMENDING SECTION 41-1108, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND CODE CITA-

TIONS; AMENDING SECTION 41-1223, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 41-1315A, IDAHO CODE, TO DELETE A REFERENCE TO A CODE CITATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3435, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE THAT SERVICE CORPORATIONS MAY FILE APPOINTMENT OF AGENTS OR REPRESENTATIVES, TO PROVIDE A CORRECT CODE CITATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4703, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4933, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 41-5203, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-5501, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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(6), 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, records of the department of correction 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 would substantially prejudice or prevent the carrying out of the functions of the department of correction 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 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 Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(12) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

SECTION 2. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby repealed.

SECTION 3. 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 10, Title 41, Idaho Code, and to read as follows:

CHAPTER 10
PRODUCER LICENSING

41-1001. PURPOSE AND SCOPE. (1) This chapter governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses.

(2) This chapter applies to adjusters to the extent provided in section 41-1108, Idaho Code, and to surplus lines brokers to the extent provided in sections 41-1223 and 41-1224, Idaho Code. Except where expressly made applicable, this chapter does not apply to title insurance under chapter 27, title 41, Idaho Code.

41-1002. TERMS CONSTRUED. Wherever the terms "agent" or "broker" appear in title 41, Idaho Code, or in the rules of the department, they shall be understood and construed to mean "producer" as defined in section 41-1003(9), Idaho Code, except as used in section 41-1018, Idaho Code, and any other sections where it is apparent from the language that the terms should not be so construed.

41-1003. DEFINITIONS. (1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(2) "Home state" means the District of Columbia and any state or territory of the United States or any province of Canada in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(3) "License" means a document issued by the director authorizing a person to act as an insurance producer for the lines of authority speci-

fied in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(4) "Limited lines insurance" is insurance which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code, and shall include, but not be limited to: credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, transportation baggage insurance, transportation ticket policies covering personal accident insurance, pet insurance, or any other line of insurance that the director deems necessary to recognize for the purposes of complying with section 41-1009(5), Idaho Code.

(5) "Limited lines producer" means a producer authorized by the director to sell, solicit or negotiate limited lines insurance.

(6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in the act either sells insurance or obtains insurance from insurers for purchasers.

(7) "Person" means an individual or a business entity.

(8) "Producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(9) "Resident" means a person whose home state is Idaho or any other particular state identified in conjunction with the use of the term.

(10) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(11) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company or companies.

(12) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance for or on behalf of an insurer.

(13) "Uniform application" means the current version of the national association of insurance commissioners (NAIC) uniform application for resident and nonresident producer licensing.

(14) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

41-1004. LICENSE REQUIRED. A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed as a producer for that line of authority in accordance with this chapter.

41-1005. EXCEPTIONS TO LICENSING. (1) Nothing in this chapter shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

(2) A license as an insurance producer shall not be required of the following:

(a) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(i) The activities of the officer, director or employee are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(ii) The function of the officer, director or employee relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(iii) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(b) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans, or performs administrative services relating to mass-marketed property and casualty insurance, and who does not receive a commission;

(c) An employer or association or its officers, directors, employees or the trustees of an employee trust plan, to the extent that the employer, association, officer, employee, director or trustee is engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which involves the use of insurance issued by an insurer, as long as the employer, association, officer, director, employee or trustee is not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers, and who are not individually engaged in the sale, solicitation or negotiation of insurance, and who do not receive a commission;

(e) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(f) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, provided that the person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insur-

ance insures risks located in that state;

(g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission; or

(h) A person who, concurrent with the rental of a motor vehicle, provides contract options to the standard rental agreement which provides auto and travel related coverages through authorized insurers during a rental period not to exceed ninety (90) days.

41-1006. APPLICATION FOR EXAMINATION. (1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 41-1008(4), 41-1012, 41-1027(3) or 41-1028(2)(c), Idaho Code. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the director of the department of insurance.

(2) Each individual applying for an examination shall remit a nonrefundable fee as promulgated by the director pursuant to section 41-401, Idaho Code.

(3) An individual who fails to appear for the examination as scheduled or who fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(4) Applications for licensure not received by the department within one hundred eighty (180) days of the successful completion of the examination shall be denied.

41-1007. APPLICATION FOR PRODUCER LICENSE. (1) A person applying for a resident insurance producer license shall make application to the director on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the director shall find that the applicant:

(a) Is at least eighteen (18) years of age;

(b) Has submitted the applicant's fingerprints as may be required by the director;

(c) Has not committed any act that is a ground for denial, suspension or revocation of the license as set forth in title 41, Idaho Code;

(d) Has paid the fees prescribed by the director pursuant to section 41-401, Idaho Code; and

(e) Has successfully passed the examinations for the lines of authority for which the applicant has applied.

(2) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the director shall find that:

(a) The business entity has paid the fees prescribed by the director pursuant to section 41-401, Idaho Code; and

(b) The business entity has designated a licensed producer, who is an individual responsible for the business entity's compliance with the insurance laws and rules of this state.

(3) The director may require any documents which are reasonably necessary to verify the information contained in an application.

(4) Each insurer that sells, solicits or negotiates any form of limited line insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited lines insurance a program of instruction that may be required to be approved by the director. If acceptable to the director, and as stated by rule, the program of instruction may be administered in place of the examination as required in section 41-1006, Idaho Code. In addition, such course of instruction may be administered in place of any continuing education requirements pursuant to section 41-1013, Idaho Code.

41-1008. PRODUCER LICENSE. (1) Unless denied licensure pursuant to section 41-1016, Idaho Code, persons who have met the requirements of sections 41-1006 and 41-1007, Idaho Code, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one (1) or more of the following lines of authority:

(a) Life insurance coverage on human lives, including benefits of endowment and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;

(b) Disability, including accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and benefits for disability income;

(c) Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) Casualty insurance coverage against legal liability, including liability for death, injury or disability or damage to real or personal property;

(e) Variable life and variable annuity products, meaning insurance coverage provided under variable life insurance contracts and variable annuities;

(f) Personal lines, meaning property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) Any other line of insurance permitted under state laws or rules.

(2) An insurance producer license shall remain in effect unless revoked or suspended as long as the renewal fee promulgated by the director pursuant to section 41-401, Idaho Code, is paid and the continuing education requirements for resident insurance producers are met in accordance with section 41-1013, Idaho Code.

(3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without passing a written examination unless the licensee would otherwise be required to retest under section 41-1013(7), Idaho Code. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

(4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request

that the director waive those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(5) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.

(6) Licensees shall inform the director by any means acceptable to the director of a change of address within thirty (30) days of the change. A business entity licensed as a producer shall inform the director by any means acceptable to the director of any change in ownership, officers, directors or the designated licensed producer responsible for compliance pursuant to section 41-1007(2)(b), Idaho Code.

(7) In order to assist in the performance of the director's duties, the director may contract with nongovernmental entities, including the national association of insurance commissioners or its affiliates or subsidiaries, to perform any ministerial functions related to producer licensing, including the collection of fees, that the director and the nongovernmental entity may deem appropriate.

41-1009. NONRESIDENT PRODUCER LICENSE. (1) Unless denied licensure pursuant to section 41-1016, Idaho Code, a nonresident applicant shall receive a nonresident producer license if:

(a) The applicant is currently licensed as a resident and in good standing in his or her home state;

(b) The applicant has submitted the proper request for licensure and has paid the fees set forth by rule pursuant to section 41-401, Idaho Code;

(c) The applicant has submitted or transmitted to the director the application for licensure that the applicant submitted to his or her home state or, in lieu of such application, a completed uniform application;

(d) The applicant has submitted the applicant's fingerprints, if required by the director, on a form as prescribed by the director; and

(e) The applicant's home state awards nonresident producer licenses to residents of this state on the same basis.

(2) The director may verify the producer's licensing status through the producer database maintained by the national association of insurance commissioners, its affiliates or subsidiaries, or by any other acceptable means.

(3) A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application shall be required for filing the change of address.

(4) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines broker in his or her home state shall receive a nonresident surplus lines broker license pursuant to subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of section 41-1223, Idaho Code.

(5) Notwithstanding any other provision of this chapter, a person

licensed as a limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code.

41-1010. NONRESIDENT PRODUCERS -- SERVICE OF PROCESS. (1) Each person applying to be a nonresident producer shall, on a form prescribed by the director, appoint the director as his agent for purposes of receiving service of legal process issued against the producer in this state upon causes of action arising within this state out of transactions under the license. Service upon the director as an agent shall constitute effective legal service upon the producer.

(2) The appointment shall be irrevocable for as long as there could be any cause of action against the licensee arising out of his insurance transactions in or with respect to this state.

(3) Duplicate copies of such legal process against the licensee shall be served upon the director by a person competent to serve a summons. At the time of service the plaintiff shall pay the director an appropriate fee to be determined by rule and not exceeding thirty dollars ($30.00).

(4) Upon receiving such service, the director shall send one (1) copy of the process by registered or certified mail with return receipt requested to the defendant licensee at his last address of record with the director.

(5) The director shall keep a record of the day and hour of such service upon him. No proceedings shall be brought against the producer, and the producer shall not be required to appear, plead or answer until the expiration of thirty (30) days after the date of service upon the director.

41-1011. ISSUANCE -- REFUSAL OF LICENSE. If after completion of application for a license, the taking and passing of any examination required under this chapter and, if required by the director, receipt of a report from the federal bureau of investigation based on the fingerprints of the applicant, the director finds that the applicant has fully met the requirements for a license, the director shall issue the license to the applicant; otherwise, the director shall refuse to issue the license and shall promptly notify the applicant and any appointing insurer or insurers of such refusal and state the grounds for the refusal. Pending the receipt of the report from the federal bureau of investigation, the director may, in his discretion, issue a temporary license if all other qualifications have been met.

41-1012. EXEMPTION FROM EXAMINATION. (1) An individual who applies for an insurance producer license in this state and who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing examination if:

(a) The person is currently licensed in another state; or

(b) The application is received within ninety (90) days of the cancellation of the applicant's previous license and the prior state

issues a certification that:

(i) At the time of cancellation, the applicant was in good standing in that state; or

(ii) The state's producer database records, as maintained by the national association of insurance commissioners or its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the lines of authority requested.

(2) A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to section 41-1006, Idaho Code. No examination shall be required of that person to obtain any line of authority previously held in the prior state unless the director provides otherwise by rule.

41-1013. CONTINUATION — EXPIRATION OF LICENSES -- CONTINUING EDUCATION STATEMENT. (1) All producer, adjuster, and surplus line broker licenses issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, subject to payment of the applicable continuation fee on or before the expiration date referred to in subsection (2) of this section, accompanied by a written request for such continuation and a continuing education statement verifying that the licensee has completed any continuing education requirements imposed by the director. An application for renewal is not complete unless it is submitted with both the applicable fee and the completed continuing education statement. Requests for continuation shall be made in writing on forms to be prescribed by the director.

(2) The director may fix the dates of expiration for licenses in such manner as is deemed by him to be advisable for an efficient distribution of the workload of his office. If the expiration date for a particular license or appointment would shorten the period for which the license or appointment continuation fee has been paid, no refund of an unearned fee shall be made. If the expiration date for a particular license or appointment would lengthen the period for which a license or appointment continuation fee has been paid, the director shall charge no additional fee for such lengthened period.

(3) Any license referred to in subsection (1) of this section for which no request for continuation, fee and completed continuing education statement are timely received by the director shall be deemed to have expired at midnight on the applicable expiration date.

(4) All sums tendered as fees for continuations of licenses as producer, limited lines producer, adjuster or surplus line broker shall be deemed earned when paid and shall not be subject to refund, except that the director shall refund any duplicate payment of fees.

(5) For the protection of the people of this state the director shall establish, by rule, additional educational requirements designed to maintain and improve the insurance skills and knowledge of resident producers after licensure by the department of insurance. The director shall also establish, by rule, an advisory committee comprised of representatives from each segment of the insurance industry to assist the director in prescribing additional educational requirements. Such rules promulgated by the director shall include limits on the terms of service for members of the committee.

(6) Subject to subsection (3) of this section, the director shall

not permit to be continued the license of any producer who is licensed pursuant to section 41-1007, Idaho Code, who is a resident of this state, unless such person has demonstrated to the satisfaction of the director that in addition to meeting the standards contained in sections 41-1007, (qualifications for producer license), Idaho Code, as may be applicable, all the additional educational requirements as the director may prescribe by rule have been met.

(7) Failure of the licensee to comply with any applicable additional education requirements prescribed by the director by rule by the expiration date of the license shall be grounds for the director to refuse to continue any such license. The licensee may reinstate his or her license by submitting proof of all education requirements within ninety (90) days from the date of expiration of the license and by submitting an additional administrative penalty of one hundred dollars ($100) for a delinquency of one (1) day to thirty (30) days, two hundred dollars ($200) for a delinquency of thirty-one (31) days to sixty (60) days, and three hundred dollars ($300) for a delinquency of sixty-one (61) days to ninety (90) days. Following the ninetieth day from the date of nonrenewal of the license and up to one (1) year from the nonrenewal date, the licensee must complete all requirements for licensure including retesting, submission of a new application and payment of all new licensing fees. In addition, the individual must submit proof of completion of the required education requirements for the licensing period in which the license was terminated. After the license has been expired for one (1) year or more, the individual must reapply and retest as a new applicant.

41-1014. ASSUMED NAMES. An insurance producer doing business under any name other than the producer's legal name is required to notify the director in writing prior to using the assumed name.

41-1015. TEMPORARY LICENSING. (1) The director may issue a temporary insurance producer license for a period not to exceed one hundred eighty (180) days without requiring an examination if the director deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled in order to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(b) To a member or employee of a business entity licensed as an insurance producer upon the death or disability of an individual designated in the business entity application or the license;

(c) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(d) Pursuant to section 41-1011, Idaho Code, or in any other circumstance where the director deems the public interest will best be served by the issuance of the temporary license.

(2) The director may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public.

The director may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all actions of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The director may by order revoke a temporary license, without the right to a prior hearing, if the interests of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL OF LICENSE. (1) The director may impose an administrative penalty not to exceed one thousand dollars ($1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or any surplus lines broker license if, after a hearing held on not less than twenty (20) days' notice of such hearing and of the charges against the licensee given as provided in section 41-212(3), Idaho Code, to the licensee and to any appointing insurers represented (as to a producer who is appointed as an agent), the director finds that as to the licensee any one (1) or more of the following causes or violations exist:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any provision of title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction;

(f) Being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;

(g) Admitting or being found to have committed any insurance unfair trade practice or fraud;

(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;

(i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;

(j) Forging another's name on an application for insurance or on any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from an individual who is not licensed;

(m) Failing to comply with an administrative or court order impos-

ing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code; or

(n) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

(2) The director shall, without hearing, suspend for not more than twelve (12) months, or shall revoke or refuse to continue any license issued under this chapter to a nonresident where the director has received a final order of suspension, revocation or refusal to continue from the insurance regulatory official or court of jurisdiction of the licensee's home state. If cause under this provision exists after the expiration of the twelve (12) months, successive suspensions may be imposed by the director without hearing.

(3) In the event that the director denies or refuses to renew an application for a license, the director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the director within twenty-one (21) days for a hearing before the director to determine the reasonableness of the director's action. The hearing shall be held pursuant to chapter 2, title 41, and chapter 52, title 67, Idaho Code.

(4) The license of a business entity may be suspended, revoked or refused if the director finds, after hearing, that the violation of an individual licensee, who is registered to or acting on behalf of the business entity, was known or should have been known by one (1) or more of the owners, officers or managers acting on behalf of the business entity and that the violation was not reported to the director and no corrective action was taken.

(5) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine or administrative penalty pursuant to subsection (1) of this section or any other applicable section.

(6) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code, or department rule, even if the person's license or registration has been surrendered, has lapsed by operation of law, or if the person has never been licensed.

41-1017. COMMISSIONS. (1) An insurance company or insurance producer shall not pay a commission, service fee or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is not duly licensed as required under this chapter.

(2) A person shall not accept a commission, service fee or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is not duly licensed as required under this chapter.

(3) Renewals or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if that person was duly licensed as required under this chapter at the time of the sale, solicitation or negotiation.

(4) An insurer or insurance producer may pay or assign commissions,

service fees or other valuable consideration to any person, regardless of whether that person is licensed as a producer, unless the payment or assignment would violate a specific section of title 41, Idaho Code, including, but not limited to, sections 41-1314 and 41-2708, Idaho Code, or department rule.

41-1018. APPOINTMENTS. (1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted.

(3) Upon receipt of the notice of appointment, the director shall verify, within a reasonable time not to exceed thirty (30) days, that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the director shall notify the insurer within five (5) days of his determination.

41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION. (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director, if the reason for termination is one of the reasons set forth in section 41-1016, Idaho Code, or the insurer has knowledge that the producer was found by a court, governmental body or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 41-1016, Idaho Code. Upon the written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(2) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer for any reason not set forth in section 41-1016, Idaho Code, shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director. Upon written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

(3) The insurer or authorized representative of the insurer shall promptly notify the director in a format acceptable to the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection (1) of this section.

(4) A copy of any notification shall be provided to the producer as follows:

(a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any other reasons listed in section 41-1016, Idaho Code, the insurer shall provide a copy of the notification to the producer at his or her

last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the director. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the director's file and shall accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.

(5) Immunities.

(a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member and that compiles information and makes it available to other insurance directors or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director from an insurer or producer or as a result of any statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the director, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(b) In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(6) Confidentiality.

(a) Any documents, materials or other information obtained by the director in an investigation pursuant to this section shall be exempt from public disclosure under chapter 3, title 9, Idaho Code.

(b) In order to assist in the performance of the director's duties under this chapter, the director:

(i) May share documents, materials or other information, including confidential and privileged documents and materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies and law enforcement authorities, and with the national association of insurance commissioners, its affiliates or subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or

other information;

(ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, its affiliates or subsidiaries and from regulatory agencies and law enforcement authorities of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials or information received with notice or with the understanding that they are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and

(iii) May enter into agreements governing sharing and use of information consistent with this subsection.

(c) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in paragraph (b) of this subsection.

(d) Nothing in this chapter shall prohibit the director from releasing final adjudicated actions, including for cause terminations that are open to public inspection pursuant to chapter 3, title 9 and title 41, Idaho Code, to a database or other clearinghouse service maintained by the national association of insurance commissioners or its affiliates or subsidiaries.

(7) Penalties for failing to report. An insurer, the authorized representative of the insurer, or a producer who fails to report as required under the provisions of this section or who is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have his license or certificate of authority suspended or revoked and may be fined in accordance with section 41-1016 or 41-327, Idaho Code.

41-1020. RECIPROCITY. (1) The director shall waive any requirements, except the requirements imposed by section 41-1009, Idaho Code, for a nonresident producer license applicant with a valid license from his or her home state if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(2) A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

41-1021. REPORTING OF ACTIONS. (1) A producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

(2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

41-1022. INSURERS MUST ACCEPT BUSINESS THROUGH LICENSED PRODUCERS ONLY. (1) No authorized insurer shall make, write, place or cause to be made, written or placed in this state any policy, duplicate policy, or insurance contract of any kind, covering a subject of insurance resident, located or to be performed in this state through any person who is not then licensed as a producer under this chapter.

(2) The director may penalize, suspend or revoke the certificate of authority of any insurer violating this section in accordance with section 41-327(1), Idaho Code.

41-1023. COUNTERSIGNATURE OF POLICIES -- POWER OF ATTORNEY. (1) When the signature or countersignature of a property or casualty producer is required on an insurance contract, or rider or endorsement thereto, the producer shall, except as provided in section 41-337(1), Idaho Code, and subsection (2) of this section, affix his original written signature thereon.

(2) The property or casualty producer may grant a power of attorney in writing to an individual who is twenty-one (21) years of age or older, authorizing such person to countersign or cause a facsimile of the agent's signature to be placed on policies and endorsements in his name and on his behalf. The power of attorney shall be acknowledged by the agent under oath before a notary public and shall be kept on file in the agent's office.

41-1024. REPORTING AND ACCOUNTING FOR PREMIUMS. (1) All premiums or return premiums received by a producer shall be trust funds received by the producer in a fiduciary capacity, and the producer shall, in the applicable regular course of business, account for and pay the same to the insured, insurer or producer entitled to the funds. If the producer establishes a separate deposit for funds belonging to others in order to avoid a commingling of such fiduciary funds with his own funds, he may deposit and commingle in such separate deposit all funds belonging to others so long as the amount of such deposit so held for all other persons is reasonably ascertainable from the records and accounts of the producer.

(2) Any producer who, not being lawfully entitled thereto, diverts or appropriates to his own use such trust or fiduciary funds or any portion thereof, whether or not such funds have been separately deposited, shall upon conviction be guilty of a felony.

41-1025. RULES. The director may, in accordance with section 41-211, Idaho Code, promulgate reasonable rules as are necessary or proper to carry out the purposes of this chapter.

41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION -- REINSTATEMENT. (1) Upon suspension, revocation, or refusal to continue any license, the director shall notify the licensee as provided in section 41-212(3), Idaho Code, and, in the case of a producer who holds appointments from insurers, shall give like notice to the insurers represented.

(2) Suspension, revocation, or refusal of any one (1) license held by the licensee under title 41, Idaho Code, shall automatically suspend, revoke or refuse continuation of all other licenses held by the licensee under title 41, Idaho Code.

(3) The director shall not issue a license under title 41, Idaho

Code, to or as to any person whose license has been revoked or continuance refused until after the expiration of one (1) year from the date of such revocation or refusal or, if judicial review of such revocation or refusal is sought, within one (1) year from the date of a final court order or decree affirming the revocation or refusal. In the event the former licensee again files an application for a license under title 41, Idaho Code, the director may require the applicant to show good cause why the prior revocation or refusal to continue his license shall not be deemed a bar to the issuance of a new license.

41-1027. RETURN OF LICENSE. (1) All licenses, although issued and delivered as to the licensee producer, adjuster or surplus lines broker, shall at all times be the property of the state of Idaho. Upon any expiration, termination, suspension or revocation of the license, the licensee or other person having possession or custody of the license shall deliver it to the director either by personal delivery or by mail.

(2) In the case of any license that is lost, stolen or destroyed while in the possession of a licensee or other person, the director may, in lieu of the return of the license, accept the affidavits of the licensee or other person responsible for or involved in the safekeeping of such license concerning the facts of the loss, theft or destruction.

41-1028. INACTIVE STATUS. (1) Any individual producer who does not want to actively continue in the business of insurance may apply for inactive status of his license on forms prescribed by the director. The director, in his discretion, may grant or deny the application for inactive status and shall notify the licensee of this decision in writing. Inactive status of a license, once granted, shall apply to all licenses held by the licensee and shall continue in force until reactivated pursuant to this section or until the license is suspended or revoked pursuant to this chapter.

(2) During the period that a licensee remains on inactive status, the licensee may not transact the business of insurance in this state or engage in any other insurance activity which requires an active license. A licensee on inactive status may, subject to the terms of an insurer's contract with the licensee, continue to receive commissions or other compensation relative to business written by such licensee during active license status.

(3) Any individual producer whose license is placed on inactive status shall be exempt from compliance with continuing education requirements.

(4) An individual producer whose license is placed on inactive status shall be subject to payment of the applicable continuation fees.

(5) An individual producer whose license is on inactive status may apply for reactivation of a license on forms prescribed by the director. The request for reactivation shall include proof of completion of twenty (20) hours of continuing education earned during the twelve (12) months prior to reactivation or proof that the producer has retested and met the examination requirements as to any line or kind of insurance to be transacted under the reactivated license. The director, in his discretion, may grant or deny the application for reactivation.

41-1029. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalid-

ity 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.

SECTION 4. That Section 41-1108, Idaho Code, be, and the same is hereby amended to read as follows:

41-1108. OTHER PROVISIONS APPLICABLE. The following sections of chapter 10, title 41, Idaho Code, shall, to the extent so applicable, also apply as to adjuster licenses:

(1) 41-10307(51) ~~(misrepresentations, etc. in application------penalty~~ (application for producer license).

(2) 41-1008 (producer license).

(3) 41-104311 (issuance, refusal of license).

(34) 41-104613 (continuation, expiration of license, continuing education statement).

~~(47--41-1076-(change-of-address).~~

(5) 41-107716 (administrative penalty -- suspension, revocation, refusal of license).

(6) 41-107833 (procedure following suspension, revocation -- reinstatement).

(7) 41-107934 (return of license).

SECTION 5. That Section 41-1223, Idaho Code, be, and the same is hereby amended to read as follows:

41-1223. LICENSING OF SURPLUS LINE BROKERS. (1) Any individual while licensed in this state as a ~~resident general lines agent~~ producer licensed for property or casualty insurance who has had at least two (2) years' experience as a licensed agent or broker for the lines of insurance for which he is seeking to be licensed as a surplus lines broker, and who is deemed by the director to be competent and trustworthy with respect to the handling of surplus lines, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker.

(2) Application for the license shall be made to the director on forms as designated and furnished by the director.

(3) The license and continuation fee shall be as ~~specified--in~~ set forth by rule pursuant to section 41-401, Idaho Code. ~~(fee-schedule).~~

(4) The license and licensee shall be subject to the applicable provisions of chapter 10, title 41, Idaho Code (~~agents, brokers, solicitors and consultants~~ producers -- licensing). ~~requirements--and--procedures).~~

SECTION 6. That Section 41-1315A, Idaho Code, be, and the same is hereby amended to read as follows:

41-1315A. DISCOUNTS TO EMPLOYEES. No provision of ~~this--code~~ title 41, Idaho Code, shall be deemed to prohibit allowance by an insurer, agent, or broker to the insurer's or licensee's bona fide full-time salaried employee of a discount from the premium otherwise payable for insurance on the employee's life or health or those of his dependents, or on the employee's property or risks other than property or risks used or involved in business operations of the employee other than as an

employee of the insurer, agent, or broker. The amount of discount shall in no event exceed the amount of agent's commission which the employer insurer may otherwise pay, or the amount of commission to be received by the employer agent or broker, with respect to the insurance. ~~For the purposes of section 41-1033 (controlled business), Idaho Code, the insurance as to employees of an agent or broker shall be included within the controlled business of the licensee upon the basis of the commission which the licensee was entitled to receive as if the discount had not been allowed.~~

SECTION 7. That Section 41-3435, Idaho Code, be, and the same is hereby amended to read as follows:

41-3435. ~~AGENTS~~ PRODUCER LICENSING. (1) ~~Agents~~ Producers or persons representing a service corporation in the solicitation and negotiation of subscriber's contracts shall qualify for and be licensed as ~~agents~~ producers of the service corporation in the same manner and in compliance with the same applicable qualifications, licensing procedures and fees as apply under this code as to ~~agents~~ producers of disability insurers~~;~~ except that:

(a) Any such person who holds a valid license as ~~an agent~~ a producer for a disability insurer issued under chapter 10, title 41, Idaho Code, may be appointed as the agent for such service corporation without further examination or other compliance with chapter 10, title 41, Idaho Code; and

(b) Nothing in this section shall prevent such person from being licensed as a producer and appointed as an agent for a life insurer or insurers under chapter 10, title 41, Idaho Code, and concurrently being licensed as ~~an agent~~ a producer for such a service corporation.

(2) Service corporations ~~shall~~ may file appointment of ~~such~~ agents or representatives in the same manner as provided in section 41-10~~47~~18, Idaho Code, with respect to ~~agents~~ producers of insurers.

(3) The exceptions to license requirements set forth in chapter 10, title 41, Idaho Code, shall also apply as to service corporations.

SECTION 8. 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~~ a producer as defined in section 41-10~~21~~03(9), 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) "Board" means the board of directors of the small employer reinsurance program and the individual high risk reinsurance pool as provided for in section 41-5502, Idaho Code.

(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.

(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.

(8) "Catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(9) "Class of business" means all or a separate grouping of small employers established pursuant to section 41-4705, Idaho Code.

(10) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(11) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(12) "Director" means the director of the department of insurance of the state of Idaho.

(13) "Eligible 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.

(14) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(15) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or 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.

(16) "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.

(17) "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.

(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.

(19) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(20) "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.

(21) "Premium" means all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(22) "Program" means the Idaho small employer reinsurance program created in section 41-4711, Idaho Code.

(23) "Qualifying previous coverage" and "qualifying existing coverage" means benefits or coverage provided under:

(a) Medicare or medicaid, 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.

(24) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(25) "Reinsuring carrier" means a small employer carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(26) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(27) "Risk-assuming carrier" means a small employer carrier whose application is approved by the director pursuant to section 41-4710, Idaho Code.

(28) "Small employer" means any person, firm, corporation, partnership or association that is actively engaged in business that, 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.

(30) "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 standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

SECTION 9. That Section 41-4933, Idaho Code, be, and the same is hereby amended to read as follows:

41-4933. EXISTING INSURANCE LAWS TO APPLY TO THE TRUST FUND WITH CERTAIN EXCEPTIONS. The trust fund shall comply with all of the applicable provisions of title 41, Idaho Code, with certain exceptions as follows:

(1) The creation of the trust fund by act of the legislature shall not be deemed to be an ownership, control or operation of an insurer by a governmental entity, as referred to in section 41-309, Idaho Code, and the surplus funds of the trust fund shall be considered to be dedicated and held in reserve for the purpose of providing funds for the payment of claims arising out of the discharge of petroleum products from tanks covered by a contract of insurance issued to the tank owner or operator by the trust fund as provided for in section 41-4905, Idaho Code. The absolute control of the trust fund shall be vested in the manager of the state insurance fund as trustee.

(2) The provisions of this chapter shall be construed to be contained in the document of organization and bylaws of the trust fund for purposes of sections 41-319, 41-320 and 41-322, Idaho Code, and the director shall issue a certificate of registration to and in the name of the trust fund upon his finding that it has met all other appropriate provisions of the Idaho Code, including sections 41-313, 41-316 and 41-316A, Idaho Code.

(3) Section 41-337, Idaho Code, shall not apply to contracts of insurance issued by the trust fund.

(4) Sections 41-10304 and 41-1022, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund.

(5) Section 41-1103, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund, provided the employees restrict their claims adjusting and investigation operations only to those contracts issued by the trust fund.

(6) Except as otherwise provided in this chapter, chapter 28, title 41, Idaho Code, and chapter 14, title 30, Idaho Code, shall not apply to the trust fund nor shall this trust fund be construed to be a domestic mutual insurer, nor a reciprocal insurer, nor any other type of insurer currently regulated by title 41, Idaho Code, and the only organizational requirements of this trust fund shall be those enumerated in this chapter.

SECTION 10. 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 provi-

sions 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~~ a producer as defined in section 41-10~~21~~03(9), 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) "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.

(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.

(7) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(8) "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.

(9) "Director" means the director of the department of insurance of the state of Idaho.

(10) "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.

(11) "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.

(12) "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 cer-

tificates 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.

(13) "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) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(20) "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.

(21) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(22) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance pool established in chapter 55, title 41, Idaho Code.

(23) "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.

(24) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(25) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

SECTION 11. That Section 41-5501, Idaho Code, be, and the same is hereby amended to read as follows:

41-5501. DEFINITIONS. As used in this chapter:

(1) "Agent" means ~~an--agent~~ a producer as defined in section 41-10~~21~~03(9), 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.

Approved April 2, 2001.

CHAPTER 297
(H.B. No. 192, As Amended)

AN ACT

RELATING TO COMMERCIAL FEES AT HAZARDOUS WASTE DISPOSAL FACILITIES; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 39-4427, IDAHO CODE, TO PROVIDE A FIVE DOLLAR PER GATE TON OR FRACTION THEREOF DISPOSAL FEE FOR WASTES CONTAINING RADIOLOGICALLY CONTAMINATED WASTE MATERIALS

FROM FUSRAP SITES ADMINISTERED BY THE UNITED STATES ARMY CORPS OF ENGINEERS; AMENDING SECTION 39-4403, IDAHO CODE, TO FURTHER DEFINE THE TERM "RESTRICTED HAZARDOUS WASTE" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-4405, IDAHO CODE, TO PROVIDE FOR RULES FOR RADIOACTIVE MATERIALS OR OTHER RADIOACTIVE MATERIALS OCCURRING NATURALLY THAT MAY BE DISPOSED OF AT A COMMERCIAL HAZARDOUS WASTE FACILITY OR SITE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to restrict certain wastes containing radioactive materials from being disposed of in this state unless the Legislature specifically approves such disposal.

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

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

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

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

(c) Hazardous waste that is delisted or treated so that it is no longer hazardous waste or nonhazardous radiologically contaminated waste materials from "Formerly Utilized Sites Remedial Action Program (FUSRAP)" sites administered by the United States army corps of engineers: five dollars ($5.00) per gate ton or fraction thereof disposed of at the facility or site;

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

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

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

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

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

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

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

SECTION 3. That Section 39-4403, Idaho Code, be, and the same is hereby amended to read as follows:

39-4403. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Commercial hazardous waste facility or site" means any hazardous waste facility whose primary business is the treatment, storage or disposal, for a fee or other consideration, of hazardous waste generated offsite by generators other than the owner and operator of the facility.

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

(4) "Director" means the director of the Idaho department of health and welfare or the director's authorized agent.

(5) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(6) "Gate ton" means the weight, in tons (2,000 pounds/ton), of waste material received at a facility. This weight does not include any subsequent changes to the weight resulting from the management of the waste by the facility.

(7) "Generator" means any person, who by virtue of ownership, management, or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(8) "Hazardous waste" means a waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illnesses; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitible, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties but do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to national pollution discharge elimination system permits under the Federal Water Pollution Control Act, as

amended, 33 U.S.C., Section 1251 et seq., or source, special nuclear, or ~~by-product~~ byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C., Section 2011 et seq.

(9) "Hazardous waste management" means the systematic control of the collection, source separation, storage, treatment, transportation, processing, and disposal of hazardous wastes.

(10) "Hazardous waste facility or site" means any property, structure, or ancillary equipment intended or used for the transportation, treatment, storage or disposal of hazardous wastes.

(11) "Injection" means the subsurface emplacement of free liquids.

(12) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste identification code(s), and destination of hazardous waste during any transportation from the point of generation to the point of treatment, storage or disposal.

(13) "Manifested waste" means waste which at the point of origin or generation is required to be manifested for transportation in a manner similar to that of the federal uniform hazardous waste manifest or by other manifest requirements designed to assure proper treatment, storage and disposal of such waste.

(14) "PCB waste" means any waste or waste item which is not included in the definition of "hazardous waste" and which is contaminated with polychlorinated biphenyls.

(15) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(16) "RCRA" means the Resource Conservation and Recovery Act of 1976 as amended from time to time.

(17) "Restricted hazardous waste" means a waste or combination of wastes regulated as land disposal restricted pursuant to federal statutes and regulations, including 40 CFR part 268. Restricted hazardous waste also includes byproduct, source, special nuclear materials or devices or equipment utilizing such materials regulated under the federal atomic energy act of 1954, as amended. Restricted hazardous waste shall not include radiologically contaminated waste materials from "Formerly Utilized Sites Remedial Action Program (FUSRAP)" sites administered by the United States army corps of engineers and being disposed of pursuant to a contract in existence on July 1, 2001, and as may be renewed thereafter.

(18) "Storage" means the containment of hazardous wastes, on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes.

(19) "Transportation" means the movement of any hazardous waste to or from a hazardous waste facility or site.

(20) "Transporter" means any person who transports a hazardous waste to or from a hazardous waste facility or site.

(21) "Treatment" means any method, technique, or process, including neutralization, which is designed not to be an integral part of a production process, but which is rather designed to change the physical, chemical, or biological character or composition of any hazardous waste prior to storage or final disposal so as to neutralize such waste or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for stor-

age or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(22) "Waste" means any solid, semisolid, liquid or contained gaseous material for which no reasonable use or reuse is intended or which is intended to be discarded.

SECTION 4. That Section 39-4405, Idaho Code, be, and the same is hereby amended to read as follows:

39-4405. RULES ~~AND REGULATIONS~~ IN GENERAL. Pursuant to the procedures established by the Idaho administrative procedures act, chapter 52, title 67, Idaho Code, the board shall adopt such rules ~~and regulations~~ as are necessary and feasible for the management of the generation, collection, transportation, treatment, storage, and disposal of hazardous wastes within the state. The board shall also adopt such rules ~~and regulations~~ as necessary to regulate persons who produce, burn, distribute, and market fuel containing hazardous waste. The rules ~~and regulations~~ promulgated by the board shall be a part of this code and shall have the force and effect of law. Such rules ~~and regulations~~ shall include, but not be limited to:

(1) Criteria for the determination of whether any waste or combination of wastes is hazardous for the purposes of this chapter;

(2) Rules ~~and regulations~~ for those who generate, transport, treat, store, or dispose of hazardous wastes;

(3) Rules, ~~and regulations,~~ consistent with those issued by the United States environmental protection agency and the United States department of transportation, for containerization, labeling and manifesting of hazardous wastes;

(4) Rules ~~and regulations~~ specifying the terms and conditions under which the department shall issue, modify, suspend, revoke, or deny such permits as shall be required by this chapter;

(5) Lists of those wastes or combinations of wastes which are not compatible and which may not be stored or disposed of together;

(6) Procedures and requirements for the reporting of the generation, transportation, treatment, storage or disposal of hazardous wastes;

(7) Rules ~~and regulations~~ establishing standards and procedures for the training of personnel at generation sites and at hazardous waste facilities and sites;

(8) Release detection, prevention and correction ~~regulations~~ rules applicable to all owners and operators of underground storage tanks, as may be necessary to protect human health and the environment;

(9) Rules specifying radioactive materials or other radioactive materials occurring naturally that may be disposed of at a commercial hazardous waste facility or site.

Approved April 2, 2001.

CHAPTER 298
(H.B. No. 210)

AN ACT

RELATING TO THE PEA AND LENTIL COMMISSION; AMENDING SECTION 22-3515, IDAHO CODE, TO AUTHORIZE THE IDAHO PEA AND LENTIL COMMISSION TO ESTABLISH THE RATE OF TAX TO BE IMPOSED OF NOT LESS THAN ONE PERCENT, BUT NOT TO EXCEED TWO PERCENT, OF THE NET RECEIPTS OF SPECIFIED AGRICULTURAL COMMODITIES AT THE FIRST POINT OF SALE.

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

SECTION 1. That Section 22-3515, Idaho Code, be, and the same is hereby amended to read as follows:

22-3515. IMPOSITION OF ASSESSMENT. (1) From and after July 1, 1997, there is hereby levied and imposed an assessment of an amount not to be less than one percent (1%) nor to exceed two percent (2%) of the net receipts at the first point of sale, to be deducted by the first purchaser from the ~~price paid~~ to the grower on dry peas or lentils grown in Idaho, or chickpeas or garbanzos grown north of the Salmon River, sold after July 1, 1997, dockage free weight, and sold or contracted through commercial channels, and each and every crop grown thereafter. The assessment provided in this subsection shall be paid at such time or times as the commission may by rule prescribe.

(2) The assessment shall be levied and assessed to the grower at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the grower at the time of sale or in case of a lienholder who may possess such peas or lentils under his lien, the assessment shall be deducted by the lienholder from the proceeds of the claims secured by such lien at the time the peas or lentils are pledged or mortgaged. The assessment shall be deducted as provided in this section whether the peas or lentils are stored in this or any other state. The commission may, however, permit any federal corporation, such as the commodity credit corporation, to waive its responsibility for the collection of the assessment, provided the amount of the assessment is one dollar ($1.00) or less.

(3) It shall be within the discretion of the commission to establish the amount of the tax to be levied as provided in subsection (1) of this section. The decision whether to adjust the amount of the tax to be levied and the time for which the adjusted levy shall be in effect shall require the vote of a majority of the commission members.

(4) The assessment shall be levied on peas and lentils grown and delivered on seed or grower contracts. The ~~assessment shall~~ be levied and assessed to the grower at the time of settlement and shall be deducted by the seed company, corporation, cooperative, partnership, or person from the price paid to the grower at the time of settlement for fulfillment of conditions as set forth in grower contracts.

(~~4~~5) The assessment shall not be levied on peas and lentils retained and used by the grower for his own seed and feed.

(56) The assessment constitutes a lien prior to all other liens and encumbrances upon such peas or lentils except liens which are declared prior by operation of a statute of this state.

Approved April 2, 2001.

CHAPTER 299
(H.B. No. 237, As Amended in the Senate)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-9-109, AS ADDED BY HOUSE BILL NO. 205, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE, TO EXCLUDE FROM THE APPLICATION OF CHAPTER 9, TITLE 28, IDAHO CODE, A CLAIM OR RIGHT TO RECEIVE COMPENSATION FOR CERTAIN DAMAGES AS DESCRIBED UNDER SPECIFIED FEDERAL LAW AND A CLAIM OR RIGHT TO RECEIVE BENEFITS UNDER A SPECIAL NEEDS TRUST AS DESCRIBED UNDER SPECIFIED FEDERAL LAW.

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

SECTION 1. That Section 28-9-109, Idaho Code, as added by House Bill No. 205, enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, be, and the same is hereby amended to read as follows:

28-9-109. SCOPE. (a) Except as otherwise provided in subsections (c) and (d), this chapter applies to:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) An agricultural lien;

(3) A sale of accounts, chattel paper, payment intangibles or promissory notes;

(4) A consignment;

(5) A security interest arising under section 28-2-401, 28-2-505, 28-2-711(3) or 28-12-508(5), as provided in section 28-9-110; and

(6) A security interest arising under section 28-4-210 or 28-5-120.

(b) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(c) This chapter does not apply to the extent that:

(1) A statute, regulation, or treaty of the United States preempts this chapter;

(2) Another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;

(3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority or enforcement of a security interest created by the state, country or governmental unit; or

(4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 28-5-114.

(d) This chapter does not apply to:

(1) A landlord's lien, other than an agricultural lien;

(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 28-9-333 applies with respect to priority of the lien;

(3) An assignment of a claim for wages, salary or other compensation of an employee;

(4) A sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale of the business out of which they arose;

(5) An assignment of accounts, chattel paper, payment intangibles or promissory notes which is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health care provider of a health care insurance receivable and any subsequent assignment of the right to payment, but sections 28-9-315 and 28-9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or set-off, but:

(A) section 28-9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) section 28-9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) liens on real property in sections 28-9-203 and 28-9-308;

(B) fixtures in section 28-9-334;

(C) fixture filings in sections 28-9-501, 28-9-502, 28-9-512, 28-9-516 and 28-9-519; and

(D) security agreements covering personal and real property in section 28-9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 28-9-315 and 28-9-322 apply with respect to proceeds and priorities in proceeds; ~~or~~

(13) (A) A claim or right to receive compensation for injuries or sickness as described in (i) 26 U.S.C. section 104(a)(1)~~, as amended from time to time~~ and (ii) on and after the effective date of this chapter, in 26 U.S.C. section 104(a)(2), as those sections may be amended from time to time. Notwithstanding the foregoing, this chapter (other than sections 28-9-406(d) and 28-9-408(a) and (c), Idaho Code, in the case of transfers made on and after the effective date of this chapter) shall apply to such compensation as described in 26 U.S.C. section 104(a)(2) if the sale, pledge, assignment or other

transfer of rights to receive such compensation under a structured settlement is approved by the final order of a court pursuant to, and otherwise complies with, the requirements of paragraph (B) of this subsection.

(B) (i) Definitions. For purposes of this subsection:

1. "annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement;

2. "dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony;

3. "discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service;

4. "gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration;

5. "independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser;

6. "interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under such structured settlement;

7. "net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under paragraph (B)(ii)5. of this subsection;

8. "payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

9. "periodic payments" includes both recurring payments and scheduled future lump sum payments;

10. "qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of 26 U.S.C. section 130, as amended from time to time;

11. "settled claim" means the original tort claim resolved by a structured settlement;

12. "structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim;

13. "structured settlement agreement" means the

agreement, judgment, stipulation, or release embodying the terms of a structured settlement;

14. "structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement;

15. "structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

A. the payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state; or

B. the structured settlement agreement was approved by a court in this state; or

C. the structured settlement agreement is expressly governed by the laws of this state;

16. "terms of the structured settlement" include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement;

17. "transfer" means any sale, assignment, pledge, hypothecation or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; provided that the term "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights;

18. "transfer agreement" means the agreement providing for a transfer of structured settlement payment rights;

19. "transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney's fees, escrow fees, lien recordation fees, judgment and lien search fees, finder's fees, commissions, and other payments to a broker or other intermediary; "transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer;

20. "transferee" means a party acquiring or proposing

to acquire structured settlement payment rights through a transfer.

(ii) Required disclosures to payee. Not less than three (3) days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen (14) points, setting forth:

1. the amounts and due dates of the structured settlement payments to be transferred;

2. the aggregate amount of such payments;

3. the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the applicable federal rate used in calculating such discounted present value;

4. the gross advance amount;

5. an itemized listing of all applicable transfer expenses, other than attorney's fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;

6. the net advance amount;

7. the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee; and

8. a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

(iii) Approval of transfers of structured settlement payment rights.

1. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

A. the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents;

B. the payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing; and

C. the transfer does not contravene any applicable statute or the order of any court or other government authority.

(iv) Effects of transfer of structured settlement payment rights. Following a transfer of structured settlement payment rights under this subsection:

1. The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

2. The transferee shall be liable to the structured settlement obligor and the annuity issuer:

A. if the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and

B. for any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subsection;

3. Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two (2) or more transferees or assignees; and

4. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subsection.

(v) Procedure for approval of transfers.

1. An application under this subsection for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or in any court which approved the structured settlement agreement.

2. Not less than twenty (20) days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under paragraph (B)(iii) of this subsection, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

A. a copy of the transferee's application;

B. a copy of the transfer agreement;

C. a copy of the disclosure statement required under paragraph (B)(ii) of this subsection;

D. a listing of each of the payee's dependents, together with each dependent's age;

E. notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in per-

son or by counsel, by submitting written comments to the court or by participating in the hearing; and

F. notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed (which shall be not less than fifteen (15) days after service of the transferee's notice) in order to be considered by the court.

(vi) General provisions -- construction.

1. The provisions of this subsection may not be waived by any payee.

2. Any transfer agreement entered into on or after the effective date of this subsection by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

3. No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for (i) periodically confirming the payee's survival, and (ii) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

4. No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this subsection.

5. Nothing contained in this subsection shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subsection is valid or invalid.

6. Compliance with the requirements set forth in paragraph (B)(ii) of this subsection and fulfillment of the conditions set forth in paragraph (B)(iii) of this subsection shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from,

noncompliance with such requirements or failure to fulfill such conditions.

(vii) Effective date. This subsection shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the thirtieth day after the date of enactment of this subsection; provided however, that nothing contained herein shall imply that any transfer under a transfer agreement reached prior to such date is either effective or ineffective; or

(14) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. section 1396p(d)(4), as amended from time to time.

Approved April 2, 2001.

CHAPTER 300
(H.B. No. 238, As Amended)

AN ACT

RELATING TO LICENSING OF PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1901, IDAHO CODE, TO DELETE THE DEFINITION OF "EXECUTIVE DIRECTOR," TO DEFINE "ADMINISTRATOR" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54- 1902, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE ISSUANCE OF PUBLIC WORKS CONTRACTOR LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1904, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1905, IDAHO CODE, TO PROVIDE RESPONSIBILITIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; REPEALING SECTION 54-1906, IDAHO CODE; AMENDING SECTION 54-1907, IDAHO CODE, TO REVISE THE DUTIES AND POWERS OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD AND TO TRANSFER CERTAIN DUTIES TO THE ADMINISTRATOR; AMENDING SECTION 54-1910, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL HAVE THE POWER AND AUTHORITY TO INVESTIGATE, CLASSIFY AND QUALIFY APPLICANTS FOR LICENSE UNDER RULES ADOPTED BY THE BOARD; AMENDING SECTION 54-1911, IDAHO CODE, TO MODIFY THE PROCEDURES AND AUTHORITY FOR FILING, ISSUING AND DENYING LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1912, IDAHO CODE, TO MODIFY THE PROCEDURES AND AUTHORITY FOR RENEWING LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1913, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR FOR MAINTAINING RECORDS AND PUBLISHING LISTS AND INFORMATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1914, IDAHO CODE, TO AUTHORIZE THE ADMINISTRATOR TO INITIATE INVESTIGATIONS AND DISCIPLINARY ACTIONS, TO PROVIDE THAT A CHANGE IN FINANCIAL CIRCUMSTANCES IS CAUSE FOR INVESTIGATION AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-1914A, IDAHO CODE; AMENDING SECTION 54-1915, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR REGARDING DISCIPLINARY ACTIONS AND TO REVISE THE PROCEDURE FOR DUE PROCESS IN DISCIPLINARY ACTIONS; AMENDING SECTION 54-1916, IDAHO CODE, TO CLARIFY ACTIONS WHICH ARE SUBJECT TO JUDICIAL REVIEW, TO PROVIDE A REVISION TO THE APPEALS PROCESS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1917, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR

REGARDING RENEWAL OF SUSPENDED AND REVOKED LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1918, IDAHO CODE, TO PROVIDE POWER OF THE ADMINISTRATOR REGARDING SUBPOENAS AND PROCESS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-1921, IDAHO CODE, TO DELETE OUTDATED LANGUAGE REGARDING THE EXPENDITURE OF FUNDS IN THE PUBLIC WORKS CONTRACTORS LICENSE FUND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1901, Idaho Code, be, and the same is hereby amended to read as follows:

54-1901. DEFINITIONS. For the interpretation of this ~~act~~ chapter, unless the context indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization, or any combination thereof acting as a unit.

(b) "Public works contractor," which term is synonymous with the term "builder," "~~sub-contractor~~ subcontractor" and "specialty contractor," and in this ~~act~~ chapter referred to as "contractor" or "licensee," includes any person who, in any capacity, undertakes, or offers to undertake, or purports to have the capacity to undertake any construction, repair or reconstruction of any public work, or submits a proposal to, or enters into a contract with, the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or with any agency, or with any other public board, body, commission, department or agency, or officer or representative thereof, authorized to let or award contracts for the construction, repair or reconstruction of any public work.

(c) "Public works construction" includes any or all of the following branches:

(1) Heavy construction, which is defined as constructing substantially in its entirety any fixed works and structures (not including "building construction"), without limitation, for any or all of the following divisions of subjects: irrigation, drainage, sanitation, sewage, water power, water supply, reservoirs, flood control, reclamation, inland waterways, railroads, grade separations, track elevation, elevated highways, hydro-electric developments, aqueducts, transmission lines, duct lines, pipelines, locks, dams, dykes, levees, revetments, channels, channel cutoffs, intakes, drainage, excavation and disposal of earth and rocks, foundations, piers, abutments, retaining walls, viaducts, shafts, tunnels, airports, air bases and airways, and other facilities incidental to the same;

(2) Highway construction, which is defined as all work included in highway construction contracts, including, without limitation, highways, roads, streets, bridges, tunnels, sewer and street grading, street paving, curb setting, surfacing and other facilities incidental to any of the same;

(3) Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and inclosure of persons, chattels, personal and movable property of any kind, requiring in its construc-

tion the use of more than two (2) unrelated building trades or crafts.

(4) Specialty construction, which is defined as any work in connection with any public works construction, requiring special skill and the use of specially skilled trades or crafts.

(d) "Board" means the board created by this ~~act~~ chapter under the name of "public works contractors license board."

(e) "~~Executive director~~Administrator" means the ~~person appointed as such under this act administrator of the~~ division of building safety.

(f) "Year" means the fiscal year ending June 30, each year.

(g) "Federal aid ~~funds" means~~ a direct grant in aid, matching funds, or loan from an agency of the federal government and designated for a specific public works project. Revenue sharing funds, federal impact funds, timber stumpage fees, and similar indirect allowances and subsidies not designated for a specific public works project shall not be regarded as "federal aid funds" within the meaning of this section.

(h) "Government obligation" means a public debt obligation of the United States government or the state of Idaho and an obligation whose principal and interest is unconditionally guaranteed by the United States government or the state of Idaho.

(i) "Public entity" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(j) "Bid" or "bidder" means any proposal submitted by a public works contractor to a public entity in competitive bidding for the construction, alteration, repair or improvement of any public works construction.

SECTION 2. That Section 54-1902, Idaho Code, be, and the same is hereby amended to read as follows:

54-1902. UNLAWFUL TO ENGAGE IN PUBLIC WORKS CONTRACTING WITHOUT LICENSE. It shall be unlawful for any person to engage in the business or act in the capacity of a public works contractor within this state without first obtaining and having a license issued pursuant to the provisions of this chapter by the administrator of the division of building safety, unless such person is particularly exempted as provided in this ~~act~~ chapter. It shall be unlawful for any public works contractor to subcontract in excess of eighty percent (80%) of the work under any contract to be performed by him as such public works contractor according to the contract prices therein set forth, unless otherwise provided in the specifications of such contracts. Nor shall a public works contractor accept a bid from any person who at that time does not possess the appropriate license for the project involved. Nor shall a public works contractor accept bids to sublet any part of any contract for specialty construction from a specialty contractor who at that time does not possess the appropriate license in accordance with this ~~act~~ chapter; provided, however, that no contractor shall be required to have a license under this ~~act~~ chapter in order to submit a bid or proposal for contracts for public works financed in whole or in part by federal aid funds, but at or prior to the award and execution of any such contract by the state of Idaho, or any other contracting authority mentioned in

this ~~act~~ chapter, the successful bidder shall secure a license as provided in this ~~act~~ chapter.

SECTION 3. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. There shall be six (6) classes of licenses issued under the provisions of this ~~act~~ chapter which are hereby designated as Classes AAA, AA, A, B, C and D, the maximum fee for which shall be as hereinafter specified. Each applicant for a license shall specify the class of license applied for in his application.

For the purpose of licensing public works contractors under this ~~act~~ chapter the board may adopt rules necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this ~~act~~ chapter provided.

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts ~~for~~ public works involving an estimated cost of more than three million dollars ($3,000,000) may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars ($150), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed one hundred fifty dollars ($150).

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than three million dollars ($3,000,000) may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars ($150), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed one hundred fifty dollars ($150).

Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one million dollars ($1,000,000) may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars ($150), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed one hundred fifty dollars ($150).

Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than five hundred thousand dollars ($500,000), may, upon his application and the payment of a license fee not to exceed seventy-five dollars ($75.00) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "B" license shall be entitled to engage

in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B" license shall not exceed seventy-five dollars ($75.00).

Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one hundred thousand dollars ($100,000), may, upon his application and the payment of a license fee not to exceed seventy-five dollars ($75.00), be granted a Class "C" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed seventy-five dollars ($75.00).

Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars ($50,000), may, upon his application and the payment of a license fee not to exceed seventy-five dollars ($75.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this ~~act~~ chapter. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed seventy-five dollars ($75.00).

The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fee so fixed shall not exceed the maximum fee set forth in this section.

Each license issued by the ~~board~~ administrator shall clearly indicate the type and scope of work for which the licensee is qualified and licensed. The holder of the license ~~shall be permitted~~ to submit proposals for and perform only those types of work specified in each license. The ~~board~~ administrator may extend the permissible type or scope of work to be done under any license when it is determined by the ~~board~~ administrator that the ap~~plicant~~ meets all of the requirements of this ~~act~~ chapter to qualify him to do such other work.

SECTION 4. 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 and made part of the division of building safety in the department of self-governing agencies a public works contractors license board. ~~to~~ It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this chapter, and to serve as secretary to the board. The board shall 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 cur-

rent 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 5. That Section 54-1906, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 54-1907, Idaho Code, be, and the same is hereby amended to read as follows:

54-1907. DUTIES AND POWERS OF THE BOARD -- SEAL. ~~--EXECUTIVE DIRECTOR APPOINTED.~~ The board ~~shall be vested--with--all--functions--and duties--relating--to--the administration of this act and shall have full power to make rules as it shall deem necessary to carry out--the--provisions--of--this--act. The board shall have the power to provide suitable quarters and equipment, records and--supplies--as--deemed--necessary--to carry--out the provisions of this act~~ is authorized and directed to prescribe and amend rules consistent with this chapter for the administration of this chapter and to effectuate the purpose thereof, and for the investigation, classification, examination and licensing of public works contractors. The board shall adopt a seal, having upon it the words "Public Works Contractors License Board--State of Idaho." The care and custody of the seal shall be with the ~~executive director~~ administrator. Any member of the board may administer oaths and may take testimony concerning all matters within the jurisdiction of the board.

~~The board shall appoint an executive director, and fix their compensation.--The--executive director shall be the secretary to the board and shall carry out such administrative duties as provided in this--act--and as--delegated--by--the--board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any--action--or--decision--of--the executive--director.--For--the--administration of this act the board may employ such other employees as may be necessary, describe--their--duties and fix their compensation.~~

SECTION 7. That Section 54-1910, Idaho Code, be, and the same is hereby amended to read as follows:

54-1910. EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS. Under such rules as ~~it~~ the board may adopt, the ~~board~~ administrator shall have the

power and authority to investigate, classify, and to qualify applicants for licenses under this ~~act~~ chapter, by written or oral examinations, or both.

The qualifications to be required of an applicant by the board are as follows:

(a) Such degree of experience, and such general knowledge of the building, safety, health and lien laws of the state, and of the rudimentary administrative principles of the contracting business, as may be deemed necessary by the board for the safety and protection of the public. The applicant if an individual may qualify as to the aforementioned experience and knowledge by personal appearance or by the appearance of his responsible managing employee, and if a copartnership or corporation, limited liability company, limited liability partnership and any other combination or organization, by the appearance of the responsible managing officer or member of the personnel of such applicant. If the person qualifying by examination as to experience and knowledge shall, for any reason whatsoever, cease to be connected with the licensee to whom the license is issued, such licensee shall so notify the ~~board~~ administrator in writing within ten (10) days from such cessation. If such notice is given, the license shall remain in force for a reasonable length of time, to be determined by rules of the board. If such licensee fails to so notify the ~~board~~ administrator within said ten (10) day period, then at the end of such ten (10) day period, the license of such licensee shall be automatically suspended. A suspended license shall be reinstated upon the filing with the ~~board~~ administrator of an affidavit executed by the licensee or a member of the suspended firm, to the effect that the individual originally examined ~~for~~ the firm has been replaced by another individual who has been qualified by examination as herein provided, and who shall not have had a license suspended or revoked, nor have been connected with any licensee who has had a license suspended or revoked for reasons that should preclude him from personally qualifying as to good character as herein required of an applicant.

(b) The possession by the applicant of good character. Lack of character may be established by showing any of the following:

(1) That the applicant has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license, or

(2) That the applicant has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another, or

(3) That the applicant bears a bad reputation for honesty and integrity, or

(4) That the applicant has been convicted of a felony.

(c) That he has never been refused a license or had a license revoked for reasons that would preclude the granting of the license applied for.

(d) No license shall be issued to a corporation, copartnership, limited liability company, limited liability partnership or other combination or organization if any responsible officer of such corporation, or other combination or organization, or any member of such copartnership does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

(e) To obtain an original license under this ~~act~~ chapter, the applicant shall submit to the ~~board~~ administrator, on such forms as ~~it~~

the administrator shall prescribe, accompanied by the required fee for the class of license applied for, and in accordance with such rules as may be deemed necessary and adopted by the board in order to carry out the foregoing provisions of this section, a sworn written application for such license, containing the statement that applicant desires the issuance of a license under the terms of this ~~act~~ chapter. The information contained in such application forms shall include a complete statement of the general nature of applicant's contracting business, and stating concisely applicant's experience and qualifications as a contractor; the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; a general description of applicant's machinery and equipment; a complete financial statement on such forms and disclosing such information as shall be required by the ~~board~~ administrator, together with such additional information as may be required by the ~~board~~ administrator to determine the applicant's fitness for a license under this ~~act~~ chapter. The application shall contain, if by an individual, ~~their~~ the individual's name, social security number and business address; if by a copartnership, its business address and the names and addresses of all partners; and if by a corporation, association, limited liability company, limited liability partnership or other organization, its business address and the names and addresses of the president, vice-president, secretary, and chief construction managing officers, or responsible managing employee.

SECTION 8. That Section 54-1911, Idaho Code, be, and the same is hereby amended to read as follows:

54-1911. FILING, ISSUANCE AND DENIAL OF LICENSES ~~--- JOINT VENTURE APPLICATIONS~~ -- FEES NOT REFUNDED. Applications for original licenses, together with the fees therefor, shall be filed with the ~~board if received at least ten (10) days prior to consideration--thereof--by--the board.~~ administrator. After such examination and investigation as ~~the board may require~~ may be prescribed by rule, in accordance with the provisions of this ~~act~~ chapter, if no valid reason exists for further investigation of applicant, the ~~board~~ administrator shall ~~at the next meeting~~ issue a license to applicant permitting him to engage in business as a contractor under the terms of this ~~act~~ chapter for the licensing period designated. If the information brought to the attention of the ~~board~~ administrator concerning the character and integrity of an applicant is such that it would appear proper to deny the application, the applicant shall be notified by certified mail to show cause within such time, not less than five (5) days, nor more than thirty (30) days, why the application should not be denied.

~~Applications for original licenses filed in accordance with the provisions of this act shall be considered by the board at such special--or regular--monthly--meetings as the board may determine.~~ Fees accompanying original applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

SECTION 9. That Section 54-1912, Idaho Code, be, and the same is hereby amended to read as follows:

54-1912. EXPIRATION AND RENEWAL OF LICENSES -- FEES. All contractors required by the provisions of this section to be licensed, shall be licensed for a period of twelve (12) consecutive calendar months.

Each licensing period shall start on the first day of a calendar month and end on the last day of the twelfth month from the date of beginning.

Licensing periods shall expire at midnight on the last day of the licensing period.

Application for renewal of a current license prior to its expiration date shall authorize operation as a contractor by such licensee until actual issuance of such renewal license for the ensuing year or until the final decision of the board is rendered in any proceeding. An applicant for renewal of a license issued under this ~~act~~ chapter shall not be required to take any other or further examination to obtain such renewal license, provided that at the time of such application ~~his~~ license has not been suspended or permitted to lapse or expire for any cause for a period of one (1) year or more. All applications for renewal of license shall be made on forms prescribed by the ~~board~~ administrator and shall be accompanied by the annual renewal fee and a complete current financial statement on such forms and disclosing such information as shall be required by ~~the board~~ rule, duly certified as true by the applicant, and if a copartnership, limited liability company or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer; such renewal application shall be filed prior to the first day of such renewal licensing period~~;--otherwise--the--expired license--shall-be-renewable-only-after-the-application-and-fees-therefor shall-have-been-on-file-with-the-board-at-least-ten-(10)-days--prior--to consideration-by-the-board~~. Fees accompanying renewal applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

The license issued under this ~~act~~ chapter shall be signed both by the ~~executive-director~~ administrator and by the licensee, shall be nontransferable, and shall be displayed in the licensee's main office or chief place of business, and satisfactory evidence of the possession thereof and of the current annual renewal thereof shall be exhibited by licensee upon demand.

A surviving member or members of a licensed copartnership, limited liability company or limited liability partnership by reason of death shall be entitled to continue in business under such license until the expiration date thereof, provided due application for permission is made to the ~~board~~ administrator within thirty (30) days after death of the member, and the application is approved by the ~~board~~ administrator in accordance with ~~its~~ rules.

All licensees shall report to the ~~board~~ administrator all changes of personnel, name style or addresses recorded under this ~~act~~ chapter within thirty (30) days after the changes are made.

SECTION 10. That Section 54-1913, Idaho Code, be, and the same is hereby amended to read as follows:

54-1913. RECORDS, LISTS AND INFORMATION. The ~~board~~ administrator shall maintain~~,-at-its-office-in-Boise,-Idaho~~, open to public inspection during office hours, a complete record of all retained applications, licenses issued, licenses renewed and all revocations, ~~cancelations~~ can-

cellations and suspensions of licenses, and shall furnish a certified copy of any license issued, upon receipt of the sum of fifty cents (50¢), which certified copy shall be received in all courts and elsewhere as evidence of the facts stated therein.

Whenever funds are available for the purpose, the ~~board~~ administrator shall publish a list of the names and addresses of contractors licensed under this ~~act~~ chapter and such further information with respect to this ~~act~~ chapter and its administration as the ~~board~~ administrator deems proper. The ~~board~~ administrator may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other state as deemed advisable, and at such intervals as deemed necessary, whenever funds therefor are available. Copies of the lists may also be furnished by the ~~board~~ administrator upon request to any firm or individual upon payment of a reasonable fee fixed by the board.

Whenever funds are available for the purpose, the ~~board~~ administrator may publish and disseminate to licensees ~~of the board~~ and to public officials or other persons interested in or allied with the building and construction industry, such information with relation to the administration and enforcement of this ~~act~~ chapter as deemed necessary to carry out its purposes.

SECTION 11. That Section 54-1914, Idaho Code, be, and the same is hereby amended to read as follows:

54-1914. DISCIPLINARY PROCEEDINGS. The ~~board~~ administrator may upon ~~its~~ his own motion or at the direction of the board, and shall upon the verified complaint in writing of any person, investigate the actions of any contractor within the state and may undertake to 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 specifications 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~~ chapter 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~~ chapter.

(g) Failure in any material respect to comply with the provisions of this ~~act~~ chapter.

(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~~ chapter.

(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~~ chapter.

(j) Willful failure or refusal without legal excuse on the part of a licensee as a contractor to ~~finish a const~~ruction 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.

(l) Suffers a change in financial circumstances which may impair the licensee's financial responsibility.

SECTION 12. That Section 54-1914A, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 54-1915, Idaho Code, be, and the same is hereby amended to read as follows:

54-1915. PROCEDURE FOR ~~REVOCATION~~ IMPOSITION OF DISCIPLINE. Upon the filing ~~with the board~~ of a verified complaint with the administrator charging a licensee with the commission of any act constituting a cause for disciplinary action within two (2) years prior to the date of filing, or upon such a finding made by the administrator following an investigation, the ~~board~~ administrator shall forthwith issue a ~~citation~~ notice, accompanied by a copy of the complaint, directing the licensee, within ten (10) days after service of the ~~citation~~ notice, to appear by ~~filing~~ with the ~~board~~ administrator a verified answer to the complaint~~, showing cause, if any, why the license should not be suspended or revoked; provided, however, that the appearance of the licensee by the filing of an answer may be waived by the complainant with the approval of the board, in which case the board shall proceed to a hearing. The proceedings before the board shall be governed by the provisions of~~

~~chapter 52, title 67, Idaho Code.~~

The administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses.

Service of the ~~citation~~ notice and complaint upon the licensee shall be fully effected by mailing a true copy of the ~~citation~~ notice and complaint~~, together with a true copy of the complaint,~~ by certified mail addressed to the licensee at his last address of record ~~with the board administrator~~. Service of the ~~citation~~ notice and complaint shall be complete at the time of deposit in accordance with the provisions of the Idaho Rrules of Ccivil Pprocedure relating to ~~service~~ by mail.

~~Upon the filing of the answer, the board shall fix a time and place for the hearing and give the licensee and the complainant not less than five (5) days' notice thereof. The notice may be served by mailing a true copy by certified mail addressed to the licensee and to the complainant, respectively, at the last known address of each. With the notice to the complainant there shall be attached or enclosed a copy of the answer. If either party has appeared by counsel, the notice shall be given in like manner to counsel instead of to the party.~~

The hearing shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, and the Idaho rules of administrative procedure.

Following the hearing, the hearing officer shall issue recommended findings of fact, conclusions of law, and order.

The recommended order ~~entered by the board~~ may:

(a) Provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision.

(b) Permit the licensee to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the licensee compliance with such specific conditions as may be just in connection with his operations as a contractor disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the ~~board~~ administrator.

(d) Provide for the imposition of any of the sanctions provided by section 54-1914, Idaho Code.

Following a review of the entire hearing record, the administrator shall issue a final decision.

SECTION 14. That Section 54-1916, Idaho Code, be, and the same is hereby amended to read as follows:

54-1916. JUDICIAL REVIEW -- APPEALS PROCEDURE. The applicant or licensee, as the case may be, shall have the right to judicial review of ~~the~~ an action of the ~~board~~ administrator refusing~~, cancelling, revoking or suspending~~ issuance of a license, or actions taken by the board pursuant to section 54-1914, Idaho Code, in accordance with the provisions of chapter 52, title 67, Idaho Code.

Appeals may be taken from the judgment of said district court to the ~~S~~supreme ~~C~~court of Idaho by either party ~~by serving written notice thereof on the adverse party and filing the same in said district court within thirty (30) days after entry of said judgment, but otherwise said~~

~~appeal--shall--be~~ in the same manner that appeals are taken and records prepared on appeal in civil actions.

On any appeal to the district court by a licensee, the court may, in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars ($1,000), guaranteeing the compliance by the licensee with specific conditions imposed upon him by the board's decision, if any, permit the licensee to continue to do business as a contractor pending entry of judgment by the district court.

SECTION 15. That Section 54-1917, Idaho Code, be, and the same is hereby amended to read as follows:

54-1917. RENEWAL OF SUSPENDED OR REVOKED LICENSE. After suspension or revocation of the license upon any of the grounds set forth in this ~~act~~ chapter, the ~~board~~ administrator may renew the license upon proof of compliance by the contractor with all provisions of the decision as to renewal or, in the absence of ~~such~~ decision or any provisions therein as to renewal, in the sound discretion of the ~~board~~ administrator. After revocation of a license upon any of the grounds set forth in this ~~act~~ chapter, the license shall not be renewed or reissued ~~within~~ a period of one (1) year after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with. At any time before a case is finally submitted to the board for decision, whether upon an original hearing, or upon a rehearing, a complaint or answer may, upon the motion of either party, and with the consent of the board, or upon the board's own motion, be amended. If new charges are alleged in an amended complaint, the defendant may, upon request, be allowed ten (10) days to prepare his defense to such new charges.

SECTION 16. That Section 54-1918, Idaho Code, be, and the same is hereby amended to read as follows:

54-1918. SUBPOENAS AND PROCESS. In any investigation, proceeding or hearing which the ~~board~~ administrator is empowered to institute, conduct or hold, the board, and each member thereof, may administer oaths, certify to official acts, issue subpoenas for the attendance of witnesses and the production of books, papers and records, in like manner and to the same extent as courts of record, and with their aid when necessary. The process issued by the board, or any member thereof, shall extend to all parts of the state and may be served by any person authorized to serve process, or by any person designated for that purpose by the board or a member thereof. The person executing any such process shall receive such compensation as may be allowed by the board and not to exceed the fees prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the payment of fees for witnesses. Any citation, notice or other process or any paper or document required by this ~~act~~ chapter to be served on any party may be personally served as provided in the ~~C~~code of ~~C~~civil ~~P~~procedure, with the same effect as if served by mail in the manner provided in this ~~act~~ chapter.

SECTION 17. That Section 54-1921, Idaho Code, be, and the same is hereby amended to read as follows:

54-1921. PUBLIC WORKS CONTRACTORS LICENSE FUND -- APPROPRIATION. -- ~~DISBURSEMENTS.~~ The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Works Contractors License Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this ~~act~~ chapter. All moneys from whatever source accruing to or received by said fund are hereby appropriated for the payment of the cost and expense of the administration and enforcement of this ~~act~~ chapter, as herein provided~~, and the same shall be paid out by the state treasurer only upon state vouchers prepared and approved by the board, certified to by the chairman of the board, and approved by the state board of examiners~~. Any moneys remaining in said fund on the last day of each year, as the term "year" is defined in this ~~act~~ chapter, shall continue to be appropriated for the purposes of this ~~act~~ chapter.

Approved April 2, 2001.

CHAPTER 301
(H.B. No. 305, As Amended)

AN ACT

RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE BOARD; AMENDING SECTION 54-1905, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY AND TO REVISE THE MEMBERSHIP AND TERMS OF OFFICE OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD; AMENDING SECTION 54-1910, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR REGARDING EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS FOR A PUBLIC WORKS CONTRACTORS LICENSE, TO PROVIDE THAT A COMPLETE FINANCIAL STATEMENT MAY INCLUDE A LETTER FROM THE APPLICANT'S BONDING COMPANY STATING A BONDING CAPABILITY AMOUNT, TO PROVIDE THAT A REQUEST FOR A LICENSING CLASS HIGHER THAN THAT FOR WHICH THE APPLICANT QUALIFIES MUST GO TO THE ADMINISTRATOR FOR REVIEW AND MAY BE APPROVED UP TO THE BOND LIMIT, TO PROVIDE THAT A FINAL APPEAL OF A DECISION OF THE ADMINISTRATOR MAY BE MADE TO THE BOARD 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 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 and made part of the division of building safety in the department of self-governing agencies a public works contractors license board. ~~to~~ It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this chapter, and to serve as secretary to the board. The board shall be composed of seven (7) members, who shall be appointed by the governor. One (1)

member of the board shall be a person whose primary business is that of a "heavy construction" contractor, one (1) member shall be a person whose primary business is that of a "highway construction" contractor, ~~two~~ one (~~2~~1) member~~s~~ shall be a person whose primary business is that of a "building construct~~ion~~" contractor~~s~~, one (1) member shall be a person whose primary business is that of a "specialty construction" contractor, as such construction terms are defined in this chapter, one (1) member shall be a subcontractor with a license no higher than a class "A", 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~~ three (~~6~~3) years, and no member shall be appointed to more than two (2) consecutive terms. 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 54-1910, Idaho Code, be, and the same is hereby amended to read as follows:

54-1910. EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS. Under such rules as ~~it~~ the board may adopt, the ~~board~~ administrator shall have the power and authority to investigate, classify, and to qualify applicants for licenses under this ~~act~~ chapter, by written or oral examinations, or both.

The qualifications to be required of an applicant by the board are as follows:

(a) Such degree of experience, and such general knowledge of the building, safety, health and lien laws of the state, and of the rudimentary administrative principles of the contracting business, as may be deemed necessary by the board for the safety and protection of the public. The applicant if an individual may qualify as to the aforementioned experience and knowledge by personal appearance or by the appearance of his responsible managing employee, and if a copartnership or corporation, limited liability company, limited liability partnership and any other combination or organization, by the appearance of the responsible managing officer or member of the personnel of such applicant. If the person qualifying by examination as to experience and knowledge shall, for any reason whatsoever, cease to be connected with the licensee to whom the license is issued, such licensee shall so notify the ~~board~~ administrator in writing within ten (10) days from such cessation. If such notice is given, the license shall remain in force for a reasonable

length of time, to be determined by rules of the board. If such licensee fails to so notify the ~~board~~ administrator within said ten (10) day period, then at the end of such ten (10) day period, the license of such licensee shall be automatically suspended. A suspended license shall be reinstated upon the filing with the ~~board~~ administrator of an affidavit executed by the licensee or a member of the suspended firm, to the effect that the individual originally exami~~ned for~~ the firm has been replaced by another individual who has been qualified by examination as herein provided, and who shall not have had a license suspended or revoked, nor have been connected with any licensee who has had a license suspended or revoked for reasons that should preclude him from personally qualifying as to good character as herein required of an applicant.

(b) The possession by the applicant of good character. Lack of character may be established by showing any of the following:

(1) That the applicant has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license~~,~~; or

(2) That the applicant has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another~~,~~; or

(3) That the applicant bears a bad reputation for honesty and integrity~~,~~; or

(4) That the applicant has been convicted of a felony.

(c) That he has never been refused a license or had a license revoked for reasons that would preclude the granting of the license applied for.

(d) No license shall be issued to a corporation, copartnership, limited liability company, limited liability partnership or other combination or organization if any responsible officer of such corporation, or other combination or organization, or any member of such copartnership does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

(e) To obtain an original license under this ~~act~~ chapter, the applicant shall submit to the ~~board~~ administrator, on such forms as ~~it~~ the administrator shall prescribe, accompanied by the required fee for the class of license applied for, and in accordance with such rules as ~~may be deemed necessary~~ and adopted by the board in order to carry out the foregoing provisions of this section, a sworn written application for such license, containing the statement that applicant desires the issuance of a license under the terms of this ~~act~~ chapter. The information contained in such application forms shall include a complete statement of the general nature of applicant's contracting business, and stating concisely applicant's experience and qualifications as a contractor; the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; a general description of applicant's machinery and equipment; a complete financial statement which may include a letter from applicant's bonding company stating the amount of the applicant's bonding capability per project and in the aggregate, on such forms and disclosing such information as shall be required by the ~~board~~ administrator, together with such additional information as may be required by the ~~board~~ administrator to determine the applicant's fitness for a license under this ~~act~~ chapter. The application shall contain, if by an individual, ~~their~~ the individual's name and business address; if by a copartnership, its

business address and the names and addresses of all partners; and if by a corporation, association, limited liability company, limited liability partnership or other organization, its business address and the names and addresses of the president, ~~vice-president~~ vice president, secretary, and chief construction managing officers, or responsible managing employee. A request for a licensing class higher than that for which the applicant qualifies must go to the administrator for review and may be approved up to the bond limit. A final appeal of a decision of the administrator may be made to the board.

SECTION 3. This act shall be in full force and effect on and after July 1, 2002.

Approved April 2, 2001.

CHAPTER 302
(H.B. No. 317, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202, IDAHO CODE, TO REVISE LEGISLATIVE INTENT TO PROVIDE FOR THE UTILIZATION OF VIRTUAL DISTANCE LEARNING AND ON-LINE LEARNING.

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 from the existing school district structure but 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) Utilize virtual distance learning and on-line learning;

(5) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(~~5~~6) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;

(~~6~~7) Hold the schools established under this chapter accountable for meeting measurable student educational standards.

Approved April 2, 2001.

CHAPTER 303
(H.B. No. 336)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 2002; 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 Human Rights Commission the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$495,700	$133,800	$3,500	$633,000
Federal Grant Fund	105,200	59,200		164,400
Miscellaneous Revenue Fund		6,700		6,700
TOTAL	$600,900	$199,700	$3,500	$804,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Human Rights Commission is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 2, 2001.

CHAPTER 304
(H.B. No. 366)

AN ACT

RELATING TO WAREHOUSES AND THE BONDED WAREHOUSE LAW; AMENDING SECTION 69-202, IDAHO CODE, TO REVISE DEFINITIONS AND TO STRIKE A DEFINITION OF WAREHOUSEMAN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 69-219, IDAHO CODE, TO STRIKE A REFERENCE TO STORED COMMODITIES AND TO STRIKE A REFERENCE TO REGULATIONS; AMENDING SECTION 69-222, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF CERTAIN RECEIPTS AND SCALE TICKETS FOR COMMODITIES DEPOSITED IN LICENSED WAREHOUSES; AMENDING SECTION 69-227, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE FOR EXAMINATION OF COMMODITIES AND RECORDS REGARDING COMMODITIES DEPOSITED IN A LICENSED WAREHOUSE AND TO STRIKE A REFERENCE TO REGULATIONS; AMENDING SECTION 69-238, IDAHO CODE, TO PROVIDE FOR A WAREHOUSEMAN'S DUTY TO DELIVER DEPOSITED COMMODITIES; AMENDING SEC-

TION 69-239, IDAHO CODE, TO PROVIDE FOR RECORDS REGARDING DEPOSITED COMMODITIES; AMENDING SECTION 69-248, IDAHO CODE, TO STRIKE A REFERENCE TO BONDED WAREHOUSEMEN AND TO STRIKE A REFERENCE TO AGENTS OF BONDED WAREHOUSEMEN; AMENDING SECTION 69-251, IDAHO CODE, TO PROVIDE FOR PAYMENT OF PURCHASE PRICE BY A WAREHOUSEMAN TO A DEPOSITOR UPON DEPOSIT OF AGRICULTURAL COMMODITIES OR UPON DEMAND BY A DEPOSITOR, TO REQUIRE PAYMENT WITHIN A SPECIFIED TIME OF DEPOSIT OF THE COMMODITIES UNLESS OTHERWISE AGREED TO IN WRITING, TO STRIKE REFERENCES TO OWNER OR AGENT, TO STRIKE THE DEFINITION OF DELIVERY AS USED IN THE SECTION AND TO REVISE THE DEFINITION OF PAYMENT AS USED IN THE SECTION; AMENDING SECTION 69-255, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO STRIKE REFERENCE TO START-UP PROCEDURE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE THAT PROVISIONS AND DEFINITIONS IN THE CHAPTER, TOGETHER WITH OTHER CITED CODE PROVISIONS, CONSTITUTE THE COMMODITY INDEMNITY FUND PROGRAM, TO STRIKE REFERENCE TO THE EFFECTIVE DATE AND THE DIRECTOR'S NOTIFICATION OF THE EFFECTIVE DATE OF THE PROGRAM TO EACH LICENSED WAREHOUSE AND DEALER AND TO PROVIDE FOR THE APPLICATION OF THE COMMODITY INDEMNITY FUND PROGRAM; AMENDING SECTION 69-256, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE FOR PAYMENT OF ASSESSMENTS BY CERTAIN PERSONS AND TO PROVIDE EXCEPTIONS; AMENDING SECTION 69-258, IDAHO CODE, TO STRIKE REFERENCE TO A TIME PERIOD IN WHICH TO ESTABLISH A RULE REGARDING CERTAIN ASSESSMENTS, TO PROVIDE FOR REMITTANCE OF ASSESSMENTS, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE THAT COMMODITY INDEMNITY FUND ASSESSMENTS ARE TRUST FUNDS AND PROPERTY OF THE FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 69-259, IDAHO CODE, TO PROVIDE FOR THE FUNDING AND LIMITS OF THE FUND, TO PROVIDE CORRECT TERMINOLOGY, TO INCREASE THE REQUISITE BALANCE IN THE FUND DURING WHICH TIME ASSESSMENTS WILL BE IMPOSED AND TO STRIKE OUTDATED LANGUAGE; AMENDING SECTION 69-262, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL PROCESS CERTAIN CLAIMS, TO STRIKE REFERENCE TO CERTAIN WRITTEN EVIDENCE OF OWNERSHIP, TO PROVIDE FOR CLAIMS AGAINST FAILED WAREHOUSES AND DEALERS, TO PROVIDE THAT FOR THE PURPOSES OF THIS SECTION STORAGE OBLIGATIONS OR SALES OF COMMODITIES SHALL NOT INCLUDE CERTAIN SPECIFIED COMMODITIES, TO PROVIDE FOR WRITTEN EVIDENCE OF PRODUCER CLAIMS, TO REQUIRE THE DEPARTMENT TO INVESTIGATE CERTAIN CLAIMS, TO STRIKE REFERENCE TO THE DEPARTMENT'S DETERMINATION OF WHETHER A CLAIMANT'S COMMODITIES ARE UNDER A STORAGE OBLIGATION OR WHETHER A SALE HAS OCCURRED, TO STRIKE REFERENCE TO COMMODITY, TO PROVIDE FOR NOTICE TO THE ADVISORY COMMITTEE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE THAT THE DEPARTMENT MAY REQUIRE A CLAIMANT TO SUBROGATE AND ASSIGN CERTAIN RIGHTS TO RECOVER FROM OTHER SOURCES, TO STRIKE REFERENCE TO A SPECIFIED BASIS FOR THE DEPARTMENT'S INSPECTION AND AUDIT OF CERTAIN WAREHOUSES, TO PROVIDE FOR THE INSPECTION AND AUDIT OF CERTAIN DEALERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 69-263, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE THAT VERIFIED CLAIMS MUST BE FILED WITHIN A SPECIFIED TIME OF NOTICE BY THE DIRECTOR; AMENDING SECTION 69-264, IDAHO CODE, TO INCREASE THE MINIMUM BALANCE IN THE COMMODITY INDEMNITY FUND AND TO PROVIDE CORRECT TERMINOLOGY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 69-202, Idaho Code, be, and the same is hereby amended to read as follows:

69-202. DEFINITIONS. As used in this chapter:

(1) "Agricultural commodity" or "commodity" means any grain, dry peas, dry beans, leguminous or other small seeds and feeds (not including minerals).

(2) "Commodity dealer" or "dealer" means any person who solicits, contracts for, negotiates the consignment or purchase, or obtains from an Idaho producer or producers, title, possession or control of any agricultural commodity through his place of business located in the state of Idaho or through his place of business located outside the state of Idaho for the purposes of sale or resale or who buys, during a calendar year, at least ten thousand dollars ($10,000) worth of agricultural commodities from an Idaho producer or producers of the commodities. Commodity dealer or dealer shall not mean any person who purchases agricultural commodities for his own use as seed or feed.

(3) "Contract" means a written agreement between two (2) or more parties for the sale of an agricultural commodity stipulating the terms and conditions of performance of the parties and includes, but is not limited to, those contracts commonly referred to as credit sales, deferred payment, deferred or price later contracts.

(4) "Department" means the Idaho department of agriculture.

(5) "Depositor" means any person who deposits an agricultural commodity in an Idaho state licensed warehouse for storage, handling, processing, reconditioning or shipment, or who is the owner or legal holder of a negotiable warehouse receipt, outstanding scale weight ticket, nonnegotiable warehouse receipt or other evidence of such deposit, or any person whose agricultural commodity has been sold to or is under control of a warehouseman for selling, processing, reconditioning or handling whether or not such agricultural commodity is within the warehouse.

(6) "Director" means the director of the department of agriculture.

(7) "Failure" means the date that one (1) or more of the following events occurred, as determined by the director:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business;

(e) A failure to make application for license renewal within sixty (60) days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

(8) "Historical depositor" means any person who, in the normal course of business operation has consistently made deposits in the same warehouse of commodities produced on the same land. In addition, anyone purchasing or leasing that particular land directly from the original depositor or receiving that particular land by devise, descent, bequest or gift directly from the historical depositor shall also be considered an historical depositor with regard to the commodities produced on that land.

(9) "Person" means any individual, firm, association, corporation or partnership.

(10) "Producer" means the owner, tenant or operator of land in this state who has an interest in ~~and receives all or part of~~ the contract proceeds from the sale of agricultural commodities produced on that land.

(11) "Public warehouse" or "warehouse" or "warehouseman" means any elevator, mill, warehouse, subterminal commodity warehouse, public warehouse or other structure or facility in which agricultural commodities are received for storage, shipment, processing, reconditioning or handling.

(12) "Receipt" means a warehouse receipt.

(13) "Revocation" means the permanent removal of a warehouse license following a hearing on violations of this chapter by the hearing officer or director.

(14) "Scale weight ticket" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouseman licensed under the provisions of this chapter, upon initial delivery of the commodity to the warehouse.

(15) "Subterminal warehouse" means any warehouse at which an intermediate function is performed in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment.

(16) "Suspension" means the temporary removal of a warehouse license by the department pending a hearing for violations of this chapter. Correction of the violations prior to a hearing may result in the reinstatement of a license without a hearing.

(17) "Termination" means the expiration of a warehouse license due to failure to meet minimum licensing requirements, failure to renew a warehouse license or as requested by the licensee, unless a complaint has been filed against the licensee alleging a violation of any provision of this chapter.

(18) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued by a warehouseman, except scale weight tickets.

~~(19) "Warehouseman" means a person operating or controlling a public warehouse.~~

SECTION 2. That Section 69-219, Idaho Code, be, and the same is hereby amended to read as follows:

69-219. COMMODITIES ~~FOR STORAGE~~ DEEMED DEPOSITED SUBJECT TO LAW. Any person who deposits agricultural commodities ~~for storage~~ in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules ~~and regulations~~ prescribed hereunder.

SECTION 3. That Section 69-222, Idaho Code, be, and the same is hereby amended to read as follows:

69-222. RECEIPTS -- SCALE WEIGHT TICKETS. For all agricultural commodities ~~stored~~ deposited in a warehouse licensed under this chapter original negotiable or nonnegotiable warehouse receipts, or scale weight tickets, shall be issued by the warehouseman conducting the same, but no receipts, or scale weight tickets, shall be issued except for agricul-

tural commodities ~~actually stored~~ deposited in the warehouse at the time of the issuance thereof; provided, however, that no negotiable receipt need be issued except when requested by the depositor.

SECTION 4. That Section 69-227, Idaho Code, be, and the same is hereby amended to read as follows:

69-227. EXAMINATION OF COMMODITIES -- RECORDS -- PUBLICATION OF FINDINGS. The department ~~of agriculture~~ is authorized to cause examination to be made of any agricultural commodity ~~stored~~ deposited, or any record pertaining to commodities ~~stored~~ deposited therein, in any warehouse licensed under the provisions of this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules ~~and regulations~~ made hereunder, the department may publish its findings in a local daily or weekly newspaper in the area where the warehouse is located.

SECTION 5. That Section 69-238, Idaho Code, be, and the same is hereby amended to read as follows:

69-238. WAREHOUSEMAN'S OBLIGATIONS -- DUTY TO DELIVER ~~STORED~~ DEPOSITED COMMODITIES -- DAMAGES. (1) The duty of the warehouseman to deliver agricultural commodities ~~stored~~ deposited shall be governed by the provisions of this chapter and the requirements of the uniform commercial code. Upon the return of a properly endorsed negotiable warehouse receipt to the warehouseman, and upon payment or tender of all advances and legal charges, agricultural commodities of the grade and quantity named therein shall be delivered to the holder of the negotiable warehouse receipt, except as provided by the uniform commercial code.

(2) A warehouseman's duty to deliver any agricultural commodity is fulfilled if delivery is made pursuant to the contract with the depositor, or if no contract exists, then to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. When delivery is made within thirty (30) days from date of demand, or as agreed upon in writing by all parties concerned, such delivery is deemed to comply with the provisions of this section. An extension of the delivery period may be granted by the department upon written request.

(3) A warehouseman shall not fail to deliver an agricultural commodity as provided in this section, and delivery shall be made at the warehouse or station where the agricultural commodity was received, unless otherwise agreed.

(4) In addition to being subject to penalties provided in this chapter for a violation of the provisions of this section, any warehouseman failing to deliver agricultural commodities within the time provided in this section is subject to suit by the person entitled to delivery of the agricultural commodities and may be ordered by a court of competent jurisdiction to pay actual damage or liquidated damages of one-half (1/2) of one percent (1%) of the value for each day's delay.

SECTION 6. That Section 69-239, Idaho Code, be, and the same is hereby amended to read as follows:

69-239. DUTIES OF WAREHOUSEMAN -- CONTENTS OF RECORDS. (1) The warehouseman shall maintain current and complete records at all times with respect to all agricultural commodities handled, ~~stored~~ deposited, shipped or merchandised by him, including agricultural commodities owned by him. Such records shall include, but are not limited to, a daily position record showing the total quantity of each kind and class of agricultural commodity received and loaded out and the amount remaining ~~in storage~~ on deposit at the close of each business day, and the warehouseman's total ~~storage~~ deposit obligation for each kind and class ~~of agricultural commo~~dity at the close of each business day.

(2) Every warehouseman ~~purchasing~~ any agricultural commodity from a depositor thereof shall promptly make and keep for five (5) years a correct record showing in detail the following information:

(a) The name and address of the depositor;

(b) The date purchased;

(c) The terms of the sale; and

(d) The quality and quantity purchased by the warehouseman and, where applicable, the dockage, tare, grade, size and net weight.

SECTION 7. That Section 69-248, Idaho Code, be, and the same is hereby amended to read as follows:

69-248. DRAWING CHECKS INSUFFICIENTLY COVERED A VIOLATION. Any person engaged in business as a ~~bonded~~ warehouseman, ~~or agent,~~ as defined in this chapter, who shall make, draw, utter or deliver any check, draft or order for the payment of money upon any bank or other depository, in payment to the seller of the purchase price of any agricultural commodity or any part thereof upon obtaining possession or control thereof, when at the time of such making, drawing, uttering or delivery the maker or drawer does not have sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation, shall violate the provisions of this chapter. The word "credit" as used herein shall mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

SECTION 8. That Section 69-251, Idaho Code, be, and the same is hereby amended to read as follows:

69-251. PAYMENT OF PURCHASE PRICE. A ~~person required to be licensed to do business as a~~ warehouseman ~~under the provisions of this chapter~~ shall pay to the depositor the purchase price ~~to the owner or his agent~~ for agricultural commodities upon ~~delivery~~ deposit or demand by the ~~owner or agent~~ depositor, but not later than thirty (30) days after ~~delivery by the owner or agent~~ deposit unless otherwise agreed ~~to~~ by the parties in writing. ~~As used in this section, "delivery" means the transfer of title to and possession of agricultural commodities by the owner or agent to the warehouseman or to another person in accordance with the agreement of the owner or agent and the warehouseman.~~ As used in this section, "payment" means the actual payment or tender of payment by the warehouseman to the ~~owner or agent~~ depositor of the agreed purchase price.

SECTION 9. That Section 69-255, Idaho Code, be, and the same is hereby amended to read as follows:

69-255. SHORT TITLE -- INDEMNITY ~~ACCOUNT~~ FUND PROGRAM. ~~----START-UP PROCEDURE.~~ (1) The provisions of this section and sections 69-256 through 69-267, Idaho Code, together with any definitions in this chapter, constitute the "Commodity Indemnity ~~Account~~ Fund Program." ~~(program). The director shall notify each licensed warehouse and dealer of the effective date of the program provisions. The program shall commence on May 1, 1989.~~

(2) The commodity indemnity fund program shall apply to entities governed by this chapter or governed by the provisions of the commodity dealer law as provided for in chapter 5, title 69, Idaho Code, referred to as "warehouses and/or dealers."

SECTION 10. That Section 69-256, Idaho Code, be, and the same is hereby amended to read as follows:

69-256. CREATION OF INDEMNITY ~~ACCOUNT~~ FUND -- USES. (1) There is hereby established within the dedicated fund ~~an account~~ fund to be known as the commodity indemnity ~~account~~ fund. The commodity indemnity ~~account~~ fund shall consist of assessments remitted by producers pursuant to the provisions of this chapter and any interest or earnings on the ~~account~~ fund balance.

(2) All assessments shall be paid to the department and shall be deposited in the commodity indemnity ~~account~~ fund. Assessments shall be paid solely by producers who deposit a commodity with a warehouse or dealer and in no event shall be paid by a person who deposits commodities or other agricultural products with a warehouse or dealer under a bailment, entrustment, consignment, sale and return, or similar contract. The state treasurer shall be the custodian of the commodity ~~indemnity account~~ fund. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this ~~account~~ fund.

(3) The commodity indemnity ~~account~~ fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the commodity indemnity ~~account~~ fund, provided however, that up to one-half (1/2) of the interest accumulated by the ~~account~~ fund may be paid to the department and to the state treasurer to defray costs of administering the warehouse and dealer indemnity program and the commodity indemnity ~~account~~ fund. The state of Idaho shall not be liable for any claims presented against the ~~account~~ fund.

SECTION 11. That Section 69-258, Idaho Code, be, and the same is hereby amended to read as follows:

69-258. PAYMENT OF ASSESSMENT. The department shall promulgate ~~a rule establishing the assessment within sixty (60) days of the activation of the program pursuant to section 69-255, Idaho Code. The department shall promulgate~~ rules to provide a procedure for the collection and remittance of the producer's' assessments, ~~provided,~~ providing that ~~warehousemen~~ warehouses and/~~or commodity~~ dealers shall be responsible for the collection and remittance of the producer's assessment pay-

ments and the transmission of same to the department.

Commodity indemnity fund assessments are trust funds and are property of the commodity indemnity fund immediately upon payment and collection by warehouses and dealers.

SECTION 12. That Section 69-259, Idaho Code, be, and the same is hereby amended to read as follows:

69-259. ~~MAXIMUM-ACCOUNT-BALANCE----CESSATION-OF-ASSESSMENTS~~ FUNDING AND LIMITS OF FUND. The assessments imposed pursuant to section ~~69-257,~~ Idaho Code, shall be imposed under rules promulgated by the department, until such time as the commodity indemnity ~~account-balance,-less-any outstanding---claims,~~ fund reaches ~~five~~ ten million dollars ($~~5~~10,000,000). If the commodity indemnity ~~account~~ fund balance, less any outstanding claims, exceeds ~~five~~ ten million dollars ($~~5~~10,000,000) on an assessment date, no assessment shall be imposed by the department, except as provided in section 69-258, Idaho Code. ~~For-the-two-(2)-fiscal years-immediately-following-the-effective-date-of-the-program,-an-amount not--exceeding--one--hundred-thousand-dollars-($100,000)-per-year-may-be paid-to-the-department-to-defray-costs-of--administering--the--warehouse audit-program.~~

SECTION 13. That Section 69-262, Idaho Code, be, and the same is hereby amended to read as follows:

69-262. PROOF OF CLAIMS -- PROCEDURE -- HEARING -- INSPECTION OF WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(7), Idaho Code, the department shall process the claims of producers ~~producing--written-evidence-of-ownership-disclosing-a-storage obligation-or-written-evidence-of-a--sale--of--commodities--for--damages caused--by--the--failure,-in-the-following-manner:~~ who have paid assessments as required by this chapter. Claims against a failed warehouse or dealer shall include written evidence disclosing a storage obligation or a sale of commodities. For the purpose of this statute, a storage obligation or a sale of commodities shall not include any commodities deposited with a warehouse or dealer under a bailment, entrustment, consignment, sale or return, or similar contract.

(1) The department shall give notice and provide a reasonable time of not less than thirty (30) days and not more than sixty (60) days to producers ~~possessing-written-evidence-of-ownership-disclosing-a-storage obligation-or-written-evidence-of-sale--of--commodities~~ to file their written verified claims, including any written evidence, with the department.

(2) The department ~~may~~ shall investigate each claim and ~~determine whether--the--claimant's--commodities--are-under-a-storage-obligation-or whether-a-sale-of-commodities-has-occurred.-The-department~~ shall notify each claimant, the ~~commodity~~ warehouseman or dealer, and the advisory committee of the department's determination as to the validity and amount of each claimant's claim. A claimant or warehouseman or dealer may request a hearing on the department's determination within twenty (20) days of receipt of written notification and a hearing shall be held by the department pursuant to ~~title-67,~~ chapter 52, title 67, Idaho Code. Upon determining the amount and validity of the claim, the director shall pay to the claimant an amount equal to ninety percent (90%) of

the approved claim from the commodity indemnity ~~account~~ fund. Prior to any payment from the ~~account~~ fund to a claimant, the claimant ~~shall~~ may be required to subrogate and assign his right to recover from any other source. The department may then pay up to ninety percent (90%) of the approved claim to the claimant. The department shall have a priority claim for that amount. The claimant shall be entitled to seek recovery of the remaining ten percent (10%) which was not originally assigned to the department. For the purpose of determining the amount of the producer's claim, the value of a producer's commodity shall be the value of the commodity on the date the director declared the warehouse or dealer to have failed or to have failed to comply with the provisions of this chapter or rules promulgated thereunder.

(3) The department may inspect and audit a failed warehouseman ~~to determine whether the warehouseman has in his possession sufficient quantities of commodities to cover his storage obligations~~ or dealer. In the event of a shortage, the department shall determine each producer's pro rata share of available commodities and the deficiency shall be considered as a claim of the producer. Each type of commodity shall be treated separately for the purpose of determining shortages.

(4) The director shall not approve or pay any claim made on the commodity indemnity ~~account~~ fund if the claim is based on losses resulting from the deposit, sale or storage of commodities in an unlicensed warehouse or dealer.

SECTION 14. That Section 69-263, Idaho Code, be, and the same is hereby amended to read as follows:

69-263. FAILURE TO FILE -- LOSS OF CLAIM ON ~~ACCOUNT~~ FUND. If a producer, ~~creditor,~~ after notification, refuses or neglects to file in the office of the director his verified claim against a warehouseman or dealer as requested by the director within sixty (60) days from the date of the ~~request~~ notice, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the commodity indemnity ~~account~~ fund.

SECTION 15. That Section 69-264, Idaho Code, be, and the same is hereby amended to read as follows:

69-264. MINIMUM BALANCE -- SUBSEQUENT PAYMENTS. The minimum balance in the commodity indemnity ~~account~~ fund shall be ~~five hundred thousand~~ one million dollars ($~~5~~1,000,000). At no time shall the balance be allowed to fall below the minimum balance. The director may pay claims, on a pro rata basis if necessary, until the minimum balance is reached. If the director cannot fully pay a claim before the minimum balance is reached, he shall, when the commodity indemnity ~~account~~ fund contains sufficient funds, pay off the claim.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 2001.

CHAPTER 305
(H.B. No. 372)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO INCREASE THE AMOUNT OF MONEYS TRANSFERRED TO THE LEGISLATIVE ACCOUNT FROM THE GENERAL FUND BY THE STATE CONTROLLER COMMENCING JUNE 1, 2001 AND TO MAKE A TECHNICAL CORRECTION; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE LEGISLATIVE ACCOUNT; AND DECLARING AN EMERGENCY.

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 fund and transferred into the legislative account, and commencing ~~July~~ June 1, ~~1993~~2001, 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,~~17~~520,000
March 1	$1,~~17~~520,000
June 1	$~~9~~21,175,000
September 1	$1,~~07~~385,000

(3) The 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 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 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.

SECTION 2. There is hereby appropriated the sum of $345,000 from the General Fund to the Legislative Account.

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 2, 2001.

CHAPTER 306
(S.B. No. 1228)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$1,039,500	$644,400	$6,254,000	$7,937,900
Miscellaneous Revenue Fund	800,400			800,400
TOTAL	$1,839,900	$644,400	$6,254,000	$8,738,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-nine (39) full-time equivalent positions to be funded by the

appropriation in Section 1 of this act, at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 2, 2001.

CHAPTER 307
(S.B. No. 1241)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission for the Blind and Visually Impaired the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 722,600	$245,800	$94,900	$620,400	$1,683,700
Randolph Sheppard Fund		7,200		117,900	125,100
Rehabilitation Revenue and Refunds Fund	41,800	33,700		12,800	88,300
Adaptive Aids and Appliances Fund		46,700			46,700
Federal Grant Fund	1,326,900	412,600		211,500	1,951,000
Miscellaneous Revenue Fund		17,400		9,100	26,500
TOTAL	$2,091,300	$763,400	$94,900	$971,700	$3,921,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty-two and fifty-hundredths (42.50) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 2, 2001.

CHAPTER 308
(H.B. No. 327)

AN ACT

RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4003, IDAHO CODE, TO EXEMPT COUNTIES OF THIS STATE FROM REGISTRATION REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-4003, Idaho Code, be, and the same is hereby amended to read as follows:

41-4003. REGISTRATION REQUIRED -- EXEMPTIONS -- NOT SUBJECT TO INSURANCE CODE. (1) No self-funded plan shall operate in this state except while registered with the director as hereinafter provided. Self-funded plans already in operation at the effective date of this act shall so register within ninety (90) days after such effective date.

(2) No registration shall be required of:

(a) Any self-funded plan established for the sole purpose of funding the dollar amount of a deductible clause contained in the provisions of an insurance contract issued by an insurer duly authorized to transact disability insurance in this state if the deductible does not exceed an amount applicable to each beneficiary of five hundred dollars ($500) per annum and the total of all obligations to all beneficiaries insured under the plan arising out of the application of such a deductible does not exceed the aggregate amount of fifty thousand dollars ($50,000) in any one (1) year.

(b) Any plan established and maintained for the purpose of complying with any ~~W~~workmen's ~~C~~compensation ~~L~~law or ~~U~~unemployment ~~C~~compensation ~~D~~disability ~~I~~insurance ~~L~~law.

(~~c~~) Any plan ~~administered~~ by or ~~for~~ the federal government or agency thereof or any county of this state.

(d) Any plan which is primarily for the purpose of providing first aid care and treatment, at a dispensary of an employer, for injury or sickness of employees while engaged in their employment.

(e) Any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations if such health plan or service has been in existence and operation for fifteen (15) years immediately preceding the effective date of this act.

(3) Plans while so registered shall not be deemed to be engaged in the business of insurance and shall not be subject to provisions of the Idaho ~~I~~insurance ~~C~~code except as expressly provided in this act.

Approved April 2, 2001.

CHAPTER 309
(S.B. No. 1191)

AN ACT

RELATING TO SALARIES OF JUDGES; AMENDING SECTION 1-2222, IDAHO CODE, TO INCREASE THE BASE ANNUAL SALARIES OF NONATTORNEY MAGISTRATES; AND AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE ANNUAL SALARIES OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE DISTRICT COURTS AND TO MAKE A TECHNICAL CORRECTION.

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%), and again commencing on July 1, 2001, the amount of the base annual salary for all nonattorney magistrates shall be increased by four and one-half percent (4 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%), and again commencing on July 1, 2001, the annual salary of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four and one-half percent (4 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 3, 2001.

CHAPTER 310
(S.B. No. 1221)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:					
FROM:					
General Fund	$1,287,500	$ 671,900	$17,800	$100,000	$2,077,200
Federal Grant Fund		154,700			154,700
Miscellaneous Revenue Fund	252,600	362,800			615,400
TOTAL	$1,540,100	$1,189,400	$17,800	$100,000	$2,847,300

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, 2001, through June 30, 2002, 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 1, Chapter 450, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, 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 3, 2001.

CHAPTER 311
(S.B. No. 1223)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General Fund	$ 514,000	$ 94,400			$ 608,400
II. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Fund	$ 756,200	$ 68,000	$ 7,300		$ 831,500
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Fund				$3,170,800	$3,170,800
Federal Grant Fund				236,000	236,000
TOTAL				$3,406,800	$3,406,800
IV. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 489,500	$ 30,000	$40,000		$ 559,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 473,700	$ 473,700
VI. IDAHO COUNCIL ON ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 55,700	$ 55,700
GRAND TOTAL	$1,759,700	$192,400	$47,300	$3,936,200	$5,935,600

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, 2001, through June 30, 2002, 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 396, Laws of 2000, for each respective program to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, 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 3, 2001.

CHAPTER 312
(S.B. No. 1243)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2002; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

A. RENAL DISEASE:	
FROM:	
General Fund	$ 575,500
FOR:	
Trustee and Benefit Payments	$ 575,500
B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 3,366,000
Federal Grants Fund	12,259,700
Rehabilitation Revenue and Refunds Fund	609,000
Miscellaneous Revenue Fund	332,600
TOTAL	$16,567,300
FOR:	
Personnel Costs	$ 7,016,500
Operating Expenditures	1,135,200
Capital Outlay	303,900
Trustee and Benefit Payments	8,111,700
TOTAL	$16,567,300
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 80,000
FOR:	
Trustee and Benefit Payments	$ 80,000
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 82,100
Federal Grants Fund	199,900
Miscellaneous Revenue Fund	15,800
TOTAL	$ 297,800
FOR:	
Personnel Costs	$ 103,400
Operating Expenditures	74,100
Trustee and Benefit Payments	120,300
TOTAL	$ 297,800
GRAND TOTAL	$17,520,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred forty-eight (148) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 3, 2001.

CHAPTER 313
(S.B. No. 1266)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, SENATE BILL NO. 1206, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, Senate Bill No. 1206, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Supreme Court the following amount to be expended from the listed fund for the period July 1, 2001, through June 30, 2002:

FROM:

General Fund $598,900

Approved April 3, 2001.

CHAPTER 314
(H.B. No. 330)

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 2002; 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 GOVERNORS' ASSOCIATION'S VIRTUAL UNIVERSITY AND THE IDAHO ELECTRONIC CAMPUS; 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 SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; REQUIRING THE STATE BOARD OF

EDUCATION TO TRACK AND REPORT FACULTY, NONFACULTY EXEMPT AND CLASSIFIED STAFF TURNOVER; 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, 2001, through June 30, 2002:

FOR:	
General Education Programs	$314,936,100
FROM:	
General Fund	$235,939,800
Agricultural College Endowment Fund	1,427,100
Charitable Institutions Endowment Earnings Fund	1,246,200
Normal School Endowment Earnings Fund	4,149,400
Science School Endowment Fund	4,996,700
University Endowment Fund	4,087,300
Unrestricted Current Fund	24,010,100
Restricted Current Fund	39,079,500
TOTAL	$314,936,100

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 to develop, enhance and promote the Idaho Electronic Campus; and for Idaho's participation in the Western Governors' Association's 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, 2001, through June 30, 2002, 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. The State Board of Education shall establish a standardized system for tracking and reporting meaningful data about faculty, nonfaculty exempt and classified staff turnover at the state's institutions for higher education. These statistics shall be included with each year's higher education appropriation request.

SECTION 9. 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, the University of Idaho, Lewis-Clark State College and the Office of the State Board of Education, subject to the provisions of Section 10 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 473, Laws of 2000, to be used for nonrecurring expenditures, for the period July 1, 2001, through June 30, 2002.

SECTION 10. The reappropriation for the General Fund granted in Section 9 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is zero, the reappropriation for the General Fund in Section 9 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 9 of this act shall be in the proportion that the reappropriation for Boise State University, Idaho State University, the University of Idaho, Lewis-Clark State College and the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 3, 2001.

CHAPTER 315
(H.B. No. 144, As Amended in the Senate)

AN ACT

RELATING TO TELEPHONE SOLICITATIONS; AMENDING CHAPTER 10, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-1003B, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO REQUIRE CONSENT TO CHARGE A CONSUMER'S ACCOUNT.

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

SECTION 1. 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 48-1003B, Idaho Code, and to read as follows:

48-1003B. CONSENT REQUIRED FOR TELEMARKETING CHARGES TO PREVIOUSLY OBTAINED ACCOUNTS. (1) As used in this section:

(a) "Account" means a credit card, debit card, checking account, savings account, loan account, telephone service account, utility account or other similar account.

(b) "Account holder" means a consumer who owns an account, or a consumer who has authority to cause a charge or debit to an account.

(c) "Authorization" means an account holder providing express consent to a telemarketer or person acting on behalf of the telemarketer, to charge or cause to be charged the account holder's account for the purchase of goods or services. Authorization is not effective until the account holder has been advised, clearly and conspicuously:

(i) That the telemarketer has the account holder's account number;

(ii) That the telemarketer is going to charge the account holder's account;

(iii) The specific account that will be charged;

(iv) The specific amount that the account holder's account will be charged; and

(v) The name, address and telephone number of the person who will be charging the account holder's account.

(d) "Charge" means a charge or debit, or an attempt to charge or debit, an account, if that account can be charged without the express written authorization of the account holder to each specific charge or debit. Charge does not include a charge or debit, or an attempt to charge or debit, a telephone service account for local or long distance telecommunications services. A charge can occur by electronic or any other means.

(e) "Goods" or "services" has the meaning given to them in section 48-1002(3) and (8), Idaho Code, except that for purposes of this section these terms are limited to goods or services which are normally used for personal, household or family purposes.

(f) "Previously obtained account number telemarketing call" means a telephone call in which the telemarketer attempts to obtain account holder authorization for a current or future charge without obtaining the account number from the account holder during the call; provided however, that "previously obtained account number telemarketing call" does not include the sale of securities through a telephone call, if the telemarketer is a licensed securities agent or broker in the state of Idaho; provided further, that "previously obtained account number telemarketing call" does not include a telephone call initiated by an account holder during which the person receiving the telephone call attempts to sell, offer for sale, or otherwise induce the account holder to purchase goods or services. A "previously obtained account number telemarketing call" does not include a call to or from a current customer of the telemarketer to renew or extend, inquire about or add goods or services if the customer has previously provided account information for billing purposes to the telemarketer and the telemarketer clearly and conspicuously discloses that such renewal or extension, or additional goods or services, will be debited to the same account.

(g) "Telemarketer" means any person who regularly engages in previously obtained account number telemarketing call.

(2) A telemarketer shall not charge or cause a charge to an account holder's account as a result of a previously obtained account number

telemarketing call unless the telemarketer has first obtained authorization from the account holder for the specific charge discussed during the call.

(3) An account holder's authorization can be in writing or given verbally. If the telemarketer uses written authorization, the telemarketer cannot charge the account holder's account until the account holder's written authorization is received by the telemarketer. If the telemarketer uses verbal authorization, either (i) the authorization must be audio taped by the telemarketer and the telemarketer must advise the account holder that his or her authorization is being recorded or (ii) the account holder must disclose the last four (4) digits of the account holder's account number if the telemarketer has reasonable procedures in effect to verify that such digits as provided by the account holder match the last four digits of the account to be charged. Authorizations must be kept and maintained for a period of two (2) years and must also be made available to the account holder upon written request.

(4) (a) In the case where a telemarketer utilizes a voice response unit, whether inbound or outbound, an account holder may give authorization by providing the last four (4) digits of the account holder's account number, an account number previously assigned to the account holder by the telemarketer, or an alternate unique identifier which enables the telemarketer to verify or confirm the account holder's authorization; provided however, that the information set forth in subsection (1)(c) of this section must first be clearly and conspicuously disclosed to the account holder.

(b) For purposes of this subsection, "voice response unit" means a device which allows a user to provide or obtain information from a computer system using touch-tone input or speech input.

Approved April 4, 2001.

CHAPTER 316
(H.B. No. 232, As Amended)

AN ACT

RELATING TO THE EMERGENCY COMMUNICATIONS PRESERVATION ACT; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 55, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE DEFINITIONS AND TO PROVIDE RESTRICTIONS ON LOCAL UNITS OF GOVERNMENT IN ENACTING RULES AND ORDINANCES RELATING TO ANTENNA SUPPORT STRUCTURES AND ANTENNAS.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 55, Idaho Code, and to read as follows:

CHAPTER 29
EMERGENCY COMMUNICATIONS PRESERVATION

55-2901. SHORT TITLE. This chapter shall be known and may be cited as "The Emergency Communications Preservation Act."

55-2902. PURPOSE. The purpose of this chapter is to preserve the capability of amateur radio operators within the state of Idaho to provide radio communications in times of emergency and disaster.

55-2903. DEFINITIONS. When used in this act:

(1) "Antenna" means any array of wires, tubing or similar materials used for the transmission and reception of radio waves.

(2) "Antenna support structure" or "tower" means a structure or framework that is designed to elevate an antenna above the ground for the purpose of increasing the effective communications range and reliability of an amateur radio station.

(3) "Amateur radio" means the use of amateur and amateur-satellite radio frequencies and services used by licensed, qualified persons of any age who are interested in radio technique without pecuniary remuneration. These services present an opportunity for public service, emergency communications, self-training, intercommunication and technical investigations.

(4) "Amateur radio operator" means any person who has been duly examined and licensed by the federal communications commission or its designee for the operation of transmitting and receiving apparatus on radio frequencies internationally agreed upon for the use of the amateur radio service.

(5) "Local unit of government" means a county, city or town.

55-2904. ANTENNA SUPPORT STRUCTURES -- ANTENNAS -- RESTRICTIONS ON LOCAL UNITS OF GOVERNMENT. Any rule or ordinance of a local unit of government involving the placement, screening or height of antennas and towers based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur radio communications and to represent the minimum practicable regulation to accomplish a legitimate purpose of the local unit of government.

Approved April 4, 2001.

CHAPTER 317
(H.B. No. 242, As Amended)

AN ACT

RELATING TO CERTAIN POST-CONVICTION APPEALS; AMENDING SECTION 19-2719, IDAHO CODE, GOVERNING SPECIAL APPELLATE AND POST-CONVICTION PROCEDURE FOR CAPITAL CASES TO PROVIDE A PETITION FOR SPECIAL PROCEDURES FOR FINGERPRINT AND DNA TESTING; AMENDING SECTION 19-4901, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS FOR FILING A PETITION FOR POST-CONVICTION REMEDY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 19-4902, IDAHO CODE, TO PROVIDE FOR A PETITION FOR FINGERPRINT AND DNA TESTING, TO PROVIDE THAT A PETITIONER MUST PRESENT

CERTAIN ELEMENTS OF A PRIMA FACIE CASE, TO PROVIDE THAT A TRIAL COURT SHALL ALLOW TESTING UNDER CERTAIN CONDITIONS, TO PROVIDE THAT A COURT SHALL ORDER APPROPRIATE RELIEF IF TESTING DEMONSTRATES A PERSON DID NOT COMMIT AN OFFENSE, TO PROVIDE FOR PAYMENT OF TESTING AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-2719, Idaho Code, be, and the same is hereby amended to read as follows:

19-2719. SPECIAL APPELLATE AND POST-CONVICTION PROCEDURE FOR CAPITAL CASES -- AUTOMATIC STAY. The following special procedures shall be interpreted to accomplish the purpose of eliminating unnecessary delay in carrying out a valid death sentence.

(1) When the punishment of death is imposed the time for filing an appeal shall begin to run when the death warrant is filed.

(2) The death warrant shall not be filed until forty-two (42) days after the judgment imposing the death sentence has been filed, or, in the event a post-conviction challenge to the conviction or sentence is filed, until the order deciding such post-conviction challenge is filed.

(3) Within forty-two (42) days of the filing of the judgment imposing the punishment of death, and before the death warrant is filed, the defendant must file any legal or factual challenge to the sentence or conviction that is known or reasonably should be known.

(4) Any remedy available by post-conviction procedure, habeas corpus or any other provision of state law must be pursued according to the procedures set forth in this section and within the time limitations of subsection (3) of this section. The special procedures for fingerprint or forensic DNA testing set forth in sections 19-4901(a)(6) and 19-4902(b) through (f), Idaho Code, are fully applicable in capital cases and are subject to the procedures set forth in this section, and must be pursued through a petition filed within the time limitations of subsection (3) of this section or by July 1, 2002, whichever is later.

(5) If the defendant fails to apply for relief as provided in this section and within the time limits specified, he shall be deemed to have waived such claims for relief as were known, or reasonably should have been known. The courts of Idaho shall have no power to consider any such claims for relief as have been so waived or grant any such relief.

(a) An allegation that a successive post-conviction petition may be heard because of the applicability of the exception herein for issues that were not known or could not reasonably have been known shall not be considered unless the applicant shows the existence of such issues by (i) a precise statement of the issue or issues asserted together with (ii) material facts stated under oath or affirmation by credible persons with first hand knowledge that would support the issue or issues asserted. A pleading that fails to make a showing of excepted issues supported by material facts, or which is not credible, must be summarily dismissed.

(b) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it alleges matters that are cumulative or impeaching or would not, even if the allegations were true, cast doubt on the reliability of the conviction or sentence.

(c) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it seeks retroactive application of new rules of law.

(6) In the event the defendant desires to appeal from any post-conviction order entered pursuant to this section, his appeal must be part of any appeal taken from the conviction or sentence. All issues relating to conviction, sentence and post-conviction challenge shall be considered in the same appellate proceeding.

(7) If post-conviction challenge is made under this section, questions raised thereby shall be heard and decided by the district court within ninety (90) days of the filing of any motion or petition for relief timely filed as provided by this section. The court shall give first priority to capital cases. In the event the district court fails to act within the time specified, the supreme court of Idaho shall, on its own motion or the motion of any party, order the court to proceed forthwith, or if appropriate, reassign the case to another judge. When the supreme court intervenes as provided, it shall set a reasonable time limit for disposition of the issues before the district court.

(8) The time limit provided in subsection (7) of this section for disposition of post-conviction claims may be extended only upon a showing of extraordinary circumstances which would make it impossible to fairly consider defendant's claims in the time provided. Such showing must be made under oath and the district court's finding that extraordinary circumstances exist for extending the time shall be in writing and shall be immediately reported to the supreme court, which shall at once independently consider the sufficiency of the circumstances shown and determine whether an extension of time is warranted.

(9) When a judgment imposing the penalty of death is filed, the clerk and the reporter shall begin preparation of the transcripts of the trial, and other proceedings, and the clerk's transcript.

(10) When the procedures specified in this section and section 19-2827, Idaho Code, have been carried out and a remittitur issued, and an execution date set as provided by law, the defendant shall be deemed to have exhausted all state remedies.

(11) Any successive petition for post-conviction relief not within the exception of subsection (5) of this section shall be dismissed summarily. Notwithstanding any other statute or rule, the order of dismissal shall not be subject to any motion to alter, amend or reconsider. Such order shall not be subject to any requirement for the giving of notice of the court's intent to dismiss. The order of dismissal shall not be appealable.

(12) A stay of execution while the special appellate procedures specified herein are followed and during the pendency of automatic review of death sentences shall be automatically entered by the clerk of the supreme court at the time the district court transmits to the supreme court the report required by section 19-2827, Idaho Code. If the sentence is upheld, the clerk shall dissolve such stay when the remittitur is filed. Thereafter the district court shall set a new execution date.

SECTION 2. That Section 19-4901, Idaho Code, be, and the same is hereby amended to read as follows:

19-4901. REMEDY -- TO WHOM AVAILABLE -- CONDITIONS. (a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) ~~t~~That the conviction or the sentence was in violation of the ~~C~~constitution of the United States or the ~~C~~constitution or laws of this state;

(2) ~~t~~That the court was without jurisdiction to impose sentence;

(3) ~~t~~That the sentence exceeds the maximum authorized by law;

(4) ~~t~~That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) ~~t~~That his sentence has expired, his probation, or conditional release was unlawfully revoked by the court in which he was convicted, or that he is otherwise unlawfully held in custody or other restraint; ~~or~~

(6) Subject to the provisions of section 19-4902(b) through (f), Idaho Code, that the petitioner is innocent of the offense; or

(7) ~~T~~that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy: may institute, without paying a filing fee, a proceeding under this act to secure relief.

(b) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of an appeal from the sentence or conviction. Any issue which could have been raised on direct appeal, but was not, is forfeited and may not be considered in post-conviction proceedings, unless it appears to the court, on the basis of a substantial factual showing by affidavit, deposition or otherwise, that the asserted basis for relief raises a substantial doubt about the reliability of the finding of guilt and could not, in the exercise of due diligence, have been presented earlier. Except as otherwise provided in this act, it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

SECTION 3. That Section 19-4902, Idaho Code, be, and the same is hereby amended to read as follows:

19-4902. COMMENCEMENT OF PROCEEDINGS -- VERIFICATION -- FILING -- SERVICE -- DNA TESTING. (a) A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which ~~the con~~viction took place. An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The ~~S~~supreme ~~C~~court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(b) A petitioner may, at any time, file a petition before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic deoxyribonucleic acid (DNA) test-

ing on evidence that was secured in relation to the trial which resulted in his or her conviction but which was not subject to the testing that is now requested because the technology for the testing was not available at the time of trial. The petition must be filed by July 1, 2002, or within one (1) year after the filing of the judgment of conviction, whichever is later. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(c) The petitioner must present a prima facie case that:

(1) Identity was an issue in the trial which resulted in his or her conviction; and

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish that such evidence has not been substituted, tampered with, replaced or altered in any material aspect.

(d) The trial court shall allow the testing under reasonable conditions designed to protect the state's interests in the integrity of the evidence and the testing process upon a determination that:

(1) The result of the testing has the scientific potential to produce new, noncumulative evidence that would show that it is more probable than not that the petitioner is innocent; and

(2) The testing method requested would likely produce admissible results under the Idaho rules of evidence.

(e) In the event the fingerprint or forensic DNA test results demonstrate, in light of all admissible evidence, that the petitioner is not the person who committed the offense, the court shall order the appropriate relief.

(f) The cost of the forensic DNA test shall be at the petitioner's expense, except to the extent the petitioner qualifies for the test at public expense pursuant to chapter 8, title 19, Idaho Code, in which case the fingerprint or forensic DNA test shall be performed by, and paid for by funds allocated for, Idaho state police forensic services.

Approved April 4, 2001.

CHAPTER 318
(H.B. No. 246)

AN ACT

RELATING TO THE STATE BOARD OF EXAMINERS; AMENDING CHAPTER 20, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2028, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF DEATH BENEFITS TO FAMILY MEMBERS OF A LAW ENFORCEMENT OFFICER WHO IS KILLED IN THE PERFORMANCE OF DUTY, TO PROVIDE FOR DISBURSEMENT OF THE DEATH BENEFIT, TO PROVIDE THAT THE DEATH BENEFIT IS NOT SUBJECT TO STATE INCOME TAXES AND TO PROVIDE THAT THE DEATH BENEFIT SHALL NOT AFFECT NOR BE AFFECTED BY CERTAIN PROVISIONS OF LAW RELATING TO DEATH BENEFITS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 20, 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 67-2028, Idaho Code, and to read as follows:

67-2028. LAW ENFORCEMENT DEATH BENEFITS. (1) After January 1, 2001, in the event a certified peace officer, detention officer or correctional officer (hereinafter referred to as "officer") in the employ of the state or a political subdivision of the state is killed in the performance of the officer's duty, the board of examiners shall authorize the payment of funds for the purpose of distributing a death benefit to the slain officer's family. After the board of examiners is satisfied that the circumstances of the death occurred in the performance of the officer's duty, it shall authorize the issuance of a deficiency warrant. In the event that the board of examiners is uncertain as to the circumstances of the death, it may postpone the authorization of such payment until the head of the responsible investigative agency provides an official report of the incident. Upon authorization of the deficiency warrant by the board of examiners, the state controller shall, after notice to the state treasurer, draw a deficiency warrant in the authorized amount against the general fund.

(2) The death benefit shall be distributed as follows:

(a) The total amount of a death benefit to be disbursed to a surviving spouse, with or without dependent children, shall be one hundred thousand dollars ($100,000).

(b) In the event there is no surviving spouse, the total amount of the death benefit to be disbursed to the slain officer's surviving dependent children who are under twenty-one (21) years of age at the time of the officer's death is one hundred thousand dollars ($100,000), to be split equally among the surviving natural and adopted children of the slain officer. This disbursement shall be made to each dependent child's legal guardian on behalf of the child.

(3) In the event there is neither a surviving spouse, nor surviving dependent children under the age of twenty-one (21) years, the total amount to be disbursed to the surviving parent or parents of the slain officer shall be forty thousand dollars ($40,000), to be split equally between the natural or adopted parents of the slain officer.

(4) The death benefit provided in this section shall not be subject to state income taxes, and shall not affect, nor be affected by, any death benefit payments as may be provided under chapter 13, title 59, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001.

Approved April 4, 2001.

CHAPTER 319
(H.B. No. 343)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2002; PRESCRIBING BILLING METHODOLOGIES FOR STATEWIDE ACCOUNTING AND STATEWIDE PAYROLL; REQUIRING CERTAIN PURCHASES BE SUBJECT TO CERTAIN CON-

DITIONS; 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, 2001, through June 30, 2002:

I. ADMINISTRATION:	
FROM:	
General Fund	$ 478,800
II. STATEWIDE ACCOUNTING:	
FROM:	
General Fund	$ 2,942,200
III. STATEWIDE PAYROLL:	
FROM:	
General Fund	$ 2,694,800
IV. COMPUTER CENTER:	
FROM:	
Data Processing Services Fund	$ 7,026,900
TOTAL	$13,142,700

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, 2002, the State Controller shall transfer the amount assessed in the statewide cost allocation plan 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, 2001, through June 30, 2002, 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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, 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 one and eighty-five hundredths (101.85) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 4, 2001.

CHAPTER 320
(H.B. No. 376)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING A CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE OF GENERAL FUNDS; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; APPROPRIATING ADDITIONAL MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2001; REDUCING APPROPRIATIONS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2001; PROVIDING ONE ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR FISCAL YEAR 2001; AND DECLARING AN EMERGENCY FOR SECTIONS 6, 7 AND 8 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:					
FROM:					
General Fund	$2,884,200	$1,787,600	$45,000	$ 1,002,200	$ 5,719,000
Driver's Education Fund	121,200	148,800		2,073,900	2,343,900
Public Instruction Fund	254,100	955,900		11,200	1,221,200
Miscellaneous Revenue Fund	105,000	27,000			132,000
Student Tuition Recovery Fund		5,300		49,600	54,900
Federal Grant Fund	2,686,200	1,798,500		116,410,900	120,895,600
Indirect Cost Recovery Fund	338,600	187,500			526,100
Data Processing Services Fund	73,800	42,500			116,300
TOTAL	$6,463,100	$4,953,100	$45,000	$119,547,800	$131,009,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred fourteen (114) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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

SECTION 4. There is hereby reappropriated to the Superintendent of Public Instruction/State Department of Education, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of the General Fund appropriation made by Section 1, Chapter 98, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund

on June 30, 2001, is zero, the reappropriation in Section 4 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2001, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 4 of this act shall be in the proportion that the reappropriation for the Superintendent of Public Instruction/State Department of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 6. In addition to the appropriation made in Section 1, Chapter 98, Laws of 2000, and Section 1, Chapter 25, Laws of 2001, there is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$60,000
Operating Expenditures	20,000
TOTAL	$80,000
FROM:	
Indirect Cost Recovery Fund	$80,000

SECTION 7. The appropriation made to the Superintendent of Public Instruction/State Department of Education in Section 1, Chapter 98, Laws of 2000, is hereby reduced by the following amounts, according to the designated expense classes from the listed fund for the period July 1, 2000, through June 30, 2001:

FOR:	
Personnel Costs	$ 29,800
Operating Expenditures	510,000
TOTAL	$539,800
FROM:	
General Fund	$539,800

SECTION 8. In addition to the authorization granted in Section 2, Chapter 98, Laws of 2000, and Section 2, Chapter 25, Laws of 2001, the Superintendent of Public Instruction/State Department of Education is authorized one (1) additional full-time equivalent position for the period July 1, 2000, through June 30, 2001.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 6, 7 and 8 of this act shall be in full force and effect on and after passage and approval.

Approved April 4, 2001.

CHAPTER 321
(H.B. No. 110)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022H, IDAHO CODE, TO PROVIDE A TECHNICAL CLARIFICATION RELATING TO THE AMOUNT OF CAPITAL

GAIN, TO CLARIFY THAT THE REQUIRED HOLDING PERIOD DOES NOT INCLUDE THE HOLDING PERIOD OF NONQUALIFIED PROPERTY EXCHANGED FOR QUALIFIED PROPERTY, TO CLARIFY THE TREATMENT OF PROPERTY OBTAINED BY A BENEFICIARY OF AN ESTATE OR TRUST AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3022H, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports a net capital gain in determining taxable income, sixty percent (60%) of the net capital gain from the sale or exchange of qualified property shall be a deduction in determining taxable income.

(2) The deduction provided in this section is limited to the amount of the ~~net~~ capital gain net income from all property included in federal taxable income. ~~Net capital g~~Gains treated as ordinary income by the ~~i~~Internal ~~r~~Revenue ~~c~~Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) As used in this section "qualified property" means the following property having an Idaho situs at the time of sale:

(a) Real property held at least eighteen (18) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code) for the taxable year is from farming or ranching operations in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code shall apply, except that ~~when~~ the holding period ~~includes--any period during which the taxpayer held property other than the property--sold;--all--property--held--during~~ shall not include the holding period ~~must qualify~~ of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period.

(4) If an individual reports a capital gain from qualified property from an S corporation or a partnership, a deduction shall be allowed under this section only to the extent the individual held his interest in the income of the S corporation or the partnership for the time required by subsection (3) of this section for the property sold.

(5) If an individual reports a capital gain from an estate or a

capital gain from property acquired as a beneficiary of an estate, no deduction shall be allowed under this section unless the holding period ~~required in subs~~section (3) of this section was satisfied by the decedent, the estate, or the beneficiary, or a combination thereof.

(6) If an individual reports a capital gain from a trust or a capital gain from property acquired as a beneficiary of a trust, no deduction shall be allowed under this section unless the holding ~~period~~ required in subsection (3) of this section was satisfied by the grantor, the trust, or the beneficiary, or a combination thereof.

(7) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001.

Approved April 3, 2001.

CHAPTER 322
(H.B. No. 53)

AN ACT

RELATING TO THE STATE MILITIA; AMENDING SECTION 46-314, IDAHO CODE, TO EXTEND THE AUTHORITY OF THE ADJUTANT GENERAL TO PROVIDE INCENTIVE PAYMENTS FOR REGISTRATION FEES AND TUITION FOR IDAHO NATIONAL GUARD MEMBERS ATTENDING PRIVATE INSTITUTIONS OF HIGHER EDUCATION IN IDAHO.

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

SECTION 1. That Section 46-314, Idaho Code, be, and the same is hereby amended to read as follows:

46-314. EDUCATIONAL ENCOURAGEMENT. The adjutant general of the Idaho national guard is authorized to encourage recruitment and retention of nontechnician national guardsmen by providing incentive payments as set forth hereinafter. The adjutant general may authorize the payment of not more than one hundred percent (100%) of student registration fees or tuition for each semester for each member of the active Idaho national guard who attends a public or private institution of higher education in Idaho, a vocational education school, or a community college organized under the provisions of chapter 21, title 33, Idaho Code. To be eligible to receive benefits, an individual must be a member in good standing of the active Idaho national guard at the beginning of and throughout the entire semester for which benefits are received.

Approved April 4, 2001.

CHAPTER 323
(H.B. No. 87, As Amended in the Senate)

AN ACT

RELATING TO CAPITAL GAINS; AMENDING SECTION 63-3022H, IDAHO CODE, TO INCREASE THE PERCENTAGE OF THE NET CAPITAL GAIN FOR TAXABLE YEAR 2001 FROM THE SALE OR EXCHANGE OF QUALIFIED PROPERTY WHICH SHALL BE A DEDUCTION IN DETERMINING TAXABLE INCOME AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022H, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports a net capital gain in determining taxable income, ~~sixty~~ eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the net capital gain from the sale or exchange of qualified property shall be a deduction in determining taxable income.

(2) The deduction provided in this section is limited to the amount of the net capital gain from all property included in federal taxable income. Net capital gains treated as ordinary income by the ~~i~~Internal ~~r~~Revenue ~~c~~Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) As used in this section "qualified property" means the following property having an Idaho situs at the time of sale:

(a) Real property held at least eighteen (18) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code) for the taxable year is from farming or ranching operations in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code shall apply, except that when the holding period includes any period during which the taxpayer held property other than the property sold, all property held during the holding period must qualify under this section.

(4) If an individual reports a capital gain from qualified property from an S corporation or a partnership, a deduction shall be allowed

under this section only to the extent the individual held his interest in the income of the S corporation or the partnership for the time required by subsection (3) of this section for the property sold.

(5) If an individual reports a capital gain from an estate, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the decedent, the estate, or the beneficiary, or a combination thereof.

(6) If an individual reports a capital gain from a trust, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the grantor, the trust, or the beneficiary, or a combination thereof.

(7) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001.

Approved April 4, 2001.

CHAPTER 324
(H.B. No. 169, As Amended, As Amended in the Senate)

AN ACT

RELATING TO AGRICULTURE AND HORTICULTURE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 22, IDAHO CODE, TO PROVIDE LIABILITY FOR THE WILLFUL AND KNOWING DAMAGE OR DESTRUCTION OF ANY AGRICULTURAL OR HORTICULTURAL CROP PRODUCT AND TO PROVIDE FOR DAMAGES.

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

SECTION 1. 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 50, Title 22, Idaho Code, and to read as follows:

CHAPTER 50
CROP PRODUCT DESTRUCTION

22-5001. DESTRUCTION OF AGRICULTURAL OR HORTICULTURAL CROP PRODUCT -- DAMAGES. (1) Any person or entity who willfully and knowingly damages or destroys any agricultural or horticultural crop product that is grown for personal or commercial purposes and that is also grown for testing or research in the context of a product development program in conjunc-

tion or coordination with a private research facility or a university or any federal, state, or local government agency, shall be liable for twice the value of the crop damaged or destroyed, together with attorney's fees and costs.

(2) In awarding damages under this section, the courts shall consider the market value of the crop prior to damage or destruction, and production, research, testing, replacement and crop development costs directly related to the crop that has been damaged or destroyed as part of the value of the crop.

(3) Damages available under this section shall be limited to twice the market value of the crop prior to damage or destruction plus twice the actual damages involving production, research, testing, replacement and crop development costs directly related to the crop that has been damaged or destroyed.

Approved April 4, 2001.

CHAPTER 325
(H.B. No. 299)

AN ACT

RELATING TO PROPERTY TAX RELIEF; AMENDING SECTION 63-701, IDAHO CODE, TO PROVIDE A DEDUCTION FOR CERTAIN EXPENSES RELATED TO FUNERALS IN THE DETERMINATION OF INCOME AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be:

(a) Not less than sixty-five (65) years old; or

(b) A fatherless or motherless child under the age of eighteen (18) years; ~~of age;~~ or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person as specified in 42 U.S.C. 1701, who was or is entitled

to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant and used as the primary dwelling place of the claimant and occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and any person or persons who live in the same dwelling, and share its furnishings, facilities, accommodations or expenses. The term includes any person owing a duty of support to the applicant pursuant to section 32-1002, Idaho Code, unless the person qualifies as a "nonhousehold member" pursuant to subsection (6) of this section. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (9)(b) of this section.

(4) "Household income" means all income received by all persons of a household in a calendar year while members of the household.

(5) "Income" means the sum of federal adjusted gross income as defined in the ~~i~~Internal ~~r~~Revenue ~~c~~Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income, alimony, support money, income from inheritances, nontaxable strike benefits, the nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the ~~i~~Internal ~~r~~Revenue ~~c~~Code), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, worker's compensation and the gross amount of loss of earnings insurance. It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, cost of medical care as defined in section 213(d) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code, incurred by the household may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars ($5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse, provided however, that the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant does not file a federal tax return the claimant's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant filed a federal tax return.

(6) "Nonhousehold member" means any nonspouse who lives in the claimant's dwelling for the purpose of providing protective oversight, caregiving, or personal assistance services to the claimant, or who is receiving disability benefits pursuant to subsection (1)(d) or (e) of this section, or who is over age sixty-five (65) years and lives in the claimant's dwelling and receives protective oversight, caregiving or personal assistance services provided by the claimant.

(7) "Occupied" means actual use and possession.

(8) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who as grantor created a revocable or irrevocable trust and named himself as beneficiary of that trust, or who is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation which holds title in fee simple or holds a certificate of motor vehicle title or who has retained or been granted a life estate. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. "Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered ownership for determining qualification for property tax reduction benefits, however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property is held by a person who has died without timely filing a claim for property tax reduction, the estate shall be the "owner."

(9) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for the mentally retarded as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(16), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

Approved April 4, 2001.

CHAPTER 326
(H.B. No. 315, As Amended)

AN ACT

RELATING TO SAFE SCHOOL FACILITIES; AMENDING SECTION 33-804A, IDAHO CODE, TO INCLUDE A REFERENCE TO THE UNIFORM SCHOOL BUILDING SAFETY ACT AND TO RESTRICT QUALIFICATION FOR LOANS TO NEW LOANS; AMENDING SECTION 33-1017, IDAHO CODE, TO AUTHORIZE GRANTS WITHIN THE SCOPE OF THE SCHOOL SAFETY AND HEALTH REVOLVING LOAN FUND, TO PROVIDE ELIGIBILITY FOR GRANTS AND METHOD OF DETERMINING THE QUALIFYING PERCENTAGE; AMENDING SECTION 33-1613, IDAHO CODE, TO REQUIRE SAFE SCHOOL FACILITIES IN PUBLIC SCHOOLS AND CERTAIN OTHER SPECIFIED SCHOOLS; AMENDING SECTION 39-8003, IDAHO CODE, TO EXTEND THE SCOPE OF THE UNIFORM SCHOOL BUILDING SAFETY ACT TO CHARTER SCHOOLS AND CERTAIN SCHOOLS OPERATED BY THE STATE OF IDAHO; AMENDING SECTION 39-8008, IDAHO CODE, TO PROVIDE AUTHORITY OF THE ADMINISTRATOR TO CAUSE PERSONS TO BE RESTRAINED FROM ENTERING AN UNSAFE AREA; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-804A, Idaho Code, be, and the same is hereby amended 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~~ uniform school building safety act, chapter ~~41~~ 80, 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 2. That Section 33-1017, Idaho Code, be, and the same is hereby amended to read as follows:

33-1017. SCHOOL SAFETY AND HEALTH REVOLVING LOAN AND GRANT FUND. (1) Fund created. There is hereby created a fund in the state treasury

to be known as the school safety and health revolving loan and grant fund to which shall be credited all moneys that may be appropriated, apportioned, allocated and paid back to that fund. Moneys in this fund shall be used exclusively as provided in this section, except that moneys in this fund shall be returned to the budget stabilization fund as provided in this section.

(2) Approval of loan or grant. A school district that does not have the financial resources to abate unsafe or unhealthy conditions identified pursuant to section 33-1613, Idaho Code, and which is eligible to seek additional funds under subsection (5)(b)(ii) of section 33-1613, Idaho Code, may apply to the state treasurer for a loan and, if eligible, a grant from the safety and health revolving loan and grant fund. A school district that has borrowed money from the Idaho safe school facilities loan program may apply for a grant of interest from the safety and health revolving loan and grant fund. The loan or grant shall be approved if the school district's ~~loan~~ application meets the criteria of section 33-1613, Idaho Code, and of this section. If the board of examiners finds that existing and anticipated loans or grants under this section have depleted the school safety and health revolving loan and grant fund to an extent that the fund does not have available sufficient moneys to loan to an eligible school district, the board of ~~examiners~~ shall declare that additional loans may be made from the budget stabilization fund in section 57-814, Idaho Code, up to any limits of the use of that fund provided by statute or declared by the governor in time of general revenue shortfalls or major disaster.

(3) Conditions of loan or grant -- Repayment of loan.

(a) The school district's application shall identify the unsafe or unhealthy conditions that would be abated with the proceeds of the loan or grant and, if a loan, shall propose a method of and timetable for abating those conditions and for repaying the loan.

(b) The state treasurer shall review the application to determine whether the application is for abatement of unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, and to determine whether the estimated costs of abatement and proposed plan of abatement is reasonable. In reviewing the application, the state treasurer may call upon the assistance of the state division of building safety, the state fire marshal, the state department of administration, the state board of education, the state department of education, or other knowledgeable persons to determine whether conditions identified to be abated meet the criteria of section 33-1613, Idaho Code, and to determine whether the plan of abatement, estimated costs of abatement and proposed methods of abatement are reasonable. The state treasurer shall process the application for a loan or grant within thirty-five (35) days after its receipt.

(i) If the state treasurer determines that the application has not identified unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, the state treasurer shall return the application with a written statement that contains reasons why the loan or grant application does not meet the criteria of this section and of section 33-1613, Idaho Code.

(ii) If the state treasurer determines that the application has identified unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, the state treasurer shall then determine whether the application has proposed reasonable meth-

ods of and reasonable estimates of costs of abatement. The state treasurer shall approve the plan of abatement if the school district has proposed a reasonable method of abatement and if its estimated costs of abatement are reasonable; otherwise, the state treasurer shall return the application with a written statement how the application can be amended to qualify.

(c) If the application is for a loan, t~~T~~he state treasurer may accept the school district's proposed method of and timetable for repaying ~~the loan or may im~~pose reasonable alternative or substitute methods of and timetables for repayment consistent with this subsection, which alternative or substitute methods shall be binding on the school district. At a minimum, the school district shall be required to repay in each fiscal year succeeding the year of the loan an amount no less than the lottery proceeds that the school district would otherwise receive for that fiscal year and additional foundation support moneys, if any, accruing as a result of an initial overestimation of state average daily attendance support units and later distribution of residual amounts resulting from fewer support units than originally estimated. The loan shall provide for the school safety and health revolving loan and grant fund, or the budget stabilization fund, to the extent that it was the source of the loan, to intercept the lottery proceeds that would otherwise go to the school district until the loan is fully repaid. In addition, the state treasurer may impose reasonable fiscal conditions on the school district during the term of loan repayment including, but not limited to, restrictions in use of otherwise unrestricted school ~~distric~~t moneys to assist in repayment of the loan or in abatement of unsafe or unhealthy conditions, the declaration of a financial emergency during some or all of the term of repayment of the loan, or interception by the school safety and health revolving loan and grant fund of a portion of the state foundation program payments under chapter 10, title 33, Idaho Code, that would otherwise go to the school district to repay the loan. The initial term of the loan shall not exceed ten (10) years, but may be extended in the state treasurer's discretion for another ten (10) years.

(d) If a loan is approved, the state treasurer shall establish a line of credit for the school district and monthly reimburse the school district for costs incurred to abate the unsafe or unhealthy conditions identified as the reason for the loan. The state treasurer may prescribe forms and procedures for administration of this line of credit.

(e) A school district may repay its loan or any portion of its loan in advance at any time without penalty.

(4) Interest. Loans to school districts under this section shall bear interest at the average rate of interest that would be available to the state treasury were the loan funds retained in the state treasury, as determined by the state treasurer.

(5) Certification of loan funds spent. If a school district obtains a loan pursuant to this section, the board of trustees shall certify the total expenditures of loaned funds that were actually spent to abate unsafe and unhealthy conditions.

(6) Excess funds. If any funds loaned pursuant to this section were not spent on abatement of unsafe and unhealthy conditions, they must be

returned to the school safety and health loan and grant fund or the budget stabilization fund, as the case may be. This subsection shall be judicially enforceable by the state treasurer, and any amounts due for repayment under this subsection may be recovered by offset from state foundation program moneys that would otherwise be paid to the school district.

(7) Eligibility for grant. After complying with the provisions of section 33-1613, Idaho Code, school districts that borrow money from the Idaho safe schools facilities loan program pursuant to section 33-804A, Idaho Code, or that refinance through the Idaho safe schools facilities loan program loans for money borrowed under this section may apply for a grant from the school safety and health revolving loan and grant fund to pay for eligible interest costs incurred on loan proceeds used to abate unsafe and unhealthy conditions. If the school district's application for a grant is accepted, then the school district will qualify for a grant of the present value of the qualifying percentage of the interest costs of the loan associated with abating unsafe and unhealthy conditions as follows:

(a) If the school district is participating in the Idaho safe schools facilities loan program, within seven (7) days after the approved school district receives loan proceeds from the Idaho safe schools facilities loan fund, the state treasurer shall provide funds to the school district in the amount of the qualifying percentage of the present value of the interest costs associated with abating unsafe and unhealthy conditions.

(b) If a school district has obtained a loan from the school health and safety revolving loan and grant fund and has refinanced its loan through the Idaho safe schools facilities program and prepays the outstanding principal of its loan, the school district shall be eligible for a grant of the qualifying percentage of the present value of the outstanding interest costs associated with the prepaid principal.

(8) Present value. The present value of the interest costs associated with money borrowed under the Idaho safe schools facilities loan program shall be calculated by the state treasurer using a method of equal annual loan payments and a discount rate of the interest rate prescribed in subsection (4) of this section on the date that the school district receives funds from the Idaho safe schools facilities loan fund. The present value of the unpaid interest costs for principal prepayments to the school safety and health revolving loan and grant fund shall be calculated by the state treasurer by summing the unpaid interest that would be paid without the principal prepayment and discounting it at the interest rate prescribed in subsection (4) of this section on the date that the treasurer receives the prepayment.

(9) Qualifying percentage. The qualifying percentage of the interest costs of a school district applying for a grant of interest under this section shall be determined as follows: For a school district borrowing money under the Idaho safe schools facilities loan program or refinancing a loan made under this section with money borrowed under the Idaho safe schools facilities program, the state treasurer shall express:

(a) the total of the bond and plant facilities levies imposed by the school district (including the levy for which the application is made), and

(b) the total levies imposed by the school district (including the levy for which the application is made)
as a fraction of assessed value for the most recent assessment against which the school district's existing levies are made.

The qualifying percentage of interest granted under this section shall be the higher of the amounts shown in the following tables:

Table 1 - Bond and Plant Facilities Levies

Bond Plus Plant Facilities Levy	Qualifying Percentage
Less than .0019	10%
More than .0019 and less than .0029	20%
More than .0029 and less than .0039	30%
More than .0039	40%

Table 2 - Total Levies

Total Levy	Qualifying Percentage
Less than .0060	0%
More than .0060 and less than .0072	25%
More than .0072 and less than .0084	50%
More than .0084 and less than .0096	75%
More than .0096	100%

(10) Interest costs for abatement of unsafe and unhealthy conditions. The interest costs for abatement of unsafe and unhealthy conditions shall be calculated by determining the percentage of the loan proceeds or prepayment of the loan that will be used to abate unsafe and unhealthy conditions.

(11) Procedures. The state treasurer may prescribe forms for applying for a loan or grant under this section. No actions taken under this section are contested cases or rulemaking subject to chapter 52, title 67, Idaho Code, and none of the contested case or rulemaking procedures of chapter 52, title 67, Idaho Code, apply to actions taken under this section.

(12) The state treasurer's authority to accept applications for and to approve grants of interest from the school safety and health revolving loan and grant fund shall cease on July 1, 2004.

SECTION 3. That Section 33-1613, Idaho Code, be, and the same is hereby amended to read as follows:

33-1613. SAFE PUBLIC SCHOOL FACILITIES REQUIRED. (1) Definition. As used in this section, "public school facilities" means the physical plant of improved or unimproved real property owned or operated by a school district, a charter school, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho, 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) Inspection. It is the duty of the board of trustees of every school district and the governing body for other schools described in subsection (1) of this section at least once in every school year to require an independent inspection of the school dis~~trict~~'s or other entity's school facilities to determine whether those school facilities ~~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~~ uniform school building safety act, chapter ~~41~~ 80, 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. The inspection shall be done pursuant to ~~section 39-4130~~ chapter 80, title 39, Idaho Code, or by an independent inspector professionally qualified to conduct inspections under the applicable code. The results of the inspection shall be presented to the board of trustees or other governing body for ~~their~~ its review and consideration.

(3) Abatement required -- Reporting. The board of trustees or other governing body shall, in ~~their~~ its sole discretion, accept or reject the results of the inspection in whole or in part and in so doing shall identify any unsafe or unhealthy conditions in the school district or other entity. The board of trustees or other governing body shall require that the unsafe or unhealthy conditions be abated and shall instruct the school district's or other entity's personnel to take necessary steps to abate unsafe or unhealthy conditions. The board of trustees or other governing body must issue a report in the same school year in which the inspections are made declaring whether any unsafe or unhealthy ~~conditions~~ identified have not been abated. The state board of education may, by rule, provide for uniform reporting of unsafe and unhealthy conditions and for uniform reporting of abatement or absence of abatement of unsafe and unhealthy conditions.

(4) Costs of and plan of abatement. If the school district or other entity described in subsection (1) of this section can abate all unsafe or unhealthy conditions identified with the funds available ~~to the~~ school district or other entity, it shall do so, and it need not separately account for the costs of abatement nor segregate funds expended for abatement. If the school district or other entity cannot abate all unsafe or unhealthy conditions identified with the funds available to it, the board of trustees or other governing body shall direct that a plan of abatement be prepared. The plan of abatement shall provide a timetable that shall begin no later than the following school year and that shall provide for abatement with all deliberate speed of unsafe and unhealthy conditions identified. The school district or other entity shall immediately begin to implement its plan of abatement and must separately account for its costs of abatement of unsafe and unhealthy conditions and separately segregate funds for the abatement of unsafe and unhealthy conditions as required by subsection (5) of this section.

(5) Special provisions for implementation of plan of abatement.

(a) Notwithstanding any other provisions of law concerning expenditure of lottery moneys distributed to the school district or other entity, all lottery moneys provided to the school district or other entity for a school year in which the school district cannot abate unsafe or unhealthy conditions identified and not legally encumbered

to other uses at the time and all lottery moneys for following school years shall be segregated and expended exclusively for abatement of unsafe and unhealthy conditions identified until all of the unhealthy and unsafe conditions identified are abated, provided, if the school district has obtained a loan from the safety and health revolving loan and grant fund, the provisions of section 33-1017, Idaho Code, and the conditions of the loan shall determine the use of the school district's lottery moneys during the term of the loan.

(b) If the lottery moneys referred to in paragraph (a) of this subsection will, in the board of trustees' or other governing bodies' estimation, be insufficient to abate the unsafe and unhealthy conditions identified, the plan of abatement shall identify additional sources of funds to complete the abatement of the unsafe and unhealthy conditions. The board of trustees may choose from among the following sources, or from other sources of its own identification, but the plan of abatement must identify sufficient sources of funds for abatement.

(i) If the school district is not levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by a board of trustees without an election, the board of trustees may increase any of those levies as allowed by law for the school year following the school year in which it was unable to abate unsafe or unhealthy conditions identified.

(ii) If the school district is levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election; or, if after increasing those levies to the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election, there will still be insufficient funds to abate unsafe or unhealthy conditions identified, the school district, after giving notice and conducting a hearing, may declare a financial emergency and/or may apply for a loan or, if eligible, an interest grant from the safety and health revolving loan and grant fund as provided in section 33-1017, Idaho Code, to obtain funds to abate the unsafe or unhealthy conditions identified.

(iii) Upon the declaration of a financial emergency, the board of trustees shall have the power to impose a reduction in force, to freeze some or all salaries in the school district, and/or to suspend some or all contracts that may be legally suspended upon the declaration of a financial emergency; provided, that when a board of trustees declares a financial emergency, or when a declaration of a financial emergency is imposed by the state treasurer pursuant to section 33-1017, Idaho Code, and there is a reduction in force, some or all salaries are frozen, or some contracts are suspended, the payments to the school district under the foundation program of chapter 10, title 33, Idaho Code, and in particular the staff allowances under that chapter, shall not be reduced during the duration of the financial emergency as a result of a reduction in force, frozen salaries, or suspended salaries from what the staff allowance would be without the reduction in force, frozen salaries or suspended contracts.

(c) All costs of abatement for a program implementing plans of abatement under subsection (5) of this section must be separately accounted for and documented with regard to abatement of each unsafe or unhealthy condition identified. Funds obtained under section 33-1017, Idaho Code, must be used exclusively to abate unsafe or unhealthy conditions identified. Funds obtained pursuant to section 33-1017, Idaho Code, in excess of funds necessary to abate unsafe or unhealthy conditions identified must be returned as provided in section 33-1017, Idaho Code. Return of these funds shall be judicially enforceable as provided in section 33-1017, Idaho Code.

SECTION 4. That Section 39-8003, Idaho Code, be, and the same is hereby amended to read as follows:

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, charter schools, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho receiving state funding. The authority granted under this act shall not prohibit local governments from acting to enforce applicable building and fire codes.

SECTION 5. That Section 39-8008, Idaho Code, be, and the same is hereby amended to read as follows:

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 school 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. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the department of administration can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school 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 pending the evaluation of the department of administration. This order shall be withdrawn if the evaluation of the department of administration does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(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 school 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 school 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, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the school 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 school 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 school 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.

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 4, 2001.

CHAPTER 327
(H.B. No. 371)

AN ACT

RELATING TO THE FIREMEN'S RETIREMENT FUND; AMENDING SECTION 72-1434, IDAHO CODE, TO PROVIDE THAT CERTAIN PAID FIREFIGHTERS EMPLOYED ON OR AFTER JULY 1, 1976, MAY MAKE AN ELECTION TO SELECT EITHER OPTION I OR OPTION II PRIOR TO RETIREMENT, TO PROVIDE THAT SUCH PAID FIREFIGHTERS WHO SELECT OPTION II SHALL PAY ANY ADDITIONAL REQUIRED EMPLOYEE CONTRIBUTIONS PRIOR TO RETIREMENT, TO PROVIDE THAT THE FIREFIGHTER'S EMPLOYER SHALL PAY ANY ADDITIONAL REQUIRED EMPLOYER CONTRIBUTIONS AS DETERMINED BY THE BOARD 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 72-1434, Idaho Code, be, and the same is hereby amended to read as follows:

72-1434. OPTIONAL PENSION AMOUNTS -- OPTION I AND OPTION II. Prior to July 1, 1976, but not thereafter, any paid firefighter in this state, as defined in subsection (A) of section 72-1403, Idaho Code, may elect to receive his or her retirement benefits in accordance with the provisions of Option I or Option II as hereinafter set forth. Except as otherwise provided in this chapter, in the event a firefighter fails to elect an option prior to July 1, 1976, then his or her pension benefits shall be paid to him under the provisions as set forth in Option I. Selection of option shall be nominated by written designation duly executed and filed with the public employee retirement system board. Any paid firefighter employed in the state by a city or fire district, on or after July 1, 1976, shall be employed under the provisions as set forth in Option II; provided however, that any paid firefighter employed on or after July 1, 1976, who has consistently been treated as an Option I firefighter for contribution purposes may, prior to retirement, make an election to select either Option I or Option II; provided further, that any such paid firefighter who selects Option II shall, prior to retirement, pay any additional required employee contributions and the firefighter's employer shall pay any additional required employer contributions, as determined by the board.

(1) OPTION I -- On or after July 1, 1976, any employed paid firefighter, as defined in subsection (A) of section 72-1403, Idaho Code, electing this option or failing to nominate an option, after payment of the contribution, as set forth in section 72-1431, Idaho Code, and after completion of years active service, as defined in subsection (H) of section 72-1403, Idaho Code, may at his or her option retire, and in the event of such retirement said firefighter shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to the percentage of the average paid firefighter's salary or wage in this state, as defined in section 72-1431, Idaho Code, and that said firefighter is entitled to under the provisions of this chapter, which said monthly sum shall vary annually, according to the determination of the cost of living adjustment as set forth in section 72-1471, Idaho Code.

(2) OPTION II -- On or after October 1, 1979, any paid firefighter, as defined in subsection (A) of section 72-1403, Idaho Code, who elected Option II, or who was employed after July 1, 1976, after payment of the contribution, as set forth in section 72-1431, Idaho Code, and after completion of years active service, as defined in section 72-1403(H), Idaho Code, may at his or her option retire, and in the event of such retirement he or she shall be paid from the public employee retirement account a monthly sum during the remainder of his or her life equal to the percentage of said firefighter's average monthly salary or wage, as defined in section 72-1431, Idaho Code, that said firefighter is entitled to under the provisions as set forth in this chapter, based on his or her "average final compensation," as defined in section 72-1404, Idaho Code, which said monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1471, 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 4, 2001.

CHAPTER 328
(H.B. No. 375)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2002.

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

SECTION 1. In addition to the appropriation made in Section 1 of Senate Bill No. 1184, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Idaho Transportation Department 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, 2001, through June 30, 2002:

I. AERONAUTICS:

FOR:	
Trustee and Benefit Payments	$41,000
FROM:	
State Aeronautics Fund (Dedicated)	$41,000

Approved April 4, 2001.

CHAPTER 329
(S.B. No. 1022)

AN ACT

RELATING TO THE UNIFORM FOREIGN-MONEY CLAIMS ACT; AMENDING TITLE 10, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 10, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE SCOPE, TO PROVIDE FOR VARIATION BY AGREEMENT, TO PROVIDE FOR DETERMINING THE MONEY OF THE CLAIM, TO PROVIDE FOR DETERMINING THE AMOUNT OF THE MONEY OF CERTAIN CONTRACT CLAIMS, TO PROVIDE FOR THE ASSERTION AND DEFENSE OF A FOREIGN-MONEY CLAIM, TO PROVIDE FOR JUDGMENTS AND AWARDS ON FOREIGN-MONEY CLAIMS, TO PROVIDE FOR TIMES OF MONEY CONVERSION AND TO PROVIDE FOR FORM OF JUDGMENT, TO PROVIDE FOR CONVERSIONS OF FOREIGN MONEY IN DISTRIBUTION PROCEEDINGS, TO PROVIDE FOR PREJUDGMENT INTEREST AND JUDGMENT INTEREST, TO PROVIDE FOR ENFORCEMENT OF FOREIGN JUDGMENTS, TO PROVIDE FOR DETERMINING THE UNITED STATES DOLLAR VALUE OF FOREIGN-MONEY CLAIMS FOR LIMITED PURPOSES, TO PROVIDE FOR THE EFFECT OF CURRENT REVALORIZATION, TO PROVIDE FOR SUPPLEMENTARY GENERAL PRINCIPLES OF LAW, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE THAT THE CHAPTER APPLIES TO ACTIONS AND DISTRIBUTION PROCEEDINGS COMMENCED AFTER THE EFFECTIVE DATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 10, 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 10, Idaho Code, and to read as follows:

CHAPTER 15
UNIFORM FOREIGN-MONEY CLAIMS ACT

10-1501. DEFINITIONS. As used in this chapter:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this chapter, is:

(i) Paid to a claimant in an action or distribution proceeding;

(ii) Paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(iii) Used to recoup, set-off or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one (1) or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by inter-governmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to section 10-1504, Idaho Code.

(9) "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one (1) country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two (2) days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

10-1502. SCOPE. (a) This chapter applies only to a foreign-money claim in an action or distribution proceeding.

(b) This chapter applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

10-1503. VARIATION BY AGREEMENT. (a) The effect of this chapter may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(b) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one (1) aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

10-1504. DETERMINING MONEY OF THE CLAIM. (a) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(b) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(1) Regularly used between the parties as a matter of usage or course of dealing;

(2) Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions

in the particular commodity or service involved; or

(3) In which the loss was ultimately felt or will be incurred by the party claimant.

10-1505. DETERMINING AMOUNT OF THE MONEY OF CERTAIN CONTRACT CLAIMS. (a) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(b) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty (30) days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(c) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

10-1506. ASSERTING AND DEFENDING FOREIGN-MONEY CLAIM. (a) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(b) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(c) A person may assert a defense, set-off, recoupment or counterclaim in any money without regard to the money of other claims.

(d) The determination of the proper money of the claim is a question of law.

10-1507. JUDGMENTS AND AWARDS ON FOREIGN-MONEY CLAIMS -- TIMES OF MONEY CONVERSION -- FORM OF JUDGMENT. (a) Except as provided in subsection (c) of this section, a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(b) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(c) Assessed costs must be entered in United States dollars.

(d) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(e) A judgment or award made in an action or distribution proceeding on both (i) a defense, set-off, recoupment or counterclaim and (ii) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(f) A judgment substantially in the following form complies with

subsection (a) of this section:

IT IS ADJUDGED AND ORDERED, that Defendant ..... (insert name) ..... pay to Plaintiff ..... (insert name)..... the sum of ..... (insert amount in the foreign money) ..... plus interest on that sum at the rate of ..... (insert rate - see section 10-1509, Idaho Code) ..... percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the ..... (insert name of foreign money) ..... with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of ..... (insert amount) ..... United States dollars.

(g) If a contract claim is of the type covered by section 10-1505(a) or (b), Idaho Code, the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(h) A judgment must be filed with the district court, and recorded with the county recorder, in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

10-1508. CONVERSIONS OF FOREIGN MONEY IN DISTRIBUTION PROCEEDING. The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

10-1509. PREJUDGMENT AND JUDGMENT INTEREST. (a) With respect to a foreign-money claim, recovery of prejudgment or preaward interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (b) of this section, are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(b) The court or arbitrator shall increase or decrease the amount of prejudgment or preaward interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(c) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

10-1510. ENFORCEMENT OF FOREIGN JUDGMENTS. (a) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in section 10-1507, Idaho Code, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(b) A foreign judgment may be filed in accordance with any rule or

statute of this state providing a procedure for its recognition and enforcement.

(c) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(d) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

10-1511. DETERMINING UNITED STATES DOLLAR VALUE OF FOREIGN-MONEY CLAIMS FOR LIMITED PURPOSES. (a) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(b) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court required undertaking, must be ascertained as provided in subsections (c) and (d) of this section.

(c) A party seeking process, costs, bond or other undertaking under subsection (b) of this section shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court required undertaking.

(d) A party seeking the process, costs, bond or other undertaking under subsection (b) of this section shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

10-1512. EFFECT OF CURRENT REVALORIZATION. (a) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(b) If substitution under subsection (a) of this section occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

10-1513. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this chapter, the principles of law and equity, including the law merchant, and the law relative to capacity to

contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

10-1514. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

10-1515. SHORT TITLE. This chapter may be cited as the "Uniform Foreign-Money Claims Act."

10-1516. SEVERABILITY. The provisions of this chapter are hereby declared to be 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.

10-1517. TRANSITIONAL PROVISION. This chapter applies to actions and distribution proceedings commenced after its effective date.

SECTION 2. This act shall be in full force and effect on and after July 1, 2001.

Approved April 4, 2001.

CHAPTER 330
(S.B. No. 1033)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-2-102, IDAHO CODE, TO PROVIDE THAT ONE-HALF OF THE INTESTATE SHARE SHALL PASS TO THE SURVIVING SPOUSE IF A DECEDENT IS SURVIVED BY ISSUE OR A PARENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-2-102, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-102. SHARE OF THE SPOUSE. The intestate share of the surviving spouse is as follows:

(a) As to separate property:

(1) ~~:~~If there is no surviving issue or parent of the decedent, the entire intestate estate;

(2) ~~:~~If there is no surviving issue but the decedent is survived by a parent or parents, ~~the first fifty thousand dollars ($50,000), plus~~ one-half (1/2) of the ~~balance of the~~ intestate estate;

(3) ~~:~~If there are surviving issue ~~all of whom are issue~~ of the ~~surviving~~ deceased spouse, ~~also, the first fifty thousand dollars ($50,000), plus~~ one-half (1/2) of the ~~balance of the~~ intestate estate~~;~~

~~(4)--if--there--are--surviving-issue-one-(1)-or-more-of-whom-are-not issue-of-the-surviving--spouse,--one-half--(1/2)--of--the--intestate estate.~~

(b) As to community property:

(1) ~~t~~The one-half (1/2) of community property which belongs to the decedent passes to the surviving spouse.

Approved April 4, 2001.

CHAPTER 331
(S.B. No. 1057, As Amended in the House)

AN ACT

RELATING TO CONVEYANCE OF CITY OWNED PROPERTY; AMENDING SECTION 50-1401, IDAHO CODE, TO PROVIDE A STATEMENT OF THE GENERAL AUTHORITY OF THE CITY TO MANAGE REAL PROPERTY; AMENDING SECTION 50-1402, IDAHO CODE, TO GOVERN PROCEDURES FOR DETERMINATION OF VALUE OF PROPERTY; REPEALING SECTIONS 50-1403, 50-1404, 50-1405, 50-1406 AND 50-1407, IDAHO CODE; AMENDING CHAPTER 14, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1403, IDAHO CODE, TO GOVERN DISPOSITION OF REAL PROPERTY AFTER A PUBLIC HEARING; AMENDING CHAPTER 14, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1404, IDAHO CODE, TO SPECIFY TERMS OF SALE TO GOVERN CONTRACTS FOR CONVEYANCE OF CITY PROPERTY; AMENDING CHAPTER 14, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1405, IDAHO CODE, TO GOVERN THE DISPOSITION OF PROCEEDS OF A SALE; AMENDING CHAPTER 14, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1406, IDAHO CODE, TO GOVERN THE DISPOSITION OF EXCESS PROCEEDS UPON DISPOSAL OF LAND ACQUIRED BY FORECLOSURE; AMENDING CHAPTER 14, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1407, IDAHO CODE, TO GOVERN THE POWER OF CITIES TO LEASE ANY REAL OR PERSONAL PROPERTY OF THE CITY; AMENDING SECTION 50-305, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS GOVERNING SALE OF CITY OWNED HOSPITAL; AND AMENDING SECTION 33-2101A, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS.

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

SECTION 1. That Section 50-1401, Idaho Code, be, and the same is hereby amended to read as follows:

50-1401. ~~REALTY~~ REAL PROPERTY OWNED BY CITIES -- METHOD OF ~~SALE~~ CONVEYANCE OR EXCHANGE. ~~In--all--cases-where~~ It is the intent of this chapter that cities of the state of Idaho shall have general authority to manage real property ~~is~~ owned by the city~~,~~ in ways which the judgment of the city council of each city deems to be in the public interest. ~~T~~the city council shall have the power to sell, exchange or convey, by ~~good~~ and ~~sufficient deed or other~~ appropriate instrument in writing, any real property owned by the city which is underutilized or which is not used for public purposes~~,--or-which-has-ceased-to-be-used-for--such--purposes.~~

SECTION 2. That Section 50-1402, Idaho Code, be, and the same is hereby amended to read as follows:

50-1402. ~~APPRAISAL~~ DECLARATION OF VALUE OF PROPERTY. ~~Said--property shall first be~~ Whenever the city council proposes to convey, exchange or offer for sale any real property, it shall first declare the value or minimum price, if any, it intends to receive as a result of such conveyance or exchange. The city council may contract for or provide that the property be appraised under such terms and conditions as may be ~~provided~~ deemed appropriate ~~by the city~~ council. The declaration, either in the form of a minimum dollar value, or an explanation of an intended exchange or conveyance for other than monetary consideration shall be made on the record at a public meeting of the council. The city council may also declare that the subject property will be offered for sale without establishing a minimum price.

Following a declaration of intent to sell or exchange real property, the clerk of the city shall publish a summary of the action taken by the city council in the official newspaper of the city and provide notice of a public hearing before the city council. Notice of the public hearing concerning the proposed exchange or conveyance shall be published in the official newspaper of the city at least fourteen (14) days prior to the date of the hearing.

SECTION 3. That Sections 50-1403, 50-1404, 50-1405, 50-1406 and 50-1407, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Chapter 14, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1403, Idaho Code, ~~and to read~~ as follows:

50-1403. DISPOSITION AFTER HEARING. After a public hearing has been conducted, the city council may proceed to exchange, convey or offer for sale the real property in question, subject to the restrictions of section 50-1401, Idaho Code. The city council shall be governed by the following provisions:

(1) When the property is offered for sale, the property shall be sold at a public auction to the highest bidder and no bids shall be accepted for less than the minimum declared value previously recorded on the record at a public meeting of the council, provided however, if no bids are received, the city council shall have the authority to sell such property as it deems in the best interest of the city.

(2) When it is determined by the city council to be in the city's best interest that the property be offered for exchange, the council may do all things necessary to exchange any property owned by the city for real property of equal value pursuant to terms which shall be a matter of public record.

(3) When property is purchased, donated or otherwise conveyed to a city and the city has previously used federal funding to acquire the property, with funds specifically designated for the purpose of assisting low- to moderate-income families with decent, safe, affordable housing opportunities, the property may be sold, donated or otherwise conveyed directly to a low- to moderate-income family, so long as the sale or conveyance is consistent with the applicable federal regulations under which the property was obtained initially. In such instances, the

city council shall pass an ordinance stating:

(a) That the property was acquired, in whole, with federal funds;

(b) That the property is to be sold or otherwise conveyed to a low- to moderate-income family;

(c) That the sale or conveyance is consistent with all applicable federal, state or local statutes, laws, regulations and policies; and

(d) That the property may be offered for sale, donation or otherwise conveyed immediately upon the passing of the ordinance.

(4) When it is determined by the city council to be in the city's best interest that a transfer or conveyance be made, the city council may, by ordinance duly enacted, authorize the transfer or conveyance of any real property owned by such city to any tax supported governmental unit, with or without consideration.

(5) When it is determined by the city council to be in the city's best interest, the city may transfer property to a trustee for security purposes, or for purposes of accommodating a transaction, or for funding of construction of capital facilities on city owned property.

SECTION 5. That Chapter 14, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1404, Idaho Code, and to read as follows:

50-1404. TERMS OF SALE. Real property may be sold for cash or on contract for a period not exceeding ten (10) years, with a rate of interest on all deferred payments as determined by the city council. The title to all property sold on contract shall be retained in the name of the city until full payment has been made by the purchaser. Any property sold by the city council 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 city council shall have authority to cancel any contract of sale pursuant to law, and retain all payments paid thereon, if the purchaser shall fail to comply with any of the terms of the contract. The city council may, by agreement with the purchaser, modify or extend any of the terms of any contract of sale, but the total period shall not exceed ten (10) years.

SECTION 6. That Chapter 14, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1405, Idaho Code, and to read as follows:

50-1405. CONVEYANCE -- DISPOSITION OF PROCEEDS. The proceeds received from the sale or exchange of property shall be utilized in a manner consistent with provisions of law regarding revenues received by the city.

SECTION 7. That Chapter 14, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1406, Idaho Code, and to read as follows:

50-1406. DISPOSAL OF LAND ACQUIRED BY FORECLOSURE -- EXCESS PROCEEDS. Should real property be acquired as the result of a foreclosure of any improvement lien, or where a deed has been made and executed by

the owner to the city in satisfaction of an improvement lien, and thereafter bring more than is assessed against the same, together with costs and expenses, then the proceeds shall be paid to the owner if his address is known, otherwise, to be placed in the improvement fund for the benefit of which the property was impressed with the lien.

SECTION 8. That Chapter 14, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1407, Idaho Code, ~~and to read~~ as follows:

50-1407. LEASES. The mayor and council may, by resolution, authorize the lease of any real or personal property not otherwise needed for city purposes, upon such terms as the city council determines may be just and equitable.

SECTION 9. That Section 50-305, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

(f) The transfer or lease agreement shall provide for a transfer or

lease price which shall be either of the following:

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

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

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

~~(3) The provisions of section 50-1403, Idaho Code, shall apply to transactions covered by this section, but all other provisions of chapter 14, title 50, Idaho Code, with respect to the sale, lease and disposition of real property owned by the city, shall not apply to transactions covered by this section.~~

SECTION 10. 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, 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."

Approved April 4, 2001.

CHAPTER 332
(S.B. No. 1077, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-117, IDAHO CODE, TO EXPAND THE DEFINITION OF "PERSON WITH A DISABILITY" TO PROVIDE FOR A PERMANENT DISABILITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE THAT PERSONS WITH A PERMANENT DISABILITY MAY HAVE A NOTATION IMPRINTED ON THE PERSON'S DRIVER'S LICENSE INDICATING THE PERSON HAS A PERMANENT DISABILITY; AMENDING SECTION 49-318, IDAHO CODE, TO PROVIDE THAT PERSONS WITH A PERMANENT DISABILITY MAY HAVE A NOTATION IMPRINTED ON THE PERSON'S DUPLICATE DRIVER'S LICENSE OR SUBSTITUTE PERMIT INDICATING THE PERSON HAS A PERMANENT DISABILITY IF CERTAIN REQUIREMENTS ARE MET AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE THAT PERSONS WITH A PER-

MANENT DISABILITY WHO ARE APPLYING FOR RENEWAL OF A DRIVER'S LICENSE MAY HAVE A NOTATION IMPRINTED ON THE PERSON'S DRIVER'S LICENSE INDICATING THE PERSON HAS A PERMANENT DISABILITY IF CERTAIN REQUIREMENTS ARE MET; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE THAT PERSONS WITH A PERMANENT DISABILITY MAY HAVE A NOTATION IMPRINTED ON THE PERSON'S IDENTIFICATION CARD INDICATING THE PERSON HAS A PERMANENT DISABILITY AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer,"~~,~~ section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(iv) For the purposes of chapters 3 and 4 of this title, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this subsection (7)(b), and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.

(8) "Personal information" means information that identifies an individual, including an individual's pho~~tograph or computer~~ized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not

include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(9) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

(10) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(12) "Possessory lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(13) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(14) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(15) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

(16) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(17) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(18) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring sub-

sequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(19) "Proper authority" means a public highway agency.

(20) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(21) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(22) "Public road jurisdiction" means a public highway agency.

(23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 2. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. A driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

(5) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 3. That Section 49-318, Idaho Code, be, and the same is hereby amended to read as follows:

49-318. DUPLICATE DRIVER LICENSES AND SUBSTITUTE PERMITS. (1) The holder of any instruction permit, class A, B, C, or D or seasonal driver's license which is lost or destroyed, or a licensee whose name is legally changed, may apply for a duplicate driver's license or substitute permit. A duplicate driver's license or substitute permit will be issued upon:

(a) Payment of the fee as provided in section 49-306, Idaho Code;

(b) Furnishing satisfactory proof that the permit, class A, B, C, or D or seasonal driver's license has been lost or destroyed, or that the licensee's name has been legally changed; and

(c) Furnishing proof of the applicant's identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides evidence of a person's date of birth acceptable to the examiner or department. In the case of a name change, the applicant shall provide legal documentation acceptable to the department to verify the change.

(2) A duplicate driver's license or substitute permit shall not be issued, as provided in subsection (1) of this section, if the license or permit is suspended, revoked, canceled or disqualified in this state or any other jurisdiction or if the applicant has applied for, or has been issued, a license or permit in another jurisdiction.

(3) The holder of any instruction permit, class A, B, C or D or seasonal driver's license who requests a duplicate driver's license or substitute permit as provided in subsection (1) of this section, may request that the notation "permanently disabled" be imprinted on the permit or license and the department shall imprint "permanently disabled" on the permit or license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a permit or license as specified in section 49-313, Idaho Code.

SECTION 4. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the

driver's license.

(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.

(c) Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.

(d) Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.

(e) Except licenses issued to drivers under twenty-one (21) years of age, every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any Class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year Class A, B or C license.

(3) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(4) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(5) Except for drivers under twenty-one (21) years of age, when a driver's license has been expired for fewer than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance.

(6) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, ~~cancelled~~ canceled, denied, refused or disqualifi-

fied, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to two (2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(7) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, ~~cancelled~~ canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(8) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(9) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(10) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

SECTION 5. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue 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 appli-

cant 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 five (5) days after 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 five (5) days after 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 pro-

visions 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) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(6) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(67) 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~~8) 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~~ canceled identification card to the department.

(~~8~~9) 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~~10) The department may issue a no-fee identification card to an individual whose driver's license has been ~~cancelled~~ canceled 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~~ canceled.

(~~10~~11) 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 (67) of this section.

SECTION 6. This act shall be in full force and effect on and after January 1, 2002.

Approved April 4, 2001.

CHAPTER 333
(S.B. No. 1105, As Amended)

AN ACT

ELATING TO SALES OF COUNTY PROPERTY; AMENDING SECTION 31-808, IDAHO CODE, TO PROVIDE THAT CERTAIN SALES OF REAL OR PERSONAL PROPERTY BY A HIGHWAY DISTRICT OR SINGLE COUNTYWIDE HIGHWAY DISTRICT ARE LIMITED TO PROPERTY WHICH HAS A VALUE IN EXCESS OF FIVE THOUSAND DOLLARS.

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

SECTION 1. That Section 31-808, Idaho Code, be, and the same is hereby amended to read as follows:

31-808. SALE OF COUNTY PROPERTY — GENERAL PROCEDURE -- SALE OF PROPERTY ACQUIRED THROUGH TAX DEED — PROCEDURE AFTER ATTEMPTED AUCTION -- EXCHANGE OF COUNTY PROPERTY -- SALE OF CERTAIN ODD-LOT PROPERTY -- SALE, EXCHANGE OR DONATION OF PROPERTY TO OTHER UNITS OF GOVERNMENT. (1) A board of county commissioners shall have the power and authority to sell or offer for sale at public auction any real or personal property belonging to the county not necessary for its use. However, personal property not exceeding two hundred fifty dollars ($250) in value may be sold at private sale without notice or public auction. Prior to offering the property for sale, the board of county commissioners shall advertise notice of the auction in a newspaper, as defined in section 60-106, Idaho Code, either published in the county or having a general circulation in the county, not less than ten (10) calendar days prior to the auction. If the property to be sold is real property, the notice to be published shall contain the legal description as well as the street address of the property. If the property is outside the corporate limits of a city and does not have a street address, then the description shall also contain the distance and direction of the location of the real property from the closest city. If the property to be sold is acquired by tax deed, the notice required to be published shall include, next to the description of the property, the name of the taxpayer as it appears in the delinquent tax certificate upon which the tax deed was issued. The property shall be sold to the highest bidder. However, the board of county commissioners may reserve the right to reject any and all bids and shall have discretionary authority to reject or accept any bid which may be made for an amount less than the total amount of all delinquent taxes, late charges, costs and interest which may have accrued against any property so offered for sale, including the amount specified in the tax deed to the county.

(2) Proceeds from the sale of county property not acquired by tax deed shall be paid into the county treasury for the general use of the county. If the property to be sold has been acquired by tax deed, pursuant to the provisions of chapter 10, title 63, Idaho Code, the proceeds from the sale, after reimbursement to the county for the cost of advertising and sale, shall be apportioned to the taxing districts in which the property is situated according to the levy applied to the year of delinquency upon which the tax deed was issued to the county.

(3) Any property sold may be carried on a recorded contract with the county for a term not to exceed ten (10) years and at an interest rate not to exceed the rate of interest specified in section 28-22-104(1), Idaho Code. The board of county commissioners shall have the authority to cancel any contract if the purchaser fails to comply with any of the terms of the contract and the county shall retain all payments made on the contract. The title to all property sold on contract shall be retained in the name of the county until full payment has been made by the purchaser. However, the purchaser shall be responsible for payment of all property taxes during the period of the contract.

(4) Any sale of property by the county shall vest in the purchaser all of the right, title and interest of the county in the property, including all delinquent taxes which have become a lien on the property since the date of issue of the tax deed, if any.

(5) In addition to the purchase price, a purchaser of county property, including property acquired by tax deed, shall pay all fees required by law for the transfer of property. No deed for any real estate purchased pursuant to the provisions of this section shall be delivered to a purchaser until such deed has been recorded in the county making the sale.

(6) Should the county be unable to sell at a public auction any real or personal property belonging to the county, including property acquired by tax deed, it may sell the property without further notice by public or private sale upon such terms and conditions as the county deems necessary. Distribution of the proceeds of sale shall be as set forth in subsection (2) of this section.

(7) The board of county commissioners may at its discretion, when in the county's best interest, exchange and do all things necessary to exchange any of the real property now or hereafter held and owned by the county for real property of equal value, public or private, to consolidate county real property or aid the county in the control and management or use of county real property.

(8) The board of county commissioners may, by resolution, declare certain parcels of real property as odd-lot property, all or portions of which are not needed for public purposes and are excess to the needs of the county. For purposes of this subsection, odd-lot property is defined as that property that has an irregular shape or is a remnant and has value primarily to an adjoining property owner. Odd-lot property may be sold to an adjacent property owner for fair market value that is estimated by a land appraiser licensed to appraise property in the state of Idaho. If, after thirty (30) days' written notice, an adjoining property owner or owners do not desire to purchase the odd-lot property, the board of county commissioners may sell the property to any other interested party for not less than the appraised value. When a sale of odd-lot property is agreed to, a public advertisement of the pending sale shall be published in one (1) edition of the newspaper as defined in subsection (1) of this section, and the public shall have fifteen (15) days to object to the sale in writing. The board of county commissioners shall make the final determination regarding the sale of odd-lot property in an open meeting.

(9) In addition to any other powers granted by law, the board of county commissioners may at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision or taxing district of the state of Idaho or any local historical society which is incorporated as an Idaho nonprofit corporation which operates primarily in the county or maintains a museum in the county, with or without compensation, any real or personal property or any interest in such property owned by the county or acquired by tax deed, after adoption of a resolution by the board of county commissioners that the grant or exchange of property is in the public interest. Notice of such grant or exchange shall be as provided in subsection (1) of this section and the decision may be made at any regularly or specially scheduled meeting of the board of county commissioners. The execution and delivery by the county of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the state, county or any other political subdivision or taxing district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the

time of such conveyance. However, if the property conveyed is subject to a lien for one (1) or more unsatisfied special assessments, the lien shall continue until all special assessments have been paid in full. At no time shall a lien for a special assessment be extinguished prior to such special assessment having been paid in full. Any property conveyed to any local historical society by the county shall revert to the county when the property is no longer utilized for the purposes for which it was conveyed.

(10) A highway district or single countywide highway district shall follow the provisions of this section when selling real or personal property which has a value in excess of five thousand dollars ($5,000) belonging to it, but not necessary for its use. The proceeds from such sale shall be paid to the highway district or single countywide highway district for its use.

Approved April 4, 2001.

CHAPTER 334
(S.B. No. 1106)

AN ACT

RELATING TO POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING CHAPTER 14, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1406A, IDAHO CODE, TO PROVIDE THAT A SUMMARY OF CERTAIN ORDINANCES PASSED BY THE HIGHWAY COMMISSIONERS OF A COUNTYWIDE HIGHWAY DISTRICT MAY BE PUBLISHED IN LIEU OF PUBLISHING THE ENTIRE ORDINANCE, TO PROVIDE REQUIREMENTS AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Chapter 14, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1406A, Idaho Code, and to read as follows:

40-1406A. SUMMARIZATION OF ORDINANCES PERMITTED -- REQUIREMENTS. (1) In lieu of publishing the entire ordinance under section 40-1406, Idaho Code, the highway district may publish a summary of the ordinance, which summary shall be approved by the governing body and which shall include:

(a) The name of the highway district;

(b) The formal identification or citation number of the ordinance;

(c) A descriptive title;

(d) A summary of the principal provisions of the ordinance, including penalties provided and the effective date;

(e) Any other information necessary to provide an accurate summary; and

(f) A statement that the full text is available at the highway district office.

(2) Notwithstanding subsection (1) of this section, whenever any publication is made under this section and the proposed or adopted ordinance contains legal descriptions or contains provisions regarding taxation or penalties concerning real property, those sections containing

such information shall be published in full and shall not be summarized. In the case of a legal description of real property, the notice shall also include the street address or addresses of the property described, if any. In the case of a description covering one (1) or more street addresses, the street addresses of the corners of the area described shall meet this requirement. Maps may be substituted for a written legal description of property provided such maps contain sufficient detail to clearly define the area with which the ordinance is concerned.

(3) Before submission of a summary to a newspaper for publication under this section, the legal advisor of the highway district shall sign a statement, which shall be filed with the ordinance, that the summary is true and complete and provides adequate notice to the public.

(4) The full text of any ordinance which is summarized by publication under this section shall be promptly provided by the highway district clerk to any citizen on personal request.

Approved April 4, 2001.

CHAPTER 335
(S.B. No. 1120)

AN ACT

RELATING TO PRIVATE PRISONS; AMENDING SECTION 20-801, IDAHO CODE, TO DEFINE TERMS, TO REVISE TERMS AND TO STRIKE A DEFINITION OF "INMATE"; AMENDING SECTION 20-803, IDAHO CODE, TO PROVIDE FOR WRITTEN CONTRACTS, TO STRIKE A REFERENCE TO EXPRESS WRITTEN APPROVAL, TO PROVIDE FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-804, IDAHO CODE, TO PROVIDE THAT CITIES AND COUNTIES MAY AUTHORIZE HOUSING OF CERTAIN PRISONERS SUBJECT TO THE REVIEW AND APPROVAL OF THE DEPARTMENT OF CORRECTION, TO STRIKE A REFERENCE TO THE EXPRESS WRITTEN APPROVAL OF CITIES AND COUNTIES TO HOUSE PRISONERS, TO PROHIBIT AUTHORIZATION, APPROVAL OR HOUSING OF CERTAIN PRISONERS, TO STRIKE A REFERENCE TO FINANCIAL INTERESTS, TO PROHIBIT CITIES AND COUNTIES FROM CONTRACTING WITH CERTAIN PRIVATE PRISON CONTRACTORS, TO PROVIDE THAT CERTAIN CONTRACTS ARE VOIDABLE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-805, IDAHO CODE, TO PROVIDE CERTAIN REQUIREMENTS AND LIMITATIONS ON CITIES AND COUNTIES IN CONTRACTING WITH PRIVATE PRISON CONTRACTORS, TO CLARIFY CERTAIN REQUIREMENTS AND LIMITATIONS ON CITIES AND COUNTIES IN CONTRACTING WITH PRIVATE PRISON CONTRACTORS, TO REQUIRE CERTAIN TERMS AND CONDITIONS IN CONTRACTS, TO CLARIFY CERTAIN REQUIRED TERMS AND CONDITIONS IN CONTRACTS, TO STRIKE A REFERENCE TO THE IMPOSITION OF A FEE IN LIEU OF TAXES, TO PROVIDE FOR CERTAIN REQUIRED CONTRACTUAL PROVISIONS, TO CLARIFY CERTAIN REQUIRED CONTRACTUAL PROVISIONS, TO PROVIDE FOR CERTAIN POWERS AND RESPONSIBILITIES OF THE CONTRACT MONITOR, TO REFER TO THE PROVISIONS OF THIS CHAPTER, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-806, IDAHO CODE, TO PROVIDE FOR LICENSING, TO EXTEND REQUIREMENTS TO CERTAIN PRIVATE PRISON FACILITIES, TO PROVIDE REQUIREMENTS, TO CLARIFY REQUIREMENTS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-807, IDAHO CODE, TO PROVIDE THAT CITIES AND COUNTIES MAY AUTHORIZE HOUSING OF CERTAIN

OUT-OF-STATE PRISONERS SUBJECT TO THE REVIEW AND APPROVAL OF THE DEPARTMENT OF CORRECTION, TO PROHIBIT AUTHORIZATION, APPROVAL OR HOUSING OF CERTAIN OUT-OF-STATE PRISONERS, TO PROVIDE REQUIREMENTS FOR HOUSING OF CERTAIN OUT-OF-STATE PRISONERS, TO CLARIFY REQUIREMENTS FOR HOUSING OF CERTAIN OUT-OF-STATE PRISONERS, TO STRIKE A REFERENCE TO THE RECEIVING FACILITIES REVIEW OF CERTAIN RECORDS, TO STRIKE A REFERENCE TO REIMBURSEMENT OF COSTS BY THE PRIVATE PRISON CONTRACTOR, TO STRIKE A REFERENCE TO EXPRESS WRITTEN APPROVAL OF THE RELEASE OF OUT-OF-STATE PRISONERS BY CITIES OR COUNTIES AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-808, IDAHO CODE, TO CLARIFY CERTAIN PURPOSES OF MONITORING; AMENDING SECTION 20-809, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF ESCAPES AND CRIMES, TO EXTEND NOTIFICATION REQUIREMENTS TO CERTAIN INCIDENTS COMMITTED INSIDE OR OUTSIDE THE FACILITY, TO PROVIDE FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH CRIMES, TO EXTEND REIMBURSEMENT REQUIREMENTS TO CERTAIN INCIDENTS COMMITTED IN OR ON THE GROUNDS OF, OR OTHERWISE IN CONNECTION WITH, THE FACILITY, TO EXTEND THE REQUIREMENT TO REIMBURSE COSTS TO CERTAIN ACTS REGARDLESS OF WHETHER CONVICTION IS OBTAINED, TO STRIKE A REFERENCE TO CERTAIN ACTS COMMITTED WITHIN THE PRIVATE FACILITY, TO PROVIDE FOR CERTAIN PRISONERS CONVICTED AND SENTENCED FOR OFFENSES WHILE INCARCERATED IN THE STATE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-812, IDAHO CODE, TO EXTEND APPLICATION OF CIVIL PENALTIES PROVISIONS TO PRIVATE PRISON CONTRACTORS THAT RENOVATE FACILITIES; AMENDING SECTION 6-904B, IDAHO CODE, TO PROVIDE AN EXCEPTION TO GOVERNMENTAL LIABILITY FOR CERTAIN ACTIONS OF CITIES, COUNTIES, THE IDAHO BOARD OF CORRECTION AND THE IDAHO DEPARTMENT OF CORRECTION; AMENDING SECTION 18-2507, IDAHO CODE, TO EXTEND RECOVERY OF COSTS OF PROSECUTION TO ALL PRISONERS HOUSED IN PRIVATE CORRECTIONAL FACILITIES; AMENDING SECTION 20-209, IDAHO CODE, TO PROVIDE FOR RULES, TO PROVIDE THE STATE BOARD OF CORRECTION WITH RULEMAKING AUTHORITY IN REGARD TO CERTAIN PRIVATE PRISONS AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 20-212, IDAHO CODE, TO EXTEND RULEMAKING AUTHORITY OF THE STATE BOARD OF CORRECTION TO PARTICULAR DUTIES RELEVANT TO CERTAIN PRIVATE PRISONS.

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

SECTION 1. That Section 20-801, Idaho Code, be, and the same is hereby amended to read as follows:

20-801. DEFINITIONS. In this chapter:

(1) "Contracting authority" means a board of county commissioners or the governing body of a city.

(2) "Correctional facility" means a facility for the confinement of prisoners. The term shall be construed to include references to terms including, but not limited to, "prison," "state prison," "state penitentiary," "governmental detention facility," "penal institution (facility)," "correctional institution," "detention institution (facility)," "county jail," "jail," "private prison (facility)" or "private correctional facility." The term does not include a treatment facility designed to evaluate and treat substance abuse when the treatment facility is operated under the direction of a political subdivision of the state of Idaho.

(3) "Governmental entity" means a state, county, city, municipal corporation or other political subdivision of the state, or a territory of the United States and any political subdivision thereof.

~~(3) "Inmate" means a person arrested for, charged with or convicted of a criminal offense and confined in or subject to confinement in a correctional or detention facility.~~

(4) "In-state prisoner" means a person who has been convicted of a crime in the state of Idaho and is either incarcerated or on parole for that crime or in custody for trial and sentencing, and who is being housed in any state, local or private correctional facility, or who is being transported in any manner within or through the state of Idaho.

(5) "Local correctional facility" means a facility for the confinement of prisoners operated by or under the control of a county or city. The term shall include references to "county jail," or "jail." The term shall also include a private correctional facility housing prisoners under the custody of the state board of correction, the county sheriff or other local law enforcement agency.

(6) "Medium security" or "medium custody" means a security or custody classification reserved for prisoners who have demonstrated an ability to follow institutional rules and regulations, who may have a considerable amount of time remaining to serve and who may present an escape risk at a lower assigned custody level.

(7) "Minimum security" or "minimum custody" means a security or custody classification reserved for prisoners who have continuously demonstrated an ability to follow institutional rules and regulations; who are either committed for a nonviolent crime or are committed on a violent crime; who are generally within twelve (12) months of parole eligibility; and who normally do not present an escape risk.

(8) "Out-of-state prisoner" or "out-of-state inmate" means a person who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and who is being housed in any state, local or private correctional facility in the state of Idaho, or who is being transported in any manner within or through the state of Idaho.

(9) "Prisoner" means a person who has been convicted of a crime in the state of Idaho and is either incarcerated or on parole for that crime or in custody for trial and sentencing, or who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and who is being housed in any state, local or private correctional facility, or who is being transported in any manner within or through the state of Idaho. The term shall be construed to include references to terms including, but not limited to, "inmate," "convict," "detainee," and other similar terms, and shall include "out-of-state prisoner" and "out-of-state inmate."

(~~4~~10) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services. For purposes of this chapter, "private prison contractor" does not include those persons, organizations, partnerships, joint ventures, corporations or other business entities that contract with a political subdivision of the state of

Idaho for the construction of a facility provided the facility will be operated by the political subdivision or where the facility is operated under the direction of the political subdivision and is designed to evaluate and treat substance abuse.

(5~~11~~) "Private prison facility" or "private correctional facility," for purposes of this chapter, means a correctional facility constructed or operated in the state of Idaho by a private prison contractor ~~for the confinement of inmates~~ pursuant to contract with a contracting authority as defined herein.

SECTION 2. That Section 20-803, Idaho Code, be, and the same is hereby amended to read as follows:

20-803. PRIVATE PRISON CONTRACTORS -- CONTRACT OR APPROVAL REQUIRED TO CONSTRUCT AND OPERATE PRIVATE PRISON FACILITIES AND TO HOUSE OUT-OF-STATE ~~INMATES~~ PRISONERS. (1) A private prison contractor may not construct or operate a private prison facility in this state except pursuant to a contract with the state of Idaho, as authorized in chapter 2, title 20, Idaho Code, or pursuant to a written contract with~~, or with the express written approval of,~~ a county or city of this state, as authorized by the provisions of this chapter.

(2) A private prison contractor may not house in a private prison facility in this state ~~inmates~~ prisoners who have been convicted of offenses committed against the laws of a governmental entity other than the state of Idaho and its political subdivisions except pursuant to a written contract with~~, or with the express written approval of,~~ the board of county commissioners of the county in which the facility is located or the governing body of the city in which the facility is located, and only if the requirements of ~~section 20-807, Idaho Code,~~ this chapter are met.

SECTION 3. That Section 20-804, Idaho Code, be, and the same is hereby amended to read as follows:

20-804. AUTHORITY OF COUNTY OR CITY TO HOUSE ~~INMATES~~ PRISONERS IN A PRIVATE PRISON FACILITY. (1) A board of county commissioners or the governing body of a city may authorize the housing of specific minimum to medium security ~~inmates~~ prisoners of the county or the city in a private prison facility pursuant to contract with the private prison contractor ~~or with the express written approval of the board of county commissioners or the governing body of the city~~ and subject to the review and approval of the prisoners by the department of correction. Provided, however, that in no event shall a board of county commissioners or the governing body of a city authorize, nor shall the department of correction approve, housing of any maximum or close custody prisoners, inmates imprisoned for sexual offenses or prisoners with a history or record of institutional violence involving the use of a deadly weapon, a history or record of committing any act of an assaultive nature that would qualify as a felony under the laws of the state of Idaho against any prisoner, employee or visitor while confined, or a history or record of escape or attempted escape from secure custody.

(2) A board of county commissioners may not contract with a private prison contractor in which a commissioner or an elected or appointed peace officer or other county official has an ~~financial~~ interest pursu-

ant to chapter 2, title 59, Idaho Code. The governing body of a city may not contract with a private prison contractor in which the mayor, a member of the city council, or any appointed peace officer or other city official has an ~~financial~~ interest pursuant to chapter 2, title 59, Idaho Code. A contract made in violation of the provisions of this subsection is voidable.

SECTION 4. That Section 20-805, Idaho Code, be, and the same is hereby amended to read as follows:

20-805. CONTRACTS WITH A PRIVATE PRISON CONTRACTOR. (1) A board of county commissioners or the governing body of a city, may enter into a contract with a private prison contractor for the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services, subject to the following requirements and limitations:

(a) Any request for proposals, any original contract, any contract renewal, any price or cost adjustment or any other amendment to any contract for the incarceration of individuals in a private prison facility shall be reviewed and approved by the contracting authority. The contract shall be in a form as provided for by the department of administration in consultation with the department of correction;

(b) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the contracting authority that the contractor possesses the necessary qualifications and experience to provide the services specified in the contract; that the contractor can provide the necessary qualified personnel to implement the terms of the contract; that the financial condition of the contractor is such that the terms of the contract can be fulfilled; that the contractor has the ability to comply with applicable court orders and meet corrections standards; and that the proposed private prison facilities or the correctional services proposed by the contractor meet constitutional minimums;

(c) The contract shall provide for the assumption of liability by the private prison contractor for all claims arising from the services performed under the contract by the private prison contractor;

(d) No contract authorized by the provisions of this section shall be awarded until the private prison contractor ~~demonstrates to the satisfaction of the contracting authority that the contractor can obtain insurance or provide self-insurance for the contractor and its officers, guards, employees and agents against all claims, including claims based on violations of civil rights, arising from the services performed under the contract by the private contractor and to indemnify the contracting authority against all claims, including claims based on violations of civil rights, arising from the services performed under the contract and to compensate the contracting authority for any losses incurred due to the operation of private prison facilities~~ provides a policy of insurance for all claims satisfactory to the contracting authority specifically including, but not limited to, insurance for civil rights claims as

determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide coverage for the private prison contractor and its officers, guards, employees and agents as well as insure the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located against all claims arising from the services performed under the contract by the private prison contractor, its officers, guards, employees and agents. The private prison contractor shall immediately provide written notification of cancellation of insurance to the state department of correction and the contracting authority. The private prison contractor may not self-insure. Proof of insurance shall be provided on or before January 1 of every year to the state department of correction and the contracting authority;

(e) If the contract includes construction or renovation, the contract shall require a performance bond approved by the contracting authority that is adequate and appropriate for the proposed construction or renovation contract;

(f) Except as otherwise permitted under the constitution or laws of the state of Idaho, no contract awarded pursuant to this section shall provide for the encumbrance of funds beyond the amount available for a fiscal year;

(g) The contract shall require the private prison contractor to be licensed by the department of correction pursuant to the provisions of this chapter.

(2) Any contract between a contracting authority and a private prison contractor, whereby the contractor provides for the housing, care, and control of ~~inmates~~ prisoners in a facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

(a) A requirement that the private prison contractor provide the services in a facility which meets correctional standards satisfying constitutional minimums, state and federal laws, rules and regulations and applicable court orders, including, but not limited to, all sanitation, food service, safety and health regulations;

(b) A requirement that the private prison contractor send copies of reports of inspections completed by appropriate authorities regarding compliance with laws, rules and regulations of the type described in subsection (2)(a) of this section to the governing authority of the local public entity in which the correctional facility is located;

(c) If a private prison contractor enters into a contract with a board of county commissioners for a private prison facility to be located on private land within the limits of any city, it shall be required that the contractor obtain written authorization from the governing body of the city in which the facility is to be located;

~~(c) If a private prison facility is to be located on land owned by the county or the city or other publicly owned land which is not subject to real property taxes, the contract may provide for the payment of a fee to the contracting authority which shall be in lieu of property taxes, as compensation for the costs of regulating, monitoring and providing services to the facility;~~

(d) A requirement that the private prison contractor provide train-

ing to its personnel to a level acceptable to the contracting authority. The provisions of this section shall not be construed to confer peace officer status upon any employee of the private prison contractor or to authorize the use of firearms. ~~except~~ A private correctional officer or other designated employee of a private prison contractor may carry and use firearms in the course of the officer's or employee's employment only if the officer or employee is certified as having satisfactorily completed a training program approved by the department of correction and only if used to prevent escape from the facility or from custody while being transported to or from the facility or to prevent an act which would cause death or serious bodily injury to any person. The provisions of this section shall not be construed to confer county or city employee status upon any employee of the private prison contractor~~.~~;

(e) A requirement that the private prison contractor will not employ any person at the private prison facility until after the private contractor has submitted to the bureau of criminal identification, on a form prescribed by the bureau, a request that the bureau conduct a criminal records check of the person and a requirement that the private prison contractor will not employ any person at the facility if the records check or other information possessed by the contractor indicates that the person has a criminal history or record, regardless of the form of judgment;

(f) A requirement that the private prison facility be staffed at all times to ensure supervision of prisoners and maintenance of security within the private prison facility and to provide for appropriate programs, transportation, security and other operational needs. In determining security needs for the private prison facility, the private contractor and the contract requirements shall fully take into account all relevant factors including, but not limited to, the proximity of the facility to neighborhoods and schools;

(g) A requirement that the private prison contractor, its officers, guards, employees, ~~and agents~~ immediately notify the county sheriff and any other law enforcement or other governmental entities, agencies or personnel named in the contract or required to be informed as provided in this chapter of any riot, rebellion, escape, crime or other emergency situation occurring ~~at~~ inside or outside the facility, and a requirement that the private prison contractor reimburse costs as provided in section 20-809, Idaho Code. Notification shall be made by telephone and in writing. The written notice may be made by facsimile transmission or mail;

(h) A requirement that the private contractor adopt and use in the private prison facility a drug testing and treatment program that meets the standards of any drug testing and treatment program the department of correction uses for its prisoners in state correctional institutions;

(i) A requirement that the private prison contractor provide advance written notice to the county sheriff of the contracting authority and any other law enforcement or other governmental entities, agencies or personnel named in the contract, of its intent to provide for transport of any prisoners to or from the private prison facility and of the intended destination;

(j) A requirement that the private prison contractor shall be solely responsible for any damage caused by a prisoner in its cus-

tody and shall be solely responsible for security and all costs associated with transporting and housing prisoners to and from locations outside the private prison facility including, but not limited to, court, medical and sending facility locations. The private prison contractor's responsibility for costs will include, but not be limited to, all costs which may be required by court officials for additional security for the prisoner provided by federal, state, county or city officials;

(k) A requirement that no prisoner shall be housed in a private prison facility pursuant to this chapter without the prior approval of the department of correction pursuant to the provisions of this chapter. Prior to housing any proposed prisoner in the private prison facility, all records in the possession of, or available to, the sending entity, including, but not limited to, classification, medical information, conduct and confinement history of the prisoner shall be provided to the department of correction for review and the department shall have the authority to approve or reject housing of the prisoner based on standards as set forth pursuant to this chapter. Provided however, that in lieu of providing the department of correction with medical information of a prisoner, a sending entity may elect to certify, by a physician licensed in this state and employed by, or under contract with, the private prison facility, that the prisoner under consideration for placement in the facility has been tested, and has not tested positive, for the presence of HIV antibodies or antigens, hepatitis B virus, hepatitis C virus and tuberculosis;

(l) A requirement that the private prison contractor, prior to housing any out-of-state prisoner in the private prison facility under the contract, enter into an agreement with the local contracting governmental entity that sets forth a conversion plan that will be followed if, for any reason, the facility is closed or ceases to operate. The conversion plan shall provide, in part, that the private prison contractor shall be responsible for housing and providing for the transportation of the prisoners who are in the facility at the time it is closed or ceases to operate and for the cost of such housing and transporting of those prisoners;

(m) A requirement that the private prison contractor conform to applicable standards, and obtain accreditation from, the American correctional association and the national commission on correction health care;

(n) A requirement that the private prison contractor indemnify and hold harmless the state, its officers, agents and employees and any local governmental entity in the state with jurisdiction over the place at which the private prison facility is located or that owns the private prison facility, and shall reimburse the state or local governmental entity for costs incurred defending the state or local governmental entity or any of its officers, agents or employees against all claims including the following:

(i) Any claims or losses for services rendered by the contractor, its officers, agents or employees, performing or supplying services in connection with the performance of the contract;

(ii) Any failure of the contractor, its officers, agents or employees to adhere to the laws, rules, regulations or terms

agreed to in the contract;

(iii) Any constitutional, federal, state or civil rights claim brought against the governmental entity related to the facility operated and managed by the contractor;

(iv) Any claims, losses, demands or causes of action arising out of the activities in this state of the contractor, its officers, agents or employees;

(v) Any attorney's fees or court costs arising from any habeas corpus actions or other prisoner suits that may arise from any event that occurred at the facility or was a result of such an event, or arise over the conditions, management or operation of the facility, which fees and costs shall include, but not be limited to, attorney's fees for the governmental entity's representation and for any court-appointed representation of any prisoner.

(o) A clear statement that provisions set forth within this chapter do not affect any immunity or defense that the state and its officers and employees or a contracting authority and its officers and employees may be entitled to under another section of the Idaho Code, including, but not limited to chapter 9, title 6, Idaho Code;

(p) A clear statement that no immunity from liability granted to the state, and no immunity from liability granted to political subdivisions pursuant to chapter 9, title 6, Idaho Code, shall extend to the private prison contractor or any of the private prison contractor's employees;

(q) A requirement that the private prison contractor and its personnel comply with the provisions of this chapter, all laws of the state of Idaho, and all ordinances, policies and procedures of the contracting authority;

(r) A requirement that any ambiguities in the contract shall be construed against the private prison contractor and in favor of the contracting authority.

(3) Contracts awarded under the provisions of this section shall, at a minimum, comply ~~with~~ the following:

(a) Provide for internal and perimeter security to protect the public, employees and ~~inmates~~ prisoners;

(b) Provide that the private prison contractor shall not benefit financially from the labor of ~~inmates~~ prisoners nor shall any ~~inmate~~ prisoner ever be placed in a position of authority over another ~~inmate~~ prisoner. Any profits realized from the operation of a prison enterprise program shall revert to the contracting authority;

(c) Provide that the private prison contractor shall i~~I~~mpose discipline on ~~inmates~~ prisoners only in accordance with applicable rules, policies and procedures satisfying constitutional minimums, state and federal laws and applicable court orders;

(d) Require that the private prison contractor p~~P~~rovide proper food, clothing, housing and medical care as provided for in the contract. The governmental en~~tity co~~ntracting with the private prison contractor shall not be responsible for any costs associated with the medical care of prisoners in the custody of the private prison contractor.

(4) The contracting authority or its designee, as provided in the contract, shall monitor the performance of the private prison contractor. Included in the powers and responsibilities of the contracting

authority or its designee, when acting as the contract monitor of the private prison contract are:

(a) A determination if the requirements of the contract are being satisfactorily performed;

(b) A determination whether the private prison contractor and its personnel are complying with the provisions of this chapter, all laws of the state of Idaho and any ordinances or written policies and procedures of the county or city governing the private prison facility;

(c) A determination if applicable ordinances, written policies and procedures of the contracting authority are being followed by the private prison contractor and its personnel;

(d) A determination whether the facility is being operated in a manner which adequately safeguards and protects the safety of the public;

(e) Approval of all ~~inmate~~ prisoner releases on furlough or work release;

(f) The enactment of ordinances or the adoption of written policies or procedures interpreting or making specific application of the provisions of this ~~section~~ chapter.

SECTION 5. That Section 20-806, Idaho Code, be, and the same is hereby amended to read as follows:

20-806. PRIVATE PRISON FACILITIES -- REQUIREMENTS -- LICENSING. A private prison contractor ~~operating~~ that has contracted for the location or operation of a private prison facility within a county or a city of this state shall comply with the following requirements:

(1) An individual, corporation, partnership, association, or other private organization or entity may not operate a private prison facility in this state unless licensed by the department of correction. The board of correction shall have the power and it shall be its duty to promulgate rules necessary to implement and enforce standards for the licensing and operation of private prison facilities as set forth pursuant to this chapter. Applications for licenses shall be made on forms provided by the department of correction and accompanied by the required license fee. Licenses for the operation of private prisons shall be nontransferable. A license may be revoked if the facility fails to meet the standards and provisions of this chapter. All final decisions by the board shall be subject to review pursuant to the provisions and procedures of the administrative procedure act, chapter 52, title 67, Idaho Code;

(2) The facility shall meet correctional standards satisfying constitutional minimums, state and federal laws and applicable court orders;

(~~2~~3) If the private prison facility is located on land owned by the county or the city or other publicly owned land which is not subject to real property taxes, the county or the city, if the facility is located within the limits of the city, may require the private prison contractor to pay fees to the county or the city in lieu of property taxes, as compensation for the costs to the county or the city of regulating, monitoring and providing services to the facility;

(~~3~~4) The facility must provide internal and perimeter security to protect the public, employees and ~~inmates~~ prisoners;

(~~4~~5) The private prison contractor shall impose discipline on

~~inmates~~ prisoners only as permitted by correctional standards satisfying constitutional minimums, state and federal laws, and applicable court orders;

(~~5~~6) The private prison contractor shall provide ~~inmates~~ prisoners with proper food, clothing, housing and medical care in accordance with constitutional minimums, state and federal laws, and applicable court orders. The private prison contractor shall require that anyone providing professional services to prisoners shall be licensed as provided by the state of Idaho if the professional would be required to be licensed in the state of Idaho to provide services to the general public;

(7) The private prison contractor shall allow access to the facility at all times and cooperate with all state and local authorities and their designees in the performance of their duties pursuant to section 20-805(4), Idaho Code, and section 20-808, Idaho Code.

SECTION 6. That Section 20-807, Idaho Code, be, and the same is hereby amended to read as follows:

20-807. OUT-OF-STATE ~~INMATES~~ PRISONERS. (1) A board of county commissioners may authorize a private prison contractor operating a private prison facility within the county and the governing body of a city may authorize a private prison contractor operating a private prison facility within the city to house specific minimum to medium security ~~inmates~~ prisoners convicted of offenses committed against the laws of a governmental entity other than the state of Idaho or its political subdivisions pursuant to contract with the private prison contractor and subject to the review and approval of the prisoners by the department of correction. Provided however, that in no event shall a board of county commissioners or the governing body of a city authorize, nor shall the department of correction approve, housing of any maximum or close custody prisoners, inmates imprisoned for sexual offenses or prisoners with a history or record of institutional violence involving the use of a deadly weapon, a history or record of committing any act of an assaultive nature that would qualify as a felony under the laws of the state of Idaho against any prisoner, employee or visitor while confined, or a history or record of escape or attempted escape from secure custody.

(2) Out-of-state ~~inmates~~ prisoners may be housed in a private prison facility only if the following requirements are met:

(a) The custody level capacity and availability in the private prison facility is adequate to house the ~~inmates~~ prisoners;

(b) The private prison contractor and the board of county commissioners or the governing body of the city, in cooperation with state and local law enforcement agencies, and other appropriate governmental entities and agencies, have developed a written plan explaining the procedure to be used to coordinate law enforcement and other necessary activities in response to any riot, rebellion, escape or other emergency situation occurring in or on the grounds of, or otherwise in connection with, the facility~~.~~;

(c) The private prison facility ~~satisfies~~ meets standards for the care, custody, treatment and control of ~~inmates~~ prisoners which comply with constitutional minimums, state and federal laws and applicable court orders and any additional stand~~ards required~~ by the county or the city;

(d) Each ~~inmate~~ prisoner to be paroled or released from custody must be transported and released by the private prison contractor or its agent in the sending governmental entity's jurisdiction;

(e) Before transferring the ~~inmate~~ prisoner to Idaho, the ~~receiving facility~~ private prison contractor shall ~~review:~~ obtain prior approval of the department of correction pursuant to the provisions of this chapter. Prior to housing any proposed prisoner in the private prison facility, all records in the possession of, or available to, the sending entity including, but not limited to, classification, medical information, conduct and confinement history of the prisoner shall be provided to the department of correction for review and the department shall have the authority to approve or reject housing of the prisoner based on standards as set forth pursuant to this chapter. Provided however, that in lieu of providing medical information of a prisoner, a sending entity may elect to certify, by a physician licensed in this state and employed by, or under contract with, the private prison facility, that the prisoner under consideration for placement in the facility has been tested, and has not tested positive, for the presence of HIV antibodies or antigens, hepatitis B virus, hepatitis C virus and tuberculosis;

~~(i) All records concerning the sending governmental entity's classification of the inmate, including records relating to the inmate's conduct while confined in the sending governmental entity; and~~

~~(ii) Appropriate medical information concerning the inmate, including certification of tuberculosis screening or treatment and certification that the inmate has undergone HIV testing with negative results.~~

(f) The sending governmental entity will not transfer and the ~~receiving facility~~ private prison contractor will not accept an ~~inmate~~ prisoner who has a history or record of institutional violence involving the use of a ~~deadly~~ weapon, ~~or a pattern~~ history or record of ~~violence~~ committing any act of an assaultive nature that would qualify as a felony under the laws of the state of Idaho against any prisoner, employee or visitor while confined ~~in a facility within the sending governmental entity's jurisdiction~~ or a history or record of escape or attempted escape from secure custody;

(g) The ~~receiving facility~~ private prison contractor will determine the ~~inmate's~~ prisoner's custody level in order to ensure that the custody level assignments for the facility as a whole are compatible with the construction security level availability in the facility. If it is determined by the county or the city or the private prison contractor that the ~~inmate~~ prisoner poses a substantial risk to the community, prison population or staff or should be classified as maximum security or close custody, the ~~inmate~~ prisoner will be returned to the sending governmental entity~~; and~~.

(3) ~~The private prison contractor shall reimburse costs as specified in section 20-809, Idaho Code.~~

~~(4)~~ Neither this section nor any other provision of this chapter shall be construed to authorize the release of an out-of-state ~~inmate~~ prisoner confined in a private prison facility on work release, furlough or other release from the facility except as provided in any contract authorized in this chapter ~~or with the express written approval of the board of county commissioners of the county in which the facility is~~

~~located--or--the--governing--body--of--the-city-in-which-the-facility-is located;~~ or as provided by county or city ordinance.

(~~5~~4) The provisions of this section shall not be construed as a limitation upon the authority of the state of Idaho, a county or a city of this state to incarcerate, detain or place a person convicted of an offense committed against the laws of the United States, a territory of the United States, another state or a political subdivision thereof in a correctional facility, county jail or other governmental detention facility in this state pursuant to the laws of the United States, the state of Idaho or other applicable law.

SECTION 7. That Section 20-808, Idaho Code, be, and the same is hereby amended to read as follows:

20-808. MONITORING PRIVATE PRISONS. In addition to and without limiting the authority provided in this chapter or by contract entered into pursuant to section 20-805, Idaho Code, or as provided by other applicable law, the board of county commissioners, the county sheriff, the prosecuting attorney or the authorized agents and employees of a county in which a private prison facility is located and the governing board of a city, the city attorney, law enforcement personnel of the city and other authorized agents and employees of the city in which a private prison facility is located, shall be authorized to monitor the facility and to enter the facility and the grounds thereof for the following purposes:

(1) To determine if the private prison contractor, its personnel and the private prison facility are in compliance with the provisions of this chapter, all laws of the state of Idaho and any ordinances or written policies and procedures of the county or city governing the private prison facility;

(2) To investigate any criminal conduct which has occurred, is occurring or is alleged to have occurred in or on the grounds of, or otherwise in connection with, the facility;

(3) To determine whether the facility is being operated in a manner which adequately safe~~guards a~~nd protects the safety of the public;

(4) To review prisoner security or custody classifications to determine whether any classifications need to be revised.

SECTION 8. That Section 20-809, Idaho Code, be, and the same is hereby amended to read as follows:

20-809. RIOT, REBELLION, ESCAPE, CRIME OR EMERGENCY SITUATION -- NOTICE -- REIMBURSEMENT FOR COSTS. (1) The private prison contractor, its officers, guards, employees, and agents shall immediately notify the county sheriff and, if the facility is located within the limits of a city, the city law enforcement agency, along with any other law enforcement or other governmental entities, agencies or personnel which the county or the city may require to be informed, of any riot, rebellion, escape, crime or other emergency situation occurring ~~at~~ inside or outside the facility.

(2) In the event of an escape by ~~an inmate~~ prisoner from a private prison facility to which this chapter applies, the private prison contractor must contact the county sheriff and, if the facility is located within the limits of a city, the city law enforcement agency, and any

other governmental entities or agencies which the county or city may require to be informed, upon receiving knowledge of the escape, but may attempt to apprehend the ~~inmate~~ prisoner while the search or pursuit is on the private prison contractor's private property. In the event that the escaping ~~inmate~~ prisoner flees from the private prison contractor's private property, the sheriff of the county, in cooperation with city law enforcement as appropriate, shall organize and have jurisdiction over the pursuit and apprehension of the ~~inmate~~ prisoner.

(3) A private prison contractor shall reimburse ~~an~~ Idaho governmental ~~entity~~ entities for costs incurred by the ~~entity~~ entities in responding to any riot, rebellion, escape, crime or other emergency situation occurring ~~at~~ in or on the grounds of, or otherwise in connection with, the facility. The private prison contractor shall also reimburse ~~an~~ Idaho governmental ~~entity~~ entities for costs ~~incurred by the entity~~ entities with respect to the investigation, prosecution, detention or appellate litigation, without regard to whether conviction is obtained, of ~~an inmate~~ prisoner charged with a crime resulting from a riot, rebellion, escape or other criminal conduct. ~~committed--within--the--private facility.~~

(4) If a prisoner commits a criminal offense while confined in a private prison facility in this state and is convicted of or pleads guilty to that offense and is sentenced to a term of confinement for that offense but is not sentenced to death for that offense, the prisoner shall be returned to the out-of-state jurisdiction or the out-of-state jurisdiction's private contractor for confinement. The prisoner shall not begin serving the term of confinement imposed for the offense committed while confined in this state until such time as the prisoner is released from the custody of the out-of-state jurisdiction. The private prison contractor or its agent will transport the prisoner, or cause the prisoner to be transported, to the out-of-state jurisdiction. If the prisoner is confined in this state in a facility operated by, or pursuant to a state contract with, the department of correction for any period of time prior to transfer back to the out-of-state jurisdiction, the private contractor will be financially responsible for reimbursing the department at the per diem cost of confinement for the duration of that incarceration. Notwithstanding the provisions of this subsection, any sentence imposed against a prisoner by a court in the state of Idaho may be imposed to run concurrently with any sentence already being served by the prisoner.

SECTION 9. That Section 20-812, Idaho Code, be, and the same is hereby amended to read as follows:

20-812. ENFORCEMENT -- AVAILABLE REMEDIES -- CIVIL PENALTY. (1) The county prosecuting attorney shall have authority to enforce the provisions of this chapter, and any county ordinances enacted, or written policies or procedures adopted by the county with respect to the operation of a private prison facility in the county, or any contract entered into between a board of county commissioners and a private prison contractor by civil action and may seek all available civil remedies including injunction. If the prosecuting attorney prevails in the action, the private prison contractor shall be liable to the county for attorney's fees and costs of suit. The action shall be brought in the district court of the county in which the private prison facility is

located or is proposed to be located.

(2) The city attorney shall have authority to enforce the provisions of this chapter, and any city ordinances enacted or written policies or procedures adopted by the governing body of the city with respect to the operation of a private prison facility within the city, or any contract entered into between the governing body of a city and a private prison contractor by civil action and he may seek all available civil remedies including injunction. If the city attorney prevails in the action, the private prison contractor shall be liable for attorney's fees and costs of suit. The action shall be brought in the district court of the county in which the private prison facility is located or is proposed to be located.

(3) In addition to any other remedies, a private prison contractor constructing, renovating or operating a private prison facility in this state in violation of the provisions of this chapter, or any ordinances enacted ~~or written~~ policies or procedures adopted by a county or city governing the construction, renovation or operation of a private prison facility, or a contract entered into pursuant to this chapter shall be subject to a civil penalty in an amount not to exceed five thousand dollars ($5,000) for each separate violation or for each day of a continuing violation.

SECTION 10. That Section 6-904B, Idaho Code, be, and the same is hereby amended to read as follows:

6-904B. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable for any claim which:

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.

2. Arises out of the cancellation or rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.

4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.

5. Arises out of any act or omission providing or failing to provide medical care to a prisoner~~, inmate~~ or person in the custody of any city, county or state jail, detention center or correctional facility.

6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.

7. Arises out of a decision, act or omission of a city, county, the Idaho board of correction or Idaho department of correction when carrying out duties and responsibilities as set forth in chapter 8, title 20, Idaho Code.

SECTION 11. That Section 18-2507, Idaho Code, be, and the same is hereby amended to read as follows:

18-2507. EXPENSE OF PROSECUTION -- HOW PAID. Whenever a person is prosecuted under any of the provisions of section 18-2505, Idaho Code, and whenever a prisoner in the custody of the board of correction housed in a state correctional facility, as defined in section 18-101A, Idaho Code, shall be prosecuted for any crime committed therein, the clerk of the district court shall make out a statement of all the costs incurred by the county for the prosecution of such case, and for the guarding and keeping of such prisoner, and when certified by the judge who tried the case, such statement shall be audited by the board of examiners. If approved, the board of examiners shall submit the claim, with a request for an appropriation, to the legislature at its first session after the rendition of such claim. If the legislature appropriates funds for such claim, the amount shall be paid by the board of examiners to the treasurer of the county where the trial was had. The provisions of this section shall apply to prosecution of a prisoner in the custody of the board of correction and housed in a private correctional facility unless otherwise provided for in any contract between the state of Idaho and the private prison contractor entered into pursuant to chapter 2, title 20, Idaho Code.

Costs of prosecution of ~~out-of-state~~ all other prisoners housed in a private correctional facility shall be recoverable from the private prison contractor, as provided in section 20-809, Idaho Code.

SECTION 12. That Section 20-209, Idaho Code, be, and the same is hereby amended to read as follows:

20-209. CONTROL AND MANAGEMENT OF CORRECTIONAL FACILITIES AND ~~INMATES~~ PRISONERS -- RULES. (1) The state board of correction shall have the control, direction and management of such correctional facilities as may be acquired for use by the state board of correction and all property owned or used in connection therewith, and shall provide for the care, maintenance and employment of all ~~inmates~~ prisoners now or hereinafter committed to its custody.

(2) The state board of correction shall have the authority to enter into contracts with private prison contractors for the site selection, design, design/building, acquisition, construction, construction management, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of those services subject to the requirements and limitations set forth in section 20-241A, Idaho Code.

(3) The state board of correction shall have the authority to promulgate rules required by law or necessary or desirable to carry out all duties assigned to the department of correction pursuant to the provisions of chapter 8, title 20, Idaho Code, which authority shall include the power and duties to prescribe standards, rules and procedures for licensure of private prison contractors, to develop and provide, in conjunction with the department of administration, a uniform contract for use by local contracting authorities in contracting with private prison contractors, to review records and historical information of all prisoners proposed to be housed in private prison facilities and to approve or reject the housing of all prisoners, to monitor the status of insur-

ance of private prison contractors, to approve suitable training programs for firearm certification for employees of private prison contractors and to approve suitable drug testing programs for prisoners housed with private prison contractors. All final decisions by the board shall be subject to review pursuant to the provisions and procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.

(4) The state board of correction is authorized to provide medical and counseling services to those ~~inmates~~ ~~prisoners~~ who have been exposed to the HIV (human immunodeficiency virus) which causes acquired immunodeficiency syndrome (AIDS) or who have been diagnosed as having contracted a human immunodeficiency viral disease.

(~~4~~5) The state board of correction should provide educational and informational services to ~~inmates~~ prisoners housed in Idaho and to its department employees in order to assure that the transmission of HIV within correctional facilities is diminished.

SECTION 13. That Section 20-212, Idaho Code, be, and the same is hereby amended to read as follows:

20-212. RULES -- AUTHORITY OF BOARD. (1) The state board of correction shall make all necessary rules to carry out the provisions of this chapter not inconsistent with express statutes or the state constitution and to carry out those duties assigned to the department of correction pursuant to the provisions of chapter 8, title 20, Idaho Code. The board shall fix the time and place of meetings, the order of business, the ~~form of records~~ to be kept, the reports to be made, and all other rules necessary to the efficient management and control of the state penitentiary and all properties used in connection therewith. All rules of the board shall be subject to review of the legislature pursuant to sections 67-454, 67-5291 and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the board, except as otherwise specifically provided by statute. When making rules required by this section, the board or the department shall submit the rules to the office of the state administrative rules coordinator, in a format suitable to the office of the state administrative rules coordinator as provided in section 67-5202, Idaho Code, and the board or department shall pay all the fees provided in section 67-5205, Idaho Code. The office of the state administrative rules coordinator is authorized and shall publish the board or department's rules in the administrative bulletin. Additionally, whenever the board or department desires to amend, modify or repeal any of its rules, it shall follow the procedure provided in this section. All rules, or the amendment or repeal of rules shall be effective thirty (30) days after the date of publication by the office of the administrative rules coordinator. If the board determines that the rules need to be effective at a sooner date, they shall issue a proclamation indicating that the public health, safety and welfare is in jeopardy and, if the governor agrees, the rules shall be effective upon the governor signing the proclamation.

(2) "Rule" as used in this section means the whole or a part of the board of correction or department of correction's statement of general applicability that has been promulgated in compliance with the provisions of this section and that implements, interprets or prescribes:

(a) Law or policy; or

(b) The procedure or practice requirements of the board or depart-

ment. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:

(i) Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or

(ii) Declaratory rulings issued pursuant to statute or the board's rules; or

(iii) Intra-department memoranda; or

(iv) Any written statements given by the department or board which pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(3) At the same time that the proclamation of rulemaking is filed with the coordinator, the board or department shall provide the same notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(4) The board or department shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a rule if the germane joint subcommittee files a written request with the board or department for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits. The adequacy of the contents of the statement of economic impact is not subject to judicial review.

Approved April 4, 2001.

CHAPTER 336
(S.B. No. 1157, As Amended)

AN ACT

RELATING TO SCHOOL DISTRICT BONDS; AMENDING SECTION 33-1103, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT BONDS BE ISSUED WITHIN TWO YEARS FROM THE DATE OF THE BOND ELECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1111, IDAHO CODE, TO PROVIDE THAT SCHOOL BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AND TO AUTHORIZE THE SALE OF SCHOOL BONDS BY ELECTRONIC BIDDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1103, Idaho Code, be, and the same is hereby amended to read as follows:

33-1103. DEFINITIONS -- BONDS -- LIMITATION ON AMOUNT -- ELECTIONS TO AUTHORIZE ISSUANCE. For the purposes of this chapter the following definitions shall have the meanings specified: "Market value for assessment purposes" means the amount of the last preceding equalized assess-

ment of all taxable property within the school district on the tax rolls completed and available as of the date of approval by the electorate in the school bond election. "Aggregate outstanding indebtedness" means the total sum of unredeemed outstanding bonds, minus all moneys in the bond interest and redemption fund or funds accumulated for the redemption of such outstanding bonds, and minus the sum of all taxes levied for the redemption of such bonds, with the exception of that portion of such tax levies required for the payment of interest on bonds, which taxes remain uncollected. "Issue," "issued," or "issuance" means a formal delivery of bonds to any purchaser thereof and payment therefor to the school district.

The board of trustees of any school district, upon approval of a majority thereof, may submit to the qualified school district electors of the district the question as to whether the board shall be empowered to issue negotiable coupon bonds of the district in an amount and for a period of time to be named in the notice of election.

An elementary school district which employs not less than six (6) teachers, or a school district operating an elementary school or schools, and a secondary school or schools, or issuing bonds for the acquisition of a secondary school or schools, may issue bonds in an amount not to exceed five ~~per-centum~~ percent (5%) of the market value for assessment purposes thereof, less the aggregate outstanding indebtedness; and no other school district shall issue bonds in an amount to exceed at any time two ~~per-centum~~ percent (2%) of the market value for assessment purposes thereof less the aggregate outstanding indebtedness. The market value for assessment purposes, the aggregate outstanding indebtedness and the unexhausted debt-incurring power of the district shall each be determined as of the date of approval by the electors in the school bond election.

Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed, and the qualifications of electors voting or offering to vote shall be, as provided in sections 33-401 -- through 33-406, Idaho Code.

The question shall be approved only if the percentage of votes cast at such election were cast in favor thereof is that which now, or may hereafter be, set by the ~~C~~constitution of the ~~S~~state of Idaho. Upon such approval of the issuance of bonds, the same may be issued at any time ~~within two (2) years from~~ after the date of such election.

SECTION 2. That Section 33-1111, Idaho Code, be, and the same is hereby amended to read as follows:

33-1111. SALE OF BONDS. School bonds may be sold at private sale, as provided in section 57-232, Idaho Code, after notice as hereinafter provided, or may be sold at public sale as hereinafter provided.

If bonds are sold at private sale, notice of the intention to sell such bonds at private sale shall be published once in the name of the issuer in a newspaper of general circulation within the issuer's boundaries at least three (3) days prior to the time scheduled by the issuer for approving the private sale of such bonds. Failure to comply with this requirement shall not invalidate the sale of the bonds, so long as the issuer has made a good faith effort to comply.

If the bonds are sold at public sale t~~T~~he board of trustees shall give notice of its intent to sell a bond issue.

The notice shall be published once in a newspaper published in this state, at least one (1) week prior to the day bids are opened. Said notice shall describe the issue of bonds; shall state that the board of trustees will receive sealed bids until a specified day and hour; and that said bids will be opened at a regular or special meeting of the board at a time and place to be named in the notice. Said notice may require such deposits of forfeits as the board may deem necessary.

At the meeting held at the time and place named in the notice, the board of trustees shall open the bids, and may sell the same to whomever shall make the bid most advantageous to the school district, and the deposits of the unsuccessful bidders shall thereupon be returned to them. Should the successful bidder fail or refuse to tender payment of the amount required for the purchase of the issue within ten (10) days after tender to him of the executed bonds and a certified copy of the bond proceedings, his deposit shall be forfeited; and the board may in its judgment accept the bid next most advantageous, or readvertise the issue as before, or sell the bonds at private sale.

The board of trustees may reject any or all bids, and sell the bonds at private sale when this is found to be in the best interest of the district.

In lieu of receiving sealed bids, the board of trustees may provide for the public sale of bonds by electronic bidding as provided in section 57-233, Idaho Code.

No school bond shall at any time be sold at less than its par value.

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 4, 2001.

CHAPTER 337
(S.B. No. 1171)

AN ACT

RELATING TO DRUG COURTS; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 19, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF POLICY, TO PROVIDE FOR THE ESTABLISHMENT OF DRUG COURTS, TO PROVIDE ELIGIBILITY REQUIREMENTS, TO PROVIDE FOR DRUG COURT EVALUATION, TO PROVIDE FOR THE IMPLEMENTATION OF DRUG COURTS AND TO PROVIDE FOR DRUG COURT FUNDING; AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201E, IDAHO CODE, TO PROVIDE FOR DRUG COURT PARTICIPANT FEES AND TO PROVIDE FOR A DRUG COURT FUND.

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

SECTION 1. That Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 56, Title 19, Idaho Code, and to read as follows:

CHAPTER 56
IDAHO DRUG COURT ACT

19-5601. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Drug Court Act."

19-5602. STATEMENT OF POLICY. The legislature finds that:

(1) Substance abuse is a contributing cause for much of the crime in Idaho, costs millions of dollars in productivity, contributes to the ever increasing jail and prison populations and adversely impacts Idaho children;

(2) Drug courts which closely supervise, monitor, test and treat substance abusers have proven effective in certain judicial districts in Idaho and in other states in reducing the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. Successful drug courts are based on partnerships among the courts, law enforcement, corrections and social welfare agencies;

(3) It is in the best interests of the citizens of this state to expand the use of drug courts in Idaho.

The goals of the drug courts created by this chapter are to reduce the overcrowding of jails and prisons, to reduce alcohol and drug abuse and dependency among criminal and juvenile offenders, to hold offenders accountable, to reduce recidivism, and to promote effective interaction and use of resources among the courts, justice system personnel and community agencies.

19-5603. DRUG COURT -- ESTABLISHMENT. The district court in each county may establish a drug court which shall include a regimen of graduated sanctions and rewards, substance abuse treatment, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as may be established by the district court, in accordance with standards developed by the Idaho supreme court drug court coordinating committee.

19-5604. ELIGIBILITY. No person has a right to be admitted into drug court. The drug court in each county shall determine the eligibility of persons who may be admitted into drug court except that each candidate, prior to being admitted, must undergo: (a) a substance abuse assessment; and (b) a criminogenic risk assessment. No person shall be eligible to participate in drug court if any of the following apply:

(1) The person is currently charged with, has pled or has been adjudicated or found guilty of, a felony crime of violence or a felony crime in which the person used either a firearm or a deadly weapon or instrument.

(2) The person is currently charged with, or has pled or been found guilty of, a felony in which the person committed, attempted to commit, conspired to commit, or intended to commit a sex offense.

19-5605. DRUG COURT EVALUATION. The district court of each county which has implemented a drug court program shall annually evaluate the program's effectiveness and provide a report to the supreme court as requested. A report evaluating the effectiveness of drug courts in the state shall be submitted to the governor and to the legislature by the first day of the legislative session each year.

19-5606. IMPLEMENTATION OF DRUG COURTS. The supreme court shall establish a drug court coordinating committee consisting of judges, court administrators, drug court coordinators, prosecuting attorneys, public defenders, state and county probation officers, treatment providers, representatives of the department of correction, the department of education, the commission of pardons and parole, the department of health and welfare, the department of juvenile corrections, the Idaho state police, the Idaho transportation department, legislators, a representative of the governor's office, law enforcement officers, mental health professionals, and others, which shall establish a drug court implementation plan and oversee ongoing drug court programs. The implementation plan shall include a strategy to forge partnerships among drug courts, public agencies, and community-based organizations to enhance drug court effectiveness. The committee shall also develop guidelines for drug courts addressing eligibility, identification and screening, assessment, treatment and treatment providers, case management and supervision, and evaluation. The coordinating committee shall also solicit specific drug court plans, and recommend funding priorities and decisions per judicial district; pursue all available alternate funding; provide technical assistance, develop procedural manuals, and schedule training opportunities for the drug court teams; design an evaluation strategy, including participation in the statewide substance abuse evaluation plan; and design an automated drug court management information system, which promotes information sharing with other entities.

19-5607. DRUG COURT FUNDING. Subject to the appropriation power of the legislature, the supreme court shall be responsible for administering, allocating and apportioning all appropriations from the legislature for drug courts.

SECTION 2. That Chapter 32, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3201E, Idaho Code, and to read as follows:

31-3201E. PARTICIPANT FEES -- DRUG COURT FUND. Each person admitted into a drug court shall pay a drug court fee in an amount not to exceed three hundred dollars ($300) per month or lesser amount as set by the administrative district judge for participants in the drug court. For good cause, the judge presiding over a drug court may exempt a participant from paying all or a portion of the drug court fee. The fee imposed under this section shall be paid to the clerk of the district court for deposit into the county drug court fund which is hereby created in each county which has a drug court. Moneys in this fund may be accumulated from year to year and shall be expended exclusively for expenses incurred in connection with the drug court including, but not limited to, substance abuse treatment, drug testing and supervision.

Approved April 4, 2001.

CHAPTER 338
(S.B. No. 1172)

AN ACT

RELATING TO CHILDREN AND THEIR FAMILIES; AMENDING TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 32, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE A DECLARATION OF PURPOSE, TO PROVIDE FOR IMPLEMENTATION OF A COORDINATED FAMILY SERVICES PLAN, TO PROVIDE FOR EVALUATION OF THE FAMILY COURT SERVICES PLAN AND TO PROVIDE FOR ADMINISTRATION OF FUNDING.

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

SECTION 1. That Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 32, Idaho Code, and to read as follows:

CHAPTER 14
COORDINATED FAMILY SERVICES

32-1401. LEGISLATIVE FINDINGS. The legislature finds that there is an increasing incidence of children and family members in more than one (1) court proceeding, including juvenile corrections, domestic violence, domestic relations, adoptions, and child protection actions, and there is a need to coordinate these diverse cases and related family services to provide an effective response to the needs of these children and families.

32-1402. DECLARATION OF PURPOSE. The legislature declares that an effective response to address the needs of families and children in resolving these disputes would include the following:

(1) Case management practices that provide a flexible response to the diverse court-related needs of families involved in multiple court cases which will promote the efficient use of time and resources of the parties and the court, and avoid conflicting court orders;

(2) The expansion of available nonadversarial methods of dispute resolution, including mediation of child custody and visitation disputes and alternative dispute resolution assessments;

(3) Coordination of family dispute issues with related litigation involving the juvenile correction laws and criminal laws;

(4) A family court services coordinator to assist families in need to connect with appropriate resources for the family, to provide assessment information to the court to assist in early case resolution, and to conduct workshops which will educate the parties on the adverse impact of high conflict family disputes upon children, identify the developmental needs of children, and emphasize the importance of parenting plans and mediation techniques which peacefully resolve child custody and visitation issues;

(5) A court assistance officer to provide assistance to parties without legal representation to help them understand the legal requirements of the court system, including educational materials, court forms, assistance in completing court forms, information about court procedures, and referrals to public and community agencies and resources that

provide legal and other services to parents and children;

(6) Supervised visitation by trained providers to assure the safety and welfare of children in cases where certain risk factors are identified; and

(7) The adoption of other methods and procedures which will promote a timely and effective resolution of related disputes in court cases involving children and families.

32-1403. IMPLEMENTATION OF A COORDINATED FAMILY SERVICES PLAN. The supreme court may establish a committee consisting of representatives of the judicial, executive and legislative branches to implement a coordinated family court services plan for a comprehensive response to children and families in the courts. The committee shall recommend, for adoption by the supreme court, policies and procedures that will carry out the purposes of this chapter.

32-1404. EVALUATION OF FAMILY COURT SERVICES PLAN. The supreme court shall conduct a study measuring the effectiveness of an appropriation for family court services and report the results of its study to the governor and to the legislature by the first day of the legislative session.

32-1405. ADMINISTRATION OF FUNDING. Subject to the appropriation power of the legislature, the supreme court shall be responsible for administering, allocating and apportioning all funding resources for children and family court services, including grants, contributions, and appropriations from the legislature, to each judicial district upon their submission of an appropriate plan for family court services.

Approved April 4, 2001.

CHAPTER 339
(S.B. No. 1210)

AN ACT

RELATING TO THE HOSPITALIZATION OF MENTALLY ILL PATIENTS; AMENDING SECTION 66-345, IDAHO CODE, TO PROVIDE THAT RESTRAINTS SHALL NOT BE APPLIED TO A PATIENT NOR SHALL A PATIENT BE SECLUDED UNLESS IT IS DETERMINED THAT SUCH RESTRAINT OR SECLUSION IS NECESSARY FOR THE PATIENT'S SAFETY OR FOR THE SAFETY OF OTHERS, TO PROVIDE THAT EVERY INSTANCE OF A RESTRAINT OR SECLUSION OF A PATIENT AND AN EVALUATION OF AND THE REASONS FOR SUCH RESTRAINT OR SECLUSION SHALL BE MADE A PART OF THE CLINICAL RECORD OF THE PATIENT UNDER THE SIGNATURE OF A LICENSED PHYSICIAN OR OTHER PRACTITIONERS LICENSED TO PRACTICE INDEPENDENTLY AS DELEGATED.

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

SECTION 1. That Section 66-345, Idaho Code, be, and the same is hereby amended to read as follows:

66-345. ~~MECHANICAL~~ RESTRAINTS AND SECLUSION. ~~Mechanical r~~Restraints shall not be applied to a patient nor shall a patient be ~~isolated~~ secluded unless it is determined that such restraint or seclusion is necessary for ~~his~~ the patient's safety or for the safety of others. Every ~~use~~ instance of a ~~mechanical~~ restraint or seclusion of a patient shall be documented in the clinical record of the patient. In addition, every instance of a restraint or seclusion shall be evaluated and the evaluation and reasons ~~therefor~~ such restraint or seclusion shall be made a part of the clinical record of the patient under the signature of ~~the director of the facility~~ a licensed physician or, as delegated through the bylaws of the hospital's medical or professional staff, other practitioners licensed to practice independently.

Approved April 4, 2001.

CHAPTER 340
(S.B. No. 1238)

AN ACT
EXPRESSING LEGISLATIVE INTENT; PROVIDING FOR THE REDUCTION OF APPROPRIATIONS FOR VARIOUS DEPARTMENTS, AGENCIES AND INSTITUTIONS FOR FISCAL YEAR 2001; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Public Employee Retirement System of Idaho gainsharing program implemented through Section 59-1309, Idaho Code, has generated significant personnel cost savings for departments, agencies and institutions for fiscal year 2001. It is legislative intent that agency budgets be reduced, as closely to the executive budget recommendation by program as possible, by the amounts detailed in the following sections.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program in Section 1, Chapter 441, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund $269,900

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho and the Office of the State Board of Education in Section 1, Chapter 473, Laws of 2000, is hereby reduced by the following amount from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$2,544,000
Charitable Institutions Endowment Earnings Fund	46,600
Unrestricted Current Fund	104,500
Restricted Current Fund	272,100
TOTAL	$2,967,200

SECTION 4. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for Community College support in Section 1, Chapter 383, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$291,800

SECTION 5. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Idaho School for the Deaf and Blind in Section 1, Chapter 61, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$169,700
Federal Grant Fund	500
TOTAL	$170,200

SECTION 6. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Office of the State Board of Education in Section 1, Chapter 450, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$16,600
Miscellaneous Revenue Fund	3,900
TOTAL	$20,500

SECTION 7. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Board of Regents of the University of Idaho and the State Board of Education for the Health Education Programs in Section 1, Chapter 380, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$24,400
Unrestricted Current Fund	1,100
TOTAL	$25,500

SECTION 8. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Idaho State Historical Society in Section 1, Chapter 434, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$41,200
Federal Grant Fund	13,700
Miscellaneous Revenue Fund	3,000
TOTAL	$57,900

SECTION 9. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the State Library Board in Section 1, Chapter 435, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$52,800
Federal Grant Fund	5,200
TOTAL	$58,000

SECTION 10. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board for Professional-Technical Education in Section 1, Chapter 384, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$435,600
Federal Grant Fund	13,300
TOTAL	$448,900

SECTION 11. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Idaho Educational Public Broadcasting System in Section 1, Chapter 475, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$29,600
Federal Grant Fund	33,300
TOTAL	$62,900

SECTION 12. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs in Section 1, Chapter 396, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$27,400

SECTION 13. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Superintendent of Public Instruction/State Department of Education in Section 1, Chapter 98, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 83,100
Indirect Cost Recovery Fund	7,100
Driver's Education Fund	7,100
Public Instruction Fund	9,000
Miscellaneous Revenue Fund	5,100
Data Processing Services Fund	2,000
Federal Grant Fund	67,400
TOTAL	$180,800

SECTION 14. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Division of Vocational Rehabilitation in Section 1, Chapter 89, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Federal Grant Fund	$201,000

SECTION 15. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Health and Welfare for the Division of Family and Community Services in Section 1, Chapter 392, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$1,130,600
Cooperative Welfare Fund (Dedicated)	347,300
Cooperative Welfare Fund (Federal)	985,900
Alcohol Intoxication Treatment Fund	16,600
State Hospital North Endowment Fund	13,100
TOTAL	$2,493,500

SECTION 16. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Health and Welfare for Independent Commissions and Councils in Section 1, Chapter 391, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 5,900
Cooperative Welfare Fund (Dedicated)	1,400
Cooperative Welfare Fund (Federal)	7,300
TOTAL	$14,600

SECTION 17. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Health and Welfare for Indirect Support Services in Section 1, Chapter 391, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$239,500
Cooperative Welfare Fund (Federal)	173,400
TOTAL	$412,900

SECTION 18. Notwithstanding any other provision of law to the con-

trary, the appropriation of moneys made to the Department of Health and Welfare for Medical Assistance Services in Section 1, Chapter 409, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$109,000
Cooperative Welfare Fund (Federal)	156,800
TOTAL	$265,800

SECTION 19. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Health and Welfare for Public Health Services in Section 1, Chapter 476, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 79,200
Cancer Control Fund	600
Emergency Medical Services Fund I & II	18,500
Cooperative Welfare Fund (Dedicated)	74,300
Cooperative Welfare Fund (Federal)	94,000
TOTAL	$266,600

SECTION 20. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Health and Welfare for the Self-Reliance Programs in Section 1, Chapter 390, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$431,000
Cooperative Welfare Fund (Dedicated)	19,200
Cooperative Welfare Fund (Federal)	507,600
TOTAL	$957,800

SECTION 21. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Public Health Trust Fund in Section 1, Chapter 93, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$240,900

SECTION 22. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Correction in Section 3, House Bill 318, as enacted by the First Regular Session of the Fifty-sixth Legislature, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$1,673,800
Parolee Supervision Fund	44,500
Inmate Labor Fund	45,500
Federal Grant Fund	21,400
Miscellaneous Revenue Fund	19,800
TOTAL	$1,805,000

SECTION 23. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Supreme Court in Section 1, Chapter 395, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$514,700
ISTARS Technology Fund	1,900
Federal Grant Fund	400
TOTAL	$517,000

SECTION 24. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Juvenile Corrections in Section 1, Chapter 454, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$366,700
Miscellaneous Revenue Fund	1,300
Juvenile Corrections Fund	300
Federal Grant Fund	6,200
TOTAL	$374,500

SECTION 25. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Idaho State Police in Section 1, Chapter 3, Laws of 2001, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$391,600
State Brand Board Fund	52,600
Indirect Cost Recovery Fund	1,100
Idaho Law Enforcement Fund	359,300
Hazardous Materials/Waste Enforcement Fund	2,300
Miscellaneous Revenue Fund	7,700
Idaho Law Enforcement Telecommunications Fund	6,800
Peace Officers Fund	20,400
Federal Grant Fund	36,000
Idaho State Racing Commission Fund	5,800
TOTAL	$883,600

SECTION 26. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Environmental Quality in Section 1, Chapter 402, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$260,000
Air Quality Permitting Fund	47,700
Environmental Remediation Fund	4,800
Public Water System Supervision Fund	31,000
Department of Environmental Quality Fund (Receipts)	17,500
Department of Environmental Quality Fund (Federal)	253,200
TOTAL	$614,200

SECTION 27. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Fish and Game in Section 1, Chapter 389, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Fish and Game Fund	$480,000
Fish and Game Set-Aside Fund	17,500
Fish and Game Federal Fund	366,600
Fish and Game Expendable Trust Fund	13,000
Fish and Game Nonexpendable Trust Fund	200
TOTAL	$877,300

SECTION 28. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Board of Education for the Endowment Fund Investment Board in Section 1, Chapter 436, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Miscellaneous Revenue Fund	$4,200
Endowment Administrative Fund	1,900
TOTAL	$6,100

SECTION 29. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Lands in Section 1, Chapter 449, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 78,300
Department of Lands Fund	94,400
Endowment Administrative Fund	194,800
Federal Grant Fund	15,800
Fire Suppression Deficiency Fund	68,600
TOTAL	$451,900

SECTION 30. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Lava Hot Springs Foundation in Section 7, Chapter 446, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Public Recreation Enterprise - Lava Hot Springs Fund	$10,100

SECTION 31. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Parks and Recreation in Section 1, Chapter 446, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$164,000
Indirect Cost Recovery Fund	2,600
Parks and Recreation Fund	26,200
Recreational Fuels Fund	13,400
Parks and Recreation Registration Fund	3,900
Public Recreation Enterprise Fund	1,800
Parks and Recreation Expendable Trust Fund	1,800
Federal Grant Fund	15,700
TOTAL	$229,400

SECTION 32. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Water Resources in Section 1, Chapter 445, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$229,900
Indirect Cost Recovery Fund	11,300
Water Administration Fund	12,400
Miscellaneous Revenue Fund	20,100
Federal Grant Fund	29,500
Petroleum Price Violation Fund	13,300
TOTAL	$316,500

SECTION 33. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Agriculture in Section 1, Chapter 387, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$100,500
Administration and Accounting Services Fund	15,200
Agricultural Inspection Fund	21,000
Agricultural Fees - Sheep Industry Regulation Fund	400
Agricultural Fees - Commercial Feed and Fertilizer Fund	9,100
Agricultural Fees - Pesticides Fund	33,200
Agricultural Fees - Livestock Disease Control Fund	14,000
Agricultural Fees - Dairy Inspection Fund	17,000
Agricultural Fees - Organic Food Products Fund	300
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	177,000
Agricultural Loans Fund	400
Federal Grant Fund	13,300
TOTAL	$401,400

SECTION 34. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Soil Conservation Commission in the Department of Agriculture in Section 1, Chapter 95, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$38,500
Resource Conservation and Rangeland Development Fund	1,600
Federal Grant Fund	2,800
TOTAL	$42,900

SECTION 35. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Commerce in Section 1, Chapter 478, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$60,200
Tourism and Promotion Fund	15,200
Miscellaneous Revenue Fund	3,600
Federal Grant Fund	9,300
TOTAL	$88,300

SECTION 36. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Finance in Section 1, Chapter 168, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

State Regulatory Fund	$74,700

SECTION 37. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Industrial Commission in Section 1, Chapter 43, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Industrial Administration Fund	$179,200
Crime Victims Compensation Fund	9,800
TOTAL	$189,000

SECTION 38. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Insurance in Section 1, Chapter 471, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Self-Governing Operating Fund	$104,300
Miscellaneous Revenue Fund	100
Federal Grant Fund	400
TOTAL	$104,800

SECTION 39. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Labor in Section 1, Chapter 169, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$8,500
Federal Grant Fund	2,700
TOTAL	$11,200

SECTION 40. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Public Utilities Commission in Section 1, Chapter 44, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Public Utilities Commission Fund	$88,800

SECTION 41. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Division of Building Safety in Section 2, Chapter 447, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Electrical Fund	$ 69,400
Building Fund	19,400
Plumbing Fund	43,800
Miscellaneous Revenue/Industrial Safety Fund	15,300
Miscellaneous Revenue/Logging Fund	7,800
Manufactured Housing Fund	1,400
Federal Grant Fund	2,900
TOTAL	$160,000

SECTION 42. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Self-Governing Agencies in Section 1, Chapter 379, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

I. ATHLETIC COMMISSION:

FROM:

State Regulatory Fund	$ 100

II. BOARD OF PHARMACY

FROM:

State Regulatory Fund	$ 12,700

III. BOARD OF ACCOUNTANCY:

FROM:

State Regulatory Fund	$ 5,700

IV. BOARD OF DENTISTRY:

FROM:

State Regulatory Fund	$ 3,500

V. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:

FROM:

State Regulatory Fund	$ 5,500

VI. BOARD OF MEDICINE:

FROM:

State Regulatory Fund	$ 14,700

VII. BOARD OF NURSING:

FROM:

State Regulatory Fund	$ 10,000

VIII. BUREAU OF OCCUPATIONAL LICENSES:	
FROM:	
State Regulatory Fund	$ 21,800
IX. PUBLIC WORKS CONTRACTORS LICENSE BOARD:	
FROM:	
State Regulatory Fund	$ 1,500
X. REAL ESTATE COMMISSION:	
FROM:	
State Regulatory Fund	$ 19,400
XI. BOARD OF PROFESSIONAL GEOLOGISTS:	
FROM:	
State Regulatory Fund	$ 700
XII. CERTIFIED SHORTHAND REPORTERS BOARD:	
FROM:	
State Regulatory Fund	$ 300
XIII. OUTFITTERS AND GUIDES BOARD:	
FROM:	
State Regulatory Fund	$ 5,900
XIV. BOARD OF VETERINARY MEDICINE:	
FROM:	
State Regulatory Board	$ 2,500
XV. COMMISSION ON HISPANIC AFFAIRS:	
FROM:	
General Fund	$ 2,100
Miscellaneous Revenue Fund	1,400
Federal Grant Fund	3,300
TOTAL	$ 6,800
GRAND TOTAL	$111,100

SECTION 43. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Lottery Commission in the Department of Self-Governing Agencies in Section 1, Chapter 170, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:	
State Lottery Fund	$68,500

SECTION 44. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Appellate Public Defender in Section 1, Chapter 88, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:	
General Fund	$22,700

SECTION 45. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Division of Veterans Services within the Department of Self-Governing Agencies in Section 1, Chapter 411, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

Miscellaneous Revenue Fund	$135,000
Federal Grant Fund	161,600
TOTAL	$296,600

SECTION 46. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Idaho Transportation Department in Section 1, Chapter 45, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

State Highway Fund (Dedicated)	$2,273,400
State Highway Fund (Federal)	393,000
State Aeronautics Fund (Dedicated)	17,500
State Aeronautics Fund (Billing)	3,900
TOTAL	$2,687,800

SECTION 47. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Administration in Section 1, Chapter 393, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 45,300
Indirect Cost Recovery Fund	18,100
Administration and Accounting Services Fund	109,900
Industrial Special Indemnity Fund	4,500
Permanent Building Fund	37,600
Federal Surplus Property Revolving Fund	5,200
Administrative Code Fund	7,700
Employee Group Insurance Fund	6,600
Retained Risk Fund	9,600
TOTAL	$244,500

SECTION 48. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Attorney General in Section 1, Chapter 448, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$128,600
Consumer Protection Fund	5,400
State Legal Services Fund	243,500
Federal Grant Fund	3,500
TOTAL	$381,000

SECTION 49. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Controller in Section 1, Chapter 400, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 85,600
Data Processing Services Fund	104,300
TOTAL	$189,900

SECTION 50. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Commission on Aging in Section 1, Chapter 90, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$13,700
Federal Grant Fund	11,800
TOTAL	$25,500

SECTION 51. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Commission for the Blind and Visually Impaired in Section 1, Chapter 91, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$23,000
Federal Grant Fund	30,400
TOTAL	$53,400

SECTION 52. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Division of Financial Management in Section 1, Chapter 381, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$56,700
Miscellaneous Revenue Fund	600
Silver Valley Trust Fund	2,200
TOTAL	$59,500

SECTION 53. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Executive Office of the Governor in Section 1, Chapter 47, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$37,200
Miscellaneous Revenue Fund	200
Federal Grant Fund	5,400
TOTAL	$42,800

SECTION 54. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Division of Human Resources in Section 1, Chapter 453, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Division of Human Resources Fund	$57,700

SECTION 55. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Human Rights Commission in Section 1, Chapter 48, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$13,300
Federal Grant Fund	2,800
TOTAL	$16,100

SECTION 56. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the State Liquor Dispensary in Section 1, Chapter 94, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Liquor Control Fund	$176,800

SECTION 57. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Military Division in Section 1, Chapter 284, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 75,000
Professional Services Fund	10,100
Federal Grant Fund	186,900
TOTAL	$272,000

SECTION 58. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made for the Public Employee Retirement System in Section 1, Chapter 404, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

Public Employee Retirement System Fund	$71,600

SECTION 59. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Office of Species Conservation in Section 1, Chapter 223, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$3,000

SECTION 60. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Idaho Women's Commission in Section 1, Chapter 46, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$800

SECTION 61. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Legislative Council in Section 1, Chapter 437, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 98,900
Professional Services Fund	28,200
TOTAL	$127,100

SECTION 62. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Lieutenant Governor in Section 1, Chapter 97, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$2,900

SECTION 63. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Board of Tax Appeals in the Department of Revenue and Taxation in Section 1, Chapter 401, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$6,700

SECTION 64. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Tax Commission in the Department of Revenue and Taxation in Section 1, Chapter 2, Laws of 2001, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$531,100
Administration Services for Transportation Fund	55,700
Multistate Tax Compact Fund	17,600
Abandoned Property Trust - Unclaimed Property Fund	11,000
TOTAL	$615,400

SECTION 65. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Secretary of State for the Commission on the Arts in Section 1, Chapter 455, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$ 8,100
Federal Grant Fund	5,700
TOTAL	$13,800

SECTION 66. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Secretary of State in Section 1, Chapter 407, Laws of 2000, is hereby reduced by the following amount from the listed fund for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$46,700

SECTION 67. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the State Treasurer in Section 1, Chapter 406, Laws of 2000, is hereby reduced by the following amounts from the listed funds for the period July 1, 2000, through June 30, 2001:

FROM:

General Fund	$27,200
State Treasurer LGIP Fund	5,500
Treasurer's Office - Professional Services Fund	5,500
TOTAL	$38,200

SECTION 68. 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 4, 2001.

CHAPTER 341
(S.B. No. 1261)

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 2002; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO USE AND ALLOCATION OF FUNDS FOR TEACHER TRAINING; EXPRESSING LEGISLATIVE INTENT REGARDING THE USE OF STATE MONEYS TO MATCH A BILL AND MELINDA GATES FOUNDATION GRANT.

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

SECTION 1. There is hereby appropriated $700,000 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, 2001, through June 30, 2002.

SECTION 2. It is legislative intent that the Idaho 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.

SECTION 3. It is legislative intent that of the funds appropriated in Section 1 of this act, an amount not to exceed $200,000 shall be used by the State Board of Education to match moneys received from the Bill and Melinda Gates Foundation for the "State Leadership Challenge Grant." These matching funds shall be used for technology leadership training of

school administrators. The training shall be consistent with the goals of the Idaho Council for Technology in Learning. The grant recipient of record shall report all actual expenditures that fulfill the intent of this section to the State Board of Education for approval and reimbursement by the board. The State Board of Education shall determine the content of such reports. Any portion of the $200,000 cited herein not expended as directed shall revert to the General Fund.

Approved April 4, 2001.

CHAPTER 342
(S.B. No. 1262)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2002.

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

SECTION 1. In addition to the appropriation made in Section 1, of Senate Bill No. 1202, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Department of Self-Governing Agencies the following amounts to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

I. BUREAU OF OCCUPATIONAL LICENSES:

FOR:	
Personnel Costs	$ 9,600
Operating Expenses	18,500
Trustee and Benefit Payments	2,500
TOTAL	$30,600
FROM:	
State Regulatory Fund	$30,600

Approved April 4, 2001.

CHAPTER 343
(S.B. No. 1263)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2002.

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

SECTION 1. In addition to the appropriation made in Section 1 of House Bill No. 313, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Lieutenant Governor the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:

Personnel Costs	$ 6,600
Operating Expenditures	5,500
TOTAL	$12,100

FROM:

General Fund	$12,100

Approved April 4, 2001.

CHAPTER 344
(S.B. No. 1265)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, SENATE BILL NO. 1206, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, Senate Bill No. 1206, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Supreme Court the following amount to be expended from the listed fund for the period July 1, 2001, through June 30, 2002:

FROM:

General Fund	$640,000

Approved April 4, 2001.

CHAPTER 345
(S.B. No. 1267)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, SENATE BILL NO. 1206, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, Senate Bill No. 1206, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Supreme Court the following amount to be expended from the listed fund for the period July 1, 2001, through June 30, 2002:

FROM:

General Fund	$991,000

Approved April 4, 2001.

CHAPTER 346
(S.B. No. 1268)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2002; PROVIDING TWO ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT REGARDING THE IDAHO RURAL PARTNERSHIP.

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

SECTION 1. In addition to the appropriation made in Section 1 of Senate Bill No. 1236, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Department of Labor 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, 2001, through June 30, 2002:

I. WAGE AND HOUR:

FOR:	
Personnel Costs	$87,600
Capital Outlay	7,000
TOTAL	$94,600
FROM:	
General Fund	$94,600

SECTION 2. In addition to the authorization made in Section 2 of Senate Bill No. 1236, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, the Department of Labor is hereby authorized two (2) additional full-time equivalent positions for the period July 1, 2001, through June 30, 2002.

SECTION 3. It is legislative intent that the Idaho Rural Partnership shall integrate its efforts with the Idaho Department of Agriculture, the Idaho Department of Commerce, and the Governor's Task Force on Rural Development to develop a unified direction in addressing rural economic issues. The Idaho Rural Partnership is encouraged to reorganize itself to increase private sector and rural participation on its board of directors. The Idaho Rural Partnership shall report the results of these efforts to the Joint Finance-Appropriations Committee at its fall interim meeting.

Approved April 4, 2001.

CHAPTER 347
(H.B. No. 47, As Amended in the Senate)

AN ACT

RELATING TO FEES FOR DRIVER'S LICENSES; AMENDING SECTION 49-306, IDAHO CODE, TO INCREASE FEES, TO DISTRIBUTE THE INCREASE TO THE EMERGENCY MEDICAL SERVICES III ACCOUNT, TO DECREASE THE ALLOCATION TO THE HIGHWAY DISTRIBUTION ACCOUNT FROM FEES COLLECTED FOR THE EIGHT-YEAR CLASS D LICENSE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Class A, B, C (4-year) license with endorsements - age 21 years and older $28.50

(b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years ..... $~~17~~20.50

(c) Class A, B, C (1-year) license with endorsements - age 20 years ..... $1~~1~~2.25

(d) Class D (3-year) license - under age 18 years ..... $~~17~~20.50

(e) Class D (3-year) license - age 18 to 21 years ..... $~~17~~20.50

(f) Class D (1-year) license - age 17 years or age 20 years ..... $1~~1~~2.25

(g) Four-year Class D license - age 21 years and older ..... $~~24~~.50

(h~~f~~) Eight-year Class D license - ages 21 to 63 years ..... $4~~1~~5.00

(i~~g~~) Class A, B, C instruction permit ..... $~~19~~.50

(j~~h~~) Class D instruction permit or supervised instruction permit $11.50

(k~~i~~) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50

(l~~j~~) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50

(m~~k~~) License classification change (upgrade) $15.50

(n~~l~~) Endorsement addition $11.50

(o~~m~~) Class A, B, C skills tests ..... not more than $55.00

(p~~n~~) Class D skills test $15.00

(q~~o~~) Motorcycle endorsement skills test .....$ 5.00

(r~~p~~) Knowledge test ..... $ 3.00

(s~~q~~) Seasonal driver's license $27.50

(t~~r~~) One time motorcycle "M" endorsement $11.50

(u~~s~~) Motorcycle endorsement instruction permit $11.50

(v~~t~~) Restricted driving permit $35.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the applicant's social security card or by the social security administration.

(a) The requirement that an applicant provide a social security number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars ($10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test in the current expense fund; and

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

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

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

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

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

(a) Two dollars ($2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars ($4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents ($1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code, and four dollars ($4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars ($8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars ($3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar ($1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services account III created in section 39-146B, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B or C driver's license, and ten dollars ($10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents ($5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway account; and

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

(d) Four dollars ($4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services account III created in section 39-146B, Idaho Code; and

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

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

(g) Five dollars and thirty cents ($5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents ($10.60) of each fee for an eight-year class D driver's license, and

four dollars ($4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents ($1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training account; and

(h) Seven dollars and twenty cents ($7.20) of each fee for a four-year class D driver's license, and ~~fourteen~~ ten dollars and forty cents ($10.40) of each fee for an eight-year class D driver's license, and six dollars ($6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents ($4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution account; and

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

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

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

(l) One dollar ($1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars ($2.00) of each fee for an eight-year class D driver's license, and one dollar ($1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

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

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than fifty dollars ($50.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars ($35.00) of each restricted driving permit shall be deposited in the state highway account.

(11) The department may issue seasonal class B or C driver's licenses that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 49 CFR part 383;
(b) Have not had any license suspensions, revocations or cancellations;
(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
(e) Are at least sixteen (16) years old.

Approved April 4, 2001.

CHAPTER 348
(H.B. No. 269)

AN ACT

RELATING TO THE RAIL SERVICE PRESERVATION PROGRAM; PROVIDING LEGISLATIVE INTENT; AMENDING TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 49, IDAHO CODE, TO ESTABLISH A RAIL SERVICE PRESERVATION PROGRAM ADMINISTERED BY THE IDAHO TRANSPORTATION BOARD, TO PROVIDE DUTIES OF THE BOARD, TO CREATE A RAIL SERVICE PRESERVATION FUND AND TO REQUIRE THE DEVELOPMENT OF A STATE RAIL PLAN; AND AMENDING SECTION 62-424, IDAHO CODE, TO REQUIRE THE PUBLIC UTILITIES COMMISSION TO CONTINUE TO INTERVENE AS NECESSARY IN FEDERAL SURFACE TRANSPORTATION BOARD ABANDONMENT PROCEEDINGS ON RAILROAD BRANCH AND MAIN LINES TO PROTECT THE INTERESTS OF THE STATE OF IDAHO.

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

SECTION 1. (1) The Legislature finds that a balanced, competitive multimodal transportation system is required to maintain the state's economy and the efficient flow of commerce. The state's freight rail system, including mainlines, branch lines, short lines, rail corridors, terminals, yards and equipment are important elements of this multimodal system. Idaho's economy relies heavily upon the freight rail system to ensure movement of the state's agricultural, mineral, lumber and wood, chemical and other natural resources and manufactured products to local, national and international markets and thereby contributes to the economic vitality of the state.

(2) Since 1975, Idaho has lost over one-third of its rail miles to abandonment. The combination of rail abandonment and rail system capacity constraints may alter the delivery to market of many commodities. In addition, the resultant motor vehicle freight traffic increases the burden on state highways and local roads. In some cases, the costs of maintaining and upgrading state highways and local roads may exceed the costs of maintaining rail freight service. Thus, the economy of the state and the competitiveness of Idaho's freight shippers will be best served by a policy of maintaining and encouraging a healthy rail freight system by creating mechanisms that keep rail freight lines operating if the benefits of the service outweigh the costs.

(3) The state, counties, local communities, ports, railroads, labor

and rail shippers all benefit from continuation of rail service. Lines that provide benefits to the state and local jurisdictions and rail freight shippers, such as competitive transportation services, avoided roadway costs, reduced highway traffic, economic development potential, environmental protection, and safety, should be assisted through the joint efforts of the state, local jurisdictions and the private sector.

(4) Recognizing the implications of this trend for the state's overall transportation infrastructure and the state's economic future, the Legislature finds that rail line preservation, financial assistance from the state and continued state rail planning are necessary to maintain and improve the freight rail system within the state.

SECTION 2. That Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 49, Idaho Code, and to read as follows:

CHAPTER 29
RAIL SERVICE PRESERVATION PROGRAM

49-2901. RAIL SERVICE PRESERVATION PROGRAM. (1) The Idaho rail service preservation program is hereby established. The Idaho transportation board is designated and authorized to administer the Idaho rail service preservation program.

(2) State funding for rail service preservation projects shall benefit the state's interest. The state's interest is served by maintaining competitive transportation services for Idaho freight shippers, reducing public roadway maintenance and repair costs, increasing economic development opportunities, increasing domestic and international trade, preserving jobs, and enhancing safety. State funding for projects is contingent upon appropriate private sector participation and cooperation. Before spending state moneys on projects, the Idaho transportation board shall seek federal, local and private funding and participation to the greatest extent possible. Whenever possible, the board shall seek to assist a private sector solution for the implementation of this chapter.

49-2902. DUTIES OF THE BOARD. (1) The Idaho transportation board shall monitor the status of the state's mainline, short line and branch line common carrier railroads through the state rail planning process and various analyses, and shall seek alternatives to abandonment prior to the federal surface transportation board proceedings, where feasible.

(2) The board shall establish criteria for evaluating rail projects of significance to the state, and shall continue to monitor projects for which it provides assistance.

(3) The board shall develop criteria for prioritizing freight rail projects that meet the minimum eligibility requirements for state assistance. Project criteria should consider the level of local financial commitment to the project as well as the cost/benefit ratio. Railroads, shippers and others who benefit from the project should participate financially to the greatest extent practicable.

(4) The board shall ensure that the state maintains a contingent interest in any equipment, property, rail line, or facility that has outstanding grants or loans. The owner shall not use the line as collateral, remove track, bridges or associated elements for salvage, or use it in any other manner subordinating the state's interest without per-

mission from the board. As the state is not a primary lender of money, it is understood the state may need to take a subordinate position for its contingent interest.

49-2903. RAIL SERVICE PRESERVATION FUND. (1) The rail service preservation fund is hereby created in the state treasury. The Idaho transportation board is authorized to administer the rail service preservation fund. Moneys in the fund shall be used only for the purposes specified in this section.

(2) Moneys in the fund are subject to appropriation and may consist of appropriations, grants and other revenues from any other sources.

(3) Moneys in the fund may be used by the board for loans or grants for qualified rail lines upon terms and conditions to be determined by the board as appropriate, for the purpose of:

(a) Rebuilding, rehabilitating, or improving rail lines to preserve essential local rail service;

(b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;

(c) Construction of loading or reloading facilities or other capital improvements to increase business on light density lines, improve service, or mitigate impacts of abandonment on one (1) line by improving service on another line; or

(d) Financial assistance to class III railroads for the preservation of light density lines as identified by the Idaho transportation board.

(4) For the purposes of this chapter, "qualified lines" means class III short lines, branch lines of class I or class II railroads, and lines owned by public entities including port districts. Definition of class I, II and III railroads shall be as defined by the federal railroad administration.

(5) Moneys received by the board from loan payments or other revenues shall be redeposited in the rail service preservation fund. Repayment of loans made under this chapter shall occur within a period as set by the board, but no repayment which exceeds fifteen (15) years shall be allowed. The repayment schedule and rate of interest, if any, shall be determined before the moneys are distributed.

(6) Moneys distributed under the provisions of this chapter shall be provided as loans whenever practicable, except in circumstances as determined by the board.

49-2904. STATE RAIL PLAN. (1) The Idaho transportation board shall prepare and periodically update a state rail plan, a primary objective of which is to identify, evaluate and encourage the preservation of essential rail services. The plan shall:

(a) Identify and describe the state's rail system;

(b) Prepare state rail system maps;

(c) Identify and evaluate mainline capacity issues in cooperation with the railroads;

(d) Identify and evaluate rail access and congestion issues;

(e) Identify and evaluate rail commodity flows and traffic types;

(f) Identify lines and corridors that have been rail banked or preserved;

(g) Identify and evaluate other rail issues affecting the state's transportation system and regional and local economies;

(h) Identify and evaluate those rail freight lines that are potentially subject to abandonment in the future because of unmet capital needs or other reasons, or have recently been approved for abandonment but the track improvements are still in place;

(i) Quantify the costs and benefits of maintaining rail service on those lines potentially subject to abandonment in the future; and

(j) Establish priorities for determining which rail lines should receive state support. The priorities should include the anticipated benefits to the state and local economy, the anticipated cost of road and highway improvements necessitated by the abandonment of the rail line, the likelihood the rail line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds, and the impact of abandonment or capacity constraints on changes in energy utilization and air pollution.

(2) The state rail plan may be prepared in conjunction with any rail plan currently prepared by the Idaho transportation department pursuant to other federal rail assistance programs, or which may be enacted, including if applicable, the federal local rail freight assistance program.

SECTION 3. That Section 62-424, Idaho Code, be, and the same is hereby amended to read as follows:

62-424. HEARING ON ABANDONMENT. (1) Whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho, the railroad shall file notice of the intended abandonment with the public utilities commission. The public utilities commission shall schedule a public hearing on the proposed abandonment. If the hearing results in a finding by the commission that the abandonment of the branch line or main line would adversely affect the area then being served and that there is reason to believe that the closure would impair the access of Idaho communities to vital goods and services and market access to those communities and that the line has potential for profitability, then the public utilities commission shall transmit a report of its findings to the United States surface transportation board on behalf of the people of the state of Idaho.

(2) The Idaho public utilities commission shall continue to intervene in federal surface transportation board abandonment proceedings when necessary to protect the state's interest.

Approved April 9, 2001.

CHAPTER 349
(H.B. No. 301)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2002; DIRECTING THE STATE CONTROLLER TO TRANSFER CERTAIN FUNDS AS REQUESTED; 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 the designated expense classes for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DEPARTMENT OF COMMERCE:					
FROM:					
General Fund	$2,017,500	$1,524,000	$84,200	$ 3,900,000	$ 7,525,700
Tourism and Promotion Fund	515,900	2,203,700	5,000	2,552,000	5,276,600
Federal Grant Fund	426,000	129,800	5,000	15,329,500	15,890,300
Miscellaneous Revenue Fund	114,400	104,900			219,300
Seminars and Publications Fund		371,200			371,200
TOTAL	$3,073,800	$4,333,600	$94,200	$21,781,500	$29,283,100

SECTION 2. The State Controller shall transfer up to $129,600 from the INEEL Settlement Fund to the Department of Commerce's Miscellaneous Revenue Fund, as requested by the Department of Commerce.

SECTION 3. 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, 2001, through June 30, 2002, 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 9, 2001.

CHAPTER 350
(H.B. No. 339)

AN ACT

RELATING TO LARGE SWINE AND POULTRY FEEDING OPERATIONS; AMENDING SECTION 39-104A, IDAHO CODE, TO PROVIDE THAT THOSE SWINE FACILITIES DESCRIBED IN SECTION 39-7905, IDAHO CODE, SHALL MEET THE REQUIREMENTS OF SECTION 39-7907, IDAHO CODE, AND THE RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY REGULATING SWINE AND POULTRY FACILITIES PRIOR TO THE ISSUANCE OF A FINAL PERMIT BY THE DIRECTOR, TO PROVIDE FOR FACILITY REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-7907, IDAHO CODE, TO PROVIDE MINIMUM SETBACK DISTANCES FOR SWINE FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-104A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(3) Owners and operators of swine and poultry facilities required to obtain a permit from the ~~division~~ department of environmental quality to construct, operate, expand or close the facilities shall provide financial assurances demonstrating fin~~ancial ca~~pability to meet requirements for operation and closure of the facilities and remediation. Requirements for financial assurances shall be determined by the agency as set forth in rule. Financial assurances may include any mechanism or combination of mechanisms meeting the requirements established by agency rule including, but not limited to, surety bonds, trust funds, irrevocable letters of credit, insurance and corporate guarantees. The mechanism(s) used to demonstrate financial capability must be legally valid, binding and enforceable under applicable law and must ensure that the funds necessary to meet the costs of closure and remediation will be available whenever the funds are needed. The director may retain financial assurances for up to five (5) years after closure of a facility to ensure proper closure and remediation, as defined by rule.

(4) Those swine facilities described in section 39-7905, Idaho Code, shall meet the requirements of section 39-7907, Idaho Code, in addition to the requirements of this chapter and the department of environmental quality's rules regulating swine and poultry facilities, prior to the issuance of a final permit by the director. The director shall require that swine facilities be constructed in a phased manner over a period of time and that no additional facilities be constructed until the director approves the associated waste treatment system. The director may require that poultry facilities be constructed in a phased manner over a period of time and that no additional facilities be constructed until the director approves the associated waste treatment system.

(5) Nothing in this section prohibits the boards of county commissioners of any county or the governing body of any city from adopting regulations that are more stringent or that require greater financial assurances than those imposed by the ~~division~~ department of environmental quality. A board of county commissioners of a county or a governing

body of a city in which a swine or poultry facility is located may choose to determine whether the facility is properly closed according to imposed standards or may leave that determination to the ~~division~~ department. This choice shall be communicated to the director in writing when closure begins; provided that determinations of closure by a board of county commissioners of a county or a governing body of a city in which the swine or poultry facility is located shall not permit closure under less stringent requirements than those imposed by the ~~division~~ department.

~~(5)~~ As used in this section:

(a) "Animal unit" means a unit equaling two and one-half (2.5) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds), or ten (10) weaned swine, each weighing under twenty-five (25) kilograms, or one hundred (100) poultry. Total animal units are calculated by adding the number of swine weighing over twenty-five (25) kilograms multiplied by four-tenths (.4) plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (.1) plus the number of poultry multiplied by one one-hundredth (.01).

(b) "Facilities" or "facility" means a place, site or location or part thereof where swine or poultry are kept, handled, housed or otherwise maintained and includes, but is not limited to, buildings, lots, pens and animal waste management systems, and which has a one-time animal unit capacity of two thousand (2,000) or more animal units.

(c) "Large swine and poultry feeding operations" means swine facilities and poultry facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units.

(d) "One-time animal unit capacity" means the maximum number of animal units that a facility is capable of housing at any given time.

SECTION 2. That Section 39-7907, Idaho Code, be, and the same is hereby amended to read as follows:

39-7907. LOCATION GUIDELINES. This section provides location guidelines for swine facilities regulated by this chapter. Where the location guidelines provide a specific setback distance, that distance is the ~~maximum~~ minimum setback distance that may be imposed. ~~Lesser~~ Further setback distances ~~may~~ shall be imposed as circumstances ~~permit~~ require.

(1) A swine facility regulated by this chapter shall not:

(a) Locate its closest waste facility within at least two (2) miles of any occupied residence not owned or leased by the owner or operator of the swine facility;

(b) Land apply liquid animal waste within at least one (1) mile of the nearest corner of an occupied residence not owned or leased by the owner or operator of the swine facility.

(2) The setback distances provided in subsection (1) of this section do not apply if the affected property owner executes a written waiver with the owner or operator of the swine facility, under terms and conditions that the parties may negotiate. The written waiver is effective when recorded in the offices of the recorder of deeds in the county in which the property is located. The recorded waiver shall preclude enforcement of the setback distances contained in subsection (1) of this

section. A change in ownership of the applicable property or change in ownership of the swine facility does not affect the validity of the waiver.

(3) All distances between occupied residences and swine facilities shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste structure or waste facility, as defined by the director.

(4) No liquid animal waste may be land applied within at least one hundred (100) feet of an existing public or private drinking water well.

(5) The minimum distance from a waste structure or waste facility to a domestic well, public well or public water source shall be at least one (1) mile.

(6) Further, swine facilities shall not be located:

(a) In areas designated by the United States fish and wildlife service or the Idaho department of fish and game as critical habitat for endangered or threatened species of plants, fish or wildlife;

(b) So as to be at variance with any locally adopted land use plan or zoning requirement unless otherwise provided by local law or ordinance. If no land use plan has been adopted by the local government which would have land use jurisdiction pursuant to chapter 65, title 67, Idaho Code, the recommendations of the panel approving a site shall contain an analysis of the requirements and guidelines provided in this chapter. The analysis shall be accompanied by findings and conclusions, entered by the local government with jurisdiction after the local government has held a public hearing in accord with section 67-6509, Idaho Code, that the public interest would be served by locating a swine facility on the site for which approval is sought;

(c) ~~Within~~ No nearer than one (1) mile ~~of~~ to any local, state or national park, or land reserved or withdrawn for scenic or natural use; and

(d) ~~Within~~ No nearer than two (2) miles ~~of~~ to a school, church, hospital or community center.

(7) A swine facility active unit shall not be located:

(a) Within a one hundred (100) year flood plain;

(b) Within five hundred (500) feet upstream of a perennial stream or river;

(c) Within one thousand (1,000) feet of any perennial lake or pond;

(d) So as to cause any measurable impact on water quality limited streams;

(e) Within a wetland;

(f) Within two hundred (200) feet to the property line of adjacent land;

(g) Within two hundred (200) feet of a holocene fault or adjacent to geologic features which could compromise the structural integrity of a swine facility active unit unless the owner or operator demonstrates to the director that an alternative setback distance of less than two hundred (200) feet will prevent damage to the structural integrity of the swine facility unit and will be protective of human health and the environment. For the purposes of this subsection:

(i) "Fault" means a fracture or a zone of fractures in any material along which strata on one (1) side have been displaced with respect to that on the other side;

(ii) "Displacement" means the relative movement of any two (2) sides of a fault measured in any direction;

(iii) "Holocene" means the most recent epoch of the quaternary period, extending from the end of the pleistocene epoch to the present.

(h) Within seismic impact zones, unless the owner or operator demonstrates to the director that all swine facility active units and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator must place the demonstration in the operating record and notify the director that it has been placed in the operating record. For the purposes of this section:

(i) "Seismic impact zone" means an area with a ten percent (10%) or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed one-tenth (0.10g) in two hundred fifty (250) years;

(ii) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a ninety percent (90%) or greater probability that the acceleration will not be exceeded in two hundred fifty (250) years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment;

(iii) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

(i) On any site whose natural state would be considered unstable in that its undisturbed character would not permit establishment of a swine facility without unduly threatening the integrity of the design due to inherent site instability;

(j) Where the integrity of the site would be compromised by the presence of ground water which would interfere with construction or operation of the active unit.

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 9, 2001.

CHAPTER 351
(H.B. No. 348)

AN ACT

RELATING TO ACQUIRING SPECIFIED ENDOWMENT LANDS FOR THE IDAHO STATE UNIVERSITY/UNIVERSITY OF IDAHO CENTER FOR HIGHER EDUCATION IN IDAHO FALLS, IDAHO; AMENDING CHAPTER 1, TITLE 58, IDAHO CODE, BY THE ADDI-

TION OF A NEW SECTION 58-156, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO DESCRIBE CERTAIN ENDOWMENT LANDS LOCATED ADJACENT TO THE IDAHO STATE UNIVERSITY/UNIVERSITY OF IDAHO CENTER FOR HIGHER EDUCATION IN IDAHO FALLS, IDAHO, TO ACKNOWLEDGE THE STATE BOARD OF EDUCATION'S MANAGEMENT OF THE IDAHO STATE UNIVERSITY/UNIVERSITY OF IDAHO CENTER FOR HIGHER EDUCATION IN IDAHO FALLS, IDAHO, TO ACKNOWLEDGE THAT THE LANDS ARE HELD IN TRUST BY THE STATE BOARD OF LAND COMMISSIONERS, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL RECEIVE TITLE TO REAL PROPERTY OF EQUIVALENT VALUE THROUGH LAND EXCHANGE, TO PROVIDE LEGISLATIVE APPROVAL OF SUCH A LAND EXCHANGE, TO ACKNOWLEDGE THAT THE STATE BOARD OF EDUCATION AND THE STATE BOARD OF LAND COMMISSIONERS HAVE AGREED TO ENTER INTO A CONTRACT TO EFFECT THE LAND EXCHANGE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL PAY FOR ALL COSTS OF THE TRANSACTION AND TO PROVIDE THAT IT IS THE INTENT OF THE LEGISLATURE TO PROVIDE FUNDS FOR THE DESCRIBED LAND EXCHANGE.

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

SECTION 1. That Chapter 1, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-156, Idaho Code, and to read as follows:

58-156. LEGISLATIVE FINDINGS AND PURPOSES. The legislature of the state of Idaho finds:

(1) That the following described tracts of public school endowment land, containing nineteen and twenty-seven one-hundredths (19.27) acres of endowment land, more or less, managed by the state board of land commissioners, are located adjacent to the Idaho State University/University of Idaho Center for Higher Education in Idaho Falls, Idaho, in Township 2 North, Range 37 East, B.M., Bonneville County:

(a) Lot 9, Pt. NW1/4 NE1/4, Pt. NE1/4 NW1/4, containing six and four-tenths (6.4) acres;

(b) Lot 10, Pt. SW1/4 NE1/4, Pt. SE1/4 NW1/4, containing twelve and eighty-seven one-hundredths (12.87) acres.

(2) That Idaho State University and the University of Idaho, their respective foundations, and the state board of education own and manage the Center for Higher Education in Idaho Falls, Idaho, and the state board of education has expressed its desire to obtain and manage the described parcels of endowment land as part of the Center for Higher Education in Idaho Falls, Idaho;

(3) That the endowment lands are held in trust by the state board of land commissioners and are managed to generate the maximum long-term financial returns to the public school endowment;

(4) That any transaction in which the state board of education acquires title to these endowment lands, the state board of land commissioners shall receive title to real property of equivalent market value through land exchange;

(5) That the legislature approves of a course of action by which the state board of education on behalf of Idaho State University and the University of Idaho acquires the described endowment lands now owned by the state board of land commissioners, through land exchange at not less than fair market value, as determined by qualified appraisals;

(6) That the state board of education and the state board of land commissioners have agreed to enter into a contract by which the state board of education may acquire the described endowment lands, through land exchange at not less than fair market value, as determined by qualified appraisals;

(7) That any acquisition by the state board of education of title to the described endowment lands shall be subject to any outstanding rights and reservations of record, and the state board of education shall pay all costs of the transactions including, but not limited to, surveys and appraisals.

(8) It is the intent of the legislature to provide funds for this exchange to the state board of education within the state board of education's general fund appropriation for fiscal year 2002, to facilitate the state board of education, on behalf of Idaho State University and the University of Idaho, to purchase real property of equivalent market value and to enter into a land exchange with the state board of land commissioners to acquire the nineteen and twenty-seven one-hundredths (19.27) acres, more or less, of endowment lands.

Approved April 9, 2001.

CHAPTER 352
(H.B. No. 359)

AN ACT

RELATING TO HIGHWAYS; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-513B, IDAHO CODE, TO DESIGNATE THAT PORTION OF U.S. HIGHWAY 95 THROUGH THE CANYON BETWEEN MIDVALE AND CAMBRIDGE AS THE "STU DOPF MEMORIAL HIGHWAY."

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

SECTION 1. That Chapter 5, 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 40-513B, Idaho Code, and to read as follows:

40-513B. PORTION OF U.S. HIGHWAY 95 DESIGNATED AS STU DOPF MEMORIAL HIGHWAY. That portion of United States Highway 95 through the canyon between Midvale and Cambridge shall be known and designated as the "Stu Dopf Memorial Highway" in honor of the journalist who was interested in increasing the ease and safety of travel along U.S. Highway 95. The Idaho transportation department shall identify areas suitable for posting markers along that portion of U.S. Highway 95 indicating its designation as the Stu Dopf Memorial Highway.

Approved April 9, 2001.

CHAPTER 353
(H.B. No. 364)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES WEIGHING IN EXCESS OF SIXTY THOUSAND POUNDS GROSS VEHICLE WEIGHT; AMENDING SECTION 49-434, IDAHO CODE, TO REVISE THE ANNUAL REGISTRATION FEE SCHEDULE FOR MOTOR VEHICLES WEIGHING IN EXCESS OF SIXTY THOUSAND POUNDS AND TO PROVIDE FOR QUARTERLY INSTALLMENT PAYMENTS OF THE ANNUAL REGISTRATION FEE; AMENDING SECTION 17, CHAPTER 418, LAWS OF 2000, TO DELETE LEGISLATIVE INTENT FOR FULL PAYMENT OF THE ANNUAL REGISTRATION FEE ON THE REGISTRATION FEE ONLY SYSTEM AT THE TIME OF REGISTRATION OR RENEWAL OF REGISTRATION FOR REGISTRATIONS AND RENEWAL OF REGISTRATIONS OCCURRING ON AND AFTER OCTOBER 1, 2001; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 48.00	$ 48.00
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 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 valida-

tion 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. Refunds 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 document. 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) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight 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)~~	~~Total Miles Driven~~		
	~~1-7,500~~	~~7,501-50,000~~	~~Over 50,000~~
~~60,001-62,000~~	~~$210~~	~~$ 840~~	~~$1,400~~
~~62,001-64,000~~	~~240~~	~~960~~	~~1,600~~
~~64,001-66,000~~	~~270~~	~~1,080~~	~~1,800~~
~~66,001-68,000~~	~~300~~	~~1,200~~	~~2,000~~
~~68,001-70,000~~	~~330~~	~~1,320~~	~~2,200~~
~~70,001-72,000~~	~~360~~	~~1,440~~	~~2,400~~
~~72,001-74,000~~	~~390~~	~~1,560~~	~~2,600~~
~~74,001-76,000~~	~~420~~	~~1,680~~	~~2,800~~
~~76,001-78,000~~	~~450~~	~~1,800~~	~~3,000~~
~~78,001-80,000~~	~~480~~	~~1,920~~	~~3,200~~
~~80,001-82,000~~	~~495~~	~~1,980~~	~~3,300~~
~~82,001-84,000~~	~~510~~	~~2,040~~	~~3,400~~
~~84,001-86,000~~	~~525~~	~~2,100~~	~~3,500~~
~~86,001-88,000~~	~~540~~	~~2,160~~	~~3,600~~
~~88,001-90,000~~	~~555~~	~~2,220~~	~~3,700~~
~~90,001-92,000~~	~~570~~	~~2,280~~	~~3,800~~
~~92,001-94,000~~	~~585~~	~~2,340~~	~~3,900~~
~~94,001-96,000~~	~~600~~	~~2,400~~	~~4,000~~
~~96,001-98,000~~	~~615~~	~~2,460~~	~~4,100~~
~~98,001-100,000~~	~~630~~	~~2,520~~	~~4,200~~
~~100,001-102,000~~	~~645~~	~~2,580~~	~~4,300~~
~~102,001-104,000~~	~~660~~	~~2,640~~	~~4,400~~
~~104,001-106,000~~	~~675~~	~~2,700~~	~~4,500~~
~~106,001-108,000~~	~~690~~	~~2,760~~	~~4,600~~
~~108,001-110,000~~	~~705~~	~~2,820~~	~~4,700~~

~~Maximum Gross Weight of Vehicle (Pounds)~~	~~Total Miles Driven~~		
~~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~~

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	$223	$ 511	$ 789	$1,068	$1,560
62,001-64,000	$251	$ 576	$ 890	$1,205	$1,760
64,001-66,000	$280	$ 642	$ 992	$1,342	$1,960
66,001-68,000	$309	$ 707	$1,093	$1,479	$2,160
68,001-70,000	$337	$ 773	$1,194	$1,615	$2,360
70,001-72,000	$366	$ 838	$1,295	$1,752	$2,560
72,001-74,000	$394	$ 904	$1,396	$1,889	$2,760
74,001-76,000	$423	$ 969	$1,498	$2,026	$2,960
76,001-78,000	$451	$1,035	$1,599	$2,163	$3,160
78,001-80,000	$480	$1,100	$1,700	$2,300	$3,360
80,001-82,000	$494	$1,133	$1,751	$2,368	$3,460
82,001-84,000	$509	$1,165	$1,801	$2,437	$3,560
84,001-86,000	$523	$1,198	$1,852	$2,505	$3,660
86,001-88,000	$537	$1,231	$1,902	$2,574	$3,760
88,001-90,000	$551	$1,264	$1,953	$2,642	$3,860
90,001-92,000	$566	$1,296	$2,004	$2,711	$3,960
92,001-94,000	$580	$1,329	$2,054	$2,779	$4,060
94,001-96,000	$594	$1,362	$2,105	$2,848	$4,160
96,001-98,000	$609	$1,395	$2,155	$2,916	$4,260
98,001-100,000	$623	$1,427	$2,206	$2,985	$4,360
100,001-102,000	$637	$1,460	$2,257	$3,053	$4,460
102,001-104,000	$651	$1,493	$2,307	$3,121	$4,560
104,001-106,000	$666	$1,526	$2,358	$3,190	$4,660
106,001-108,000	$680	$1,558	$2,408	$3,258	$4,760
108,001-110,000	$694	$1,591	$2,459	$3,327	$4,860
110,001-112,000	$709	$1,624	$2,510	$3,395	$4,960
112,001-114,000	$723	$1,657	$2,560	$3,464	$5,060
114,001-116,000	$737	$1,689	$2,611	$3,532	$5,160
116,001-118,000	$751	$1,722	$2,661	$3,601	$5,260
118,001-120,000	$766	$1,755	$2,712	$3,669	$5,360
120,001-122,000	$780	$1,788	$2,763	$3,738	$5,460
122,001-124,000	$794	$1,820	$2,813	$3,806	$5,560
124,001-126,000	$809	$1,853	$2,864	$3,874	$5,660
126,001-128,000	$823	$1,886	$2,914	$3,943	$5,760
128,001-129,000	$837	$1,918	$2,965	$4,011	$5,860

(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).

(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.

(10) An owner registering under subsection (8)(a) or (8)(c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter (1/4) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8)(a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter (1/4) of the Idaho fee due at the time of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) 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.

SECTION 2. That Section 17, Chapter 418, Laws of 2000, be, and the same is hereby amended to read as follows:

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 3. This act shall be in full force and effect on and after October 1, 2001.

Approved April 9, 2001.

CHAPTER 354
(H.B. No. 367)

AN ACT

RELATING TO THE SALES TAX EXEMPTION FOR MOTOR VEHICLES AND USED MOBILE HOMES; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE THAT VESSELS AND ATTACHED MOTOR, ALL-TERRAIN VEHICLES, UTILITY TRAILERS AND SNOWMOBILES SHALL BE EXEMPTED FROM SALES TAX IN THE SAME MANNER AS PROVIDED FOR MOTOR VEHICLES AND USED MOBILE HOMES.

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

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

63-3622R. MOTOR VEHICLES, ~~AND~~ USED ~~MOBILE~~ MANUFACTURED HOMES, VESSELS AND ATTACHED MOTOR, ALL-TERRAIN VEHICLES, UTILITY TRAILERS AND SNOWMOBILES. There are exempted from the taxes imposed by this chapter:

(a) Sales of motor vehicles, or trailers, vessels and attached motor, all-terrain vehicles (ATVs), utility trailers and snowmobiles for use outside of this state, even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels and attached motor, ATVs, utility trailers, snowmobiles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) The motor vehicles, vessels and attached motor, ATVs, utility trailers, snowmobiles and trailers will be titled and licensed immediately under the laws of ~~another state~~, if required to be titled and licensed in that state, will not be used in this state more than ~~twenty-five--percent--(25%)--of--the-mileage~~ ninety (90) days in any calendar year, and will not be required to be titled under the laws of this state.

(b) Sale of used manufactured homes, whether or not such used manu-

factured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a "new manufactured home," as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any calendar year, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any calendar year.

(d) The use or other consumption of a motor vehicle temporarily donated to a driver's education program sponsored by a nonprofit educational institution as defined in section 63-3622O, Idaho Code.

Approved April 9, 2001.

CHAPTER 355
(H.B. No. 369)

AN ACT

RELATING TO TEMPORARY MOTOR VEHICLE REGISTRATIONS; AMENDING SECTION 49-119, IDAHO CODE, TO DEFINE "REGISTERED MAXIMUM GROSS WEIGHT" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-432, IDAHO CODE, TO PROVIDE FOR TEMPORARY OPERATION OF A VEHICLE IN EXCESS OF THE REGISTERED MAXIMUM GROSS VEHICLE WEIGHT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE FOR PURCHASE OF TEMPORARY PERMITS FOR OPERATION OF VEHICLES AT WEIGHTS IN EXCESS OF THE REGISTERED MAXIMUM GROSS WEIGHT; AND AMENDING SECTION 49-438, IDAHO CODE, TO PROVIDE A PENALTY FOR OPERATING A VEHICLE AT A WEIGHT IN EXCESS OF THE REGISTERED MAXIMUM GROSS WEIGHT ALLOWED BY A TEMPORARY PERMIT.

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

SECTION 1. That Section 49-119, Idaho Code, be, and the same is hereby amended to read as follows:

49-119. DEFINITIONS -- R.

(1) "Racing" means the use of one (1) or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical stamina or endurance of drivers over long-distance driving routes.

(2) "Radio operator, amateur" means any person licensed by the Fed-

eral Communications Commission to engage in private and experimental two-way radio operation and holding a conditional class license or higher.

(3) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(4) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(5) "Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(6) "Recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.

(7) "Registered maximum gross weight" means the maximum gross weight established on the registration document as declared by the owner at the time of registration or renewal of registration.

(8) "Registered owner" means any person required to register a vehicle, whether or not a ~~lien-holder~~ lienholder appears on the title in the records of the department.

(~~8~~9) "Registration" means the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles.

(~~9~~10) "Rental utility trailer" means a utility trailer offered for hire to the general public for private or commercial use.

(~~10~~11) "Rescission of sale." (See section 28-2-608, Idaho Code)

(~~11~~12) "Resident" means for purposes of vehicle registration, titling, a driver's license or an identification card, a person whose domicile has been within Idaho continuously for a period of at least ninety (90) days, excluding a full-time student who is a resident of another state. A person, including a full-time student who has established a domicile in Idaho may declare residency earlier than ninety (90) days for vehicle registration, titling, driver's license and identification card purposes. Establishment of residency shall include a spouse and dependent children who reside with that person in the domicile. A domicile shall not be a person's workplace, vacation or part-time residence.

(~~12~~13) "Residential district." (See "District," section 49-105, Idaho Code)

(~~13~~14) "Residential neighborhood" for purposes of this chapter, is an area abutting a highway which is used primarily for nontransient human habitation, parks and churches.

(~~14~~15) "Revocation of driver's license" means the termination by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the highways, which terminated driver's license or privilege shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this title.

(~~15~~16) "Revocation of vehicle registration" means the termination by

formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon revocation, the privileges of operating the vehicles on Idaho highways is terminated until the difficulty that caused the revocation is corrected and an application for new registration is presented and acted upon.

(16~~7~~) "Ridesharing arrangement" means the nonprofit transportation in a passenger motor vehicle with a seating capacity not exceeding fifteen (15) people including the driver, which is not otherwise used for commercial purposes or as a public conveyance, whereby a fixed group, not exceeding fifteen (15) people including passengers and driver, is transported between their residences or nearby termini, and their places of employment or educational or other institutions or termini near those places, in a single daily round trip where the driver is also on the way to or from his place of employment or education or other institution.

(1~~7~~8) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. The term shall not be interpreted to mean that a highway user is relieved from the duty to exercise reasonable care at all times and from doing everything to prevent an accident. Failure to yield right-of-way shall not be construed as negligence per se or as prima facie evidence of negligence.

(1~~8~~9) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and rights-of-way.

SECTION 2. That Section 49-432, Idaho Code, be, and the same is hereby amended to read as follows:

49-432. TEMPORARY REGISTRATION FOR RESIDENTS AND NONRESIDENTS -- FEES. (1) When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho, the department may issue a ~~trip~~ permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

(a) Ninety-six (96) hour ~~trip~~ permit
Single vehicle.....$25.00
Combination of vehicles $50.00

(b) Fuel permit $25.00

(2) Permits to operate a vehicle or combination of vehicles in excess of the registered maximum gross vehicle weight up to a maximum of one hundred six thousand (106,000) pounds gross vehicle weight shall be:

(a) One hundred twenty (120) hour permit to increase gross weight $50.00

(b) Thirty (30) day permit to increase gross vehicle weight:

Maximum Registered Gross Weight of Vehicle (Pounds)	Temporary Permitted Maximum Gross Weight (Pounds)			
	80,000	86,000	96,000	106,000
50,001-60,000	$225	$250	$275	$300
60,001-70,000	$150	$175	$200	$250
70,001-78,000	$ 75	$150	$175	$200
78,001-84,000		$ 75	$150	$175
84,001-94,000			$ 75	$150
94,001-104,000				$ 75

The permit issued pursuant to this subsection (2) shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable. At the time of purchasing a permit, the applicant may purchase additional permits in any combination which does not exceed a maximum of ninety (90) days.

(3) A temporary ~~trip~~ permit shall be in a form, and issued under rules adopted by the board, and shall be displayed at all times while the vehicle is being operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(4) Any permit issued pursuant to subsection (2) of this section shall be purchased prior to movement of the vehicle on a highway, and such permit shall be in addition to and available only to a vehicle which is currently and validly registered in Idaho pursuant to section 49-432(1), 49-434(1), 49-434(8)(c) or 49-435, Idaho Code.

(~~3~~5) The department may select vendors to serve as agents on state highways for the purpose of ~~selling trip~~ permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of ~~two~~ three dollars ($~~2~~3.00) per permit sold, and he shall collect the fees specified in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

(~~4~~6) An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee, shall be eligible for a ninety-six (96) hour ~~trip~~ permit for the unladen movement from the point of entry into the state to the destination of the new lessee's place of business.

SECTION 3. 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 Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 48.00	$ 48.00
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 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. Refunds 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 document. 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) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight 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)	Total Miles Driven		
	1-7,500	7,501-50,000	Over 50,000
60,001-62,000	$210	$ 840	$1,400
62,001-64,000	240	960	1,600
64,001-66,000	270	1,080	1,800
66,001-68,000	300	1,200	2,000
68,001-70,000	330	1,320	2,200
70,001-72,000	360	1,440	2,400
72,001-74,000	390	1,560	2,600
74,001-76,000	420	1,680	2,800
76,001-78,000	450	1,800	3,000
78,001-80,000	480	1,920	3,200
80,001-82,000	495	1,980	3,300
82,001-84,000	510	2,040	3,400
84,001-86,000	525	2,100	3,500
86,001-88,000	540	2,160	3,600
88,001-90,000	555	2,220	3,700
90,001-92,000	570	2,280	3,800
92,001-94,000	585	2,340	3,900
94,001-96,000	600	2,400	4,000
96,001-98,000	615	2,460	4,100
98,001-100,000	630	2,520	4,200
100,001-102,000	645	2,580	4,300
102,001-104,000	660	2,640	4,400
104,001-106,000	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) In addition to the fees set forth in paragraphs (a) and (c) of this subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable.

(e) 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)(~~de~~).

(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.

(10) 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.

SECTION 4. 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 OR PERMITTED MAXIMUM REGISTERED GROSS WEIGHT. (1) 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 maximum gross weight of the vehicle specified in this title~~, without having paid the additional registration fees required,~~ shall have committed a violation under the infraction or misdemeanor provisions of section 49-1013, Idaho Code.

(2) 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 maximum gross weight not authorized by a valid permit issued pursuant to section 49-432, Idaho Code, shall have committed a violation under the infraction or misdemeanor provisions of section 49-1013, Idaho Code.

Approved April 9, 2001.

CHAPTER 356
(H.B. No. 378)

AN ACT

RELATING TO TAXATION; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602EE, IDAHO CODE, TO PROVIDE THAT CERTAIN TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM TAXATION; AMENDING SECTION 63-3067, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF INCOME TAX MONEYS TO REPLACE PROPERTY TAXES ON CERTAIN PERSONAL PROPERTY EXEMPT FROM TAXATION, TO PROVIDE A FORMULA 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 Chapter 6, 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 63-602EE, Idaho Code, and to read as follows:

63-602EE. PROPERTY EXEMPT FROM TAXATION -- CERTAIN TANGIBLE PERSONAL PROPERTY. The following property is exempt from taxation: class 2 property that is agricultural machinery and equipment and exclusively used in agriculture during the immediately preceding tax year. For purposes of this section:

(1) "Agricultural machinery and equipment" shall mean any machinery and equipment that is used in:

(a) Production of field crops including, but not limited to, grains, feed crops, fruits and vegetables; or

(b) The grazing, feeding or raising of livestock, fur-bearing animals, fish, fowl and bees to be sold or used as part of a net profit-making agricultural enterprise or dairy.

(2) Buildings shall not be considered to be agricultural machinery and equipment.

SECTION 2. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(2) All moneys except as provided in subsection (1) of this section, and except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty percent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of

repaying overpayments, for the purpose of remitting to counties and taxing districts for personal property exempt from taxation pursuant to section 63-602EE, Idaho Code, as provided in subsection (3) of this section, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment, and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

(3) The state tax commission shall calculate the amount that each county assessed in taxes in tax year 2000 on property that is exempt from taxation pursuant to section 63-602EE, Idaho Code, and shall remit to the county treasurer for distribution to each taxing district in the county one hundred six percent (106%) of the amount calculated as follows:

The county commissioners in each county shall certify to the state tax commission by July 1, 2001, the year 2000 tax charge, applicable to the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that such property was categorized in year 2000 as farm machinery, tools and equipment pursuant to rules of the state tax commission, for the portion of each taxing district or unit within the county. For nonschool districts the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county beginning in October 2001. For school districts the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district beginning in October 2001. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distri-

bution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy plus .001 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(4) Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of one million five hundred thousand dollars ($1,500,000) shall be transferred to the general ~~account~~ 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.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2001.

Approved April 9, 2001.

CHAPTER 357
(S.B. No. 1037)

AN ACT

RELATING TO CERTAIN ABANDONED CHILDREN; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 81, TITLE 39, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN, TO PROVIDE CERTAIN REQUIREMENTS, TO PROVIDE FOR CONFIDENTIALITY, TO PROVIDE IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR CERTAIN SAFE HAVENS AND TO PROVIDE CERTAIN CUSTODIAL PARENTS WITH IMMUNITY FROM PROSECUTION FOR ABANDONMENT, TO PROVIDE FOR PROTECTIVE CUSTODY, TO PROVIDE FOR PLACEMENT AND TO PROVIDE FOR IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR CERTAIN INDIVIDUALS TAKING CHILDREN INTO CUSTODY, TO PROVIDE FOR SHELTER CARE HEARINGS, TO PROVIDE FOR INVESTIGATIONS, TO PROVIDE FOR ADJUDICATORY HEARINGS AND TO PROVIDE FOR TERMINATION OF PARENT-CHILD RELATIONSHIPS, TO PROVIDE FOR CLAIMS OF PARENTAL RIGHTS OF CERTAIN ABANDONED CHILDREN, TO PROVIDE FOR CERTIFICATION OF REGISTRY SEARCH AND TO PROVIDE FOR A PROCEDURE WHERE A CLAIM FOR PARENTAL RIGHTS IS MADE AND TO PROVIDE FOR A REPORT TO THE LEGISLATURE; AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF THE REGISTRY FOR PARENTAL CLAIMS FOR CERTAIN ABANDONED CHILDREN TO THOSE REGISTERING NOTICE OF COMMENCEMENT OF PATERNITY PROCEEDINGS; AMENDING SECTION 16-1612, IDAHO CODE, TO PROVIDE FOR CUSTODY OF CERTAIN ABANDONED CHILDREN WITHOUT AN ORDER; AMENDING SECTION 16-1613, IDAHO CODE, TO PROVIDE AN EXCEPTION TO NOTICE REQUIREMENTS FOR SHELTER CARE PROCEEDINGS FOR PARENTS OF CERTAIN ABANDONED CHILDREN; AMENDING

SECTION 16-1632, IDAHO CODE, TO LIMIT THE RIGHTS AND POWERS OF THE GUARDIAN AD LITEM TO OBTAIN INFORMATION REGARDING THE PARENTS OF CERTAIN ABANDONED CHILDREN; AMENDING SECTION 16-2007, IDAHO CODE, TO PROVIDE THAT CERTAIN PARENTS SHALL BE DEEMED TO HAVE ABANDONED A CHILD LEFT WITH A SAFE HAVEN AND TO HAVE WAIVED ANY RIGHT IN RELATION TO THE CHILD AND WAIVED RIGHT TO NOTICE OF HEARING TO TERMINATE PARENTAL RIGHTS.

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 81, Title 39, Idaho Code, and to read as follows:

CHAPTER 81
IDAHO SAFE HAVEN ACT

39-8101. TITLE. This chapter shall be known as the "Idaho Safe Haven Act."

39-8102. DEFINITIONS. As used in this chapter, the following terms shall mean:

(1) "Custodial parent," for the purposes of this chapter, means, in the absence of a court decree, the parent with whom the child resides.

(2) "Safe haven" means:

(a) Hospitals licensed in the state of Idaho;

(b) Licensed physicians in the state of Idaho and staff working at their offices and clinics;

(c) Advanced practice professional nurses including certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter 14, title 54, Idaho Code;

(d) Physician assistants licensed pursuant to chapter 18, title 54, Idaho Code.

(e) Medical personnel when making an emergency response to a "911" call from a custodial parent, for the purpose of taking temporary physical custody of a child pursuant to the provisions of this act. For purposes of this act, "medical personnel" shall include those individuals certified by the department of health and welfare as:

(i) First responders;

(ii) Emergency medical technicians - basic;

(iii) Advanced emergency medical technicians - ambulance;

(iv) Emergency medical technicians - intermediate; and

(v) Emergency medical technicians - paramedic.

39-8103. EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN -- CONFIDENTIALITY -- IMMUNITY. (1) A safe haven shall take temporary physical custody of a child, without court order, if the child is personally delivered to a safe haven, provided that:

(a) The child is no more than thirty (30) days of age;

(b) The custodial parent delivers the child to the safe haven; and

(c) The custodial parent does not express an intent to return for the child.

(2) If a safe haven takes temporary physical custody of a child

pursuant to subsection (1) of this section, the safe haven shall:

(a) Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health and safety of the child during the temporary physical custody including, but not limited to, delivering the child to a hospital for care or treatment; and

(b) Immediately notify a peace officer or other person appointed by the court of the abandonment.

(3) The safe haven shall not inquire as to the identity of the custodial parent and, if the identity of a parent is known to the safe haven, the safe haven shall keep all information as to the identity confidential. The custodial parent leaving the child shall not be required to provide any information to the safe haven but may voluntarily provide information including, but not limited to, medical history of the parent(s) or the child.

(4) A safe haven with responsibility for performing duties under this section, and any employee, doctor, or other personnel working at the safe haven, are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a child and performing duties under this section.

(5) A custodial parent may leave a child with a safe haven in this state without being subjected to prosecution for abandonment pursuant to the provisions of title 18, Idaho Code, provided that the child was no more than thirty (30) days of age when it was left at the safe haven, as determined within a reasonable degree of medical certainty.

39-8104. PROTECTIVE CUSTODY -- PLACEMENT -- IMMUNITY. (1) Upon notification by a safe haven that a child has been abandoned pursuant to the provisions of this chapter, a peace officer or other person appointed by the court shall take protective custody of the child and shall immediately deliver the child to the care, control and custody of the department of health and welfare. Provided however, where the child requires further medical evaluation, care or treatment, the child shall be left in the care of a hospital and the peace officer or other person appointed by the court shall notify the court and prosecutor of the action taken and the location of the child so that a shelter care hearing may be held.

(2) The department of health and welfare shall place an abandoned child with a potential adoptive parent as soon as possible.

(3) A peace officer or other person appointed by the court who takes a child into custody under this section, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith or in violation of the provisions of this chapter.

39-8105. SHELTER CARE HEARING -- INVESTIGATION -- ADJUDICATORY HEARING -- TERMINATION OF PARENT-CHILD RELATIONSHIP. (1) A shelter care hearing shall be held pursuant to section 16-1614, Idaho Code, and the department shall file a petition for adjudicatory hearing to vest legal custody in the department pursuant to section 16-1610, Idaho Code, at or prior to the time set for shelter care hearing.

(2) A child protective investigation or criminal investigation shall not be initiated based on a claim of abandonment unless a claim of parental rights is made and the court orders the investigation.

(3) During the initial thirty (30) day period from the time the child was delivered to a safe haven by a custodial parent, the department shall request assistance from law enforcement officials to investigate through the missing children information clearinghouse and other state and national resources to ensure that the child is not a missing child.

(4) An adjudicatory hearing shall be conducted pursuant to the provisions of section 16-1608, Idaho Code, and section 16-1610, Idaho Code.

(5) As soon as practicable following the initial thirty (30) day period from the time the child was delivered to a safe haven by a custodial parent, the department shall petition to terminate the parental rights of the parent who abandoned the child at the safe haven and any unknown parent pursuant to section 16-1615, Idaho Code, and in accordance with chapter 20, title 16, Idaho Code.

39-8106. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the child may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of this chapter, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare. The vital statistics unit of the department of health and welfare shall maintain an abandoned child registry for this purpose which shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The department shall provide forms for the purpose of filing a claim of parental rights, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. Any parent claiming a parental right of an abandoned child, abandoned pursuant to the provisions of this chapter, shall file the form with the vital statistics unit of the department of health and welfare. The form must be filled out completely and provide the name and address for service of the person asserting the parental claim and set forth the approximate date the child was left in a safe haven. The form must be signed by the person claiming the parental right and be witnessed before a notary public. The department shall record the date and time the claim of parental rights is filed with the department. The claim shall be deemed to be duly filed with the department as of the date and time recorded on the claim by the department. To be valid, a claim of parental rights must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child. Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this section.

(2) Prior to the time set for hearing on the petition to terminate parental rights filed by the department of health and welfare, and prior to entry of an order terminating parental rights by the court, the department of health and welfare shall obtain and file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of claims of parental rights of abandoned children, abandoned pur-

suant to this chapter, and shall set forth the results of that search.

(3) If a claim of parental rights is made before an order terminating parental rights is entered by the court, notice pursuant to section 16-2007, Idaho Code, will be required and the court shall hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed sixty (60) days unless otherwise ordered by the court. During that period:

(a) The court shall order genetic testing to establish maternity or paternity, at the expense of the person or persons claiming the parental right.

(b) The department of health and welfare shall conduct an investigation pursuant to section 16-2008, Idaho Code, and in those cases where a guardian ad litem has been appointed, the guardian ad litem shall have all rights, powers and duties as provided for in chapter 16, title 16, Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.

(c) When indicated as a result of the investigation, a shelter care hearing shall be conducted by the court in accordance with section 16-1614, Idaho Code, within forty-eight (48) hours, or at an earlier time if ordered by the court, to determine whether the child should remain in the physical custody of the department or be released to a parent or other third party.

(d) Further proceedings shall be conducted as the court determines appropriate. However, where a claim of parental rights is made before an order terminating parental rights is entered by the court, a parent shall not be found to have neglected or abandoned a child placed in accordance with this chapter solely because the child was left with a safe haven.

(4) If there is no showing that a parent has claimed a parental right to the child, the department of health and welfare shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of parental claims for children abandoned pursuant to the provisions of this chapter and that no parental claim has been made. The certificate shall be filed with the court prior to the entrance of the final order of termination of parental rights.

39-8107. REPORT TO LEGISLATURE. The department of health and welfare shall evaluate the program and shall submit a written report on the program, including recommendations for revisions and improvements, to the senate health and welfare committee and the house of representatives health and welfare committee of the legislature of the state of Idaho no later than two (2) years after the effective date of this act.

SECTION 2. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE OF COMMENCEMENT OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his commencement of pro-

ceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of commencement of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 81, title 39, Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code, as provided by section 39-8106, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code;

(c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;

(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child.

(e) Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 81, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of chapter 81, title 39, Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the commencement of paternity proceedings, a person who claims to be the father of a child born out of wedlock, shall file with the vital statistics unit of the department of health and welfare, the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The notice of the commencement of paternity proceedings may be filed prior to the birth of the child, but must be filed prior to the

placement for adoption of the child in the home of prospective parents or prior to the date of commencement of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first. The notice of the commencement of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a registry for this purpose which shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The department shall record the date and time the notice of the commencement of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.

(3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.

(4) Any father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings prior to the placement for adoption of the child in the home of prospective parents or prior to the date of commencement of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first, is deemed to have waived and surrendered any right in relation to the child and shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child. The filing and registration of a notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code.

(5) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.

(6) Identities of putative fathers can only be released pursuant to procedures contained in chapter 3, title 9, Idaho Code.

(7) To cover the cost of implementing and maintaining said registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars ($10.00) at the time the putative father files his notice of his commencement of proceedings. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section. The board of health and welfare shall annually review the fees and expenses incurred pursuant to administering the provisions of this section.

(8) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare

shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.

SECTION 3. That Section 16-1612, Idaho Code, be, and the same is hereby amended to read as follows:

16-1612. CUSTODY -- TIME FOR HEARING.

(a) (1) A child may be taken into custody by a peace officer or other person appointed by the court without an order issued pursuant to subsection (d) of section 16-1606 or section 16-1610, Idaho Code, only where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child or where the child is an abandoned child pursuant to the provisions of chapter 81, title 39, Idaho Code.

(2) An alleged offender may be removed from the home of the victim of abuse or neglect by a peace officer or other person appointed by the court without an order, issued pursuant to subsection (e) of section 16-1606, Idaho Code, only where the child is endangered and prompt removal of an alleged offender is necessary to prevent serious physical or mental injury to the child.

(b) When a child is taken into custody under subsection (a) of this section, he may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, unless a shelter care hearing has been held pursuant to section 16-1614, Idaho Code, and the court orders an adjudicatory hearing.

(c) When an alleged offender is removed from the home under subsection (a) (2) of this section, a motion based on a sworn affidavit by the department must be filed simultaneously with the petition and the court shall determine at a shelter care hearing, held within a maximum of twenty-four (24) hours, excluding Saturdays, Sundays and holidays, whether the relief sought shall be granted, pending an adjudicatory hearing. Notice of such hearing shall be served upon the alleged offender at the time of removal or other protective relief.

SECTION 4. That Section 16-1613, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(3) with the exception of a child abandoned pursuant to the provisions of chapter 81, title 39, Idaho Code, notify each of the parents, guardian or other legal custodian that the child has been taken into custody, the type and nature of shelter care, and that the child may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, within which time there must be a shelter care hearing.

(b) A peace officer or other person appointed by the court who takes a child into custody under section 16-1612, Idaho Code, shall not be held liable either criminally or civilly unless the action of taking

the child was exercised in bad faith and/or the requirements of subsection (a) of this section are not complied with.

SECTION 5. That Section 16-1632, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(c) Except to the extent prohibited or regulated by federal law or by the provisions of chapter 81, title 39, Idaho Code, upon presentation of a copy of the order appointing guardian ad litem, any person or agency, includ~~ing,~~ without limitation, any hospital, school, organization, department of health and welfare, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the guardian ad litem to inspect and copy pertinent records necessary for the proceeding for which the guardian is appointed relating to the child and parent without consent of the child or parents.

SECTION 6. That Section 16-2007, Idaho Code, be, and the same is hereby amended to read as follows:

16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. After a petition has been filed, the court shall set the time and place for hearing, and shall cause notice thereof to be given to the petitioner, the parents of the child if married, the mother of the child if unmarried, those persons entitled to notice pursuant to section 16-1513, Idaho Code, the guardian of the person of the child, the person having legal custody of the child, any individual standing in loco parentis to the child, and the guardian ad litem of any party, or if service cannot be had on the parent or guardian, then upon the nearest blood relative named in the petition. The division of welfare of the Idaho department of health and welfare shall be given notice of the hearing if the petition for termination was not filed in conjunction with a petition for adoption or by an adoption agency licensed by the state of Idaho. Notice shall be given by personal service on the parents or guardian. Where reasonable efforts to effect personal service have been unsuccessful, the court shall order service by registered or certified mail to the last known address of the person to be notified and by publication once a week for three (3) successive weeks in a newspaper or newspapers to be designated by the court as most likely to give notice to the person to be served. The hearing shall take place no sooner than ten (10) days after service of notice, or where service is by registered or certified mail and publication, the

hearing shall take place no sooner than ten (10) days after the date of last publication. Notice and appearance may be waived by a parent in writing before the court or in the presence of, and witnessed by, a clerk of court or a representative of an authorized agency, provided that such parent has been apprised by the court or by such person of the meaning and consequences of the termination action. Where the parent resides outside the state, the waiver shall be acknowledged before a notary of the state and shall contain the current address of the parent. The parent who has executed such a waiver shall not be required to appear. When the termination of the parent and child relationship is sought under section 16-2005 d., Idaho Code, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may in any other case appoint a guardian ad litem, as may be deemed necessary or desirable, for any party. Where the putative father has failed to timely commence proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare, notice of his commencement of proceedings to establish his paternity of the child born out of wedlock, notice under this section is not required unless such putative father is one of those persons specifically set forth in section 16-1505(1), Idaho Code. If a parent fails to file a claim of parental rights pursuant to the provisions of chapter 81, title 39, Idaho Code, for a child left with a safe haven pursuant thereto, prior to entry of an order terminating their parental rights, that parent is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights.

Approved April 9, 2001.

CHAPTER 358
(S.B. No. 1147)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE AN EXCEPTION IN REGARD TO THE DUTY IMPOSED ON THE DEPARTMENT OF HEALTH AND WELFARE TO MAINTAIN A CENTRAL REGISTRY FOR THE REPORTING OF CHILD NEGLECT, ABUSE AND ABANDONMENT INFORMATION FOR INFORMATION REGARDING CERTAIN ABANDONED CHILDREN.

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

SECTION 1. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) The department shall administer treatment programs for the pro-

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

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

(c) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 81, title 39, Idaho Code.

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

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

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

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

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

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

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

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

Approved April 9, 2001.

CHAPTER 359
(S.B. No. 1182)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 2002; PROVIDING THE AMOUNT TO BE EXPENDED 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 MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; AMENDING SECTION 33-1004E, IDAHO CODE, TO INCREASE THE BASE SALARY FOR SALARY-BASED APPORTIONMENT; PROVIDING THAT THE STATE DEPARTMENT OF EDUCATION SHALL HAVE CERTAIN AUTHORITY; DIRECTING THAT $3,135,000 IN ONGOING EXPENDITURES AND $7,000,000 IN ONE-TIME EXPENDITURES BE EXPENDED FOR THE PUBLIC SCHOOL TECHNOLOGY GRANT PROGRAM AND DIRECTING A TRANSFER OF $265,000 TO THE LIBRARY SERVICES IMPROVEMENT FUND; DIRECTING THAT NOT MORE THAN $173,000 BE EXPENDED FOR THE IDAHO COUNCIL FOR TECHNOLOGY IN LEARNING EXPENSES; DIRECTING THAT $425,000 BE DISTRIBUTED TO TEACHERS AS CREATIVE AND INNOVATIVE

TEACHING GRANTS; DIRECTING THAT $4,575,000 BE ALLOCATED FOR PROGRAMS FOR STUDENTS WITH NON-ENGLISH OR LIMITED-ENGLISH PROFICIENCY, WITH UP TO $100,000 TO BE USED TO STUDY THE EFFECTIVENESS OF LIMITED-ENGLISH PROFICIENCY PROGRAMS; DIRECTING THAT $2,000,000 BE DISTRIBUTED FOR A TEACHER MENTORING AND PEER ASSISTANCE PROGRAM; DIRECTING THAT $4,700,000 OF THE MONEYS ACCRUING PURSUANT TO SECTIONS 63-2506 AND 63-2552A, IDAHO CODE, AND SUCH OTHER MONEYS WHICH MAY BECOME AVAILABLE PURSUANT TO SECTION 67-7439, IDAHO CODE, BE EXPENDED FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; DIRECTING THE DISTRIBUTION OF FUNDS FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO FEATURES OF THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; PROVIDING DIRECTION REGARDING THE EXPENDITURE AND DISTRIBUTION OF $1,000,000 FOR EMPLOYMENT AND TRAINING FOR WORKING WITH CHILDREN WITH DISABILITIES; DIRECTING THAT $600,000 BE ALLOCATED FOR TRAINING TO SERVE THE NEEDS OF GIFTED AND TALENTED STUDENTS, WITH UP TO $100,000 TO BE USED TO STUDY THE EFFECTIVENESS OF GIFTED AND TALENTED PROGRAMS; APPROPRIATING THE AMOUNT OF GENERAL FUND MONEY NECESSARY AS DETERMINED BY SECTION 33-1002D, IDAHO CODE, FOR PROPERTY TAX REPLACEMENT; DIRECTING THAT UP TO $418,000 BE DISTRIBUTED FOR MASTER TEACHER AWARD PAYMENTS; RECOGNIZING ADDITIONAL STATE FINANCIAL SUPPORT BEYOND ESTABLISHED BUDGETS AND EXPRESSING LEGISLATIVE INTENT FOR THE USE OF THESE FUNDS AS A ONE-TIME SUPPLEMENT TO THE DISCRETIONARY FUNDING NEEDS OF SCHOOL DISTRICTS; DIRECTING THAT $4,000,000 BE USED FOR THE IDAHO READING INITIATIVE; DIRECTING THAT NO FULL-TIME INSTRUCTIONAL STAFF BE PAID LESS THAN THE BASE SALARY FUNDING PROVIDED FOR SCHOOL DISTRICTS UNDER SECTION 33-1004E, IDAHO CODE; DIRECTING THAT $8,000,000 BE DISTRIBUTED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND USED FOR THE IMPLEMENTATION OF ACHIEVEMENT STANDARDS; DIRECTING DISTRICTS TO EXAMINE TEACHER USE OF PRIVATE FUNDS TO PURCHASE CLASSROOM SUPPLIES, AND ENCOURAGING DISTRICTS TO SET ASIDE CERTAIN GAINSHARING SAVINGS FOR THE PURCHASE OF CLASSROOM SUPPLIES; AND DECLARING AN EMERGENCY FOR SECTION 23 OF THIS ACT.

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

SECTION 1. The following amount shall be expended from state sources for public schools for the period July 1, 2001, through June 30, 2002:

FROM:

General Fund	$932,969,800
Public School Endowment Earnings Reserve Fund Transfer	47,675,000
Federal Mineral Royalties	2,000,000
Liquor Control Fund	1,200,000
Cigarette/Tobacco and Lottery Income Taxes	4,700,000
Miscellaneous Receipts/Balances	4,300,000
TOTAL	$992,844,800

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, 2001, through June 30, 2002:

FROM:

General Fund	$932,969,800

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, an amount not to exceed $992,844,800 for the period July 1, 2001, through June 30, 2002.

SECTION 4. Of the moneys appropriated in Section 3 of this act, the amount necessary for the Unemployment Insurance Program shall be expended according to Section 72-1349A, Idaho Code, for the period July 1, 2001, through June 30, 2002.

SECTION 5. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of ~~$20,915~~23,210. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive $2,000 per year for five (5) years. The instructional salary shall be increased by $2,000 for each master teacher. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of ~~$30,599~~33,760. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply

$~~16,232~~18,463 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 6. The State Department of Education shall have the authority to monitor and evaluate the use of funds appropriated to public school districts for enhancement programs.

SECTION 7. Of the moneys appropriated in Section 3 of this act, $10,400,000 shall be expended by the Superintendent of Public Instruction as follows: $3,135,000 for ongoing expenditures and $7,000,000 for one-time expenditures for the Public School Technology Grant Program upon direction of the Idaho Council for Technology in Learning, in accordance with Section 33-4806, Idaho Code; and $265,000 to be transferred to the Library Services Improvement Fund for the State Library's "Libraries Linking Idaho" (LiLI) statewide database licensing project.

SECTION 8. Of the $10,400,000 referred to in Section 7 of this act, an amount not to exceed $173,000 shall be expended by the Superintendent of Public Instruction for staff support and various expenses related to the Idaho Council for Technology in Learning as approved by the State Board of Education.

SECTION 9. Of the moneys appropriated in Section 3 of this act, $425,000 shall be distributed by the Superintendent of Public Instruction as grants to teachers or groups of teachers for the development of creative and innovative instructional methods or curriculum.

SECTION 10. Of the moneys appropriated in Section 3 of this act, $4,575,000 shall be distributed for support of programs for students with non-English or limited-English proficiency as follows: $100,000 may be utilized by the Superintendent of Public Instruction to study the costs and effectiveness of education of Hispanics and other limited-English proficiency students. All remaining funds shall be allocated to school districts pro rata based upon the population of limited-English proficient students under criteria established by the State Department of Education.

SECTION 11. Of the moneys appropriated in Section 3 of this act, $2,000,000 shall be distributed by the State Superintendent of Public Instruction for a program of administrative and supervisory support, mentoring, peer assistance and professional development. Payment shall be distributed to school districts pro rata, pursuant to the provisions of Sections 33-514 and 33-514A, Idaho Code.

SECTION 12. Of the moneys appropriated in Section 3 of this act, $4,700,000 shall be expended by the Superintendent of Public Instruction for the Idaho Safe and Drug-Free Schools Program, from funds determined by available revenues accruing pursuant to Sections 63-2506 and 63-2552A, Idaho Code, and other such moneys which may become available

pursuant to Section 67-7439, Idaho Code, for the period July 1, 2001, through June 30, 2002.

SECTION 13. The funds allocated for the Idaho Safe and Drug-Free Schools Program referenced in Section 12 of this act shall be distributed as follows: $100,000 may be utilized by the Superintendent of Public Instruction for program administration, technical assistance and evaluation. Of the remaining amount, ninety-five percent (95%) shall be distributed to each school district through a combination of a base amount of $1,500 and a prorated amount based on the prior year's average daily attendance. Of the remaining five percent (5%), $80,000 shall be distributed on a one-time basis to the Commission on Hispanic Affairs and used to encourage and direct Hispanic youth away from the habitual use of tobacco, alcohol and other drugs by developing programs for schools, families and communities, with the remainder used to make discretionary grants as determined by the Drug-Free Schools and Communities Advisory Board.

SECTION 14. It is legislative intent that the Idaho Safe and Drug-Free Schools Program shall include the following:

(1) Districts will develop a policy and plan which will provide a guide for their substance abuse program.

(2) Districts will have an advisory board to assist each district in making decisions relating to the program.

(3) The districts' substance abuse programs will be comprehensive to meet the needs of all students. This will include prevention programs, student assistance programs that address early identification and referral, and aftercare.

(4) Districts shall submit an annual evaluation of their program to the State Department of Education as to the effectiveness of their program.

SECTION 15. Of the moneys appropriated in Section 3 of this act, $1,000,000 shall be distributed for the following:

(1) Training of regular classroom teachers in working with children with disabilities;

(2) Employing and training aides to assist regular classroom teachers in working with children with disabilities;

(3) Employing substitute teachers whose employment allows regular classroom teachers to be involved in college planning, parent contact, Individual Education Plan (IEP) development, curriculum and modification, or other necessary activities directly related to meeting the needs of students in regular education classrooms;

(4) Moneys in this section shall be distributed pro rata to the districts as follows: fifty percent (50%) on the basis of the prior year's December 1 child count and fifty percent (50%) on the basis of the prior year's average daily attendance.

These funds shall be used to supplement rather than supplant existing efforts in the training of regular classroom teachers and the employment and training of aides. The State Department of Education shall create a one page report to be provided to the Legislature showing current individual district expenditures in this area, as well as a breakdown of how these appropriated moneys were spent. These funds shall not be used in any calculation or report to the federal government that obligates a

future appropriation of this amount or any other amount.

SECTION 16. Of the moneys appropriated in Section 3 of this act, $600,000 shall be used as follows: $100,000 shall be allocated to study the effectiveness and best practices of gifted and talented programs. The remainder shall be distributed to train general education teachers, gifted/talented (G/T) facilitators, administrators and/or parents to better meet the needs of gifted/talented students. One-half (1/2) of these funds shall be allocated pro rata based on each district's prior year total student enrollment compared to the prior year total statewide enrollment. One-half (1/2) of these funds shall be allocated based on the number of gifted/talented students identified and served as indicated on the prior year's December 1 child count. The number of gifted/talented students identified for purposes of this section shall not exceed seven percent (7%) of the district's total student enrollment. No district shall receive less than $500. Funds shall be distributed upon submission and approval of an application submitted to the State Department of Education demonstrating how in-service training will establish or improve identification and service of gifted/talented students in the five (5) mandated talent areas. The Superintendent of Public Instruction may reallocate any gifted/talented funds that are left unrequested by school districts to all other school districts that have requested gifted/talented funds, according to the distribution formula outlined in this section.

SECTION 17. Of the moneys appropriated in Section 3 of this act, there is hereby appropriated the amount necessary for property tax replacement, to be expended according to Section 33-1002D, Idaho Code, for the period July 1, 2001, through June 30, 2002.

SECTION 18. Of the moneys appropriated in Section 3 of this act, an amount up to $418,000 shall be awarded to those instructional staff members who have been recognized as master teachers by the National Board for Professional Teaching Standards, according to the provisions of Section 33-1004E, Idaho Code.

SECTION 19. Whereas the Legislature recognizes that due to the reduction of Public Employee Retirement System rates and the reduction of the estimated support units used to establish budgets for Idaho's school districts, an additional and substantial amount of state discretionary funding per support unit will become available. It is therefor the intent of the Legislature that this additional state financial support, together with those amounts estimated in the regular fiscal year 2002 budget, be utilized by the school districts as a one-time supplement to discretionary funding needs.

SECTION 20. Of the moneys appropriated in Section 3 of this act, $4,000,000 shall be used for literacy programs, as outlined in Sections 33-1614, 33-1615 and 33-1207A(2), Idaho Code.

SECTION 21. No full-time instructional employee employed by a school district shall be paid less than the base salary amount for instructional staff provided in Section 33-1004E, Idaho Code.

SECTION 22. Of the moneys appropriated in Section 3 of this act, $8,000,000 shall be for the implementation of Achievement Standards established under the provisions of the rules of the State Board of Education, IDAPA 08.02.03. These funds shall be distributed according to formulas and criteria established by the Superintendent of Public Instruction.

SECTION 23. Each school district board of trustees shall examine whether school district employees are using personal funds to pay for classroom supplies. If the board of trustees finds this to be true, then the board should allocate up to twenty-five percent (25%) of any savings generated from gainsharing credits allocated by the Public Employee Retirement System of Idaho pursuant to Section 59-1309, Idaho Code, for the purchase of classroom supplies. Any savings so allocated by a school district board of trustees shall be considered specifically dedicated for such purpose by enactment of the State Legislature for the purposes of any contract entered into by the school district. Any savings so allocated by a school district board of trustees shall be used to augment, and not replace, funds currently allocated for the purchase of classroom supplies.

SECTION 24. An emergency existing therefore, which emergency is hereby declared to exist, Section 23 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2001.

CHAPTER 360
(S.B. No. 1227)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2002; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board for 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, 2001, through June 30, 2002:

	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	$1,561,900	$254,700	$46,300			$ 1,862,900
Federal Grant Fund	220,700	93,700				314,400
TOTAL	$1,782,600	$348,400	$46,300			$ 2,177,300
II. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 232,400	$ 38,000	$ 5,300	$10,674,000		$10,949,700
Hazardous Materials/ Waste Enforcement Fund				66,800		66,800
Federal Grant Fund	213,700			4,553,900		4,767,600
TOTAL	$ 446,100	$ 38,000	$ 5,300	$15,294,700		$15,784,100
III. POSTSECONDARY PROGRAMS:						
FROM:						
General Fund					$34,412,700	$34,412,700
Unrestricted Current Fund					217,000	217,000
TOTAL					$34,629,700	$34,629,700
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:						
FROM:						
General Fund				$ 234,600		$ 234,600
Displaced Homemaker Fund				170,000		170,000
Federal Grant Fund				1,870,800		1,870,800
TOTAL				$ 2,275,400		$ 2,275,400
GRAND TOTAL	$2,228,700	$386,400	$51,600	$17,570,100	$34,629,700	$54,866,500

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 384, Laws of 2000, to be used for nonrecurring expenditures for the period July 1, 2001, through June 30, 2002.

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, 2001, 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, 2001, 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.

Approved April 9, 2001.

CHAPTER 361
(S.B. No. 1245)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; 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; EXEMPTING THE DEPARTMENT OF ENVIRONMENTAL QUALITY FROM THE TEN PERCENT TRANSFER BETWEEN PROGRAMS LIMITATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO STATE MATCH; APPROPRIATING AND AUTHORIZING THE TRANSFER OF GENERAL FUND MONEYS TO THE AIR QUALITY PERMITTING FUND; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO HIRING CONTRACTORS; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR FISCAL YEAR 2001; AND DECLARING AN EMERGENCY FOR SECTIONS 8, 9, 10 AND 11 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,753,400	$ 1,090,500	$ 97,600		$ 2,941,500
Air Quality Permitting Fund	143,300	285,800	2,000		431,100
Public Water System Supervision Fund	276,300	44,500	2,000		322,800
Department of Environmental Quality Fund (Receipts)	80,400	15,600	4,000		100,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality Fund (Federal)	1,663,500	1,022,400	58,000		2,743,900
TOTAL	$ 3,916,900	$ 2,458,800	$163,600		$ 6,539,300
II. AIR QUALITY:					
FROM:					
General Fund	$ 1,690,400	$ 330,000	$ 87,000		$ 2,107,400
Agriculture Smoke Management Fund		30,100			30,100
Air Quality Permitting Fund	1,571,100	311,400	54,000	$ 196,800	2,133,300
Department of Environmental Quality Fund (Receipts)	10,900	30,500			41,400
Department of Environmental Quality Fund (Federal)	1,027,900	266,700	54,000	40,600	1,389,200
TOTAL	$ 4,300,300	$ 968,700	$195,000	$ 237,400	$ 5,701,400
III. WATER QUALITY:					
FROM:					
General Fund	$ 4,848,000	$ 2,244,000	$ 41,700	$2,945,300	$10,079,000
Public Water System Supervision Fund	813,200	150,900	4,000	330,200	1,298,300
Department of Environmental Quality Fund (Receipts)	303,200	75,600	2,000	50,600	431,400
Department of Environmental Quality Fund (Federal)	2,853,200	1,246,300	20,000	1,600,200	5,719,700
TOTAL	$ 8,817,600	$ 3,716,800	$ 67,700	$4,926,300	$17,528,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General Fund	$ 1,414,000	$ 297,200	$ 13,500	$ 101,500	$ 1,826,200
Water Pollution Control Fund		1,000,000			1,000,000
Environmental Remediation Fund	166,700	649,600		10,200	826,500
Department of Environmental Quality Fund (Receipts)	361,900	559,200	6,000	50,800	977,900
Bunker Hill Trust Fund				300,000	300,000
Department of Environmental Quality Fund (Federal)	2,215,500	1,204,200	4,000	15,200	3,438,900
TOTAL	$ 4,158,100	$ 3,710,200	$ 23,500	$ 477,700	$ 8,369,500
V. INEEL OVERSIGHT:					
FROM:					
General Fund	$ 192,400	$ 19,200			$ 211,600
Department of Environmental Quality Fund (Federal)	1,141,400	374,900	$ 12,700	$ 585,800	2,114,800
TOTAL	$ 1,333,800	$ 394,100	$ 12,700	$ 585,800	$ 2,326,400
GRAND TOTAL	$22,526,700	$11,248,600	$462,500	$6,227,200	$40,465,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred seventy and fifty-five hundredths (370.55) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 Department of Environmental Quality any unexpended and unencumbered balances of the Department of Environmental Quality Fund as appropriated to the Department of Environmental Quality for fiscal year 2001, to be used for non-

recurring expenditures only for the period July 1, 2001, through June 30, 2002. The Department of Environmental Quality shall adjust the amount of reappropriation so as not to exceed available moneys.

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, 2001, through June 30, 2002.

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. 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, 2001, through June 30, 2002. 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 7. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund in Section 1 of this act specifically supersedes the provisions of Section 39-3630, Idaho Code, and that such moneys are to be used solely for projects in the Coeur d'Alene River Basin in such a manner so as to count toward the ten percent (10%) state match required for work done at the Bunker Hill superfund site.

SECTION 8. There is hereby appropriated and the State Controller is hereby directed to transfer $510,000 from the General Fund to the Air Quality Permitting Fund for the period July 1, 2000, through June 30, 2001.

SECTION 9. In addition to the appropriation made in Section 1, Chapter 402, Laws of 2000, there is hereby appropriated to the Department of Environmental Quality the following amounts to be expended for the designated 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
I. AIR QUALITY:			
FROM:			
General Fund		$310,000	$310,000
Department of Environmental Quality Fund (Federal)	$28,700	4,200	32,900
TOTAL	$28,700	$314,200	$342,900

SECTION 10. It is legislative intent that the amounts appropriated from the General Fund for the Air Quality program in Section 9 of this act are to be used one-time to hire outside contractors to reduce the backlog of permits to construct. The Department of Environmental Quality will prepare a quarterly report to be presented to the Joint Finance-Appropriations Committee detailing the progress in addressing the permitting backlog and projecting future permitting needs.

SECTION 11. In addition to the authorization made by Section 3, Chapter 402, Laws of 2000, the Department of Environmental Quality is hereby authorized one (1) full-time equivalent position for the period July 1, 2000, through June 30, 2001.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Sections 8, 9, 10 and 11 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2001.

CHAPTER 362
(S.B. No. 1257)

AN ACT

RELATING TO THE SUBSTANCE ABUSE INITIATIVE; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES FOR FISCAL YEAR 2001; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES FOR FISCAL YEAR 2002; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT SERVICES THAT SUPPORT THE EXPANSION OF THE DRUG COURT PROGRAM FOR FISCAL YEAR 2002; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR EXPANDING RESIDENTIAL AND GROUP SUBSTANCE ABUSE TREATMENT PROGRAMS IN STATE PRISONS FOR FISCAL YEAR 2002; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR EVALUATING THE EFFECTIVENESS OF SUBSTANCE ABUSE TREATMENT PROGRAMS OFFERED BY THE DEPARTMENT AND FOR PROVIDING CRIMINOGENIC ASSESSMENTS TO SUPPORT DRUG COURTS FOR FISCAL YEAR 2002; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR PROVIDING SUBSTANCE ABUSE TREATMENT PROGRAMS TO OFFENDERS ON PAROLE AND PROBATION FOR FISCAL YEAR 2002; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AN INTERBRANCH AGREEMENT BETWEEN THE IDAHO SUPREME COURT AND THE DEPARTMENT OF HEALTH AND WELFARE; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SUBSTANCE ABUSE SERVICE CONTRACT SPECIFICATIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO OFFENDER TREATMENT AND DIRECTING THE DEPARTMENT OF CORRECTION TO FILE A REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO APPROPRIATE TREATMENT SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-465, IDAHO CODE, TO CREATE A SPECIAL OVERSIGHT COMMITTEE ON STATE FUNDED SUBSTANCE ABUSE TREAT-

MENT; PROVIDING FORTY-SEVEN AND FIVE-TENTHS ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; PROVIDING AN EMERGENCY FOR SECTION 1 OF THIS ACT; AND PROVIDING A SUNSET DATE FOR SECTION 12 OF THIS ACT.

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

SECTION 1. The sum of $490,000 is hereby appropriated from the General Fund for deposit into the Cooperative Welfare Fund for the Division of Family and Community Services in the Department of Health and Welfare for community-based substance abuse treatment services for the period July 1, 2000, through June 30, 2001.

SECTION 2. The sum of $2,201,000 is hereby appropriated from the General Fund for deposit into the Cooperative Welfare Fund for the Division of Family and Community Services in the Department of Health and Welfare for community-based substance abuse treatment services for the period July 1, 2001, through June 30, 2002.

SECTION 3. The sum of $576,000 is hereby appropriated from the General Fund for deposit into the Cooperative Welfare Fund for the Division of Family and Community Services in the Department of Health and Welfare for substance abuse treatment services that support the expansion of the drug court program for the period July 1, 2001, through June 30, 2002.

SECTION 4. The sum of $1,176,800 is hereby appropriated from the General Fund to the Department of Correction for the Division of Prisons to expand residential and group substance abuse treatment programs in state prisons for the period July 1, 2001, through June 30, 2002.

SECTION 5. There is hereby appropriated to the Department of Correction for the Division of Institutional Support the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002, to evaluate the effectiveness of substance abuse treatment programs offered by the Department of Correction; and to provide criminogenic assessments to support drug courts:

INSTITUTIONAL SUPPORT:

FOR:	
Personnel Costs	$245,600
Operating Expenditures	468,300
Capital Outlay	19,000
TOTAL	$732,900
FROM:	
General Fund	$493,100
Federal Grant Fund	239,800
TOTAL	$732,900

SECTION 6. There is hereby appropriated to the Department of Correction for the Division of Field and Community Services the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002, to provide substance abuse treatment programs to offenders on parole and probation:

FIELD AND COMMUNITY SERVICES:	
FOR:	
Personnel Costs	$637,700
Operating Expenditures	77,700
Capital Outlay	97,000
TOTAL	$812,400
FROM:	
General Fund	$812,400

SECTION 7. It is hereby declared to be the intent of the Legislature that the Department of Health and Welfare negotiate and enter into an interbranch agreement with the Idaho Supreme Court concerning the development of treatment options for drug court participants as funded in Section 3 of this act. Issues that should be covered in the agreement include a description of treatment services, notification and discharge communication, treatment and referral criteria, confidentiality issues, frequency and type of client contact, assessment criteria, provisions for periodic review and modification, and other relevant information as determined by the parties.

SECTION 8. It is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall develop specifications for contracts for substance abuse services for clients under the supervision of the drug courts, including assessments made before entering into the drug court program, in conjunction with and subject to the approval of the drug court coordinating committee in the Idaho Supreme Court.

SECTION 9. It is hereby declared to be the intent of the Legislature that the Department of Correction demonstrate that offenders receiving substance abuse treatment be assessed and matched to an appropriate intensity and type of treatment. It is further declared to be the intent of the Legislature that the Department of Correction shall report to the Joint Finance-Appropriations Committee, Senate Judiciary and Rules Committee, and the House of Representatives Judiciary, Rules and Administration Committee, within thirty (30) days after the 2002 Legislature convenes, the number of offenders whose treatment is interrupted, the number of offenders transferred out of programs before completion, the number of dropouts, and the rates of completion for all offenders enrolled in substance abuse treatment.

SECTION 10. It is hereby declared to be the intent of the Legislature that the Department of Health and Welfare demonstrate that clients receiving substance abuse treatment be assessed and matched to an appropriate intensity and type of treatment.

SECTION 11. It is hereby reappropriated to the Idaho Department of Health and Welfare for the Division of Family and Community Services the unexpended and unencumbered balance of the General Fund appropriation made in Section 1 of this act for the period July 1, 2001, through June 30, 2002.

SECTION 12. That Chapter 4, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-465, Idaho Code, and to read as follows:

67-465. SPECIAL OVERSIGHT COMMITTEE ON STATE FUNDED SUBSTANCE ABUSE TREATMENT. In order to maintain a degree of continuous oversight on the coordination of service delivery of state funded substance abuse treatment, there is hereby established a special oversight committee on state funded substance abuse treatment.

The committee shall consist of five (5) members of the senate and five (5) members of the house of representatives. Representation shall consist of the chairman of the senate judiciary and rules committee, the chairman of the senate health and welfare committee, the chairman of the senate finance committee, the chairman of the house of representatives judiciary, rules and administration committee, the chairman of the house of representatives health and welfare committee, and the chairman of the house of representatives appropriations committee or their designee. The president pro tempore of the senate and the speaker of the house of representatives each shall appoint two (2) additional members from the respective bodies. The president pro tempore of the senate and the speaker of the house of representatives shall each appoint a cochairman from among the appointed members. The cochairman shall have the authority to appoint ad hoc members of the general public for special projects and issues.

The committee shall have the primary duty of monitoring and reviewing aspects of substance abuse treatment services delivered by the department of health and welfare, the department of correction, and those state funded services delivered by drug courts. The director of the department of health and welfare and the director of the department of correction shall provide all the necessary information and materials as requested by the committee.

Members of the committee shall be compensated from the legislative fund on order of the president pro tempore of the senate or the speaker of the house of representatives at the rates applicable for committee members of the legislative council. The committee shall meet with the permission of the president pro tempore of the senate or the speaker of the house of representatives.

SECTION 13. In addition to the authorization for full-time equivalent positions provided in Senate Bill No. 1226, enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, the Department of Correction is authorized forty-seven and five-tenths (47.5) full-time equivalent positions for the period July 1, 2001, through June 30, 2002.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

SECTION 15. Section 12 of this act shall be null, void and of no force and effect on and after April 15, 2006.

Approved April 9, 2001.

CHAPTER 363
(S.B. No. 1260)

AN ACT

RELATING TO AGRICULTURAL COMMODITY DEALER LIENS; AMENDING SECTION 45-1801, IDAHO CODE, TO REVISE A DEFINITION AND TO CORRECT A CODIFIER'S ERROR; AMENDING SECTION 45-1802, IDAHO CODE, TO PROVIDE THAT A COMMODITY PRODUCER OR DEALER THAT DELIVERS AGRICULTURAL PRODUCTS UNDER CONTRACT OR BAILMENT HAS A LIEN ON THE PRODUCT OR PROCEEDS OF SALE OF THE PRODUCT; AMENDING SECTION 45-1804, IDAHO CODE, TO PROVIDE FOR THE DURATION OF CERTAIN LIENS AND TO PROVIDE FOR THE TIME IN WHICH A LIEN MAY BE CREATED BY FILING WRITTEN NOTICE OF THE LIEN WITH THE SECRETARY OF STATE.

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

SECTION 1. That Section 45-1801, Idaho Code, be, and the same is hereby amended to read as follows:

45-1801. DEFINITIONS. As used in this chapter:

(1) "Agricultural products" means wheat, corn, oats, barley, rye, lentils, soybeans, grain sorghum, dry beans and peas, beans, safflower, sunflower seeds, tame mustards, rapeseed, flaxseed, leguminous seed or other small seed, or any other agricultural commodity, including any of the foregoing, whether cleaned, processed, treated, reconditioned or whether mixed, rolled or combined in any fashion or by any means to create a product used as animal, poultry or fish feed.

(2) "Agricultural commodity dealer" means any person who contracts for or solicits any agricultural product from an agricultural producer or negotiates the consignment or purchase of any agricultural product, or receives for sale, resale or shipment for storage, processing, cleaning or reconditioning, any agricultural product, or who buys during any calendar year, at least ten thousand dollars ($10,000) worth of agricultural products from the producer or producers of the commodity. Agricultural commodity dealer shall not mean a person who purchases agricultural products for his own use as seed or feed.

(3) "Agricultural commodity producer" means the owner, tenant or operator of land in this state who ~~has an interest in and~~ receives all or part of the proceeds from the sale, under contract, bailment or otherwise, or delivery under contract or bailment, of agricultural products produced on that land.

(4) "Person" means an individual, trust, partnership, business trust, corporation, or unincorporated association or any other legal or commercial entity.

SECTION 2. 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, or delivers under contract or bailment, an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product 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 3. 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 provided for by section 45-1802, Idaho Code, remains in effect for a period of ~~one--(1)--year~~ ninety (90) days after the date of attachment or the date any final payment is due to the agricultural commodity producer or agricultural commodity dealer under any contract or bailment, whichever occurs last, except as provided in subsections (2) and (3) of this section.

(2) The lien provided for by section 45-1802, Idaho Code, 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, or ninety (90) days after the date that final payment is due to the agricultural commodity producer or agricultural commodity dealer under any contract or bailment, whichever occurs last. The form for the notice of lien shall require the following information:

(a) A statement of the 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;

(c) The name and address of the person who purchased the agricultural product from the agricultural commodity producer or agricultural commodity dealer;

(d) A description of the agricultural product charged with the lien including crop year; and

(e) Such other information as the form prescribed by the secretary of state may require.

(3) The notice of lien shall be entered in a searchable database maintained by the secretary of state.

Approved April 9, 2001.

CHAPTER 364
(S.B. No. 1269)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR FISCAL YEAR 2002.

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. 330, as enacted by the First Regular Session of the

Fifty-sixth Idaho Legislature, there is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the sum of $500,000 from the General Fund for the period July 1, 2001, through June 30, 2002. These moneys shall be used for the endowment land exchange as authorized in House Bill No. 348, as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature.

Approved April 9, 2001.

CHAPTER 365
(S.B. No. 1271)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 2002; 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; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SALARY SAVINGS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO OUTREACH ACTIVITIES.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:					
FROM:					
General Fund	$ 8,282,800	$ 6,381,000			$14,663,800
Cooperative Welfare Fund (Federal)	5,828,600	10,717,800	$264,000		16,810,400
Cooperative Welfare Fund (Dedicated)		499,900	616,000		1,115,900
TOTAL	$14,111,400	$17,598,700	$880,000		$32,590,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. INDEPENDENT COMMISSIONS AND COUNCILS:					
A. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
General Fund	$ 13,900				$ 13,900
Domestic Violence Project Fund	124,400	$ 100,800		$ 168,600	393,800
Cooperative Welfare Fund (Federal)	45,600	74,500		2,348,800	2,468,900
Cooperative Welfare Fund (Dedicated)		9,700			9,700
TOTAL	$ 183,900	$ 185,000		$2,517,400	$ 2,886,300
B. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
General Fund	$ 105,600	$ 23,300		$ 12,300	$ 141,200
Cooperative Welfare Fund (Federal)	218,100	94,200		96,500	408,800
Cooperative Welfare Fund (Dedicated)		1,000			1,000
TOTAL	$ 323,700	$ 118,500		$ 108,800	$ 551,000
C. COUNCIL ON THE DEAF AND HARD OF HEARING:					
FROM:					
General Fund	$ 107,400	$ 33,000			$ 140,400
Cooperative Welfare Fund (Dedicated)	1,600	2,000			3,600
Cooperative Welfare Fund (Federal)		104,500			104,500
TOTAL	$ 109,000	$ 139,500			$ 248,500
DIVISION TOTAL	$ 616,600	$ 443,000		$2,626,200	$ 3,685,800
GRAND TOTAL	$14,728,000	$18,041,700	$880,000	$2,626,200	$36,275,900

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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002. 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, 2001, through June 30, 2002.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three thousand ninety-two and one-hundredth (3,092.01) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 6. Notwithstanding the provisions of Section 67-3511(1), Idaho Code, it is hereby declared to be the intent of the Idaho Legislature that the appropriation for personnel costs, as contained in Section 1 of this act, shall be utilized only for personnel costs for the period July 1, 2001, through January 1, 2002, which the Legislature intends will result in salary savings. It is further legislative intent that carryover funds from fiscal year 2001 shall be available for nonrecurring expenditures other than salaries during fiscal year 2002. It is further legislative intent that in January 2002, the department shall report to the Joint Finance-Appropriations Committee regarding its salary savings and expenditures for operating expenses and capital outlay during the first half of fiscal year 2002. Salary savings during fiscal year 2002 will be available to the department for object transfers for the purposes set out in Section 67-3511(1), Idaho Code, upon consent of the Legislature as a supplemental appropriation during the Second Regular Session of the Fifty-sixth Idaho Legislature.

SECTION 7. It is the intent of the Idaho Legislature that the Department of Health and Welfare conduct its outreach efforts in all programs to the minimum level allowed by federal law.

Approved April 9, 2001.

CHAPTER 366
(S.B. No. 1272)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2002; PROVIDING THAT THE STATE CON-

TROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; SUPERSEDING THE PROVISIONS OF SECTION 57-1702, IDAHO CODE; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SALARY SAVINGS; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
PUBLIC HEALTH SERVICES:				
FROM:				
General Fund	$3,217,100	$ 2,852,100	$ 2,304,400	$ 8,373,600
Cancer Control Fund	50,000	93,200	258,400	401,600
Emergency Medical Services Fund I & II	1,034,500	633,300	192,600	1,860,400
Emergency Medical Services III			1,205,400	1,205,400
Central Tumor Registry Fund			178,800	178,800
Food Safety Fund			413,800	413,800
Cooperative Welfare Fund (Federal)	3,374,100	9,328,500	19,736,400	32,439,000
Cooperative Welfare Fund (Dedicated)	1,639,500	1,556,800	5,170,600	8,366,900
TOTAL	$9,315,200	$14,463,900	$29,460,400	$53,239,500

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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Public Health Services is hereby authorized to expend all receipts collected in Public Health Services as noncognizable funds for the period July 1, 2001, through June 30, 2002.

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.

SECTION 6. In addition to the appropriation made in Section 1, Chapter 476, Laws of 2000, there is hereby appropriated to the Department of Health and Welfare for Public Health Services the following amounts 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	$2,575,300
FROM:	
General Fund	$ 927,100
Cooperative Welfare Fund (Federal)	1,648,200
TOTAL	$2,575,300

SECTION 7. Notwithstanding the provisions of Section 67-3511(1), Idaho Code, it is hereby declared to be the intent of the Idaho Legislature that the appropriation for personnel costs, as contained in Section 1 of this act, shall be utilized only for personnel costs for the period July 1, 2001, through January 1, 2002, which the Legislature intends will result in salary savings. It is further legislative intent that carryover funds from fiscal year 2001 shall be available for nonrecurring expenditures other than salaries during fiscal year 2002. It is further legislative intent that in January 2002, the department shall report to the Joint Finance-Appropriations Committee regarding its salary savings and expenditures for operating expenses and capital outlay during the first half of fiscal year 2002. Salary savings during fiscal year 2002 will be available to the department for object transfers for the purposes set out in Section 67-3511(1), Idaho Code, upon consent of the Legislature as a supplemental appropriation during the Second Regular Session of the Fifty-sixth Idaho Legislature.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2001.

CHAPTER 367
(S.B. No. 1273)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 2002; PRO-

VIDING 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 SUBSTANCE ABUSE PREVENTION; TRANSFERRING MONEYS FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT TO THE SOCIAL SERVICES BLOCK GRANT FOR COMMUNITY SUPPORTED EMPLOYMENT SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SALARY SAVINGS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO OUTREACH ACTIVITIES.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:					
FROM:					
General Fund	$ 9,608,400	$ 1,336,800	$75,600	$10,661,400	$ 21,682,200
Cooperative Welfare Fund (Federal)	14,512,100	5,711,200	5,400	12,458,800	32,687,500
Cooperative Welfare Fund (Dedicated)	530,300	763,100	16,200		1,309,600
TOTAL	$24,650,800	$ 7,811,100	$97,200	$23,120,200	$ 55,679,300
II. DEVELOPMENTAL DISABILITIES SERVICES:					
FROM:					
General Fund	$11,442,700	$ 2,296,500		$ 3,724,600	$ 17,463,800
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	15,726,000	4,960,500		1,609,600	22,296,100
Cooperative Welfare Fund (Dedicated)	1,576,700	122,400		10,200	1,709,300
TOTAL	$28,745,400	$ 7,382,900		$ 5,344,400	$ 41,472,700
III. MENTAL HEALTH SERVICES:					
FROM:					
General Fund	$20,324,900	$ 2,442,800		$ 3,297,600	$ 26,065,300
Alcohol Intoxication Treatment Fund	615,000	250,100		1,559,100	2,424,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Substance Abuse Treatment Fund				8,800	8,800
State Hospital South Endowment Fund	1,619,000	376,800			1,995,800
State Hospital North Endowment Fund	312,600	882,100		43,200	1,237,900
Prevention of Minors' Access to Tobacco	24,600	46,800			71,400
Cooperative Welfare Fund (Federal)	3,858,500	3,472,700		6,272,600	13,603,800
Cooperative Welfare Fund (Dedicated)	7,361,000	1,033,600		10,800	8,405,400
TOTAL	$34,115,600	$ 8,504,900		$11,192,100	$ 53,812,600
GRAND TOTAL	$87,511,800	$23,698,900	$97,200	$39,656,700	$150,964,600

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 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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002. 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, 2001, through June 30, 2002.

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.

SECTION 6. The Department of Health and Welfare is hereby directed to transfer no more than ten percent (10%) of the Temporary Assistance for Needy Families Block Grant to the Social Services Block Grant for the period July 1, 2001, through June 30, 2002. Of the amounts transferred, $350,000 shall be used for community supported employment services.

SECTION 7. Notwithstanding the provisions of Section 67-3511(1), Idaho Code, it is hereby declared to be the intent of the Idaho Legislature that the appropriation for personnel costs, as contained in Section 1 of this act, shall be utilized only for personnel costs for the period July 1, 2001, through January 1, 2002, which the Legislature intends will result in salary savings. It is further legislative intent that carryover funds from fiscal year 2001 shall be available for nonrecurring expenditures other than salaries during fiscal year 2002. It is further legislative intent that in January 2002, the department shall report to the Joint Finance-Appropriations Committee regarding its salary savings and expenditures for operating expenses and capital outlay during the first half of fiscal year 2002. Salary savings during fiscal year 2002 will be available to the department for object transfers for the purposes set out in Section 67-3511(1), Idaho Code, upon consent of the Legislature as a supplemental appropriation during the Second Regular Session of the Fifty-sixth Idaho Legislature.

SECTION 8. It is the intent of the Idaho Legislature that the Department of Health and Welfare conduct its outreach efforts in all programs to the minimum level allowed by federal law.

Approved April 9, 2001.

CHAPTER 368
(S.B. No. 1274)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2002; 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; EXEMPTING STATE VETERANS HOMES FROM COST LIMITS; 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; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPPING RATES FOR DURABLE MEDICAL EQUIPMENT AT FISCAL YEAR 2000 LEVELS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO UTILIZATION MANAGEMENT; 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;

REDUCING OUTREACH EFFORTS TO THE MINIMUM ALLOWED BY FEDERAL LAW; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SALARY SAVINGS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2001; AND DECLARING AN EMERGENCY FOR SECTION 16 OF THIS ACT.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$ 4,775,000	$ 3,147,800	$221,388,500	$229,311,300
Medical Assistance Fund			2,500	2,500
Liquor Control Fund			639,200	639,200
Cooperative Welfare Fund (Federal)	6,875,300	10,819,200	538,109,300	555,803,800
Cooperative Welfare Fund (Dedicated)			23,758,800	23,758,800
TOTAL	$11,650,300	$13,967,000	$783,898,300	$809,515,600

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 Medical Assistance Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Medical Assistance Services for fiscal year 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002. 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 as noncognizable funds for the period July 1, 2001, through June 30, 2002.

SECTION 5. It is the intent of the Idaho Legislature that the federal Title XXI Children's Health Insurance Program, as appropriated in Section 1 of this act, not exceed $4,600,000 in General Fund expenditures for the period July 1, 2001, through June 30, 2002. In addition,

the director of the Department of Health and Welfare is hereby authorized to control program costs by lowering or raising income eligibility criteria in order to stay within budget; however, under no circumstance shall the department exceed one hundred fifty percent (150%) of the federal poverty level that is used in determining eligibility without prior legislative approval.

SECTION 6. It is the intent of the Idaho Legislature that for the period July 1, 2001, through June 30, 2002, the cost limits described in Section 56-102(7) and (11), Idaho Code, shall not apply to state homes for veterans.

SECTION 7. 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.

SECTION 8. Notwithstanding the provisions of Section 56-113, Idaho Code, it is the intent of the Idaho Legislature that for the period July 1, 2001, through June 30, 2002, 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 9. 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 investigate and report, by January 15, 2002, the feasibility of requiring the return of unused Medicaid prescriptions for credit. In addition, the department is directed to prepare and report, by January 2002, the feasibility of implementing a Medicaid preferred drug list.

SECTION 10. It is the intent of the Idaho Legislature that for the period July 1, 2001, through June 30, 2002, 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 11. It is the intent of the Idaho Legislature that the Department of Health and Welfare continue designing a regional comprehensive utilization management plan that rectifies current weaknesses without giving up the strengths inherent in the system as outlined in the Lewin Group Report (page 57). Further, it is legislative intent that the Department of Health and Welfare shall continue such program design and development in collaboration with providers, advocates, and consumers and their families utilizing its established Quality Improvement Subcommittees of the Quality Improvement Council as a forum. The department shall use the established Quality Improvement Council and subcommittees to assist in the development of negotiated rulemaking for utilization management of Medicaid covered developmental disability and mental health services that shall apply to facility and community-based settings and at state-run institutions providing such services. The department shall be allowed twelve (12) full-time positions for the express purpose of conducting the continued activities as expressed in

this intent language. The department shall incorporate related aspects of the Jeff D. lawsuit in the development process.

It is further legislative intent that the Department of Health and Welfare, by July 1, 2001, and monthly thereafter until the legislature convenes in January 2002, present a written progress report to the Chairmen of the House Health and Welfare Committee and the Senate Health and Welfare Committee. Further, the department shall make an oral presentation to the Joint Finance-Appropriations Committee at its interim 2001 meetings. New contracts or modifications to existing contracts relative to the utilization management project that are necessary for the implementation of any final program, shall be facilitated by the Department of Administration after approval by the Joint Finance-Appropriations Committee at their fall meeting.

The Department of Health and Welfare shall present to the Second Regular Session of the Fifty-sixth Idaho Legislature, the proposed negotiated rule and statutory changes needed to implement the utilization management program described herein on a statewide basis.

SECTION 12. It is the intent of the Idaho Legislature that the Department of Health and Welfare investigate the use of waivers or existing law and rule to implement cost-effective programs for requiring client copayments for Medicaid prescriptions and services. The Department of Health and Welfare is further directed to prepare and report, by January 15, 2002, its progress in implementing a cost-sharing program.

SECTION 13. 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.

SECTION 14. It is the intent of the Idaho Legislature that the Department of Health and Welfare conduct its outreach efforts in all programs to the minimum level allowed by federal law.

SECTION 15. Notwithstanding the provisions of Section 67-3511(1), Idaho Code, it is hereby declared to be the intent of the Idaho Legislature that the appropriation for personnel costs, as contained in Section 1 of this act, shall be utilized only for personnel costs for the period July 1, 2001, through January 1, 2002, which the Legislature intends will result in salary savings. It is further legislative intent that carryover funds from fiscal year 2001 shall be available for nonrecurring expenditures other than salaries during fiscal year 2002. It is further legislative intent that in January 2002, the department shall report to the Joint Finance-Appropriations Committee regarding its salary savings and expenditures for operating expenses and capital outlay during the first half of fiscal year 2002. Salary savings during fiscal year 2002 will be available to the department for object transfers for the purposes set out in Section 67-3511(1), Idaho Code, upon consent of the Legislature as a supplemental appropriation during the Second Regular Session of the Fifty-sixth Idaho Legislature.

SECTION 16. In addition to the appropriation made in Section 1, Chapter 409, Laws of 2000, there is hereby appropriated to the Depart-

ment of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense class from the listed funds for the period July 1, 2000, through June 30, 2001:

FOR:	
Trustee and Benefit Payments	$112,358,800
FROM:	
General Fund	$ 33,057,700
Cooperative Welfare Fund (Dedicated)	1,960,400
Cooperative Welfare Fund (Federal)	77,340,700
TOTAL	$112,358,800

SECTION 17. An emergency existing therefor, which emergency is hereby declared to exist, Section 16 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2001.

CHAPTER 369
(S.B. No. 1275)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 2002; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; RE-APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; REDIRECTING MONEYS FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT; AMENDING THE APPROPRIATION MADE IN SECTION 1, CHAPTER 390, LAWS OF 2000, TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 2001; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SALARY SAVINGS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO OUTREACH ACTIVITIES; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
SELF-RELIANCE PROGRAMS:				
FROM:				
General Fund	$14,521,100	$ 5,054,900	$17,813,200	$ 37,389,200
Cooperative Welfare Fund (Federal)	17,026,200	15,588,800	52,313,200	84,928,200
Cooperative Welfare Fund (Dedicated)	659,400	637,100		1,296,500
TOTAL	$32,206,700	$21,280,800	$70,126,400	$123,613,900

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 2001, to be used for nonrecurring expenditures only for the period July 1, 2001, through June 30, 2002. 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, 2001, through June 30, 2002.

SECTION 5. It is the intent of the Idaho Legislature that the Department of Health and Welfare redirect $2,000,000 from the Temporary Assistance for Needy Families Block Grant to the Community Resource Worker Program for the period July 1, 2001, through June 30, 2002. Of this amount, $1,000,000 shall be diverted from childcare activities and $1,000,000 shall be diverted from the early childhood development program. For every two dollars ($2.00) that school districts contribute towards the Community Resource Workers Program, the state shall contribute one dollar ($1.00) in match up to the $2,000,000 authorized in this Section.

SECTION 6. That Section 1, Chapter 390, Laws of 2000, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for 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~~ 2,180,400	$18,471,300	$ ~~34,075,600~~ 34,489,700
Cooperative Welfare Fund (Federal)	16,614,700	~~12,480,000~~ 12,216,400	47,692,800	~~76,787,500~~ 76,523,900
Cooperative Welfare Fund (Dedicated)	892,000	3,268,500		4,160,500
TOTAL	$31,344,700	~~$17,514,800~~ 17,665,300	$66,164,100	~~$115,023,600~~ 115,174,100

SECTION 7. Notwithstanding the provisions of Section 67-3511(1), Idaho Code, it is hereby declared to be the intent of the Idaho Legislature that the appropriation for personnel costs, as contained in Section 1 of this act, shall be utilized only for personnel costs for the period July 1, 2001, through January 1, 2002, which the Legislature intends will result in salary savings. It is further legislative intent that carryover funds from fiscal year 2001 shall be available for nonrecurring expenditures other than salaries during fiscal year 2002. It is further legislative intent that in January 2002, the department shall report to the Joint Finance-Appropriations Committee regarding its salary savings and expenditures for operating expenses and capital outlay during the first half of fiscal year 2002. Salary savings during fiscal year 2002 will be available to the department for object transfers for the purposes set out in Section 67-3511(1), Idaho Code, upon consent of the Legislature as a supplemental appropriation during the Second Regular Session of the Fifty-sixth Idaho Legislature.

SECTION 8. It is the intent of the Idaho Legislature that the Department of Health and Welfare conduct its outreach efforts in all programs to the minimum level allowed by federal law.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2001.

CHAPTER 370
(H.B. No. 80)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING SECTION 63-3029A, IDAHO CODE, TO INCREASE THE DOLLAR AMOUNT LIMITATION ON CERTAIN INDIVIDUAL AND CORPORATE CHARITABLE CONTRIBUTIONS 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 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho,

to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho state library, and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

(1~~.~~) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or ~~fifty~~ one hundred dollars ($~~50.~~100), whichever is less.

(2~~.~~) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or ~~five hundred~~ one thousand dollars ($~~5~~1,000), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the ~~N~~northwest ~~A~~association of ~~S~~schools and ~~C~~colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the ~~N~~northwest ~~A~~association of ~~S~~schools and ~~C~~colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 2. This act shall be in full force and effect on and after January 1, 2002.

Approved April 10, 2001.

CHAPTER 371
(H.B. No. 256, As Amended)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3613, IDAHO CODE, TO STRIKE PROVISIONS ESTABLISHING THE COEUR D'ALENE RIVER COMMISSION; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 81, TITLE 39, IDAHO CODE, TO ESTABLISH THE BASIN ENVIRONMENTAL IMPROVEMENT ACT, TO PROVIDE A SHORT TITLE, TO EXPRESS THE POLICY OF THE STATE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ESTABLISHMENT OF AGREEMENTS OR COMPACTS FOR PARTICIPATION IN THE BASIN PROJECT, TO PROVIDE THAT THE GOVERNOR SHALL REQUEST RECIPROCAL LEGISLATION, TO PROVIDE FOR CREATION OF THE BASIN PROJECT AND TO PROVIDE FOR ESTABLISHMENT OF A BOARD OF COMMISSIONERS, COMPOSITION OF THE BOARD AND

POWERS AND DUTIES, TO PROVIDE FOR ESTABLISHMENT OF A BASIN FUND AND FINANCING AUTHORITY AND ITS ADMINISTRATORS AND AUTHORITIES, TO PROVIDE THAT THE FINANCING AUTHORITY MAY ISSUE NOTES AND BONDS, TO PROVIDE THAT THE STATE WILL NOT IMPAIR VESTED RIGHTS CREATED BY NOTES AND BONDS, TO LIMIT LIABILITY AND PROVIDE THAT NOTES AND BONDS ARE NOT A DEBT OF THE STATE, TO PROVIDE THAT THE STATE MAY MAKE GRANTS TO THE FINANCING AUTHORITY, TO PROVIDE THAT NOTES AND BONDS OF THE FINANCING AUTHORITY ARE LEGAL INVESTMENTS, TO PROVIDE THAT NOTES AND BONDS OF THE FINANCING AUTHORITY ARE TAX EXEMPT, TO PROVIDE THAT THE CHAPTER IS SUPPLEMENTAL AND IS NOT A LIMITATION ON POWERS AND TO PROVIDE THAT THE CHAPTER PREVAILS IF OTHER LAWS ARE INCONSISTENT; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE FOR SECTION 1 OF THIS ACT UPON CERTAIN CIRCUMSTANCES OCCURRING.

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

SECTION 1. That Section 39-3613, Idaho Code, be, and the same is hereby amended to read as follows:

39-3613. CREATION OF BASIN ADVISORY GROUPS. ~~(1)~~ The director, in consultation with the designated agencies, shall name, for each of the state's major river basins, no less than one (1) basin advisory group which shall generally advise the director on water quality objectives for each basin and work in a cooperative manner with the director to achieve these objectives. Each such group shall establish by majority vote, operating procedures to guide the work of the group. Members shall be compensated pursuant to section 59-509(c), Idaho Code. The membership of each basin advisory group shall be representative of the industries and interests directly affected by the implementation of water quality programs within the basin and each member of the group shall either reside within the basin or represent persons with a real property interest within the basin. Recognized groups representing those industries or interests in the basin may nominate members of the group to the director. Each basin advisory group named by the director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include a representative from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. In addition, the director shall name one (1) person to represent the public at large who may reside outside the basin. Members named to the basin advisory groups shall, in the opinion of the director, have demonstrated interest or expertise which will be of benefit to the work of the basin advisory group. The director may also name as may be needed those who have expertise necessary to assist in the work of the basin advisory group who shall serve as technical nonvoting advisers to the basin advisory group.

~~(2)--The--governor--shall--establish-a-commission-to-be-known-as-the Coeur-d'Alene-River-basin-commission-whose-membership--is--stated--below for--the--Coeur-d'Alene-River-basin,-including-the-north-and-south-forks of-the-Coeur-d'-Alene-River,-the-main-stem-of-the-Coeur--d'Alene--River, Lake--Coeur--d'Alene--and--the--Spokane-River-to-replace-and-fulfill-the duties-of-the-basin-advisory-group-and-the-watershed-advisory-group--for those--rivers--and-Lake-Coeur-d'Alene-as-stated-in-this-section-and-sec-~~

~~tions-39-3614-through-39-3616,-Idaho-Code,-as-these--duties--related--to heavy-metal-impacts-in-the-Coeur-d'Alene-River-basin.--At-the-discretion of--the--governor,--the--commission-may-be-asked-to-perform-duties-other than-those-specified-in-sections-39-3613-through--39-3616,--Idaho--Code. For--duties-related-to-sections-39-3613-through-39-3616,-Idaho-Code,-the commission-shall-report-to--the-director.-For-all-other-duties--assigned the--commission-by-the-governor,-the-commission-shall-report-to-the-governor,-the-speaker-of-the-house-of-representatives-and-the-president-pro tempore-of-the-senate.-The-governor-shall-appoint-the-following--members of--the-commission:-one-(1)-representative-of-the-governor;-one-(1)-representative-of-the-division-of-environmental-quality-of--the--department of--health--and--welfare;--one--(1)--representative-of-the-department-of lands;-one-(1)-representative-each-of-the-county-governments-of--Benewah county,--Kootenai--county-and-Shoshone-county;-one-(1)-representative-of the-trustees-established-under-the-settlement-agreement-of-May-3,--1986, entered--in--State--of-Idaho-v.-Bunker-Hill-Co.,-No.-83-3161-(D.-Idaho); two-(2)-representatives-of-the-citizen's-advisory-committee-of-the-Coeur d'Alene-basin-restoration-project;-one-(1)-representative-of-the--mining industry;-and-one-(1)-representative-of-other-affected-industries.~~

~~In--addition-to-the-governor's-appointees,-the-commission-shall-have the-following-representatives-appointed:-one-(1)-representative--of--the U.S.--environmental--protection--agency-appointed-by-the-agency;-one-(1) representative-of-the--U.S.--department--of--agriculture--and--the--U.S. department--of--interior--to-be-appointed-jointly-by-those-agencies;-and one-(1)-representative-of-the--Coeur--d'Alene--tribe--appointed--by--the tribe.--The-term-of-a-member-of-the-commission-shall-be-three-(3)-years. The-governor-may-remove-at-his-discretion-any-members-appointed-by--him. The-commission-shall-operate-by-a-simple-majority-vote-of-the-members-of the--commission.-The-members-of-the-commission-shall-elect-a-chairperson annually-from-the-members-of-the-commission.-Members-of--the--commission who--are-not-state-employees-shall-be-compensated-as-provided-in-section 59-509(b),-Idaho-Code,-if-they-are-not-otherwise-being--compensated--for travel-costs-and-per-diem-for-serving-on-the-commission.~~

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 81, Title 39, Idaho Code, and to read as follows:

CHAPTER 81
BASIN ENVIRONMENTAL IMPROVEMENT ACT

39-8101. SHORT TITLE. This act may be known and cited as the "Basin Environmental Improvement Act."

39-8102. POLICY OF STATE. The Idaho legislature declares that environmental protection and improvement of the Coeur d'Alene basin to protect human health and enhance natural resources is very important to the state. Therefore, it is the policy of the state to provide in this chapter a system for environmental remediation, natural resource restoration and related measures to address heavy metal contamination in the basin. The system provided in this chapter is intended to protect and promote the health, safety and general welfare of the people of Idaho in a manner consistent with local, state, federal and tribal participation and resources.

39-8103. DEFINITIONS. As used in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator or a member of the board of administrators of the basin environmental improvement fund and financing authority.

(2) "Basin" means the watershed of Coeur d'Alene Lake within the counties of Shoshone, Kootenai and Benewah in the state of Idaho.

(3) "Basin environmental improvement fund and financing authority" or "financing authority" means the entity established by the authority of this chapter, and agreements, compacts, reciprocal legislation or resolutions with or by the United States of America, the Coeur d'Alene tribe or the state of Washington to accept and invest funds and finance the activities of the basin project.

(4) "Basin environmental improvement project" or "basin project" means the environmental and natural resources restoration and related measures regarding heavy metal contamination in the basin undertaken by the commission.

(5) "Basin environmental improvement project commission" or "commission" means the entity organized by the authority of this chapter and agreements, compacts, reciprocal legislation or resolutions with or by the United States of America, the Coeur d'Alene tribe or the state of Washington to implement the basin project.

(6) "Board of administrators" or "administrators" means the administrator or board of administrators of the basin environmental improvement fund and financing authority.

(7) "Board of commissioners" or "commission" means the board of commissioners of the basin environmental improvement project commission.

(8) "Bonds" or "notes" or "bond anticipation notes" or "other obligations" means any bonds, notes, debentures, interim certificates or other evidence of financial indebtedness issued by the financing authority pursuant to this chapter.

(9) "Commissioner" means a member of the board of commissioners of the basin environmental improvement project commission.

(10) "Executive director" means the executive director of the basin environmental improvement project commission.

39-8104. ESTABLISHMENT OF AGREEMENTS OR COMPACTS FOR PARTICIPATION IN BASIN PROJECT COMMISSION. The director of the department of environmental quality and the attorney general of the state of Idaho or their delegates shall represent the state of Idaho in negotiations with representatives of the state of Washington, the Coeur d'Alene tribe and the United States of America for the purpose of reaching agreements or compacts between the state of Idaho and any or all of the other named governments regarding participation in the basin project commission and the basin financing authority, for the purpose of providing for environmental remediation and natural resource restoration in the Coeur d'Alene basin in a manner consistent with local, state, federal and tribal authorities and resources; provided however, that any agreement or compact entered into on behalf of the named governments shall not be binding or obligatory upon any of those governments until the agreement or compact is approved by the requisite named governments. The governor of the state of Idaho may enter into any agreement or compact consistent with this chapter.

39-8105. GOVERNOR SHALL REQUEST RECIPROCAL LEGISLATION OR RESOLUTION. The governor of the state of Idaho shall advise the chairman of the Coeur d'Alene tribe, the governor of the state of Washington and the president of the United States of America of the enactment of this chapter and request that, if necessary, reciprocal resolutions or legislation be enacted by those governments to authorize negotiation and entry into agreements or compacts regarding participation in the basin environmental improvement project commission and financing authority.

39-8106. BASIN PROJECT COMMISSION -- ESTABLISHMENT -- COMPOSITION -- POWERS -- DUTIES -- FUNDING. (1) The basin environmental improvement project commission is hereby created and shall become operational when the director of the department of environmental quality, by execution of an appropriate order, determines that:

(a) Significant funds from any source have been provided to the basin improvement fund and financing authority; or

(b) Any one (1) or more agreements or compacts have been entered into between the state of Idaho and the state of Washington, the Coeur d'Alene tribe or the United States of America providing for participation in the basin project commission and financing authority.

(2) Any agreement or compact providing for participation in the basin project commission and financing authority shall be consistent with the terms of this chapter.

(3) The board of commissioners of the basin project commission shall include one (1) representative of the state of Idaho and one (1) representative from each of the county commissions of Shoshone, Kootenai and Benewah counties of the state of Idaho as appointed by the governor of the state of Idaho. Upon participation of the state of Washington, the Coeur d'Alene tribe or the United States of America through agreement or compact, the board of commissioners shall also include, according to such participation: one (1) representative of the county commission of Spokane county of the state of Washington appointed by the governor of Washington; one (1) tribal council member of the Coeur d'Alene tribe appointed by the council of the Coeur d'Alene tribe; and one (1) representative of the United States of America appointed by the president of the United States of America.

(4) The commission shall act by majority vote except that the vote of any commissioner representative of the state of Idaho, the Coeur d'Alene tribe or the United States of America, or the unanimous vote of all three (3) commissioners representing Shoshone, Kootenai and Benewah counties, may veto any majority vote, in which event the action is not valid. The commission may establish an advisory group to provide local citizen input to the commission in the performance of its duties. The commission shall distribute and publish a public involvement policy, to include procedures to assure adherence to the open meeting law and the public records act.

(5) The commission shall adopt as the basin project workplan a record of decisions approved pursuant to the federal comprehensive environmental responsibility compensation and liability act of 1980 (CERCLA), as amended, by the environmental protection agency of the United States of America, the department of environmental quality of the state of Idaho and, upon its participation, the Coeur d'Alene tribe, for environmental remediation and related measures pertaining to contamina-

tion by heavy metals in the basin. Amendment of the basin project workplan shall be made by the commission upon approval of the United States environmental protection agency, the Idaho department of environmental quality and the Coeur d'Alene tribe.

(6) The commission shall, to the extent that funds are available from the financing authority and any other source, implement the basin project workplan.

(7) The commission may select institutional control measures in implementation of the basin project workplan. The measures shall be adopted and implemented by appropriate local and tribal governments as a condition of remediation or restoration activities within those jurisdictions.

(8) The commission shall appoint an executive director to administer the basin project.

(9) The commissioner representing the state of Idaho and, in the event of participation through agreement or compact, the commissioners representing the United States of America and the Coeur d'Alene tribe, shall annually fix and determine, consistent with the basin project workplan and its schedule, the priorities of the basin project, the amount of money required from the financing authority, federal grants and taxation for implementing the basin project priorities including costs of construction and other activities, costs of operation and maintenance of the work, equipment of the basin project, and costs of administration.

(10) The commission shall have, within the basin, the authority of a board of commissioners of a flood control district as provided in chapter 31, title 42, Idaho Code, and the authority of a board of commissioners of a drainage district as provided in chapters 29 and 30, title 42, Idaho Code.

(11) The commission shall have the following powers and duties which may be exercised through the executive director of the basin project commission:

(a) To employ personnel as may be necessary to carry out the purposes and objectives of the basin project commission;

(b) To sue and be sued in the name of the basin project commission and to make and execute contracts and other instruments necessary or convenient to the exercise of its power;

(c) To manage and conduct the business and affairs of the basin project commission, both within and without the basin;

(d) To design, construct, operate and maintain structural works and actions as provided by the basin project workplan or procure or contract for the performance of those works and actions or portions thereof by any local, state, tribal or federal governmental entity or any private entity or individual;

(e) To prescribe the duties of officers, agents and employees as may be required;

(f) To establish the fiscal year of the basin project commission, to keep records of all business transactions of the basin project commission and to provide an annual public accounting of all expenditures;

(g) To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any real or personal property, and improve any properties acquired; to receive income from properties and to expend the income in carrying out the

purposes and provisions of the basin project commission; and to lease any of its property or interest therein in furtherance of the purposes and provisions of the basin project commission;

(h) To convey rights-of-way and easements for highways, public roads, public utilities, and for other purposes, over basin project property, as shall be determined by the commission to be in the best interests of the basin project;

(i) To convey by deed, bill of sale, or other appropriate instrument all of the estate and interest of the basin project commission, in any real or personal property;

(j) To enter into contracts or agreements with the United States of America or any of its agencies, the states of Idaho or Washington or any of their agencies or political subdivisions or the Coeur d'Alene tribe or any of its agencies or subdivisions or private entities or individuals and to cooperate with those governments, agencies, subdivisions, private entities or individuals in effectuating, promoting and accomplishing the purposes of the basin project;

(k) To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided in this chapter;

(l) To assume, administer and maintain pursuant to any agreement or contract entered into in accordance with this chapter any environmental remediation or restoration measure within the basin undertaken by or in cooperation with the United States of America or any of its agencies, the states of Idaho or Washington or any of their agencies or subdivisions, or the Coeur d'Alene tribe or any of its agencies or subdivisions, or any combinations thereof;

(m) To accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States of America or any of its agencies, or the states of Idaho or Washington or any of their agencies or political subdivisions, or the Coeur d'Alene tribe or any of its agencies or subdivisions, or private entities or individuals, or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations;

(n) To exercise all other powers necessary or helpful in carrying out the purposes and provisions of the basin project commission as provided in this chapter and by agreements or compacts between the states of Idaho and Washington, the Coeur d'Alene tribe and the United States of America.

39-8107. BASIN FUND AND FINANCING AUTHORITY -- ESTABLISHMENT -- ADMINISTRATORS -- POWERS. (1) The basin environmental improvement fund and financing authority is hereby created and shall become operational when the director of the department of environmental quality, by execution of an appropriate order, determines that significant funds have been provided to the financing authority from any source, or any one (1) or more agreements or compacts between the state of Idaho and the state of Washington, the Coeur d'Alene tribe or the United States of America providing for participation in the basin project commission and financing authority. The financing authority shall be an independent public body corporate and politic within the meaning of section 1, article viii, of the constitution of the state of Idaho, with no power to levy taxes or to obligate the general fund of the state of Idaho.

(2) The administrator or board of administrators of the financing

authority shall consist of one (1) representative appointed by the governor of the state of Idaho. Upon participation in the basin project by agreement or compact, one (1) representative shall be appointed by the council of the Coeur d'Alene tribe, one (1) representative shall be appointed by the governor of the state of Washington and one (1) representative shall be appointed by the president of the United States of America. Appointments shall be made on the basis of demonstrated investment and financial management expertise. Each administrator shall serve at the pleasure of his or her respective appointing authority and may be removed and replaced at any time. Administrators shall not be compensated. Two (2) or more administrators shall constitute a board and may act by majority vote. Meetings shall be held whenever a majority of administrators so request. The administrator or board of administrators shall direct the activities of the financing authority.

(3) The funds of the financing authority may include moneys and any income paid in settlement of any claims or lawsuits regarding heavy metals contamination in the basin, annual appropriations by the states of Idaho and Washington or the Coeur d'Alene tribe, receipts from the issuance of bonds and any other source, public or private. To the extent allowed by law, the funds of the financing authority shall not be considered federal funds and shall be available for use as state matching funds for federal grants.

(4) The financing authority may administer its funds to maximize income to fund the basin project. The financing authority is hereby authorized to invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in:

(a) Bonds, notes and other obligations of the United States of America or any agency or instrumentality thereof and other securities secured by such bonds, notes or other obligations;

(b) Money market funds which are insured or the assets of which are limited to obligations of the United States of America or any agency or instrumentality thereof;

(c) Time certificates of deposit and savings accounts; and

(d) Commercial paper which, at the time of its purchase, is rated in the highest category by a nationally recognized rating service.

(5) The financing authority may contract for services deemed necessary to carry out its duties including, but not limited to, financial, legal and accounting services.

(6) The financing authority may provide moneys from its funds to the basin project commission not to exceed such amounts as annually may be requested by the basin project commission.

(7) The financing authority shall establish its fiscal year, keep records of all investments, expenditures and business transactions and provide for an annual public accounting.

(8) The financing authority may exercise all other powers necessary or appropriate to carry out its corporate purposes including, without limitation, the following:

(a) To sue and be sued in its own name;

(b) To have an official seal and to alter the seal at its pleasure;

(c) To maintain an office at a place or places within this state as it may designate;

(d) To hire officers, agents and employees as may be required and to prescribe its duties;

(e) To make and execute contracts and all other instruments neces-

sary or convenient for the exercise of its powers and functions;

(f) To obtain insurance against any loss in connection with its property and other assets in amounts and from insurers it deems desirable;

(g) To borrow money and issue bonds and notes or other evidences of indebtedness as hereinafter provided; and

(h) To the extent permitted under its contract with the holders of bonds, notes and other obligations of the financing authority, to consent to any modification of any contract, lease or agreement of any kind to which the financing authority is a party.

39-8108. FINANCING AUTHORITY MAY ISSUE NOTES AND BONDS -- RELATED POWERS AND DUTIES. (1) The financing authority may issue from time to time its notes and bonds in a principal amount as the financing authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the financing authority, establishment of reserves to secure notes and bonds, and all other expenditures of the financing authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The financing authority may issue:

(a) Bonds or notes, in one (1) or more series, to finance the basin project or any portion or portions thereof;

(b) Notes in anticipation of appropriations or other revenues;

(c) Notes to renew notes; and

(d) Bonds to pay notes, including the interest thereon, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be:

(i) Exchanged for bonds to be refunded; or

(ii) Sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(3) Every issue of its notes and bonds shall be special obligations of the financing authority payable out of such fund or funds as shall be specified by the financing authority.

(a) The notes and bonds shall be authorized by resolution or resolutions of the financing authority, shall bear a date or dates and shall mature at a time or times as the resolution or resolutions may provide, except that no note shall mature more than one (1) year from the date of its issue and no bond shall mature more than thirty (30) years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at a rate or rates, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption as the resolution or resolutions may provide. The notes and bonds of the financing authority may be sold by the financing authority, at public or private sale, at a price or prices, at, above, or below par, as the financing authority shall determine.

(b) Any resolution or resolutions authorizing any notes or bonds or

any issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(i) Pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(ii) Pledging all or any part of the assets of the financing authority to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(iii) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(iv) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied;

(v) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds;

(vi) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(vii) Limitations on the amount of moneys to be expended by the financing agency for operating expenses of the financing authority;

(viii) Vesting in a trustee's or trustees' property, rights, powers and duties in trust as the financing authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this chapter, and limiting or abrogating the right of the bondholders to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee;

(ix) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the financing authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of a default, including as a matter of right the appointment of a receiver; provided however, that these rights and remedies shall be consistent with this chapter and the laws of the state of Idaho;

(x) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(c) Any pledge made by the financing authority shall be valid and binding from the time when the pledge is made; the revenues, moneys or property so pledged and thereafter received by the financing agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the financing authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(d) Neither any administrator of the financing authority nor any other person executing the notes or bonds are subject to any personal liability or accountability by reason of the issuance thereof.
(e) The financing authority, subject to agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the financing authority, which shall thereupon be canceled, at a price not exceeding:

(i) If the notes or bonds are then redeemable, the redemption price, including redemption premium, if any, then applicable plus accrued interest to the next interest payment thereon; or
(ii) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(f) In the discretion of the financing authority, the bonds may be secured by a trust indenture by and between the financing authority and a corporate trustee which may be any trust company or bank having the power of a trust company in the state. The trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the financing authority in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The financing authority may provide by a trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with safeguards and restrictions as it may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the financing agency. If the bonds are secured by a trust indenture, the bondholders have no authority to appoint a separate trustee to represent them.
(g) Whether or not the notes and bonds are of a form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning, and for all the purposes, of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.
(h) In case any of the administrators or officers of the financing authority whose signatures appear on any notes or bonds or coupons shall cease to be administrators or officers before the delivery of the notes or bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the administrators or officers had remained in office until delivery.

(4) The financing authority may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this chapter, including the advance refunding of obligations as provided by section 57-504, Idaho Code, and including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and for any corporate purpose of the financing authority. The issuance of the obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights,

duties and obligations of the financing authority in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate.

(5) Refunding obligations issued as provided in subsection (4) of this section may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing the same, to the payment of any interest on the refunding obligations and any expenses in connection with refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of the holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

(6) All funds of the financing authority except as otherwise authorized or provided in this chapter shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the state of Idaho or the national banking association. The moneys in the accounts shall be paid out on checks signed by the chair of the board of administrators or other officers or employees of the financing authority as the administrators authorize. All deposits of the moneys shall, if required by the financing authority, be secured by obligations of the United States of America, of the state or of any municipalities or political subdivisions or agencies of the state at a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give security for the deposits.

(7) Notwithstanding the provisions of this section, the financing authority may contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the financing authority and of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of the moneys may be secured in the same manner as moneys of the financing authority, and all banks and trust companies are authorized to give security for the deposits.

(8) The financing authority may contract with the holders of bonds or notes with respect to the rights of such holders in the event of a default in the payment of principal or interest on such bonds or notes.

39-8109. NOTES AND BONDS -- STATE WILL NOT IMPAIR VESTED RIGHTS. The state pledges to and agrees with the holders of any notes or bonds issued under this chapter that the state will not limit or alter the rights hereby vested in the financing authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of the holders until the notes and bonds, together

with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The financing authority may include this pledge and agreement of the state in any agreement with the holders of the notes or bonds.

39-8110. LIMITATION OF LIABILITY -- NOTES AND BONDS ARE NOT A DEBT OF THE STATE. The notes, bonds or other obligations of the financing authority are not an indebtedness or obligation of the state of Idaho, or of any department, board, commission, agency, political subdivision, body corporate and politic, or instrumentality of a municipality or county within the state, nor shall such notes, bonds or obligations of the financing authority constitute the giving or loaning of the credit of the state of Idaho, or of any department, board, commission, agency, political subdivision, body corporate and politic or instrumentality of a municipality or county within the state, nor shall they be payable out of any funds other than those of the financing authority; and the notes and bonds shall contain on the face thereof a statement to that effect.

39-8111. STATE MAY MAKE GRANTS TO FINANCING AUTHORITY. The state may make grants of money or property to the financing authority for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers including, but not limited to, deposits to the reserve funds. This section does not limit any other power the state may have to make grants to the financing authority.

39-8112. NOTES AND BONDS OF FINANCING AUTHORITY ARE LEGAL INVESTMENTS. The notes and bonds of the financing authority are legal investments in which all public officers and public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The notes and bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.

39-8113. NOTES AND BONDS OF FINANCING AUTHORITY ARE TAX EXEMPT. The basin project commission and the financing authority perform essential governmental functions in the exercise of the powers conferred upon them under this chapter. The notes and bonds of the financing authority issued under this chapter, and the income therefrom, including any profit made on the sale thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received, pledged to pay or secure the payment of the notes or bonds, are exempt from taxation by

the state, municipalities and all other political subdivisions of the state. Any property acquired or used by the basin project commission consistent with this chapter are exempt from taxation and assessments.

39-8114. CHAPTER NOT A LIMITATION OF POWERS. This chapter does not restrict or limit the powers which the basin project commission or financing authority might otherwise have under any laws of this state, and this chapter is cumulative to those powers. This chapter provides an additional and alternative method for actions authorized and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding bonds under this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes and other obligations. Contracts for the construction and acquisition of any facilities undertaken pursuant to this chapter need not comply with any other state law applicable to contracts for the construction and acquisition of state owned property. No proceedings, notice or approval is required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this chapter.

39-8115. INCONSISTENT LAWS -- THIS CHAPTER CONTROLS. If any provision of this chapter is inconsistent with the provisions of any other law, general, specific or local, the provisions of this chapter control.

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, provided however that Section 1 of this act shall become effective only upon the execution of the order pursuant to Section 39-8106, Idaho Code, and a filing of the order with the Governor and the Secretary of State.

Approved April 10, 2001.

CHAPTER 372
(H.B. No. 280, As Amended in the Senate)

AN ACT

RELATING TO PURCHASES OF LAND BY THE UNITED STATES GOVERNMENT; AMENDING SECTION 58-702, IDAHO CODE, TO PROVIDE THAT THE UNITED STATES SHALL COORDINATE ITS REAL PROPERTY ACQUISITIONS WITH THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE LAND IS LOCATED.

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

SECTION 1. That Section 58-702, Idaho Code, be, and the same is hereby amended to read as follows:

58-702. CONSENT TO PURCHASES BY UNITED STATES -- JURISDICTION FOR EXECUTION OF PROCESS RESERVED -- COORDINATION WITH COUNTY COMMISSIONERS. (1) Consent is given to any purchase already made or that may hereafter be made, by the government of the United States, of any lots, or tracts

of land, within this state, for the use of such government, and to erect thereon and use such buildings, or other improvements, as may be deemed necessary by said government; and over such lands and the buildings, or improvements, that are, or may be, erected thereon, the said government shall have entire control and jurisdiction, except that the state shall have jurisdiction to execute thereon all process, civil or criminal, lawfully issued by the courts of this state, and not incompatible with this cession.

(2) The United States shall coordinate its real property acquisitions with the board of county commissioners of the county in which the land is located.

Approved April 10, 2001.

CHAPTER 373
(H.B. No. 358)

AN ACT

RELATING TO MINIMUM STREAM FLOWS; AMENDING CHAPTER 15, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1506, IDAHO CODE, TO AUTHORIZE THE WATER RESOURCE BOARD TO APPROPRIATE A MINIMUM STREAM FLOW WATER RIGHT IN A DESIGNATED REACH OF THE LEMHI RIVER; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1765A, IDAHO CODE, TO DIRECT THE BOARD TO APPOINT A LOCAL RENTAL COMMITTEE TO FACILITATE OPERATION OF THE WATER SUPPLY BANK WITHIN THE LEMHI RIVER BASIN AND TO PROVIDE FOR USE OF THE WATER SUPPLY BANK TO MAINTAIN THE BOARD'S MINIMUM STREAM FLOW WATER RIGHT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 15, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1506, Idaho Code, and to read as follows:

42-1506. LEMHI RIVER -- MINIMUM STREAM FLOW APPROPRIATION. (1) The water resource board is hereby authorized and directed to appropriate and hold in trust for the people of the state of Idaho a minimum stream flow water right in a designated reach of the Lemhi river in accordance with the provisions of this section. The minimum stream flow appropriation in the designated reach shall be in the amount of thirty-five (35) cfs from January 1 through December 31, provided that fifteen (15) cfs of the appropriation shall be subordinated to all diversions, including high waters or flood waters, authorized under the Lemhi river basin decree (Lemhi County Case No. 4948). The designated reach begins at water diversion L-6 located on the Lemhi river in the southeast quarter (1/4) of section twenty-four (24), township twenty-one (21) north, range twenty-two (22) east of the Boise meridian, and ends at the confluence of the Lemhi river with the Salmon river near the southwest corner of section thirty-two (32), township twenty-two (22) north, range twenty-two (22) east of the Boise meridian, Lemhi county.

(2) The water resource board shall appropriate the minimum stream

flow water right authorized under this section in accordance with the provisions of section 42-1503, Idaho Code. In acting upon the application for permit, the director of the department of water resources need not determine that the appropriation is capable of being maintained based upon records of existing stream flows because it is anticipated that the water right will be maintained through operation of the water supply bank within the Lemhi river basin consistent with the provisions of section 42-1765A, Idaho Code.

(3) Upon the board's filing of an application for permit to appropriate water as directed by this section, the director of the department of water resources is authorized and directed, on an interim basis pending final action on the application for permit, to distribute water under the filing in accordance with the doctrine of prior appropriation using a priority date as of the filing of the application for permit.

SECTION 2. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1765A, Idaho Code, and to read as follows:

42-1765A. LEMHI RIVER BASIN -- LOCAL RENTAL COMMITTEE. (1) The water resource board will appoint a local rental committee to facilitate operation of the water supply bank within the Lemhi river basin comprised of the Lemhi river and all tributary water sources. Section 42-1765, Idaho Code, and the board's water supply bank rules applicable to the operation of a storage water rental pool shall apply to the operation of the water supply bank in the Lemhi river basin, except as inconsistent with this section.

(2) When so appointed, the local rental committee for the Lemhi river basin shall have authority to rent natural flow water rights between consenting owners and consenting renters.

(3) Rights to the use of water for a portion of the approved period of use under a water right may be accepted into the water supply bank and rented out to satisfy the board's minimum stream flow water right authorized under section 42-1506, Idaho Code, provided the owner demonstrates to the satisfaction of the director that there will be an equivalent reduction in the extent of beneficial use made under the right.

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 10, 2001.

CHAPTER 374
(H.B. No. 373)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND AND EXPRESSING LEGISLATIVE INTENT REGARDING SURPLUS GENERAL FUNDS; 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 APPROPRI-

ATED 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; APPROPRIATING GENERAL FUND MONEYS UPON THE REQUEST OF THE PERMANENT BUILDING FUND ADVISORY COUNCIL; AND DECLARING AN EMERGENCY FOR SECTIONS 1, 2, 3, 4 AND 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated and the State Controller is directed to transfer $65,000,000 from the General Fund to the Permanent Building Fund. This transfer shall be made on June 30, 2001. It is legislative intent that if the General Fund surplus on June 30, 2001, is less than the amount required to balance the fiscal year 2002 budget then this transfer shall be reduced accordingly.

SECTION 2. 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:	$ 16,558,000
(1) Alterations and Repairs	
(2) Asbestos Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Building Demolition	
(6) Capitol Mall Maintenance	
B. STATE BOARD OF EDUCATION:	
(1) Historical Society - Idaho History Center, Phase II	$ 4,500,000
(2) Lewis Clark State College - Campus Activity Center	7,640,000
(3) College of Southern Idaho - Fine Arts Building Addition	4,300,000
(4) University of Idaho - Teaching and Learning Center Renovation	10,700,000
(5) Boise State University - First West Campus Building	9,300,000
(6) Historical Society - Historical Museum, Phase II	1,000,000
(7) Idaho State University - Classroom Building	14,000,000
(8) North Idaho College - Nursing, Life Sciences, Allied Health Building	11,800,000
(9) Eastern Idaho Technical College - Maintenance Building Expansion and Health Building Planning	312,000
TOTAL	$ 63,552,000
C. DEPARTMENT OF HEALTH AND WELFARE:	
(1) State Hospital North - Training Center	$ 340,000

D. DEPARTMENT OF CORRECTIONS:	
(1) SICI Medical Building	$ 880,000
(2) Pocatello Women's Correctional Center - 400-Bed Expansion	11,000,000
TOTAL	$ 11,880,000
E. IDAHO STATE POLICE:	
(1) Region 3 Patrol and Investigation Building	$ 2,400,000
(2) POST Academy Expansion	2,400,000
(3) Magic Valley Field Office Groundwork	200,000
TOTAL	$ 5,000,000
F. DEPARTMENT OF LANDS:	
(1) Centerville, Boise County, Fire Guard Station	$ 490,000
G. LAVA HOT SPRINGS FOUNDATION:	
(1) New Dressing Room Facilities	$ 420,000
H. DEPARTMENT OF WATER RESOURCES:	
(1) New Building Planning	$ 300,000
I. DEPARTMENT OF LABOR:	
(1) Industrial Administration Building Remodel	$ 890,000
J. DEPARTMENT OF ADMINISTRATION:	
(1) Statewide Microwave System - Digital Upgrade Phase III	$ 2,100,000
K. COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:	
(1) Seed Funds for New Location	$ 1,500,000
GRAND TOTAL	$103,030,000

SECTION 3. It is legislative intent that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be effective from the effective date of this act.

SECTION 4. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 5. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

SECTION 6. There is hereby appropriated $300,000 from the General Fund for the period July 1, 2001, through June 30, 2002. Upon the request of the Permanent Building Fund Advisory Council, the State Controller shall transfer that amount to the Permanent Building Fund to be used for the planning of a new office building for the Department of Water Resources.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4 and 5 of this act shall be in full force and effect on and after passage and approval.

Approved April 10, 2001.

CHAPTER 375
(H.B. No. 382)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING SECTION 31-4304, IDAHO CODE, TO PROVIDE THAT PETITIONS FOR FORMATION OF RECREATION DISTRICTS SHALL STATE THE MAXIMUM TAX RATE THAT WOULD BE IMPOSED UPON TAXABLE PROPERTY WITHIN THE DISTRICT OR PLANNED UNIT DEVELOPMENT RECREATION DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4318, IDAHO CODE, TO PROVIDE FOR A TAX LEVY FOR DISTRICTS CREATED PRIOR TO JULY 1, 2001, TO PROVIDE A LEVY FOR DISTRICTS CREATED ON OR AFTER JULY 1, 2001, TO PROVIDE MAXIMUM RATES AND TO PROVIDE A PROCEDURE IF A DISTRICT DESIRES TO IMPOSE A TAX RATE IN EXCESS OF THAT CONTAINED IN THE PETITION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-4304, Idaho Code, be, and the same is hereby amended to read as follows:

31-4304. CREATION OF RECREATION DISTRICTS. A recreation district may be created as follows:

(a) Any person or persons may file a petition for the formation of a recreation district with the clerk. Such petition which may be in one (1) or more papers shall clearly designate the boundaries of the proposed district, shall state the name of the proposed district, shall state the maximum tax rate that would be imposed upon taxable property within the district or planned unit development recreation districts, and shall be signed by not less than twenty ~~per cent~~ percent (20%) of the qualified electors resident within the boundaries of the proposed district. The boundaries of the proposed district shall include contiguous territory having market value for assessment purposes of not less than five million dollars ($5,000,000) at the last preceding county assessment and shall not include any area included within an already existing recreation district. The petition shall be accompanied by a map showing the boundaries of the proposed district.

(b) The clerk shall, within ten (10) days after the filing of such petition and map, estimate the cost of advertising and holding the elec-

tion provided in this section and notify in writing the person or any one of the persons filing such petition as to the amount of such estimate. Such person or persons shall within twenty (20) days after receipt of such written notice deposit such estimated amount with the clerk in cash, or such petition shall be deemed withdrawn. If the deposit is made and the district is formed, the person or persons so depositing such sum shall be reimbursed from the first moneys collected by the district from the taxes authorized to be levied by this chapter.

(c) Within thirty (30) days after the filing of such petition together with such map and the making of such cash deposit, the county commissioners shall determine whether or not the same substantially comply with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to the effect specifying the particular deficiencies, dismissing such petition and refunding such cash deposit. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election, subject to the provisions of section 34-106, Idaho Code, upon the formation of such proposed district as provided in this section.

(d) If the county commissioners order an election as provided in this section, such election shall be conducted in accordance with the general election laws of the state, including the provisions of chapter 14, title 34, Idaho Code. The county commissioners shall establish election precincts, design and print elector's oaths, ballots and other necessary supplies, appoint election personnel and by rule and regulation provide for the conduct and tally of such election. Each qualified elector who is a resident of the proposed district shall be entitled to vote in such election. The clerk shall give notice of such election which notice shall clearly designate the boundaries of such proposed district, shall state the name of the proposed district as designated in the petition, shall state the date of such election and the hours on such date which the polls will be open for receipt of ballots, shall set forth the qualifications of electors, and shall state that a map showing the boundaries of such district is on file in the office of the clerk. Such notice shall be published for the first time, not less than twelve (12) days prior to the election, and the second publication shall be made not less than five (5) days prior to such election in a newspaper published within the county.

(e) Immediately after such election, the judges at such election shall forward the ballots and results of such election to the clerk. The county commissioners shall canvass the vote within ten (10) days after such election. If one-half (1/2) or more of the votes cast at such election are against the formation of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be formed. If more than one-half (1/2) of the votes cast at such election are in favor of forming such district, the county commissioners shall enter an order so finding, declaring such district duly organized under the name designated in such petition, and dividing such district into three (3) subdivisions, as nearly equal in population as possible, to be known as director's subdistricts one (1), two (2) and three (3). The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county and shall cause one (1) certified copy of such order to be trans-

mitted to the governor. Immediately upon the entry of such order, the organization of such district shall be complete.

(f) Upon receipt of a certified copy of the order of the county commissioners, the governor shall appoint a qualified elector from each director's subdistrict who shall constitute the first board of such district. The appointees from director's subdistricts one (1) and two (2) shall serve until the first district election thereafter held at which their successors shall be elected and the appointee from director's subdistrict three (3) shall serve until the second district election thereafter held at which such appointee's successor shall be elected. The certificate of appointment shall be filed with the clerk with a copy forwarded to each appointee.

(g) When the boundaries of the proposed district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and organization of that part of the proposed district contained in their county but the county commissioners of each such county shall meet together before calling such election, subject to the provisions of section 34-106, Idaho Code, and provide for uniform proceedings in each county and fix the boundaries of each director's subdistrict in case such election shall carry.

(h) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualification of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the organization of such district after six (6) months have expired from the date of entering the order declaring the formation of such district.

SECTION 2. That Section 31-4318, Idaho Code, be, and the same is hereby amended to read as follows:

31-4318. LEVY OF TAX. (1) For districts created prior to July 1, 2001, tThe board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district or in an amount not exceeding in any one (1) year one percent (1%) of market value for assessment purposes of all of the taxable property within a district created pursuant to section 31-4304A, Idaho Code.

(2) For districts created on or after July 1, 2001, the board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding the rate contained in the petition creating the recreation district or planned unit development recreation district, or six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district, or one percent (1%) of market value for assessment purposes of all of the taxable property within a district created pursuant to section 31-4304A, Idaho Code. If a district desires to impose a tax rate in excess of that contained in its petition, it may submit the question to the electors of the district at an election held subject to the provisions of section 34-106, Idaho Code. The notice for the election shall be in similar scope to that contained in section 31-4324, Idaho Code, and shall be conducted pursuant to section 31-4325, Idaho Code. If a majority of the electors voting at the election vote in favor of increasing the tax rate maximum, the new tax rate shall be in effect for the tax year following the elec-

tion and for each succeeding tax year.

(3) The board shall by resolution fix the levy to be made for such district for such year and the secretary shall transmit a certified copy of such resolution to the county commissioners at the time and in the manner provided by section 63-804, Idaho Code. Such taxes shall be collected as provided by section 63-812, Idaho Code, and remitted to the treasurer of the district as provided by section 63-1202, Idaho Code.

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

Approved April 10, 2001.

CHAPTER 376
(S.B. No. 1185)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2002; 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 2002; 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,311,600	$ 815,800	$ 74,900		$ 2,202,300
Indirect Cost Recovery Fund	43,700	6,500			50,200
Parks and Recreation Fund	399,200	716,000	20,000		1,135,200
Recreational Fuels Fund	55,300	35,300	8,000		98,600
Parks and Recreation Registration Fund	24,900	46,300			71,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	4,300	17,600			21,900
Federal Grant Fund	15,300	5,200		$ 36,400	56,900
TOTAL	$ 1,854,300	$1,642,700	$ 102,900	$ 36,400	$ 3,636,300
II. PARK OPERATIONS:					
FROM:					
General Fund	$ 4,560,700	$ 916,000	$ 116,000		$ 5,592,700
Parks and Recreation Fund	1,393,500	862,100	25,000		2,280,600
Recreational Fuels Fund	14,100	6,000	450,000		470,100
Miscellaneous Revenue Fund	5,400	77,500			82,900
Public Recreation Enterprise Fund	254,100	595,800	160,000		1,009,900
Parks and Recreation Expendable Trust Fund	174,300	303,700	20,000		498,000
Federal Grant Fund	685,600	152,500			838,100
TOTAL	$ 7,087,700	$2,913,600	$ 771,000		$10,772,300
III. PARK DEVELOPMENT:					
FROM:					
General Fund	$ 304,400	$ 27,400	$1,569,400	$ 1,000,000	$ 2,901,200
Parks and Recreation Fund	105,200	49,800	100,000		255,000
Recreational Fuels Fund	159,600		1,055,000		1,214,600
Parks and Recreation Enterprise Fund			525,000		525,000
Parks and Recreation Expendable Trust Fund			340,000		340,000
TOTAL	$ 569,200	$ 77,200	$3,589,400	$ 1,000,000	$ 5,235,800
IV. RECREATION RESOURCES:					
FROM:					
General Fund	$ 93,900	$ 44,800	$ 25,700		$ 164,400
Indirect Cost Recovery Fund	92,600	30,200	1,000		123,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Parks and Recreation Fund				$ 50,000	50,000
Recreational Fuels Fund	352,600	125,800	744,000	2,118,700	3,341,100
Parks and Recreation Registration Fund	221,300	321,800	87,700	7,088,700	7,719,500
Petroleum Price Violation Fund				300,000	300,000
Federal Grant Fund	223,700	137,800	14,000	1,471,000	1,846,500
TOTAL	$ 984,100	$ 660,400	$ 872,400	$11,028,400	$13,545,300
GRAND TOTAL	$10,495,300	$5,293,900	$5,335,700	$12,064,800	$33,189,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred fifty-eight and twenty-five one-hundredths (158.25) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 2001 are hereby reappropriated for capital outlay in that program for the period July 1, 2001, through June 30, 2002.

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 is 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, 2001, through June 30, 2002:

LAVA HOT SPRINGS FOUNDATION:	
FOR:	
Personnel Costs	$ 547,000
Operating Expenditures	507,400
Capital Outlay	24,100
TOTAL	$1,078,500
FROM:	
Public Recreation Enterprise - Lava Hot Springs Fund	$1,078,500

SECTION 8. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 10, 2001.

CHAPTER 377
(S.B. No. 1193, As Amended)

AN ACT

RELATING TO THE IDAHO AERONAUTICS ADVISORY BOARD; AMENDING SECTION 21-132, IDAHO CODE, TO PROVIDE THAT EFFORTS OF THE PUBLIC AND PRIVATE SECTORS BE COMBINED TO MATCH THE AVIATION PROGRAM PLANNED BY CONGRESS FOR THE NEW MILLENNIUM; AMENDING SECTION 21-134, IDAHO CODE, TO INCREASE COMPENSATION FOR MEMBERS OF THE AERONAUTICS ADVISORY BOARD; AMENDING SECTION 21-135, IDAHO CODE, TO INCREASE THE MEMBERSHIP OF THE BOARD FROM THREE TO FIVE MEMBERS, TO PROVIDE FOR AREAS OF EXPERTISE REPRESENTED ON THE BOARD, TO PROVIDE THAT NOT MORE THAN THREE MEMBERS AT ANY TIME SHALL BELONG TO THE SAME POLITICAL PARTY, TO DELETE THE PROHIBITION REGARDING CERTAIN OTHER OFFICES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 21-136, IDAHO CODE, TO PROVIDE FOR GEOGRAPHICAL REPRESENTATION ON THE BOARD, TO INCREASE THE TERM OF OFFICE TO FIVE YEARS, TO PROVIDE THAT THE INITIAL TERMS OF THE TWO AT-LARGE MEMBERS MAY BE LESS THAN FIVE YEARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 21-132, Idaho Code, be, and the same is hereby amended to read as follows:

21-132. DECLARATION OF PURPOSE. It is hereby found and declared that there exists in the state of Idaho a need to improve and expand air service capabilities to meet the increased demands of air transportation. In view of the rapid growth of this mode of passenger transportation, faster and heavier aircraft, the anticipated use of this system by industry for moving high value goods and merchandise in a minimum of time, to save handling and warehousing, planning to meet future needs is imperative. Such planning must accommodate intrastate and interstate service for passengers and freight into the national system, with implementation as rapidly as possible. The efforts of both the public and private sectors must be combined to match the aviation program planned by congress for ~~implementation in the early 1970's~~ the new millennium.

SECTION 2. That Section 21-134, Idaho Code, be, and the same is hereby amended to read as follows:

21-134. IDAHO AERONAUTICS ADVISORY BOARD CREATED -- DUTIES -- COMPENSATION. There is hereby created and established the Idaho aeronautics advisory board. The board shall consult with and advise the Idaho transportation department on matters concerning aeronautics. Members shall be compensated as provided by section 59-509(~~g~~h), Idaho Code.

SECTION 3. That Section 21-135, Idaho Code, be, and the same is hereby amended to read as follows:

21-135. COMPOSITION OF ADVISORY BOARD -- NUMBER -- APPOINTMENT -- QUALIFICATIONS. The advisory board shall be composed of ~~three~~ five (~~3~~5) members to be appointed by the governor. All members shall be knowledgeable and have experience in aviation; provided however, one (1) member shall have particular knowledge of commercial aviation; one (1) member shall have knowledge of general aviation; one (1) member shall have particular knowledge of back-country aviation; and one (1) member shall have particular knowledge of air freight transportation. Not more than ~~two~~ three (~~2~~3) members thereof shall at any time belong to the same ~~poli~~tical party. Provided, however, two (2) members of the advisory board shall be ~~rated~~ licensed pilots. Members shall be successful public spirited citizens of good character, well informed and interested in the construction and maintenance of aeronautical facilities. Selection and appointment shall be made solely with regard to the best interests of the various functions of the advisory board. Each member at the time of his appointment shall be a citizen and resident taxpayer of the state of Idaho, and of the members appointed to represent director districts, such member shall be a resident of the district from which he is ~~appointed for at least three (3) years, and during his tenure of office no member shall hold or occupy any elective or other appointive office, federal, state, county or municipal, or any office in any political party~~.

SECTION 4. That Section 21-136, Idaho Code, be, and the same is hereby amended to read as follows:

21-136. APPOINTMENT OF MEMBERS -- TERM -- VACANCIES. For the purposes of selection of members of the advisory board of aeronautics, one (1) member shall be appointed to represent director districts no. 1 and 2, one (1) member to represent director districts no. 3 and 4, ~~and~~ one (1) member to represent director districts no. 5 and 6, as provided in section 40-303, Idaho Code, and two (2) members shall be appointed from the state at-large.

~~Each of the enumerated districts shall, at all times, be represented by one (1) board member, appointed from one (1) of the two (2) director districts represented.~~ The governor shall appoint, subject to confirmation by the senate, the board members for terms of ~~three~~ five (~~3~~5) years. The initial terms of the at-large members may be less than five (5) years, and shall be staggered so that not more than (1) term of any member of the board shall expire in any one (1) year. The term of each member shall begin immediately upon his appointment and qualifi~~cation.~~ Each member shall hold office after ~~the~~ expiration of his term until his successor has been appointed. Not less than fifteen (15) days before the expiration of the term of appointment of each member, the governor shall appoint a successor and submit the appointment to the senate for confirmation. Should any member of the board resign, die, remove from the district from which he was appointed, or otherwise be removed from office, a vacancy shall exist, and during the recess of the legislature, the governor shall within thirty (30) days appoint a successor with like qualifications, to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and while it is still in session, the governor shall make and submit to the senate for its approval a nomination to fill the vacancy.

Approved April 10, 2001.

CHAPTER 378
(S.B. No. 1242)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO OFFICER ALLOCATION; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE IDAHO STATE POLICE ENFORCING THE PROVISIONS OF THE PREVENTION OF MINORS' ACCESS TO TOBACCO DURING FISCAL YEAR 2002.

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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 2,006,900	$ 274,900	$ 85,500		$ 2,367,300
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,876,000	$ 505,600	$ 38,000		$ 2,419,600
Indirect Cost Recovery Fund	65,400				65,400
Idaho Law Enforcement Fund	11,600	1,000			12,600
Peace Officers Fund	700				700
Miscellaneous Revenue Fund		55,300			55,300
Federal Grant Fund	454,500	126,800	6,000	$3,334,300	3,921,600
TOTAL	$ 2,408,200	$ 688,700	$ 44,000	$3,334,300	$ 6,475,200
B. INVESTIGATIONS:					
FROM:					
General Fund	$ 4,734,100	$ 1,123,200	$ 407,300		$ 6,264,600
Drug Donation Fund		270,800			270,800
Federal Grant Fund	104,400	184,200			288,600
TOTAL	$ 4,838,500	$ 1,578,200	$ 407,300		$ 6,824,000
C. PATROL:					
FROM:					
General Fund	$ 2,422,800	$ 119,300	$ 2,259,400		$ 4,801,500
Idaho Law Enforcement Fund	11,770,000	3,012,200	49,800		14,832,000
Hazardous Materials/ Waste Enforcement Fund	121,200	42,800		$ 67,800	231,800
Miscellaneous Revenue Fund	48,900				48,900
Federal Grant Fund	947,700	1,041,500	300,000		2,289,200
TOTAL	$15,310,600	$ 4,215,800	$2,609,200	$ 67,800	$22,203,400
D. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ 1,123,700	$ 498,100	$ 55,700		$ 1,677,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	66,600	18,400			85,000
TOTAL	$ 1,190,300	$ 516,500	$ 55,700		$ 1,762,500
E. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,567,300	$ 1,187,500	$ 296,500		$ 3,051,300
Idaho Law Enforcement Fund	1,038,800	139,000	32,100		1,209,900
Idaho Law Enforcement Telecommunications Fund	259,100	273,700			532,800
Miscellaneous Revenue Fund	469,400	992,500	34,800		1,496,700
Federal Grant Fund	115,800	626,100			741,900
TOTAL	$ 3,450,400	$ 3,218,800	$ 363,400		$ 7,032,600
F. FORENSIC SERVICES:					
FROM:					
General Fund	$ 1,807,900	$ 538,900	$ 98,200		$ 2,445,000
Miscellaneous Revenue Fund	49,900	199,000			248,900
Federal Grant Fund		99,800	20,100		119,900
TOTAL	$ 1,857,800	$ 837,700	$ 118,300		$ 2,813,800
DIVISION TOTAL	$29,055,800	$11,055,700	$3,597,900	$3,402,100	$47,111,500
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 799,200	$ 939,400	$ 85,000	$ 89,300	$ 1,912,900
Miscellaneous Revenue Fund		5,100			5,100
Federal Grant Fund	90,000	181,100		237,900	509,000
TOTAL	$ 889,200	$ 1,125,600	$ 85,000	$ 327,200	$ 2,427,000
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 347,200	$ 310,400			$ 657,600
Pari-mutuel Distributions Fund				$ 100,000	100,000
TOTAL	$ 347,200	$ 310,400		$ 100,000	$ 757,600
GRAND TOTAL	$32,299,100	$12,766,600	$3,768,400	$3,829,300	$52,663,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred forty-two and seven-hundredths (542.07) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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 the intent of the Legislature that the Idaho State Police shall reallocate at least four (4) patrol officer positions from Region 3 to other regions around the state, once the new motorcycle patrol is active in the Treasure Valley, to support the need for enhanced patrol activity in rural areas.

SECTION 4. It is the intent of the Legislature that the Idaho State Police shall enter into an agreement with the Department of Health and Welfare to manage and enforce the provisions of Chapter 57, Title 39, Idaho Code, (Prevention of Minors' Access to Tobacco) for the period July 1, 2001, through June 30, 2002.

Approved April 10, 2001.

CHAPTER 379
(S.B. No. 1244)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2002; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2001; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,408,600	$ 770,600	$ 64,300		$ 2,243,500
Miscellaneous Revenue Fund	52,500	12,000			64,500
TOTAL	$ 1,461,100	$ 782,600	$ 64,300		$ 2,308,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 924,100	$ 143,300	$ 2,500	$ 3,100,900	$ 4,170,800
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,822,200	4,822,200
Juvenile Corrections Fund	33,600	193,500	2,500		229,600
Federal Grant Fund	41,400	20,000			61,400
Miscellaneous Revenue Fund				100,000	100,000
TOTAL	$ 999,100	$ 356,800	$ 5,000	$ 8,023,100	$ 9,384,000
III. INSTITUTIONS:					
FROM:					
General Fund	$12,708,400	$1,257,400	$ 36,000	$13,749,000	$27,750,800
State Juvenile Corrections Center Fund		1,292,100	129,700		1,421,800
Federal Grant Fund	119,600	254,700		1,400,000	1,774,300
Miscellaneous Revenue Fund		649,900	36,600	970,300	1,656,800
TOTAL	$12,828,000	$3,454,100	$202,300	$16,119,300	$32,603,700
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 83,000	$ 11,500		$ 56,000	$ 150,500
Federal Grant Fund	171,700	287,700	$ 4,000	2,295,600	2,759,000
TOTAL	$ 254,700	$ 299,200	$ 4,000	$ 2,351,600	$ 2,909,500
GRAND TOTAL	$15,542,900	$4,892,700	$275,600	$26,494,000	$47,205,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred forty-eight (348) full-time equivalent positions at any point during the period July 1, 2001, through June 30, 2002, 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. In addition to the appropriation made in Section 1, Chapter 454, Laws of 2000, there is hereby appropriated to the Department of Juvenile Corrections the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2000, through June 30, 2001:

INSTITUTIONS:

FOR:	
Operating Expenditures	$ 29,000
Capital Outlay	291,600
TOTAL	$320,600
FROM:	
State Juvenile Corrections Center Fund	$320,600

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

Approved April 10, 2001.

CHAPTER 380
(S.B. No. 1255)

AN ACT

RELATING TO ENERGY COST RECOVERY BONDS; AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 61, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR ENERGY COST RECOVERY BONDS, TO PROVIDE PROCEDURES FOR ISSUANCE OF ENERGY COST RECOVERY BONDS, TO PROVIDE FOR SECURITY INTEREST, TO PROVIDE FOR TRANSFERS IN INTEREST, TO PROVIDE FOR SUCCESSORS AND TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 61, 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 61, Idaho Code, and to read as follows:

CHAPTER 15
ENERGY COST RECOVERY BONDS

61-1501. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter to provide a process by which the recovery of large energy rate increases caused by fuel or power cost adjustments, purchased gas adjustment tracker rates, commodity tracker rate adjustments or purchased power tracker rates will be facilitated by the issuance of bonds. This legislation will provide electric and gas utilities with a mechanism for recovery of their increased costs while leveling the rate impact of such increase on the utilities' customers. The legislature believes that this type of securities legislation is in the public interest but should not be considered as an endorsement of, or intended to provide, a mechanism for restructuring of the utility industry in the state of Idaho.

61-1502. DEFINITIONS. For purposes of this chapter, the following terms shall have the following meanings:

(1) "Assignee" means any corporation, limited liability company, trust, partnership or other entity to which a public utility assigns, sells or transfers, other than as security, all or a portion of the public utility's interest in or right to energy cost property. The term also includes any such entity to which an assignee assigns, sells or transfers, other than as security, the assignee's interest in or right to energy cost property.

(2) "Chapter 9" means chapter 9, title 28, Idaho Code, as from time to time amended, including any successor provisions.

(3) "Commission" means the Idaho public utilities commission, as it may be constituted from time to time, and any successor agency exercising functions similar in purpose thereto.

(4) "ECA" means any of the following, as authorized by the commission and reflected in a usage-based charge of a public utility: a fuel or power cost adjustment; a purchased gas adjustment tracker rate; a commodity electric or gas tracker rate adjustment; or a purchased power tracker rate.

(5) "Energy cost amounts" means the amounts that a public utility, assignee or other issuer has been authorized to recover by the commission pursuant to an energy cost financing order, including without limitation:

(a) Amounts recoverable by a public utility pursuant to an ECA;

(b) Expenditures incurred to refinance or retire existing debt or existing equity capital of the public utility through the issuance of energy cost recovery bonds and any costs related thereto;

(c) Amounts necessary to recover federal or state taxes actually paid by a public utility, which tax liability is modified by the transactions approved in an energy cost financing order issued by the commission pursuant to this chapter; and

(d) Reasonable costs, as approved by the commission, relating to the issuance, servicing or refinancing of energy cost recovery bonds under the provisions of this chapter including, without limitation, principal and interest payments and accruals, sinking fund payments, debt service and other reserves, costs of credit enhancement, indemnities, if any, owed to an assignee or other issuer or the trustee for the energy cost recovery bonds, issuance costs and redemption premiums, if any, and all other reasonable fees, costs and charges with respect to the energy cost recovery bonds.

(6) "Energy cost bond charge" means a nonbypassable usage-based charge that the commission authorizes in an energy cost financing order as a separate line item for recovery on a public utility's bill to all of its customers, whether such amounts are billed and/or collected by the public utility, any subsidiary or affiliate thereof, or any third party that may assume the responsibility for billing or collecting such charges.

(7) "Energy cost financing order" means an order of the commission issued in accordance with this chapter that authorizes the imposition and collection of energy cost amounts and the issuance of energy cost recovery bonds. If requested by an electric or gas public utility in its application for an energy cost financing order, energy cost bond charges shall be in an amount sufficient to recover federal and state taxes associated with the recovery of energy cost amounts described therein.

(8) "Energy cost property" means the irrevocable, vested property right created pursuant to this chapter and one (1) or more energy cost financing orders including, without limitation, the right, title and interest of a public utility, assignee or other issuer of energy cost recovery bonds to all revenues, collections, claims, payments, money or proceeds of or arising from an energy cost recovery charge or constituting the costs of recovering, reimbursing, financing or refinancing energy cost amounts and acquiring energy cost property (including the costs of issuing, servicing and retiring energy cost recovery bonds) and all rights to obtain adjustments to such energy cost recovery charge pursuant to the terms of this chapter and any energy cost financing order; provided that any right that a public utility has in the energy cost property before the sale or other transfer of such property or any other rights created under this chapter or created in any energy cost financing order and assignable under section 61-1504, Idaho Code, or assignable pursuant to an energy cost financing order shall be only a contract right. Energy cost property shall, upon its sale or other transfer, constitute a current and irrevocably vested property right notwithstanding the fact that the value of such property right will depend upon consumers using electricity and/or the public utility performing certain services.

(9) "Energy cost recovery bond" means any instrument, pass-through certificate, note, bond, debenture, certificate of participation, collateral trust certificate, beneficial interest or other evidence of indebtedness or ownership issued by a public utility, assignee or other issuer pursuant to an energy cost financing order and an executed indenture, security agreement or other similar agreement of a public utility, assignee or other issuer that is secured by or payable from energy cost bond charges or energy cost property.

(10) "Energy cost recovery bondholder" means any holder of an energy cost recovery bond or any trustee, collateral agent or other entity acting for the benefit of or on behalf of any such holder.

61-1503. ENERGY COST RECOVERY BONDS. An electric or gas public utility may apply to the commission for an energy cost financing order requesting that certain energy cost amounts be recovered through the sale of energy cost recovery bonds.

(1) A public utility may apply to the commission at any time and from time to time for an authorization that it may recover ECA amounts and other energy cost amounts through the issuance of energy cost recovery bonds. The public utility may apply to the commission for such an authorization either in a separate proceeding or in a proceeding considering the authorization of an ECA. Upon such an application, if the commission finds that the public interest would be better served if the energy cost amounts were recovered through the issuance of energy cost recovery bonds over the term of such bonds than if the ECA amounts were recovered over a period of one (1) year, assuming a conventional financing of such amounts, the commission shall issue an energy cost financing order to allow the public utility to recover energy cost amounts.

(2) The energy cost financing order shall detail the energy cost amount to be recovered and the period of time in which the energy cost recovery is to occur. The commission shall not issue an energy cost financing order unless the total of the then (a) existing ECAs, (b) existing energy cost bond charges, and (c) the amount identified by the

electric or gas public utility in its application for such financing order as the additional ECA that would be required absent an issuance of energy cost recovery bonds pursuant to such financing order, exceeds a minimum amount (expressed in cents per kilowatt-hour or cents per therm) approved by the commission and in effect at the time of the issuance of such energy cost financing order. Each public utility shall, at least thirty (30) days prior to its first application for an energy cost financing order and at five (5) year intervals thereafter, file with the commission a proposal as to what such minimum amount should be and the commission shall, within twenty-eight (28) days of such filing, issue an order regarding its determination of such proposed minimum amount. Energy cost recovery bonds shall have an expected maturity date no later than five (5) years after the date of issuance, and scheduled principal payments on such bonds shall, to the extent practicable, be scheduled to be made in approximately equal amounts during each year of the term of such bonds. Energy cost recovery bonds shall have a legal maturity date no later than seven (7) years after the date of issuance. Energy cost bond charges shall remain in effect until all energy cost recovery bonds and all energy cost amounts have been paid in full. The commission may issue successive energy cost financing orders permitting subsequent issuances of energy cost recovery bonds.

(3) An energy cost financing order may be issued only upon the application of a public utility and shall become effective only in accordance with its terms and conditions. The public utility may withdraw its application if it disagrees with any of the terms and conditions of the energy cost financing order or any modification thereof within fourteen (14) days of issuance of the energy cost financing order or of such modification. The energy cost financing order shall specify the estimated amount of the energy cost bond charge and the formula for determining the amount of the charge that from time to time will be sufficient to recover all energy cost amounts.

(4) After issuance of an energy cost financing order, the public utility may sell, assign or otherwise transfer or pledge energy cost property or cause the energy cost recovery bonds to be issued, provided it may defer, postpone or refrain from effecting the sale, assignment, transfer, pledge or issuance, in which case no energy cost bond charge shall be imposed unless and until such energy cost recovery bonds are issued. If energy cost recovery bonds are not issued within one (1) year after the energy cost financing order becomes final and nonappealable, the authorization contained in the energy cost financing order shall expire, provided that a public utility may apply for an extension or renewal of an energy cost financing order.

(5) The energy cost financing orders, the energy cost amounts and the energy cost bond charges that have been determined by the commission shall be irrevocable and binding upon the commission. The commission shall not have authority either by rescinding, altering or amending the energy cost financing order or otherwise to, either directly or indirectly, revalue or revise for ratemaking purposes the energy cost amounts. Once the commission determines the energy cost bond charge, it cannot determine in a later proceeding that the energy cost bond charge is unjust or unreasonable or in any way reduce or impair the value of energy cost property either directly or indirectly by taking the energy cost bond charge into account when setting other rates for the public utility; nor shall the amount of revenues arising with respect thereto

be subject to reduction, impairment, postponement or termination. The state of Idaho does hereby pledge to and agree with the owners of energy cost property and with any energy cost recovery bondholders that neither the state nor any of its agencies, including the commission, shall (by legislative action, ballot initiative or other similar process) limit, alter, restrict or impair the energy cost amounts, the energy cost bond charge, the energy cost property, the energy cost financing orders or any rights thereunder or ownership thereof or security interest therein or in any way impair the rights or remedies of any energy cost recovery bondholders until the energy cost recovery bonds, including all principal, interest, premium, costs, expenses and arrearages thereon, are fully met and discharged, provided nothing contained in this chapter shall preclude such a limitation, alteration, restriction or impairment if and when adequate provision (including without limitation provision for the payment of principal and interest when due) shall be made by law for the protection of the energy cost recovery bondholders. The state of Idaho does hereby acknowledge that any energy cost recovery bondholders may and will rely on this pledge and agreement and that they would be irreparably harmed by any such limitation, alteration, restriction or impairment without such adequate provision. The public utility and any assignee or other issuer are authorized to include this pledge and agreement in the energy cost recovery bonds and the documents relating thereto. Notwithstanding any other provision of this subsection, the commission shall approve such adjustments to the energy cost bond charges as may be necessary to ensure timely recovery of all energy cost amounts that are the subject of the pertinent energy cost financing order.

(6) Energy cost recovery bonds issued under this chapter and any energy cost financing orders do not constitute a debt or liability of the state or of any political subdivision thereof and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, but are payable solely from the funds provided therefor. All the bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of Idaho is pledged to the payment of the principal of, or interest on, this bond." This paragraph shall in no way preclude bond guarantees or enhancements pursuant to this chapter, nor shall it preclude the payment of compensation for any breach of the state's pledge contained in subsection (5) of this section or for any action or failure to act by the commission in contravention of this chapter.

(7) The commission shall establish procedures for the expeditious processing of any application for energy cost financing orders, including the approval or disapproval of any such orders within forty-five (45) days of the application. In addition, each energy cost financing order shall specify a procedure for making adjustments to the energy cost bond charge that is the subject of the order, such adjustments to be expeditiously approved by the commission, so as to ensure the timely payment of principal and interest on the related energy cost recovery bonds and the recovery of all other energy cost amounts. Such procedure shall provide for adjustments to be made, upon application by the affected public utility, assignee or other issuer, at least annually and at such additional intervals, if any, as are specified in the order. The public utility, assignee or other issuer shall file its application for any such adjustment with the commission at least thirty (30) days before

the date on which the adjustment is requested to become effective, and the commission shall approve or disapprove such application no later than thirty (30) days after the date of such filing. In addition, upon application by a public utility, assignee or other issuer after an energy cost financing order has been issued and has become effective, the commission may:

(a) Authorize the making of adjustments to the energy cost bond charge at more frequent intervals than those specified in such order; and/or

(b) Authorize a change in the method for calculating the energy cost bond charge from that specified in such order so as to better ensure the timely recovery of all energy cost amounts.

(8) The energy cost bond charge shall be treated as a charge for utility services for purposes of determining both the credit and collection standards to which customers (including, for purposes of this subsection, any parties that provide billing or collection services for energy supplied to another customer) may be held subject under applicable state law and the remedies for nonpayment that are available to a public utility under applicable state law, and such treatment shall not alter the tax, accounting or other intended characteristics of any energy cost bond financing.

(9) An energy cost bond charge shall constitute energy cost property when, and to the extent that, an energy cost financing order authorizing such energy cost bond charge has become effective in accordance with this chapter, and the energy cost property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this chapter for the period and to the extent provided in the energy cost financing order, but in any event until the energy cost recovery bonds are paid in full, including all principal, interest, premium, costs and arrearages thereon.

(10) Any surplus energy cost bond charge collections in excess of the amounts necessary to pay principal, premium, if any, interest, credit enhancement and all other fees, costs and charges with respect to energy cost recovery bonds shall be used to benefit customers in such manner as the commission may reasonably determine except to the extent that such use would result in a recharacterization of the tax, accounting or other intended characteristics of the financing.

61-1504. PROCEDURE FOR ISSUANCE OF BONDS. (1) Public utilities, assignees or other issuers may issue energy cost recovery bonds upon approval by the commission in an energy cost financing order.

(2) Public utilities and assignees may sell and assign all or portions of their interest in energy cost property. Public utilities and assignees may sell or assign their interests to one (1) or more assignees or other issuers that make that property the basis for issuance of energy cost recovery bonds to the extent approved in the pertinent energy cost financing order. To the extent approved in the pertinent energy cost financing orders, public utilities and assignees may also pledge energy cost property as collateral, directly or indirectly, for energy cost recovery bonds providing for a security interest in the energy cost property, in the manner as set forth in section 61-1505, Idaho Code. Energy cost property may be sold or assigned by:

(a) The public utility, assignee or other issuer or a trustee for the holders of energy cost recovery bonds in connection with the

exercise of remedies upon a default; or

(b) Any person acquiring the energy cost property after a sale or assignment pursuant to this subsection.

(3) To the extent that any interest in energy cost property is so sold or assigned, or is so pledged as collateral, the commission shall authorize the public utility to contract with an assignee or other issuer that it will continue to operate its system to provide service to its customers, will collect amounts with respect to the energy cost bond charges for the benefit and account of the assignee or other issuer, and will account for and remit these amounts to or for the account of the assignee or other issuer. Contracting with the assignee or other issuer in accordance with that authorization shall not impair or negate the characterization of the sale, assignment or pledge as an absolute transfer, a true sale or security interest, as applicable.

(4) Notwithstanding any other provision of law to the contrary, any requirement under this chapter or an energy cost financing order that the commission take action with respect to the subject matter of an energy cost financing order shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exercising functions similar to the commission. The commission shall have no authority to rescind, alter or amend any such requirement under this chapter or an energy cost financing order; provided however, that nothing in this subsection shall preclude adjustments of the energy cost bond charges in accordance with the provisions of section 61-1503, Idaho Code. The issuance of energy cost recovery bonds, any related transfer or pledge of energy cost recovery property and any other transactions incidental to such issuance shall be exempt from the provisions of sections 61-901 through 61-908, Idaho Code, upon approval by the commission in an energy cost financing order. The commission shall include in any energy cost financing order any additional approvals that may be required in connection with such issuance under applicable law.

(5) An assignee or other issuer shall not be considered to be a public utility solely by virtue of the transactions described in this chapter.

61-1505. SECURITY INTEREST. (1) To the extent the provisions of this section conflict with chapter 9 as from time to time in effect, including any successor provisions, this section shall apply.

(2) A security interest in energy cost property is valid, is enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the energy cost property perfected in the manner described in this section, and attaches when all of the following have occurred:

(a) The commission has issued an energy cost financing order authorizing the energy cost bond charges, the right to the imposition and collection of which is included in the energy cost property;

(b) Value has been given by the pledgees of the energy cost property; and

(c) The pledgor has signed a security agreement covering the energy cost property.

(3) A valid and enforceable security interest in energy cost property is perfected when it has attached and when a financing statement has been filed in accordance with chapter 9, naming the pledgor of the energy cost property as "debtor" and identifying the energy cost prop-

erty. Any description of the energy cost property shall be sufficient if it refers to the energy cost financing order creating the energy cost property. A copy of the financing statement shall be filed with the commission by the pledgor or transferor of the energy cost property, and the commission may require the pledgor or transferor to make other filings with respect to the security interest in accordance with procedures it may establish, provided that the filings shall not affect the perfection of the security interest. A financing statement filed pursuant to this section shall remain effective until a termination statement is filed.

(4) A perfected security interest in energy cost property is a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Energy cost property shall constitute property for all purposes, including for contracts securing energy cost recovery bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(5) Subject to the terms of the security agreement covering the energy cost property and the rights of any third parties holding security interests in the energy cost property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the energy cost property with other funds of the public utility that is the pledgor or transferor of the energy cost property, or by any security interest in a deposit account of that public utility perfected under chapter 9, into which the revenues are deposited. Subject to the terms of the security agreement, the pledgees of the energy cost property shall have a perfected security interest in all cash and deposit accounts of the public utility in which revenues arising with respect to the energy cost property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the energy cost property received by the public utility within twelve (12) months before: (a) any default under the security agreement, or (b) the institution of insolvency proceedings by or against the public utility, less payments from the revenues to the pledgees during that twelve (12) month period.

(6) If an event of default occurs under the security agreement covering the energy cost property, the pledgees of the energy cost property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under chapter 9, and shall be entitled to foreclose or otherwise enforce their security interest in the energy cost property, subject to the rights of any third parties holding prior security interests in the energy cost property perfected in the manner provided in this section. In addition, the commission may require, in the energy cost financing order creating the energy cost property, that, in the event of default by the public utility in payment of revenues arising with respect to the energy cost property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under section 61-1506, Idaho Code, of the energy cost property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees

or transferees of revenues arising with respect to the energy cost property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor or transferor of the energy cost property.

(7) Energy cost recovery property shall constitute an account as that term is defined under chapter 9.

(8) Sections 28-9-204 and 28-9-205, Idaho Code, as from time to time amended, including any successor provisions, shall apply to a pledge of energy cost property by a public utility, assignee or other issuer.

(9) This subsection sets forth the terms by which a consensual security interest can be created and perfected in the energy cost property. Unless otherwise ordered by the commission with respect to any series of energy cost recovery bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subsection. Upon the effective date of the energy cost financing order, there shall exist a first priority lien on all energy cost property then existing or thereafter arising pursuant to the terms of the energy cost financing order. This lien shall arise by operation of this subsection automatically without any action on the part of the public utility, any assignee or other issuer, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the energy cost recovery bonds issued pursuant to the energy cost financing order, the trustee or representative for the holders, and any other entity specified in the energy cost financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the pertinent energy cost financing order, have all rights and remedies of a secured party upon default under chapter 9, and shall be entitled to foreclose or otherwise enforce this statutory lien in the energy cost property. This lien shall attach to the energy cost property regardless of who shall own, or shall subsequently be determined to own, the energy cost property including any public utility, any assignee or other issuer, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the energy cost property and all third parties upon the effectiveness of the energy cost financing order without any further public notice; provided however, that any person may, but shall not be required to, file a financing statement in accordance with subsection (3) of this section. Financing statements so filed may be "protective filings" and shall not be evidence of the ownership of the energy cost property. A perfected statutory lien in energy cost property is a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. In addition, the commission may require, in the energy cost financing order creating the energy cost property, that, in the event of default by the public utility in payment of revenues arising with respect to energy cost property, the commission and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the energy cost property.

61-1506. TRANSFERS IN INTEREST. (1) A transfer of energy cost property by a public utility to an assignee, or by an assignee to another assignee, that the parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in an energy cost financing order, shall be treated as an absolute transfer of all of the transferor's right, title and interest, as in a true sale, and not as a pledge or other financing, of the energy cost property in each case notwithstanding any contrary treatment for federal and state income and franchise taxes, accounting or other purposes.

(2) A transfer of energy cost property shall be deemed perfected as against third persons and shall vest title in the transferee when both of the following have taken place:

(a) The commission has issued the energy cost financing order authorizing the energy cost bond charges included in the energy cost property.

(b) An assignment of the energy cost property in writing has been executed and delivered to the transferee.

(3) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with chapter 9, naming the assignor of the energy cost property as debtor and identifying the energy cost property has priority. Any description of the energy cost property shall be sufficient if it refers to the energy cost financing order creating the energy cost property. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

(4) The interest of an assignee or pledgee in energy cost property and in the revenues and collections arising from such property are not subject to set-off, counterclaim, surcharge or defense by the public utility or any other person or in connection with the bankruptcy of the public utility or any other person.

61-1507. SUCCESSORS. Any successor to the public utility, whether pursuant to any bankruptcy, reorganization or other insolvency proceeding, or pursuant to any merger, sale or transfer, by operation of law or otherwise, shall perform and satisfy all obligations of the public utility pursuant to this chapter in the same manner and to the same extent as was required of the public utility before such proceeding or merger, sale or transfer including, but not limited to, billing, collecting and paying to the energy cost recovery bondholders or their representatives or the applicable financing entity energy cost recovery charges and any other revenues arising with respect to the energy cost property sold to the applicable financing entity or pledged to secure energy cost recovery bonds and seeking energy cost bond charge adjustments, as necessary and permitted by the pertinent energy cost financing order, to recover all energy cost amounts designated in such energy cost financing order.

61-1508. SEVERABILITY. If any provision of this chapter is held to be invalid or is invalidated, superseded, replaced or repealed, or expires for any reason, that occurrence does not affect the validity or continuation of this chapter or any other provision of this title that

is relevant to the issuance, administration, payment, retirement or refunding of energy cost recovery bonds or to any actions of the public utility, its successors, an assignee or other issuer or a collection agent, which shall remain in full force and effect.

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 10, 2001.

CHAPTER 381
(H.B. No. 211, As Amended)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529A, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529B, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE FINDINGS AND PURPOSE; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529C, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529D, IDAHO CODE, TO PROVIDE FOR ODOR MANAGEMENT PLANS, TO PROVIDE FOR COUNTY REQUESTS FOR SUITABILITY DETERMINATIONS AND TO PROVIDE FOR LOCAL REGULATION; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529E, IDAHO CODE, TO PROVIDE A PROCESS FOR A COUNTY REQUEST, TO PROVIDE FOR CONTENT OF THE REQUEST AND CERTAIN ADDITIONAL INFORMATION; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529F, IDAHO CODE, TO PROVIDE CERTAIN RESPONSIBILITIES FOR THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE DEPARTMENT OF WATER RESOURCES, TO AUTHORIZE RULEMAKING AND TO PROVIDE FOR AGREEMENTS WITH OTHER AGENCIES; AND AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529G, IDAHO CODE, TO PROVIDE FOR THE REPORT OF THE SITING ADVISORY TEAM AND TO PROVIDE FOR COUNTY ACTION.

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

SECTION 1. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529A, Idaho Code, and to read as follows:

67-6529A. SHORT TITLE. This act shall be referred to as the "Site Advisory Team Suitability Determination Act."

SECTION 2. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529B, Idaho Code, and to read as follows:

67-6529B. LEGISLATIVE FINDINGS AND PURPOSES. The legislature finds that:

(1) Confined animal feeding operations increase social and environmental impacts in areas where these facilities are located;

(2) The siting of confined animal feeding operations is a complex and technically difficult undertaking requiring assistance to counties and other units of local government as they exercise their land use planning authority;

(3) It is in the interest of the state of Idaho that state departments and agencies use their particular expertise to assist counties and other local governments in the environmental evaluation of appropriate sites for confined animal feeding operations.

SECTION 3. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529C, Idaho Code, and to read as follows:

67-6529C. DEFINITIONS. As used in this act, the following definitions shall apply:

(1) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by one (1), plus the number of young slaughter or feeder cattle less than twelve (12) months of age multiplied by six-tenths (0.6), plus the number of mature dairy cattle multiplied by one and four-tenths (1.4), plus the number of young dairy cattle multiplied by six-tenths (0.6), plus the number of swine weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds, multiplied by four-tenths (0.4), plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (0.1), plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2), plus the number of chickens multiplied by one-hundredth (0.01);

(2) "CAFO," also referred to as "concentrated animal feeding operation" or "confined animal feeding operation," means a lot or facility where the following conditions are met:

(a) Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period;

(b) Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility; and

(c) The lot or facility is designed to confine or actually does confine an equivalent of one thousand (1,000) animal units or more.

Two (2) or more concentrated animal feeding operations under common ownership are considered, for the purposes of this definition, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes;

(3) "CAFO site advisory team" shall mean representatives of the Idaho state department of agriculture, Idaho department of environmental quality and Idaho department of water resources who review a site proposed for a CAFO, determine environmental risks and submit a suitability determination to a county. The department of agriculture shall serve as the lead agency for the team;

(4) "Environmental risk" shall mean that risk to the environment

deemed posed by a proposed CAFO site, as determined and categorized by the CAFO site advisory team and set forth in the site advisory team's suitability determination report;

(5) "Suitability determination" shall mean that document created and submitted by the CAFO site advisory team after review and analysis of a proposed CAFO site that identifies the environmental risk categories related to a proposed CAFO site, describes the factors that contribute to the environmental risks and sets forth any possible mitigation of risk.

SECTION 4. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529D, Idaho Code, and to read as follows:

67-6529D. ODOR MANAGEMENT PLANS -- COUNTY REQUEST FOR SUITABILITY DETERMINATION -- LOCAL REGULATION. (1) Counties may require an applicant for siting of a CAFO to submit an odor management plan as part of their application.

(2) A board of county commissioners considering the siting of a CAFO may request the director of the department of agriculture to form a CAFO site advisory team to provide a suitability determination for the site.

(3) This act does not preempt local regulation of a CAFO.

SECTION 5. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529E, Idaho Code, and to read as follows:

67-6529E. PROCESS FOR COUNTY REQUEST -- CONTENTS OF THE REQUEST. (1) A board of county commissioners shall submit its request for a suitability determination by a site advisory team in writing to the director of the department of agriculture and shall support its request by the adoption of a resolution.

(2) Information in the request shall include, but not be limited to, the relevant legal description and address of a proposed facility, the animal-unit capacity of the facility, the types of animals to be confined at the proposed facility, all information related to water and water rights of the facility, any relevant vicinity maps and any other information relevant to the site that will assist the site advisory team in issuing its suitability determination. The board of county commissioners shall also provide the site advisory team with a copy of the odor management plan for the CAFO, if required to be submitted by the site applicant at the time of application.

SECTION 6. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529F, Idaho Code, and to read as follows:

67-6529F. DEPARTMENT RESPONSIBILITIES -- AUTHORITY TO ADOPT RULES AND CONTRACT WITH OTHER AGENCIES. (1) Upon the request of a board of county commissioners, the director of the department of agriculture shall form and chair a site advisory team specific to the request of the county. The director of the department of environmental quality and the director of the department of water resources shall provide full cooper-

ation in the formation of the site advisory team.

(2) The CAFO site advisory team shall review the information provided by the county and shall visit the site as may be necessary in the judgment of the team.

(3) Within thirty (30) days of receiving the request for a suitability determination by a board of county commissioners, the CAFO site advisory team shall issue a written suitability determination and provide a copy in writing to the board of county commissioners that requested the review.

(4) Any director responsible for carrying out the purposes of this act may adopt administrative rules necessary or helpful to carry out those purposes.

(5) Any director responsible for carrying out the purposes of this act may enter into contracts, agreements, memorandums and other arrangements with federal, state and local agencies to carry out the purposes of this act.

SECTION 7. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6529G, Idaho Code, and to read as follows:

67-6529G. REPORT OF CAFO SITE ADVISORY TEAM — COUNTY ACTION. The board of county commissioners requesting the suitability determination, upon receipt of the written suitability determination report by the CAFO site advisory team, may use the report as the county deems appropriate.

Approved April 11, 2001.

CHAPTER 382
(H.B. No. 252)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING SECTION 63-3029C, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS MADE TO CERTAIN FACILITIES ACCREDITED BY ACCREDITATION ORGANIZATIONS RECOGNIZED BY THE STATE OF IDAHO; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3029C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029C. INCOME TAX CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS — LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to the anchor house or its foundation, to the children's home society of Idaho, inc., to the Idaho youth ranch or its foundation, to the hope house, inc. or its foundation, to the north Idaho children's home or its foundation, to

a center for independent living located within the state of Idaho, to a nonprofit substance abuse center licensed by the department of health and welfare, or to a nonprofit rehabilitation facility located within the state of Idaho or its foundation.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(3) For the purposes of this section, "center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

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

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

(c) Is cross-disability.

(4) For the purposes of this section, "nonprofit rehabilitation facility" means only a facility that is accredited by the commission on accreditation of rehabilitation facilities <u>or another accreditation organization recognized by the state of Idaho.</u>

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2001.

Approved April 11, 2001.

CHAPTER 383

(H.B. No. 262, As Amended, As Amended in the Senate)

AN ACT

RELATING TO ANIMALS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 38, TITLE 25, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT, TO PROVIDE FOR THE AUTHORITY AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, TO DEFINE TERMS, TO PROVIDE FOR THE DESIGN AND CONSTRUCTION OF CERTAIN LIQUID WASTE SYSTEMS, TO PROVIDE FOR FIRST TIME VIOLATORS, TO PROVIDE FOR ODOR MANAGEMENT PLANS AND TO PROVIDE EXCEPTIONS, TO PROVIDE FOR INSPECTIONS, TO PROVIDE THAT CERTAIN RECORDS SHALL BE CONFIDENTIAL, TO PROVIDE FOR COMPLAINTS, TO PROVIDE FOR SUBSEQUENT VIOLATIONS, TO PROVIDE FOR PENALTIES, TO PROVIDE FOR OTHER ADMINISTRATIVE ACTION, TO PROVIDE FOR NOTICE AND HEARING, TO PROVIDE FOR COURT ACTION TO RECOVER ASSESSED PENALTIES, TO PROVIDE FOR APPEAL, TO PROVIDE FOR DEPOSIT OF MONEYS COLLECTED TO THE GENERAL FUND AND

TO PROVIDE FOR CERTAIN CONSIDERATION IN THE IMPOSITION OF MONETARY PENALTIES; AND AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS COPIED OR OBTAINED BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS DESIGNEE AS A RESULT OF CERTAIN INSPECTIONS SHALL BE EXEMPT FROM PUBLIC DISCLOSURE.

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

SECTION 1. That Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 38, Title 25, Idaho Code, and to read as follows:

CHAPTER 38
AGRICULTURE ODOR MANAGEMENT ACT

25-3801. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT. (1) The agriculture industry is a vital component of Idaho's economy and during the normal course of producing the food and fiber required by Idaho and our nation, odors are generated. It is the intent of the legislature to manage these odors when they are generated at a level in excess of those odors normally associated with accepted agricultural practices in Idaho.

(2) Large swine and poultry operations are addressing odor management through the department of environmental quality's rules regulating large swine and poultry operations, and the beef cattle industry will address odor management as needed through implementation of the beef cattle environmental control act and rules promulgated thereunder.

(3) The Idaho department of agriculture is hereby authorized as the lead agency to administer and implement the provisions of this chapter. In carrying out the provisions of this chapter, the department will make reasonable efforts to ensure that any requirements imposed upon agricultural operations are cost-effective and economically, environmentally and technologically feasible.

25-3802. AUTHORITY AND DUTIES OF THE DIRECTOR CONCERNING ODORS FROM AGRICULTURAL OPERATIONS. The director of the department of agriculture is authorized to regulate odors from agricultural operations. In order to carry out its duties pursuant to the provisions of this chapter, the director of the department shall be authorized to promulgate necessary administrative rules in compliance with chapter 52, title 67, Idaho Code.

25-3803. DEFINITIONS. When used in this chapter:

(1) "Accepted agricultural practices" means those management practices normally associated with agriculture in Idaho.

(2) "Best management practices" means practices, techniques or measures which are determined by the department to be a cost-effective and practicable means of managing odors generated on an agricultural operation to a level associated with accepted agricultural practices.

(3) "Department" means the Idaho department of agriculture.

(4) "Director" means the director of the Idaho department of agriculture.

(5) "Liquid waste system" means those wastewater storage and containment facilities and associated waste collection and conveyance sys-

tems where water is used as the primary carrier of manure and manure is added to the wastewater storage and containment facilities on a regular basis.

(6) "Livestock" means cattle, sheep, swine and poultry.

(7) "Manure" means livestock excrement that may also contain bedding, spilled feed or soil.

(8) "Modified" means structural changes and alterations to the livestock operation which would require increased wastewater storage or containment capacity or such changes which would increase the amount of manure entering wastewater storage containment facilities.

(9) "Nutrient management plan" means a plan prepared in conformance with the nutrient management standard.

(10) "Nutrient management standard" means the 1999 publication by the United States department of agriculture, natural resources conservation service, conservation practice standard, nutrient management code 590, and all subsequent amendments, additions or other revisions thereto, or other equally protective standard approved by the director.

(11) "Odor management plan" means a site specific plan approved by the director to manage odor from an agricultural operation to a level associated with accepted agricultural practices by utilizing best management practices.

(12) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, private corporation, or any legal entity, which is recognized by law as the subject of rights and duties.

(13) "Wastewater" means water containing manure which is generated on a livestock operation.

(14) "Wastewater storage and containment facilities" means wastewater storage ponds, wastewater treatment lagoons and evaporative ponds.

25-3804. DESIGN AND CONSTRUCTION. All new or modified liquid waste systems shall be designed by, or reviewed and approved by, licensed professional engineers and constructed in accordance with standards and specifications either approved by the director for management of odors or in accordance with any existing relevant memorandums of understanding with the department of environmental quality. All persons shall submit plans and specifications for new or modified liquid waste systems to the director for approval. No person shall begin construction of a liquid waste system prior to approval of plans and specifications by the director.

25-3805. FIRST TIME VIOLATORS -- ODOR MANAGEMENT PLAN -- EXCEPTIONS. (1) If it is determined by the department that an agricultural operation, not to include those operations set forth within section 25-3801(2), Idaho Code, is generating odors in excess of levels associated with accepted agricultural practices, the agricultural operation shall be deemed to have committed a first time violation of the provisions of this chapter, provided that the agricultural operation has never been determined by the department to have committed a prior violation of the provisions of this chapter. The department shall provide the owner or operator of the agricultural operation with written notice of the violation and an opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(2) The department shall require any agricultural operation deter-

mined to have committed a first time violation of the provisions of this chapter to cooperate with the department and to develop and submit an odor management plan to the director for approval.

(3) All odor management plans shall be in writing and signed by the director of the department of agriculture and the owner or operator of the agricultural operation. Odor management plans shall designate a period of time in which the agricultural operation will be in full compliance with the plan and shall provide for periodic review by the department, no less than annually, for a period of three (3) years from the date of the plan. Failure to comply with the odor management plan shall constitute a subsequent violation of the provisions of this chapter.

(4) All approved odor management plans shall be implemented as approved by the director.

(5) If, after a reasonable period of time as determined by the department, an approved odor management plan does not reduce odor to a level associated with accepted agricultural practices, the department shall review the plan with the owner or operator of the agricultural operation and adjust the plan to meet the goals of this chapter.

(6) Odor management plans shall be designed to work in conjunction with any required nutrient management plans.

(7) An odor emission caused by an act of God or a mechanical failure shall not constitute a violation of this chapter provided that the agricultural operation from which the odor emission is emanating takes reasonable steps to promptly repair the cause of the emission.

25-3806. INSPECTIONS -- RECORDS CONFIDENTIAL. The director or his designee is authorized to enter and inspect any agricultural operation and have access to or copy any facility records deemed necessary to ensure compliance with the provisions of this chapter or required odor management plans. Prior to conducting an investigation, the department shall notify the board of county commissioners for the county in which the agricultural operation is located and the board of county commissioners may have a designee accompany the director or his designee during the inspection. All records copied or obtained by the director or his designee as a result of an inspection pursuant to this section shall be confidential private records and shall be exempt from disclosure under chapter 3, title 9, Idaho Code, except:

(1) Records otherwise deemed to be public records not exempt from disclosure pursuant to chapter 3, title 9, Idaho Code; and

(2) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to this section.

25-3807. COMPLAINTS. The department shall respond to all odor complaints lodged against agriculture operations. A complaint must include the name, address and telephone number of the complainant. The response of the department may be limited to informing the complainant that an odor plan is being implemented. Complaints pursuant to this section are a public record open to public inspection and copying pursuant to chapter 3, title 9, Idaho Code.

25-3808. SUBSEQUENT VIOLATIONS -- PENALTIES. (1) An agricultural operation, after having been determined to have committed a first time

violation of the provisions of this chapter, shall be deemed to have committed a subsequent violation if the operation:

(a) Is determined by the department to have committed a subsequent violation within a three (3) year period of time; or

(b) Failed to comply with an odor management plan developed pursuant to section 25-3805, Idaho Code.

(2) Those agricultural operations determined to have committed a subsequent violation of this chapter shall be assessed a civil penalty by the department or its duly authorized agent not to exceed ten thousand dollars ($10,000) for each offense and be liable for reasonable attorney's fees and costs.

(3) Assessment of a civil penalty as provided herein may be made in conjunction with any other department administrative action.

(4) No civil penalty may be imposed 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.

(5) If the department is unable to collect the civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court.

(6) Any person against whom the department has assessed a civil penalty under this section may, within thirty (30) days of the final action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violations shall be deposited in the state treasury and credited to the general fund.

(7) The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator, and such other matters as justice requires.

SECTION 2. 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 evalu-

ations, 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.

(17) All records copied or obtained by the director of the department of agriculture or his designee as a result of an inspection pursuant to section 25-3806, Idaho Code, except:

(a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and

(b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

Approved April 11, 2001.

CHAPTER 384
(H.B. No. 312, As Amended)

AN ACT

RELATING TO INCOME TAX; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022P, IDAHO CODE, TO PROVIDE FOR A STATE INCOME TAX DEDUCTION FOR FIFTY PERCENT OF THE PREMIUMS FOR LONG-TERM CARE INSURANCE; DECLARING AN EMERGENCY AND PROVIDING FOR 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 63-3022P, Idaho Code, and to read as follows:

63-3022P. LONG-TERM CARE INSURANCE. For taxable years commencing on or after January 1, 2001, fifty percent (50%) of the premiums paid during the taxable year, by a taxpayer for long-term care insurance as that term is defined in section 41-4603, Idaho Code, which long-term care insurance is to be for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer, may be deducted from taxable income.

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, 2001.

Approved April 11, 2001.

CHAPTER 385
(H.B. No. 347, As Amended)

AN ACT

RELATING TO PUBLIC UTILITIES; AMENDING SECTION 61-610, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO EXAMINE CERTAIN RECORDS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 61-610, Idaho Code, be, and the same is hereby amended to read as follows:

61-610. RIGHT TO INSPECT BOOKS AND EXAMINE EMPLOYEES. (1) The commission, each commissioner and each ~~officer and~~ person employed by the commission shall have the right at any and all reasonable times to inspect the accounts, books, papers and documents of any public utility.~~,--and~~ The commission shall also have the right to inspect the records of a public utility's holding company, parent, affiliate, or subsidiary that engages directly in any transaction with the regulated utility which results in expenses being incurred, allocated or otherwise attributed to regulated services of a public utility; provided however, the commission may inspect only those records which are necessary to determine whether such expense was properly incurred and should be included, in whole or in part, in the public utility's rates.

(2) ~~T~~the commission, each commissioner and ~~any officer of the commission or~~ any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to the business and affairs of said public utility: provided, that any person other than a commissioner ~~or an officer of the commission~~ demanding such inspection shall produce under the seal of the commission his authority to make such inspection.~~: provided further, that a~~ A written record of the testimony or statement so given under oath shall be made and filed with the commission.

Approved April 11, 2001.

CHAPTER 386
(H.B. No. 377, As Amended in the Senate)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3024, IDAHO CODE, TO PROVIDE FOR A REDUCTION IN RATES FOR TAXABLE YEAR 2001 AND EACH YEAR THEREAFTER; AMENDING SECTION 63-3024A, IDAHO CODE, TO INCREASE THE INCOME TAX CREDIT FOR SALES TAXES PAID BY CERTAIN INDIVIDUALS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3025, IDAHO CODE, TO REDUCE THE CORPORATE INCOME TAX RATE FROM EIGHT TO SEVEN AND SIX-TENTHS PERCENT FOR TAXABLE YEAR 2001 AND EACH YEAR THEREAFTER; AMENDING SECTION 63-3025A, IDAHO CODE, TO REDUCE THE CORPORATE FRANCHISE TAX RATE FROM EIGHT PERCENT TO THE RATE OF THE CORPORATE INCOME TAX AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3029B, IDAHO CODE, TO PROVIDE THAT TAXPAYERS MAKING EXPENDITURES FOR QUALIFIED BROADBAND EQUIPMENT ARE ENTITLED TO THE CREDIT AND TO REVISE PROCEDURES FOR RECAPTURE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029G, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO RESEARCH ACTIVITIES CONDUCTED IN IDAHO, TO PROVIDE A SUNSET, TO PROVIDE A CARRYOVER OF UNUSED CREDITS, TO PROVIDE DEFINITIONS AND TO PROVIDE PROCEDURES; AMENDING SECTION 63-3029H, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029I, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO HIGH SPEED BROADBAND COMMUNICATIONS ACCESS IN IDAHO, TO PROVIDE A SUNSET, TO PROVIDE A CARRYOVER OF UNUSED CREDITS, TO PROVIDE DEFINITIONS AND TO PROVIDE PROCEDURES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY

THE ADDITION OF A NEW SECTION 63-3022P, IDAHO CODE, TO PROVIDE, WITH RESPECT TO AN INDIVIDUAL TAXPAYER, AN AMOUNT EQUAL TO THE AMOUNT PAID BY THE TAXPAYER DURING THE TAXABLE YEAR FOR INSURANCE, WHICH CONSTITUTES MEDICAL CARE FOR THE TAXPAYER, THE SPOUSE OR DEPENDENTS OF THE TAXPAYER WHICH IS NOT OTHERWISE DEDUCTED OR ACCOUNTED FOR BY THE TAXPAYER FOR IDAHO INCOME TAX PURPOSES SHALL BE ALLOWED AS A DEDUCTION AGAINST IDAHO TAXABLE INCOME, AND TO PROVIDE A DEFINITION OF INSURANCE WHICH CONSTITUTES MEDICAL CARE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029J, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO INVESTMENT IN AREAS IN IDAHO WITH HIGH UNEMPLOYMENT OR LOW PERSONAL INCOME AT THE ELECTION OF THE TAXPAYER FOR TAXABLE YEAR 2001, TO PROVIDE A CARRYOVER OF UNUSED CREDITS, TO PROVIDE DEFINITIONS AND TO PROVIDE PROCEDURES; AMENDING SECTIONS 63-3029E AND 63-3029F, IDAHO CODE, TO EXPAND THE NEW JOBS CREDIT BY REMOVING THE LIMITATION OF QUALIFYING TAXPAYERS TO REVENUE-PRODUCING ENTERPRISE CREATING VALUE-ADDED NATURAL RESOURCE PRODUCTS; REPEALING SECTIONS 63-3029E AND 63-3029F, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029E, IDAHO CODE, TO PROVIDE DEFINITIONS AND CONSTRUCTION OF TERMS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029F, IDAHO CODE, TO PROVIDE SPECIAL CREDITS TO THE INCOME TAX FOR NEW EMPLOYEES FOR AN ENTERPRISE THAT PRODUCES, ASSEMBLES, FABRICATES OR PROCESSES NATURAL RESOURCE PRODUCTS; PROVIDING FOR NONSEVERABILITY OF CERTAIN PROVISIONS OF THIS ACT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION FOR CERTAIN PROVISIONS OF THIS ACT, AND PROVIDING AN EFFECTIVE DATE FOR CERTAIN PROVISIONS OF THIS ACT.

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

SECTION 1. 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 taxable year 20~~00~~01, 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.

(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	One and ~~nine~~ six-tenths percent (1.96%)
$1,000 but less than $2,000	$1~~9~~6, plus three and ~~nine~~ six-tenths percent (3.96%) of the amount over $1,000
$2,000 but less than $3,000	$5~~8~~2, plus four and ~~four~~ one-tenths percent (4.41%) of the amount over $2,000
$3,000 but less than $4,000	$~~10~~293, plus five and ~~four~~ one-tenths percent (5.41%) of the amount over $3,000
$4,000 but less than $5,000	$15644, plus six and ~~four~~ one-tenths percent (6.41%) of the amount over $4,000
$5,000 but less than $7,500	$2~~2~~05, plus seven and ~~four~~ one-tenths percent (7.41%) of the amount over $5,000
$7,500 but less than $20,000	$~~405~~383, plus seven and ~~seven~~ four-tenths percent (7.~~7~~4%) of the amount over $7,500

Over $20,000	$1,367.508, plus ~~eight-and-one-tenth~~ sever and eight-tenths percent ~~(8.17.8%)~~ 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-perc (7.8%)-of-the-amount-over-$7,500~~
~~Over-$20,000~~	~~$1,387.50,-plus-eight-and-two-tenths-perc (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 2. That Section 63-3024A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024A. CREDITS AND REFUNDS. (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of ~~fifteen~~ twenty dollars (~~$15~~20.00) for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(b) (1) A resident individual who has reached his sixty-fifth birthday before the end of his taxable year, who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of thirty-five dollars ($~~30~~5.00) for each personal exemption representing himself, a spouse over the age of sixty-five (65) years, or a dependent over the age of sixty-five (65) years, but shall be allowed a credit against taxes due under the Idaho income tax act equal to ~~fifteen~~ twenty dollars (~~$15~~20.00) for each personal exemption representing a spouse or dependent under the age of sixty-five (65) years. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(2) A resident individual who has reached his sixty-fifth birthday and is not required by law to file an Idaho income tax return and who has received no credit or refund under any other subsection of this section, shall be entitled to a refund of thirty-five dollars ($~~30~~5.00). Any refund shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(c) A resident individual of the state of Idaho who is:

(i) blind, or

(ii) a disabled American veteran of any war engaged in by the United States, whose disability is recognized as a service connected

disability of a degree of ten ~~per cent~~ percent (10%) or more, or who is in receipt of a pension for nonservice connected disabilities, in accordance with laws and regulations administered by the United States veterans administration, substantiated by a statement as to status signed by a responsible officer of the United States veterans administration, or

(iii) over sixty-two (62) years of age, and has been allowed none, or less than all, of the credit provided by subsection (a) or subsection (b) of this section, shall be entitled to a payment from the refund fund in an amount equal to ~~fifteen~~ twenty dollars ($~~15~~20.00), or the balance of his unused credit, whichever is less, upon making application therefor at such time and ~~in such~~ manner as the state tax commission may prescribe.

(d) Any part-year resident entitled to a credit under this section shall receive a proportionate credit, in the manner above provided, reflecting the part of the year in which he was domiciled in this state.

(e) No credit or refund may be claimed for an exemption which represents a person who has himself filed an Idaho income tax return claiming a deduction for his own personal exemption, and in no event shall more than one (1) taxpayer be allowed a credit or refund for the same exemption, or under more than one (1) subsection of this section.

(f) The refunds authorized by this section shall be paid from the state refund fund in the same manner as the refunds authorized by section 63-3067, Idaho Code.

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

(i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or

(ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return.

SECTION 3. That Section 63-3025, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025. TAX ON CORPORATE INCOME. For taxable years commencing on and after January 1, ~~1987~~ 2001, a tax is hereby imposed on the Idaho taxable income of a corporation which transacts or is authorized to transact business in this state or which has income attributable to this state. The tax shall be equal to ~~eight~~ seven and six-tenths percent (~~8~~7.6%) of Idaho taxable income; provided, however, that the tax shall not be less than twenty dollars ($20.00); provided further that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations. The tax imposed by this section shall not apply to corporations taxed pursuant to the provisions of section 63-3025A, Idaho Code.

SECTION 4. That Section 63-3025A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025A. FRANCHISE TAX. For taxable years commencing on and after January 1, ~~1987~~ 2001, a franchise tax shall be imposed upon any corpora-

tion for the privilege of exercising its corporate franchise within the state during such taxable year~~,~~ including, but not limited to, corporations engaged in business in Idaho for the exclusive purpose of performing contracts with the United States department of energy at the Idaho national engineering and environmental laboratory, which tax shall be measured by income which is attributable to this state under the provisions of this chapter and which tax shall be ~~equal to eight percent (8%) of Idaho taxable income~~ at the rate provided in section 63-3025, Idaho Code; provided, however, that the tax shall not be less than twenty dollars ($20.00); provided ~~further~~ that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations; but the twenty dollar ($20.00) minimum tax shall apply to corporations qualified to file returns and actually filing returns under the provisions of subchapter "S" 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) The tax credit carryovers; and

(b) 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 Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or

(ii) Is qualified broadband equipment as defined in section 63-3029I, Idaho Code; and

(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) 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 fifty percent (50%) of the tax liability of the taxpayer.

(5) If the sum of 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 (4) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the 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~~ the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue 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 Internal Revenue 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 carryover of credit is permitted under this section if the credit or carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or 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) 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) 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 "Internal Revenue Code" mean the sections referred to as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

SECTION 6. 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 63-3029G, Idaho Code, and to read as follows:

63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE -- CARRY FORWARD.

(1) (a) Subject to the limitations of this section, for taxable years beginning between January 1, 2001, and December 31, 2005, inclusive, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for increasing research activities in Idaho during any consecutive five (5) year period beginning, at the election of the taxpayer, either:

(i) January 1, 2001, or

(ii) The first day of the taxpayer's taxable year beginning in 2001.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research payments for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) Subject to the limitation in subsection (3) of this section, a taxpayer making the election permitted by subsection (1)(a)(i) of this section, credit for research activities occurring prior to the beginning of the taxpayer's taxable year beginning in 2001 shall be claimed on the taxpayer's return for its taxable year 2001 in addition to credit relating to activity in that year.

(2) As used in this section:

(a) The terms "qualified research payments," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) The base amount does not include the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code;

(ii) A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section 63-3027, Idaho Code; and

(iii) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as pro-

vided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, 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. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 7. That Section 63-3029H, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029HP. PRIORITY OF CREDITS. When a taxpayer subject to any taxes imposed under this chapter is entitled to two (2) or more credits against such taxes, the priority of credits shall be determined in the following order:

(a) Nonrefundable credits. Nonrefundable credits shall be applied to the tax liability before application of refundable credits. If a taxpayer is entitled to more than one (1) nonrefundable credit, the credits shall be applied in the order in which the statutes authorizing the credits were enacted by the legislature.

(b) Refundable credits. Refundable credits shall be applied to the tax liability after application of any nonrefundable credits.

SECTION 8. 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 63-3029I, Idaho Code, and to read as follows:

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning between January 1, 2001, and December 31, 2005, inclusive, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for qual-

ified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section 3(44) of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in section 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equip-

ment listed in subsections (2)(b)(i) through (2)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (2)(b)(i) through (2)(b)(vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars ($750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, 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 (7) of this section, instead of carried over. 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.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer entitled to the credit or to an unused portion of the credit allowed by this section may transfer the unused credit to another taxpayer

required to file a return under this chapter.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 9. 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 63-3022P, Idaho Code, and to read as follows:

63-3022P. HEALTH INSURANCE COSTS. With respect to an individual taxpayer, an amount equal to the amount paid by the taxpayer during the taxable year for insurance which constitutes medical care for the taxpayer, the spouse or dependents of the taxpayer which is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes shall be allowed as a deduction for Idaho taxable income. As used in this section, "insurance which constitutes medical care" includes any hospital or medical policy or certificate, any subscriber contract, policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, single employer self-funded coverage, meaning that portion of health insurance which is the retained risk of the employer, student health benefits only or coverage for medical care or treatment issued as a supplement to liability insurance. Employers shall provide to the employee a statement as to whether an employee's contribution for health insurance has been excluded from taxable income.

SECTION 10. 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 63-3029J, Idaho Code, and to read as follows:

63-3029J. INCENTIVE INCOME TAX INVESTMENT CREDIT. (1) Subject to the limitations of this section, for taxable year 2001 only, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount

allowed by subsection (2) of this section for qualified investments in Idaho. The credit shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(2) The credit permitted in subsection (1) of this section shall be at the percentage rate determined under either subsection (2)(a) or (2)(b) of this section at the election of the taxpayer.

(a) (i) One-half (1/2) of the amount by which the average three-year unemployment rate in the county in which the property is located exceeds six percent (6%). In the case of mobile property, the property shall be located in the county in which it is primarily based.

(ii) For purposes of this section the director of the department of labor shall, on or before the first day of September of each calendar year, establish and certify to the state tax commission the average three-year unemployment rate in each county in Idaho for the immediately preceding three (3) calendar years. The rates thus certified shall apply to the calculation of the credit under subsection (2)(a)(i) of this section for property qualifying in the taxable year beginning during the next calendar year.

(b) (i) One-tenth of one percent (.1%) for each full percent that the three-year average per capita personal income level in the county in which the property is located is below ninety percent (90%) of the average statewide per capita personal income level.

(ii) For purposes of this section the director of the department of commerce shall, on or before the first day of September of each calendar year, establish and certify to the state tax commission the most current three-year average per capita personal income level in each county in Idaho and the statewide per capita personal income level for the most current preceding three (3) calendar years. The levels thus certified shall apply to the calculation of the credit under subsection (2)(b)(i) of this section for property qualifying in the taxable year beginning during the next calendar year.

(3) As used in this section the term "qualified investment" shall be defined as in section 63-3029B, Idaho Code.

(4) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (6) of this section shall not exceed in any one (1) taxable year the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Five hundred thousand dollars ($500,000).

(5) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, 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 (6) of this section, instead of carried over. 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) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (4) of this section, the excess amount

may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(7) In the event that property upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(8) (a) Subject to the requirements of this subsection, a taxpayer entitled to the credit or to an unused portion of the credit allowed by this section may transfer the unused credit to another taxpayer required to file a return under this chapter.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferor shall provide the transferee with the original statement. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit and shown in the statement described in subsection (8)(b) of this section or that the credit is subject to recapture, the commission shall assess the amount of overstated credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(9) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

(b) A requirement that a transferor under subsection (8) of this section, prior to obtaining the written statement provided in subsection (8)(b) of this section, post such bond or security as the state tax commission may require to secure any liability referred to in subsection (8)(c) of this section. Such rules shall provide an opportunity for a taxpayer, upon a showing of financial responsibility, to have the bond waiver, for notice of denial of waiver in accordance with section 63-3045, Idaho Code, and for review in accordance with section 63-3045B, Idaho Code.

SECTION 11. That Section 63-3029E, Idaho Code, be, and the same is hereby amended 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 cov-

ered 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~~ business 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~~ business" means a ~~revenue-producing-enterprise~~ business in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or con~~ducted 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~~ business.

SECTION 12. That Section 63-3029F, Idaho Code, be, and the same is hereby amended 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~~ business 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 13. That Sections 63-3029E and 63-3029F, Idaho Code, be, and the same are hereby repealed.

SECTION 14. 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 tax-

payer 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 15. 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 16. The provisions of Sections 5, 6, 8, 10, 11 and 12 of this act are hereby declared to be nonseverable from other provisions within each section and if any provision of any of those sections or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall render the entire section invalid but not other sections of this act.

SECTION 17. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 12 and Section 16 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2001. Sections 13, 14 and 15 of this act shall be in full force and effect on and after January 1, 2002.

Approved April 11, 2001.

CHAPTER 387
(S.B. No. 1040, As Amended, As Amended)

AN ACT

RELATING TO DAIRY FARM NUTRIENT MANAGEMENT PLANS; AMENDING SECTION 37-401, IDAHO CODE, TO PROVIDE THAT NUTRIENT MANAGEMENT PLANS SHALL COVER DAIRY FARM SITES AND OTHER LANDS OWNED AND OPERATED BY DAIRY FARM OWNERS OR OPERATORS, TO PROVIDE THAT NUTRIENT MANAGEMENT PLANS SUBMITTED TO THE DEPARTMENT BY THE DAIRY FARM SHALL INCLUDE CERTAIN INFORMATION, TO PROVIDE THAT INFORMATION IN THE NUTRIENT MANAGEMENT PLAN SHALL BE AVAILABLE TO THE APPLICABLE COUNTY AND TO PROVIDE THAT ONLY THE FIRST RECIPIENT OF COMPOST MUST BE LISTED IN A NUTRIENT MANAGEMENT PLAN IF LIVESTOCK WASTE IS CONVERTED TO COMPOST BEFORE IT LEAVES THE DAIRY FARM.

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

SECTION 1. That Section 37-401, Idaho Code, be, and the same is hereby amended to read as follows:

37-401. INSPECTIONS, EXAMINATIONS AND TESTS BY DEPARTMENT OF AGRICULTURE ~~DAIRY~~-- FARMS -- NUTRIENT MANAGEMENT PLANS REQUIRED. (1) The director of the department of agriculture is hereby authorized and directed to designate any agent to inspect, examine and test any or all dairy products in accordance with rules as the department may prescribe; and to ascertain and certify the grade, classification, quality or sanitary condition thereof and other pertinent facts as the department may require. The director or agent of the department of agriculture of the state of Idaho shall make sanitary inspection of milk, cream, butter and dairy products of any kind whatsoever, intended for human consumption, and of containers, utensils, equipment, buildings, premises or anything whatsoever employed in the production, handling, storing, processing or manufacturing of dairy products or that would affect the purity of the products. Inspections, examinations and tests shall be made to meet the requirements of the laws of the state and of the United States for the sale of the products or their transportation in both intrastate and interstate commerce. Any agent designated by the director to make

inspections shall have the right for that purpose to enter any premises and buildings where milk, cream, butter or dairy products shall be produced, stored, processed or manufactured.

(2) Acting in accord with rules of the department, the director or agent of the department shall review plans and specifications for construction of new, modified or expanded waste systems and inspect any dairy farm to ascertain and certify sanitary conditions, waste systems and milk quality. The director or agent shall issue a permit authorizing the sale of milk for human consumption to all dairy farms that meet the requirements of this chapter, and rules promulgated pursuant to this chapter.

(3) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department on or before July 1, 2001.

(4) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.

Approved April 11, 2001.

CHAPTER 388
(S.B. No. 1067, As Amended)

AN ACT

RELATING TO DAIRY FARMS; AMENDING SECTION 37-401, IDAHO CODE, TO PROVIDE THAT NEW OR EXPANDING DAIRY FARMS SHALL PRESENT A CERTIFIED LETTER THAT THE DAIRY FARM COMPLIES WITH APPLICABLE COUNTY LIVESTOCK ORDINANCES AND CERTAIN EVIDENCE OF ADEQUATE WATER SUPPLY OR AN APPLICATION FOR ADEQUATE WATER SUPPLY TO THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE PRIOR TO ISSUANCE OF A PERMIT TO SELL MILK FOR HUMAN CONSUMPTION AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-401, Idaho Code, be, and the same is hereby amended to read as follows:

37-401. INSPECTIONS, EXAMINATIONS AND TESTS BY DEPARTMENT OF AGRICULTURE -- DAIRY FARMS -- NUTRIENT MANAGEMENT PLANS REQUIRED -- CERTAIN EVIDENCE REQUIRED. (1) The director of the department of agriculture is hereby authorized and directed to designate any agent to inspect, examine and ~~test any or all~~ dairy products in accordance with rules as the department may prescribe; and to ascertain and certify the grade, classification, quality or sanitary condition thereof and other pertinent facts as the department may require. The director or agent of the department of agriculture of the state of Idaho shall make sanitary inspection of milk, cream, butter and dairy products of any kind whatsoever, intended for human consumption, and of containers, utensils, equipment, buildings, premises or anything whatsoever employed in the production, handling, storing, processing or manufacturing of dairy products or that would affect the purity of the products. Inspections, examinations and tests shall be made to meet the requirements of the laws of the state and of the United States for the sale of the products or their transportation in both intrastate and interstate commerce. Any agent designated by the director to make inspections shall have the right for that purpose to enter any premises and buildings where milk, cream, butter or dairy products shall be produced, stored, processed or manufactured. Acting in accord with rules of the department, the director or agent of the department shall review plans and specifications for construction of new, modified or expanded waste systems and inspect any dairy farm to ascertain and certify sanitary conditions, waste systems and milk quality.

(2) The director or agent shall issue a permit authorizing the sale of milk for human consumption to all dairy farms that meet the requirements of this chapter, and rules promulgated pursuant to this chapter.

(3) All dairy farms shall have a nutrient management plan approved by the department. Existing dairy farms shall submit a nutrient management plan to the department on or before July 1, 2001. Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.

(4) The director or his agent may issue a permit to sell milk for human consumption to a new or expanding dairy farm only upon presentation to the director by the new or expanding dairy farm of:

(a) A certified letter, supplied by the board of county commissioners, certifying the new or expanding dairy farm's compliance with applicable county livestock ordinances; and

(b) Evidence that a valid water right exists to supply adequate water for the new or expanding dairy farm; or

(c) A copy of an application for a permit to appropriate water that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm; or

(d) A copy of an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm.

(5) As used in this section:

(a) "Animal units" shall be as defined in rule by the director.

(b) "Expanding dairy farm" means an existing, legally permitted

dairy farm that increases, or applies to increase, its existing animal units beyond the number for which it is permitted under applicable county livestock ordinances or increases, or applies to increase, the waste containment system.

(c) "New dairy farm" means a dairy farm constructed after the effective date of this act.

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

Approved April 11, 2001.

CHAPTER 389
(S.B. No. 1114, As Amended)

AN ACT

RELATING TO SCHOOL DISTRICT SALARY-BASED APPORTIONMENT; AMENDING SECTION 33-1004E, IDAHO CODE, TO INCREASE BASE SALARY AND TO ADOPT REQUIREMENTS FOR A SCHOOL DISTRICT SALARY SCHEDULE.

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

SECTION 1. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of ~~$20,915~~23,210. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. The instructional salary allocation shall be increased by $1,000 for each teacher placed on step one, column one, of the experience and education index. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than the state instructional base salary plus $1,000, or $25,000, whichever is greater. If an instructional staff member has been certified by the national board for ~~professional teaching standards~~, the ~~staff~~ member shall be designated as a master teacher and receive $2,000 per year for five (5) years. The instructional salary shall be increased

by $2,000 for each master teacher. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $~~30,599~~33,760. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply $~~16,232~~18,463 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

Approved April 11, 2001.

CHAPTER 390
(S.B. No. 1116, As Amended)

AN ACT

RELATING TO READING ACHIEVEMENT EVALUATION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1616, IDAHO CODE, TO PROVIDE STATEWIDE GOALS FOR READING EVALUATIONS AND TO PROVIDE ADDITIONAL ASSISTANCE TO SCHOOLS WHICH FAIL TO ACHIEVE SPECIFIED GOALS.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1616, Idaho Code, and to read as follows:

33-1616. EVALUATIONS AND INTERVENTIONS. Reports shall be submitted by the school districts in such a manner that it is possible to determine for each school building in each school district the percentage of students who are achieving at or above the appropriate grade level on the reading assessment. In order to maintain the commitment made by the

legislature to reading excellence, the statewide goal for reading achievement for spring 2004 shall be not less than fifty-five percent (55%) at or above grade level for kindergarten and not less than sixty percent (60%) at or above grade level for first grade; the goal for spring 2005 shall be not less than fifty-five percent (55%) at or above grade level for kindergarten, not less than sixty-five percent (65%) at or above grade level for first grade, and not less than seventy percent (70%) at or above grade level for second grade; the goal for spring 2006 shall be not less than sixty percent (60%) at or above grade level for kindergarten, not less than seventy percent (70%) at or above grade level for first grade, not less than eighty percent (80%) at or above grade level for second grade and not less than eighty-five percent (85%) at or above grade level for third grade. Notwithstanding the statewide reading achievement goals provided herein, an individual school building will also be deemed to have met the achievement goal if the percentage reading at or above grade level is five percent (5%) or more greater than the percentage for the immediately preceding year.

The state department of education shall extract data from the reporting forms, after the spring assessment period, and specifically identify those schools whose average reading scores for any grade level have not met the targeted level by the specified date. The department shall prepare a list of these schools and the grade or grades not attaining the achievement goal. This list shall be made available for the public, shall be published in the next issue of the state publication of the department and may be made available on the internet following the spring assessment. In addition, each school so identified shall be notified by the department that should the school experience a similar shortfall in the next ensuing year, a school intervention program may be initiated. The state department of education shall provide for an intervention program which will consist of at least, but not limited to, a site visit by designated personnel from schools that have achieved the state standard and may include others who are familiar with reading achievement. The intervention team shall make recommendations to the district on means for improvement in order to meet and exceed the state's reading goals.

Approved April 11, 2001.

CHAPTER 391
(S.B. No. 1196)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 2002; AND EXPRESSING LEGISLATIVE INTENT REGARDING PROPERTY TAX RELIEF IN COMMUNITY COLLEGE DISTRICTS.

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, 2001, through June 30, 2002:

FOR:

Trustee and Benefit Payments	$20,581,400
FROM:	
General Fund	$20,581,400

SECTION 2. It is legislative intent that $3,200,000 of the amount appropriated in Section 1 of this act be applied directly to dollar-for-dollar property tax relief through a corresponding reduction of the FY2002 property tax levies in Kootenai County for the North Idaho College Community College District, and in Twin Falls and Jerome Counties for the College of Southern Idaho Community College District.

Approved April 11, 2001.

CHAPTER 392
(S.B. No. 1199, As Amended in the House)

AN ACT

RELATING TO OFFENSES ON HIGHWAYS; AMENDING SECTION 49-709, IDAHO CODE, TO PROVIDE THAT A PERSON MAY STAND ON A HIGHWAY TO SOLICIT CONTRIBUTIONS IF ALLOWED TO DO SO BY THE LOCAL AUTHORITY HAVING JURISDICTION OVER THE HIGHWAY AND TO PROVIDE A LIMITATION OF TIME FOR AN AUTHORIZATION.

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

SECTION 1. That Section 49-709, Idaho Code, be, and the same is hereby amended to read as follows:

49-709. PEDESTRIANS SOLICITING RIDES OR BUSINESS. (1) No person shall stand on a highway for the purpose of soliciting a ride.

(2) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle, provided however, that a person may stand on a highway other than a state or federal highway to solicit contributions if authorized to do so in writing by the local authority having jurisdiction over the highway, and provided further, that any such authorization shall not be valid for more than one (1) year from the date of issuance.

(3) No person shall stand on or in proximity to a highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a highway.

Approved April 11, 2001.

CHAPTER 393
(S.B. No. 1264)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2002; AND AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to the appropriation made in Section 1 of Senate Bill No. 1240 as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby appropriated to the Department of Agriculture the following amounts to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2001, through June 30, 2002:

I. ANIMAL INDUSTRIES:

FOR:	
Personnel Costs	$159,000
Operating Expenditures	25,000
Capital Outlay	66,000
TOTAL	$250,000
FROM:	
General Fund	$250,000

SECTION 2. In addition to the authorization provided to the Department of Agriculture in Section 2 of Senate Bill No. 1240 as enacted by the First Regular Session of the Fifty-sixth Idaho Legislature, there is hereby authorized three (3) additional full-time equivalent positions for the period July 1, 2001, through June 30, 2002.

Approved April 11, 2001.

CHAPTER 394
(H.B. No. 383)

AN ACT

RELATING TO RENTAL OF STORAGE WATER TO AUGMENT RIVER FLOWS TO AID SALMON MIGRATION; AMENDING SECTION 42-1763B, IDAHO CODE, TO REVISE FINDINGS AND INTENT OF THE LEGISLATURE, TO AUTHORIZE THE U.S. BUREAU OF RECLAMATION TO RELEASE WATER IN 2001 UNDER LIMITED CONDITIONS, TO PROVIDE NECESSARY DATE CHANGES AND TO MOVE THE SUNSET CLAUSE BACK ONE YEAR; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 42-1763B, Idaho Code, be, and the same is hereby amended to read as follows:

42-1763B. INTERIM AUTHORITY FOR RENTAL OF STORAGE WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON. (1) Legislative findings and intent regarding rental of storage water from U.S. bureau of reclamation projects in the Snake River basin within Idaho to augment lower Snake River flows during the migration of Snake River salmon. The legislature finds that the U.S. bureau of reclamation ~~requested the~~ desires to release ~~of~~ up to four hundred twenty-seven thousand (427,000) acre feet of water to augment salmon flows in ~~order to satisfy the conditions of the biological opinion issued by the national marine fisheries service on March 2, 1995~~ 2001. The state of Idaho is experiencing serious drought conditions in 2001 and it is therefore unlikely that

four hundred twenty-seven thousand (427,000) acre feet of water will be available for rental for flow augmentation purposes. Nonetheless, the legislature finds that authorization of this legislation will facilitate ongoing negotiations in the Snake River basin adjudication. Therefore, t~~T~~he legislature authorizes the U.S. bureau of reclamation to release water from its projects under the limited conditions of this sec~~tion in~~ 2000~~1~~.

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

(a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water release from U.S. bureau of reclamation reservoirs within the state of Idaho for use to augment river flows during the migration of Snake River salmon pursuant to this section must be rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or through local water rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules.

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

(3) Conditions on storage water rentals.

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

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

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

(d) The U.S. bureau of reclamation shall report on the plan for releases for the spring and summer chinook prior to such releases and on the plan for releases for the fall chinook by July 15, 2000~~1~~. The U.S. bureau of reclamation shall submit a report to the director by January 15, 200~~1~~2, describing the time, volume and purpose of storage water released for salmon purposes during the year 2000~~1~~.

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

(f) Nothing herein shall entitle the U.S. bureau of reclamation to

rent storage water upon termination or expiration of the permission given in this section.

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

(5) This section shall not become effective until the director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be held in abeyance until July 1, 200~~0~~1.

(6) On and after January 1, 200~~1~~2, this act shall be null, void and of no force and effect.

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, 2001.

Approved April 17, 2001.

SENATE JOINT MEMORIALS

(S.J.M. No. 101)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the potato industry in this country is suffering from record production along with low prices for the commodity; and

WHEREAS, the potato industry in this country is suffering from the effects of imports coming into the country; and

WHEREAS, production costs for potato growers are at all time high levels further providing increased economic risk for growers; and

WHEREAS, the United States Government has a commodity purchase program identified as the Section 32 Commodity Purchase Program; and

WHEREAS, Congress in 2000 earmarked $200 million dollars for the purchase of excess fruits and vegetables under the Agriculture Risk Protection Act of 2000 and that legislation specifically mentions purchasing of potatoes; and

WHEREAS, the increase in Idaho potato production has, in part, been the result of favorable weather and efficient farming practices where, in some instances, farmers have experienced a 40% higher yield per acre; and

WHEREAS, it is unfair to punish farmers for being more efficient in their farming practices.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we request that you and your Department provide diversion funds that have been earmarked by Congress for potato producers to help ease the economic crisis they face in 2001.

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, William Clinton, the Secretary of the Department of Agriculture, Dan Glickman, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate January 16, 2001
Adopted by the House January 19, 2001

(S.J.M. No. 102)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, special interest groups requested the President of the United States to designate an Owyhee-Bruneau Canyonlands National Monument in Owyhee County, Idaho, during the last days of the past presidential administration, a designation which would include over two million federal acres, and hundreds of thousands of acres of state land as well as private land, in an area including more than one-half the land mass of Owyhee County; and

WHEREAS, the state of Idaho has been greatly affected by such recent actions as the Craters of the Moon National Monument expansion; and

WHEREAS, the history of national monuments and other special designations for preservation purposes, demonstrates that their administration and management results in closure of road access, elimination of specific recreational uses, elimination of mining, and, through administrative regulations, restriction of all other recreational and permitted uses to a point of near elimination; and

WHEREAS, the land within the proposed Owyhee Canyonland National Monument is currently in sound ecological condition under the existing private and public management; and

WHEREAS, designation of the monument would remove the affected federal lands from the multiple use mandates of Congress and place them under more restrictive administration as a monument where management can adversely impact livestock grazing that is key to the local economy of the county, block access to and use of water rights held as private property rights, eliminate the economic viability of vested mining claims, and deny thousands of citizens the opportunity to recreationally use, enjoy and benefit from the land; and

WHEREAS, the National Environmental Policy Act mandates that environmental policy decisions which affect the quality of the human environment, such as designation of a Canyonlands National Monument, be subjected to public review and public input, and federal laws governing the management of federal lands require consultation with affected state and local governments before such decisions are made; and

WHEREAS, the groups seeking this designation have not consulted with and have not sought input from the Idaho Legislature, the State Land Board or the Governor of Idaho, even though hundreds of thousands of acres of state land would be affected, and have not consulted with and have not sought input from the Board of County Commissioners of Owyhee County or the citizens of Owyhee County who own private property, and property rights which would be affected, and have not consulted with and have not sought input from the thousands of citizens of Idaho who use, enjoy and benefit from recreational opportunities which would be affected; and

WHEREAS, former Secretary of Interior Bruce Babbitt, has previously committed to officials of the State of Idaho, to the members of the delegation representing the State of Idaho in the United States Congress, and to the citizens of Idaho that such monument designations will not be made without advance state and local input; and

WHEREAS, the uniqueness of the Owyhee Canyonlands has been maintained in coexistence with multiple uses of the federal lands and continuing stewardship of adjoining state and private lands, and this successful coexistence demonstrates no necessity, or even desirability, for designation of a national monument; and

WHEREAS, if there had been consultation with the state and local governments, and if there had been public review and input as to the requested designation, the evidence presented by state and local officials and the citizens of Owyhee County and Idaho would demonstrate that the unique qualities of the Canyonlands have coexisted, and can continue to coexist, with multiple uses of the federal lands and with existing stewardship of state and private lands within the area, that there is no necessity for designating a national monument and that an unnecessary designation would adversely impact state and private land and the interests of the citizens of Owyhee County and Idaho; and

WHEREAS, rural Idaho has benefited little from recent prosperity, in part, due to increasing restriction of access to and economic use of federal lands, the designation of a national monument over half of Owyhee County would devastate the rural economy that is dependent on the coexisting economic use of private, state and federal land; and

WHEREAS, the Board of County Commissioners, Assessor and Treasurer of Owyhee County have warned the former President of the United States that designation of the requested monument would severely harm the revenue base which funds local government services to the people of Owyhee County, would severely harm ranchers and their families whose livelihood is dependent upon livestock grazing, would adversely impact private property rights in water, mining and access, would adversely impact the social and cultural cohesiveness of the communities in the affected area, and would severely restrict citizens' recreation use and enjoyment of, and benefit from, land in the proposed site; and

WHEREAS, the Sheriff of Owyhee County has warned the former President of the United States that restriction of access on the hundreds of miles of county roads, as well as RS 2477 rights-of-way, located in the affected site will adversely impact law enforcement and search and rescue operations, thus adversely impacting the public health and safety; and

WHEREAS, the Idaho Fish and Game Commission has followed with great concern proposals to expand or designate new national monuments in Idaho because of the potential impact for loss of hunting, trapping, wildlife management activities and local decision-making in areas under consideration for national monument status, in particular the Owyhee-Bruneau Canyonlands; and

WHEREAS, the Owyhee Canyonlands provide a tremendous amount of hunting, fishing and outdoor recreation opportunities adjacent to the largest population center in the state. The area provides habitat for a variety of fish and wildlife including sage grouse, chukar, redband trout, small mouth bass, pronghorn antelope, mule deer, elk, bobcat and mountain lion; and

WHEREAS, the Owyhee area proposal encompasses virtually the entire

range of California bighorn sheep in Idaho. This population was reestablished in the Owyhees through a series of transplants, research projects and intensive monitoring, beginning in 1963. This wildlife conservation success story is the result of a significant long-term investment by sheep hunters, the Idaho Department of Fish and Game, the Bureau of Land Management, the Foundation for North American Wild Sheep and, more recently, the United States Air Force; and

WHEREAS, under current BLM management, local decision-making allows for a variety of activities and conservation measures. These activities include hunting, fishing, trapping, fish and wildlife research and monitoring, and wildlife management, including bighorn sheep transplants; and

WHEREAS, it is imperative that these activities and the associated management that have worked so well to date be able to continue without additional regulatory constraints or impediments. Public access, recreational activities, and other resource uses, such as grazing, have been coordinated successfully with wildlife programs and the present formula for success should continue.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that the President of the United States refuse to designate the requested Owyhee-Bruneau Canyonlands National Monument without prior consultation with the Governor of Idaho, the State Land Board, the Idaho Legislature, and local government officials in Owyhee County, and without subjecting the request to public review and input.

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 Secretary of Interior, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 8, 2001
Adopted by the House February 28, 2001

(S.J.M. No. 103)

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 First Regular Session of the Fifty-sixth 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 regulations and a draft environmental assessment; and

WHEREAS, the Notice of Intent (NOI) solicited comments "on the scope of the analysis that should be conducted" and on "the identification of alternatives to the proposal" that would be set out in this multitude of documents. The NOI provided prospective commentators with slightly more than sixty days to comment on this enormous and poorly defined proposal. The NOI was 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 would have a devastating impact on timber communities in the West. The proposed moratorium would 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 would 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 demonstrated neither of those traits. No specific proposals were identified and no preliminary findings were referenced; and

WHEREAS, these failures violated 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 stated that it initiated "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 did not encourage "the participation of affected federal, state and local agencies" as the regulations implementing NEPA anticipate. (40 CFR 1501.7(a)(1)); and

WHEREAS, the ambiguity and confusion that characterize the NOI was compounded by the fact that the comment period was 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 is 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 was completely inconsistent with 40 CFR 1501.8(b); and

WHEREAS, in an October 28, 1999, letter to Forest Service managers,

Michael Dombeck, Chief of the U.S. Forest Service suggested that the Forest Service attempted to complete the environmental analysis of a permanent moratorium in a "short time frame." The U.S. Forest Service continued to ramrod a decision that would shut down forty million acres of western lands into "a short time frame." The spirit, in addition to the clear mandate of NEPA is accomplished by providing meaningful opportunity for public participation and careful, principled, environmental analysis; and

WHEREAS, on December 30, 1999, the State of Idaho brought suit to extend the comment period beyond that mandated by the NOI. The State alleged that it did not, to that point, have a meaningful opportunity to participate in the process, in addition to claiming that the National Forest Management Act and the Administrative Procedure Act had been violated.

WHEREAS, in dismissing the State's suit because it was brought prior to the final agency action, the U.S. district judge noted that the U.S. Forest Service "should make every effort to ensure that the process is properly implemented with reasonable time frames to allow meaningful participation by the public," and that Idaho's concern "over access to and management of its endowment and state forest lands that may be surrounded by national forest land are legitimate concerns of state and local governments and its citizens." Finally, the court declared "Time is not of the essence on an issue that has been studied for over 30 years."

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 was clearly not adequate time for officials to thoroughly review and analyze the proposal, and to provide the Forest Service with informed and substantive comment;

WHEREAS, on January 5, 2001, only 15 days before President Clinton left office, in an obvious rush to enact flawed and politically motivated policy through the administrative rulemaking process, President Clinton finalized and implemented the roadless rule; and

WHEREAS, on January 9, 2001, the Governor, the Attorney General of Idaho, the Idaho Board of Land Commissioners, and the Idaho Department of Lands, on behalf of the State of Idaho filed suit against the U.S. Forest Service for making a decision to implement the roadless regulation, which regulations implementation creates a potential violation of the National Environmental Policy Act (NEPA) which will cause irreparable injury to the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that President Bush impose a moratorium on the roadless regulations pending careful review and study.

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, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 13, 2001
Adopted by the House March 6, 2001

(S.J.M. No. 104)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE INTERIOR, THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE, THE UNITED STATES FOREST SERVICE, THE UNITED STATES PARK SERVICE, THE BUREAU OF RECLAMATION, 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 First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the April 1999 General Accounting Office report entitled "Western National Forests -- A Cohesive Strategy is Needed to Address Catastrophic Wildfire Threats" states, "The most extensive and serious problem related to the health of national forests in the interior west is the over accumulation of vegetation, which has caused an increasing number of large, intense, uncontrollable, and catastrophically destructive wildfires"; and

WHEREAS, the U.S. Forest Service report entitled "Protecting People and Sustaining Resources in Fire-Adapted Ecosystems -- A Cohesive Strategy" in response to the General Accounting Office report, confirmed the conclusion stated above and further warns, "Without increased restoration treatments...wildfire suppression costs, natural resource losses, private property losses, and environmental damage are certain to escalate as fuels continue to accumulate and more acres become high-risk." The report also specifies that, at a low intensity, fire is ecologically beneficial, and has positive effects on biodiversity, soil productivity, and water quality; and

WHEREAS, the U.S. Forest Service further acknowledges that 39 million acres of national forest are at significant risk of catastrophic wildfire and an additional 26 million acres will be at similar risk due to increases in the mortality of trees and brush caused by insects and disease; and

WHEREAS, the National Research Council and the Federal Emergency Management Agency recognized catastrophic wildfires such as those in California in 1993, Florida in 1998 and Idaho in 2000 as among the defining natural disasters of the decade; and

WHEREAS, catastrophic wildfires not only cause damage to the forests and other lands, but place the lives of firefighters at risk and pose threats to human health, personal property, sustainable ecosystems, air and water quality; and

WHEREAS, according to the National Fire Protection Association, wildland-urban interface catastrophic wildfires from 1985 to 1994 destroyed 9,925 homes, and in 1999 burned 6 million acres of public lands nationwide, equivalent to a 1.5 mile-wide swath from Washington D.C. to Los Angeles and back; and in 2000 burned 7.2 million acres, of which 1.2 million were in Idaho, costing the state of Idaho $10 million in state firefighting funds and burning 1 billion board feet of timber, enough to build 100,000 single family houses; and

WHEREAS, the escaped Cerro Grande prescribed fire in May 2000, which consumed 48,000 acres, destroyed 400 homes with losses exceeding $1 billion in Los Alamos, New Mexico, and the escaped Lowden prescribed fire in 1999 that destroyed 23 homes in Lewiston, California, highlight the unacceptable risks of using prescribed burning if, as reported, that burning was the sole forest management practice of federal land management agencies; and

WHEREAS, high risk forest fuel has accumulated in combination with reduced fire response capability by federal agencies during the 1990's, resulting in catastrophic wildfires, like those near Atlanta and Burgdorf, Idaho, becoming more difficult and expensive to extinguish, with a disproportionate burden being placed on state and local resources, while the costs to fight these fires increased by 150 percent between 1986 and 1994, and the costs of maintaining a readiness force increased by 70 percent between 1992 and 1997; and

WHEREAS, current planning efforts of the U.S. Forest Service such as the Sierra Nevada Framework, Interior Columbia Basin Ecosystem Management Project, the Roadless Initiative Rule, and the Federal Monument proclamations rely primarily on extensive use of prescribed fire, which will further exacerbate the risk of catastrophic wildfire on federal lands throughout the west.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that in the interest of protecting the integrity and posterity of our forest and wild lands, wildlife habitat, watershed, air quality, human health and safety, and private property, the U.S. Forest Service and other federal land management agencies must immediately implement a cohesive strategy to reduce the overabundance of forest fuels that place these resources at high risk of catastrophic wildfire.

BE IT FURTHER RESOLVED that the agencies utilize an appropriate mix of fire suppression activities and forest management methodologies, including selective thinning, selective harvesting, grazing, the removal of excessive ground fuels, and small-scale prescribed burns, including increased private, local and state contracts for prefire treatments on federal forest lands. More effective fire suppression on federal forest lands should be pursued through increased funding of mutual aid agreements with professional state and local public firefighting agencies.

BE IT FURTHER RESOLVED that, in the interest of forest health, protection and rural community safety, the Departments of Agriculture and Interior work closely with states and local governments to implement a national prescribed fire strategy for public lands that creates a process for evaluation of worst case scenarios for risk of escape and identifies alternatives that will achieve the land management objectives while minimizing the risk and use of prescribed fire. This strategy should be incorporated into any regulatory land use planning program that proposes the use of prescribed fire as a management practice.

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 Honorable President of the United States, George W. Bush, the Secretary of the Interior, the Secretary of the Department of Agriculture, the United States Forest Service, the United States Park Service, the Bureau of Reclamation, 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 February 13, 2001
Adopted by the House March 6, 2001

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE CHIEF OF THE UNITED STATES FOREST SERVICE, THE SECRETARY OF THE INTERIOR, THE DIRECTOR 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 First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, in 1996 the Idaho State Board of Land Commissioners (Land Board) appointed the original Federal Lands Task Force which was charged with examining federal land management issues in Idaho and analyzing alternative management ideas on federal lands within the state of Idaho; and

WHEREAS, in July 1998, the task force recommended development of pilot projects to test different types of management approaches; and

WHEREAS, the Land Board appointed a working group made up of a wide variety of viewpoints, experience and geographical balance, along with a coordinator to further develop the ideas for alternative management scenarios recommended by the Federal Lands Task Force in their report; and

WHEREAS, the working group developed a core set of principles which included local involvement and extensive public comment, a balanced, workable, ecosystem-based approach to environmental management that follows environmental law, creating a genuine partnership with the United States Forest Service and that the working group would not espouse state, local or private ownership of federal lands; and

WHEREAS, the working group recommended to the Idaho Land Board five projects encompassing just under 11 million acres of federal land in Idaho, most of which is managed by the United States Forest Service; and

WHEREAS, all the pilot projects conform to environmental statutes while offering a new approach to environmental management of federal lands that will improve forest and rangeland health, improve habitat for fish and wildlife, restore ecosystem health, provide stability for rural communities and increased revenues for Idaho's school children and natural resource dependent counties; and

WHEREAS, the Idaho Land Board has opened a public comment period through February 1, 2001.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that

the United States Congress enact legislation enacting pilot projects such as those recommended in the report submitted to the Idaho Board of Land Commissioners entitled, "Breaking the Gridlock: Federal Lands Pilot Projects in Idaho."

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, the Secretary of the Interior, the Director 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 February 21, 2001
Adopted by the House March 6, 2001

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Softwood Lumber Agreement entered into by the United States and Canada in 1996 will expire in March 2001; and

WHEREAS, this agreement was crafted because the provinces of Canada, which own most Canadian timber, sell at prices that can be set below market value; and

WHEREAS, these practices have fueled shipments to the United States to the point that subsidized Canadian imports are at record levels and now control over one-third of the U.S. softwood lumber market; and

WHEREAS, subsidized Canadian lumber imports have gained sales volume from United States lumber companies, depressed timber values in the United States, jeopardized thousands of jobs in this country, driven down the taxable value of forest land and further undermined the stability of already endangered timber communities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that President Bush direct the Office of the U.S. Trade Representative and the Secretary of Commerce to make the problem of subsidized Canadian lumber imports a top priority, to take every possible action to end Canadian lumber subsidy practices through open and competitive sales of timber and logs in Canada for fair market value, or if Canada will not agree to end the subsidies immediately, the subsidies must be offset pending reform; and if Canada will not reach an agreement, to enforce vigorously, promptly and fully the trade laws against subsidized and dumped imports and explore all options to stop unfairly traded imports,

to limit injury to the United States timber industry pending further action.

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 President George W. Bush, 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 15, 2001
Adopted by the House March 29, 2001

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the outbreak of Bovine Spongiform Encephalopathy in Europe introduces a frightening and lethal condition that could eventually spread to many parts of the world if proper measures are not taken to contain it; and

WHEREAS, Bovine Spongiform Encephalopathy is a fatal neurological disease of cattle, and the dramatic increase in the incidence of the disease in Europe has prompted the World Health Organization to declare its "exposure worldwide," thus critically threatening the safety of our food supply and the livestock industry of the United States; and

WHEREAS, since 1989, the United States has banned the importation of suspected animals and products thereof, from countries known to have Bovine Spongiform Encephalopathy, and has instituted surveillance for the disease in the United States, and has banned the feeding of products that could potentially carry the agent; and

WHEREAS, the Bovine Spongiform Encephalopathy agent is present in nervous system tissue such as the brain and spinal cord and does not exist in milk nor milk products nor muscle tissue such as steak, roasts and hamburger.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support a moratorium on all imports of live cattle, precooked beef, all beef products, and potentially contaminated feed ingredients for a period of three years or until importers can prove that the meat, live animals and feed ingredients are free of Bovine Spongiform Encephalopathy for the protection of the United States cattle industry.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representa-

tives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 22, 2001
Adopted by the House March 28, 2001

(S.J.M. No. 108)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the American rancher and farmer face the most stringent environmental regulations in the world, and apply federal Food and Drug Administration-approved pesticides, antibiotics and pharmaceuticals to further ensure the safety of American-produced and raised live animals, meat, dairy and related products; and

WHEREAS, in recent years the world's food supply has faced new threats in the form of food-borne illnesses and illness-causing organisms such as Salmonella, E. coli bacteria, and Listeria monocytogenes, and including the emergence of antibiotic-resistant organisms associated with the contamination of the food supply; and

WHEREAS, the American livestock producer follows strict withdrawal periods and techniques for administering federal Food and Drug Administration-approved pesticides, antibiotics and pharmaceuticals before allowing livestock to be marketed and processed for human consumption; and

WHEREAS, because imported live animals, meat, dairy and related products do not follow the same stringent environmental requirements, and foreign producers have the availability of pesticides, antibiotics and pharmaceuticals which are illegal for use in the United States, and foreign producers are not restricted on withdrawal periods nor administration techniques for pesticides, antibiotics and pharmaceuticals, it is reasoned that the importation of animals and animal products can be a threat to the safety and reliability of America's food supply; and

WHEREAS, a country of origin labeling system that enhances the traceability and accountability will help ensure the safe consumption of meat products in America; and

WHEREAS, the taxpaying public of the United States has made an enormous investment in food safety and has the right to know where food is produced.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress to enact legislation that mandates country of origin labeling for meat, and to require that products labeled "U.S. Produced" be born, raised and processed completely in the United States.

BE IT FURTHER RESOLVED that any meat products imported into the United States meet all the same standards as those required on American-produced meat products.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 22, 2001
Adopted by the House March 28, 2001

(S.J.M. No. 109)

A JOINT MEMORIAL
TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the dramatic increase in the incidence of Foot and Mouth Disease in Europe, and now present on four continents, has prompted the Animal and Plant Health Inspection Service of the United States Department of Agriculture to issue warnings to all American citizens, especially those traveling abroad, and to American livestock owners to protect their vital industry; and

WHEREAS, the Foot and Mouth Disease virus can be spread by equipment, vehicles, shoes, clothing, food items or even by surviving for twenty-eight hours in the human respiratory system; and

WHEREAS, should Foot and Mouth Disease enter the United States, the result would be massive outbreaks of the disease in America, with total disruption of the American food supply; and

WHEREAS, the United States is currently free from Foot and Mouth Disease which is decimating Europe and spreading worldwide.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support safeguards to prevent movement of Foot and Mouth Disease on persons, on other animals not directly susceptible to the virus but which could be passive carriers, and on inanimate objects; and we support a moratorium on all imports of cloven-hoofed animals and products thereof, for a period of three years or until importers can prove that cloven-hoofed animals and products thereof are free of Foot and Mouth Disease for the protection of the American livestock owners.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 22, 2001
Adopted by the House March 28, 2001

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Founding Fathers, through deliberation and compromise, devised the Electoral College to answer the nation's need for an effective voting mechanism in the presidential selection process; and

WHEREAS, the Electoral College, as provided for in the Constitution of the United States, provides for a proper system of checks and balances in the election of presidents and vice presidents; and

WHEREAS, the Electoral College prevents any one region of the nation from dominating a presidential election; and

WHEREAS, the Electoral College ensures that the interests of the voters of every state, including smaller and rural states, are represented in a presidential election; and

WHEREAS, the Electoral College ensures that the will of the majority is carried out while guaranteeing that the voices of this nation's minorities are heard; and

WHEREAS, the Electoral College is based upon republican principles which provide the foundation for this nation's constitutional system; and

WHEREAS, any attempt to modify the current Electoral College would jeopardize a secure system which has been effective for over two hundred years in providing for a peaceful transition of presidential power.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that no amendments or other modifications be made to the Electoral College system and that the Electoral College be continued in its present form for all future presidential elections.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 16, 2001
Adopted by the Senate February 23, 2001

(H.J.M. No. 2)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE NATIONAL RAIL PASSENGER CORPORATION, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, there is a growing need to diversify the transportation options available to residents of Idaho as well as visitors to Idaho; and

WHEREAS, trains provide a reliable means of transportation when inclement weather impedes other modes, as well as being a relaxing and environmentally friendly means of travel; and

WHEREAS, rail freight and passenger services have long been an essential component to our regional transportation system, playing a major role in the history of the state of Idaho; and

WHEREAS, the passenger rail service for southern Idaho was discontinued in 1997; and

WHEREAS, rail service through the Pioneer corridor once provided and could again provide substantial access to rural areas of the state, providing opportunity for both passenger and freight service; and

WHEREAS, restored passenger rail service would contribute to economic activity in southern Idaho, which in turn might increase rail use and business opportunities for further rail expansion; and

WHEREAS, restoration of rail connection through the Pioneer route would serve needs not only of Idaho, but also provide access between the Pacific Northwest and Utah, Wyoming, Colorado, Nebraska, Iowa and Illinois; and

WHEREAS, the Pioneer has a history and tradition that is valued by the residents of the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge restoration of the daily passenger rail service of the Pioneer, serving to connect Idaho residents to the nation.

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, the president of the National Railroad Passenger Corporation and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 22, 2001
Adopted by the Senate March 5, 2001

(H.J.M. No. 4)

A JOINT MEMORIAL

TO THE PRESIDENT, SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the expansion of the Craters of the Moon National Monument was imposed by Presidential Proclamation on November 9, 2000. The exterior boundary of the expansion encompasses over 673,000 acres, with some 410,000 acres to be managed by the National Park Service. Except for some non-federal lands, the Bureau of Land Management will manage the remaining acreage; and

WHEREAS, the area to be managed by the National Park Service was traditionally open to hunting; and

WHEREAS, relevant language in the proclamation states: "Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of Idaho with respect to fish and wildlife management"; and

WHEREAS, the National Park Service administered portion of the expansion is intended by that agency to be closed to hunting in contradiction of the specific language of the November 9th proclamation; and

WHEREAS, we find no provisions that allow the administering agency to ignore the terms of the proclamation, and the Idaho Fish and Game Commission must finalize its annual big game hunting rules and publicize said rules in March of this year; and

WHEREAS, the Governor of the State of Idaho, with the support of the Idaho Fish and Game Commission, has conveyed his deep concern by letter dated January 31, 2001, to the Secretary of the Interior; and

WHEREAS, it is imperative that the National Park Service cease efforts to close the lands within the expanded monument to hunting and that the state of Idaho be able to continue to manage unimpeded the wildlife therein as provided in the Presidential Proclamation; and

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request that the President of the United States direct the National Park Service to promptly and fully comply with the provision of the Presidential Proclamation cited herein and cease and desist its efforts to close lands within the expanded Monument to hunting.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 26, 2001
Adopted by the Senate March 6, 2001

(H.J.M. No. 5)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE SECRETARY OF THE INTERIOR, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho's rural areas are suffering near depression-like economic disasters and America is becoming a nation of battered rural communities; and

WHEREAS, natural resources are the lifeblood of Idaho, the genesis of wealth and the hub of America's economic wheel, and that eliminating resource production is a poor trade-off for wolf and grizzly recovery which has no basis in common sense, legitimate science or free-enterprise economics; and

WHEREAS, our natural resources industries are declining in large part because of the federal government's policies and mismanagement; and

WHEREAS, there is a tendency to assume that the command and control approach used by the United States Fish and Wildlife Service is the only option we have as citizens of Idaho and state elected officials; and

WHEREAS, the United States Fish and Wildlife Service currently wastes millions of dollars per year on wolf recovery which, under an Idaho wolf management plan, would become a tremendous burden for all Idaho taxpayers and would reduce Idaho to an enforcement arm for another failed, misguided federal policy; and

WHEREAS, it is clear the federal government does not manage wolves; rather, it manages citizens; and

WHEREAS, wolves are not biologically endangered in the United States, nor are they in danger of becoming extinct since they exist abundantly in other states and countries; and

WHEREAS, wolf recovery is predicated on the false political premise of intrinsic worth greater than humans; and

WHEREAS, fifteen Canadian gray wolves were dumped in central Idaho in 1995 and twenty Canadian gray wolves were dumped in central Idaho in 1996, and now their populations are estimated at 350 to 400 wolves; and

WHEREAS, the Canadian gray wolf is not indigenous to the state of Idaho, weighing some 25 to 30 pounds more than the original Idaho gray wolf; and

WHEREAS, wolves are not a game animal; they are predators and should be managed as such; and

WHEREAS, Idaho statutes have established civil values for deer, elk, moose and other big game species; and

WHEREAS, wolves should be immediately delisted and the federal government should be financially responsible for all damages created by wolves, not only to livestock, but for domestic animals, pets and especially for damages to Idaho's wildlife; and

WHEREAS, the Bush Administration has the opportunity to redirect the failed environmental policies of the past.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that this Legislature not only calls for, but demands, that wolf recovery efforts in Idaho be discontinued immediately, and wolves be removed by whatever means necessary.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, to the Secretary of the Interior, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 6, 2001
Adopted by the Senate March 29, 2001

(H.J.M. No. 6)

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 House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the right to life, liberty and property is a belief that is deeply rooted in the foundations of our country; and

WHEREAS, property rights are at the foundations of our American democracy; and

WHEREAS, private property rights, including water rights, are important in every county of Idaho and affect virtually every Idaho citizen including urban homeowners, rural residents, small businesses, farmers and ranchers; and

WHEREAS, the Fifth Amendment to the U.S. Constitution and Section 14, Article I of the Idaho Constitution clearly provide that private property shall not be taken for public use without just compensation; and

WHEREAS, in many instances the individual effect of government action has caused partial limitation on use of property, and subsequent government actions have caused further limitation which results in a cumulative effect that causes substantial economic impact on said property owners and may approach complete loss of use over time; and

WHEREAS, President Ronald Reagan issued Executive Order 12630 on March 15, 1988, that required all federal departments and agencies to avoid actions which infringe on private property rights; and

WHEREAS, Executive Order 12630 also reminded all federal entities that governmental actions which restrict the use or value of private property could result in a "taking" for which financial compensation by due process is required; and

WHEREAS, Executive Order 12630 created an ongoing process within the government for assessing the impact on property rights from federal policy, regulation and legislation; and

WHEREAS, Executive Order 12630 was reaffirmed by President George Herbert Walker Bush but ignored by President William Jefferson Clinton although it was never rescinded.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the President of the United States to reiterate his strong support for private property rights by reaffirming Executive Order 12630 and directing all federal agencies to re-implement it immediately with revisions, if needed, to account for partial takings of property and their cumulative effect.

BE IT FURTHER RESOLVED that we support congressional enactment of federal property rights legislation which would at a minimum include codification of the requirements of Executive Order 12630.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 19, 2001
Adopted by the Senate February 28, 2001

(H.J.M. No. 7)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the cornerstone of the first Idaho State Veterans Home was laid on May 23, 1894, and was truly a state occasion attended by 1,200 people including Governor William J. McConnell and the community recognized the value of its soldiers; and

WHEREAS, the city, state, nation and world have changed dramatically since 1894, as World Wars I and II, Korea, Vietnam and the Persian Gulf have threatened peace and freedom, and were successfully completed because of the gallant men and women of our armed services; and

WHEREAS, like other states, there is still a home for old soldiers in Idaho; its face has changed, but its mission remains the same "...to care for him who shall have borne the battle and for his widow..."; and

WHEREAS, changes in the way we care for our soldiers and their families are inevitable, and we need to be vigilant to defend them as they defended us; and

WHEREAS, Idaho State Veterans Homes are currently in the process of being certified for Medicaid and federal regulations currently allow Tax Equity and Fiscal Responsibility Act (TEFRA) and Estate Recovery liens to be placed against the property of veterans who reside in State Veterans Homes and participate in the Medicaid Program; and

WHEREAS, veterans and their families understand and support our government's fiscal responsibility measures; however, government would not and could not exist without the men and women of the Armed Forces who placed themselves in harm's way for their country and they are due a debt that can never be fully paid; and

WHEREAS, we need to reaffirm our commitment to veterans by taking small steps of gratitude for the great gift of freedom they gave us: We have goodness, plenty, joy and peace because of these "old soldiers." They are the cornerstones of our freedom and we owe them the exemption of liens on their property as a small way of expressing our appreciation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support an amendment to 42 U.S.C. Section 1396p (Liens, Adjustments and Recoveries), to exempt veterans in State Veterans Homes from having liens placed on their property if they participate in the Medicaid 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 United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 28, 2001
Adopted by the Senate March 8, 2001

(H.J.M. No. 8)

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 House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Clearwater Basin Elk Habitat Initiative (CEI) is a coalition of partners working toward habitat and wildlife population restoration in the six million acre Clearwater Basin in the state of Idaho; and

WHEREAS, the following commissions, state and federal agencies, organizations, commercial enterprises, industry union locals, industry associations and individual citizens, as well as others have committed to their involvement: sportsmen, Idaho Fish and Game Commission, Idaho

Department of Fish and Game, United States Forest Service, University of Idaho, Rocky Mountain Elk Foundation, United States Army Corps of Engineers, Potlatch Corporation, Intermountain Forest Association, United States Bureau of Land Management, Citizens' Clearwater Elk Recovery Team, Idaho Department of Lands, Safari Club International, Treasure Valley Chapter, Outfitters; and

WHEREAS, the following are areas in which those who have committed to their involvement and others can render assistance:

(1) Sanction resource managers to make timely, effective and collaborative project decisions that integrate fire use and protection and wildlife and vegetative management to restore natural disturbance patterns for ecosystem restoration. Work with agency managers to implement the more than fifty National Fire Plan projects and Stewardship projects supported by CEI.

(2) Continue to support, expand and fund wildland fire use in the Basin. Recognize the Clearwater Basin has one of the largest wildland fire use programs in the nation.

(3) Support and fund development of the Management Effectiveness Model as a management and accountability tool.

(4) Support and fund Department of Fish and Game, Department of Lands, Department of Correction and county efforts to gather timely and adequate elk population information, implementation prescribed burning and use correction crews for vegetation work; and

WHEREAS, the following states the Clearwater Basin Elk Habitat Initiative key philosophies:

(1) Collaboration is necessary in wildlife and wildland management.

(2) Safe fire and active management are positive forces in maintaining healthy habitats.

(3) Fire protection is necessary near communities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we find the following actions are deemed necessary for success:

(1) Scientific understanding of how fire and vegetative management can be safe, effective tools benefiting Clearwater Basin species: elk, lynx, neotropical migrant birds and others.

(2) Implement wildland fire use inside and outside of wilderness areas.

(3) Implement the National Fire Plan including over fifty federally identified Clearwater Basin projects; increase local on-the-ground multiresource management actions through collaboration; and continue state and private project implementation.

(4) Jointly develop and fund the Management Effectiveness Model to assess management effectiveness and provide accountability.

(5) Inform the public and agency personnel of the benefits of fire and vegetative management to restore and maintain wildlife benefits in Idaho's ecosystem.

(6) Improve federal land management processes and increase local collaboration to allow project completion in months rather than years.

(7) Accountability is imperative in all aspects from all parties, including those who choose not to participate or choose to participate late in the progress.

(8) Link habitat and population management through a coalition of partners.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, 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 1, 2001
Adopted by the Senate March 14, 2001

(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 First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, service members of the United States Armed Forces courageously battled Japanese military forces on the Bataan peninsula in the Philippines from December 1941 to April 1942; and

WHEREAS, many of those American soldiers were taken prisoner of war on April 9, 1942, by Japanese military forces and were ordered to march eighty-five miles from the Bataan peninsula to a prisoner of war camp; and

WHEREAS, more than 10,000 American soldiers died as a result of starvation, disease and executions by the Japanese military forces while marching from the Bataan peninsula to the prisoner of war camp; and

WHEREAS, over 36,000 American soldiers were forced by the Japanese military forces into prisoner of war camps during World War II, and nearly forty percent of American prisoners of war died in those camps; and

WHEREAS, more than 1,600 of the American prisoners of war were taken to Japan and ordered to work in inhumane and torturous conditions for private Japanese companies; and

WHEREAS, the American prisoners of war were treated barbarically and denied the most basic human necessities such as food, health care and sanitary living and working quarters as provided under the terms of the Geneva Convention; and

WHEREAS, many of the American soldiers who survived the Japanese prisoner of war camps still suffer from poor health due to the conditions of their imprisonment and forced labor;

WHEREAS, private Japanese companies benefited from the forced labor of these American soldiers; and

WHEREAS, as a matter of justice, these American soldiers should receive compensation from those private Japanese companies benefitting from their forced labor; and

WHEREAS, the United States government has neither supported these Americans in their efforts to seek justice in the courts of the United States nor attempted to engage all parties in settlement discussions; and

WHEREAS, by contrast, the United States government has facilitated settlement discussions regarding claims by individuals who were forced into slave labor by the Third Reich of Germany during World War II for the benefit of private German businesses; and

WHEREAS, Armed Forces Units serving at Bataan during World War II received many heroic citations, including three Presidential Unit Citations and the Philippine Presidential Unit Citation for heroism, yet individual members of these units who were taken prisoner of war have been denied the right to seek justice based upon a treaty governing postwar reparations from the Japanese government; and

WHEREAS, treaties made by the United States government have denied these American soldiers many basic rights which are impliedly guaranteed in the United States Constitution;

WHEREAS, American soldiers held as prisoners of war by the Japanese government during World War II received reparations based only on the time held as a prisoner of war and not for the slave labor performed while a prisoner of war; and

WHEREAS, the Japanese government's position is that its liability for any compensation payments based upon its World War II improprieties expired in 1952.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that it is in the interest of justice that the United States, through the Secretary of State or other appropriate officials, facilitate discussions between the interested parties in order to provide redress for the American soldiers who were taken as prisoners of war by the Japanese government during World War II and forced to perform slave labor under inhumane conditions for the benefit of private Japanese companies.

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 2, 2001
Adopted by the Senate March 9, 2001

(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 First Regular Session of the Fifty-sixth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, President George W. Bush has proposed a bold and fair tax relief plan that will reduce the inequities of the current federal tax code and help ensure that America remains prosperous; and

WHEREAS, the President Bush tax relief plan promotes the values that make the American economy second to none -- access to the middle class, family, equal opportunity and the entrepreneurial spirit -- and this plan will reduce taxes for everyone who pays income taxes and will encourage enterprise by lowering marginal tax rates; and

WHEREAS, over the past several months, the economy has slowed considerably and President Bush's tax cut will give the economy a boost by placing more money in the hands of consumers and entrepreneurs; and

WHEREAS, Federal Reserve Chairman Alan Greenspan endorsed a tax cut to spur economic growth in the following statement before the Senate Committee on the Budget: "In today's context, where tax reduction appears required in any event over the next several years to assist in forestalling the accumulation of private assets, starting that process sooner rather than later likely would help smooth the transition to longer-term fiscal balance. And should current economic weakness spread beyond what now appears likely, having a tax cut in place may, in fact, do noticeable good."; and

WHEREAS, since 1992, the American family's tax burden to federal, state and local governments has increased by 11% from 30.3% of family income in 1992, to 33.5% in 1999; and

WHEREAS, budget estimates by the Congressional Budget Office show that America is going to run a surplus of $5.610 trillion and the on-budget surplus, the portion used for new spending and tax relief, has grown by 44% since the July 2000 estimate from $2.173 trillion to $3.122 trillion; and

WHEREAS, President Bush's tax plan is more progressive than the current federal income tax code as the top one percent would pay a greater share of income taxes under President Bush's plan than they pay now, and six million families with children would be removed from the tax rolls completely.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we endorse President George W. Bush's plan for cutting taxes and we respectfully request that Congress enact necessary measures to implement the President's tax relief plan.

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 8, 2001
Adopted by the Senate March 16, 2001

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

A CONCURRENT RESOLUTION

PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS AND DECLARING JUNE 16, 2001, AND THE THIRD SATURDAY IN JUNE THEREAFTER AS "JUNETEENTH NATIONAL FREEDOM DAY" AND TO CONDUCT APPROPRIATE CEREMONIES AND PRESENTATIONS DURING THAT DAY TO HONOR IDAHOANS OF AFRICAN DESCENT.

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

WHEREAS, more than 130 years old, Juneteenth National Freedom Day is the oldest African-American holiday observance in the United States and is also known as Emancipation Day, the Emancipation Celebration, Freedom Day, Jun-Jun and Juneteenth; and

WHEREAS, Juneteenth National Freedom Day commemorates the strong survival instinct of African-Americans who were first brought to this country in slave ships on a month-long journey across the Atlantic Ocean known as the Middle Passage; and

WHEREAS, approximately eleven and one-half million African-Americans survived the voyage, and the number that died along the way is likely greater, only to be forced to submit to slavery for many years after arrival in the United States; and

WHEREAS, events in the history of the United States which led to the Civil War centered around sectional differences between the North and South that were based on economic and social divergence caused by the existence of slavery; and

WHEREAS, in 1862, the first clear signs that the end of slavery was imminent came when laws abolishing slavery in the territories of Oklahoma, Nebraska, Colorado and New Mexico were passed and in September of that same year, President Lincoln warned the eleven rebellious Confederate States that if they did not return to the Union by January 1, 1863, he would declare their slaves forever free via the Emancipation Proclamation; and

WHEREAS, Congress passed the Thirteenth Amendment to the Constitution of the United States on January 31, 1865, abolishing slavery throughout the United States and its territories and news of this action reached the states and territories at different times and it was not until June 19, 1865, that the message of freedom reached the slaves in Texas, Oklahoma, Louisiana, Arkansas and California; and

WHEREAS, spontaneous celebration erupted throughout the country when African-Americans learned of their freedom on Juneteenth National Freedom Day and celebrated the abolishment of slavery with excitement and great joy. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that June 16, 2001, and the third Saturday of June of every year thereafter be designated as "Juneteenth National Freedom Day" and that appropriate ceremonies and presentations be conducted during that day to honor Idahoans of African descent.

Adopted by the Senate February 2, 2001
Adopted by the House February 23, 2001

(S.C.R. No. 102)

A CONCURRENT RESOLUTION
TO THE FAMILIES OF PHILLIP ANDERSON AND JAMES MOULSON.

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

WHEREAS, Corporal Phillip Anderson, twenty-three years of age, was killed in the line of duty in Eden, Idaho, on January 3, 2001; and

WHEREAS, Corporal James Moulson, thirty years of age, was killed in the line of duty in Eden, Idaho, on January 3, 2001; and

WHEREAS, Corporal Phillip Anderson served with the Jerome County Sheriff's Department for two years; and

WHEREAS, Corporal James Moulson served with the Jerome County Sheriff's Department for five years; and

WHEREAS, both Corporal Phillip Anderson and Corporal James Moulson, by their outstanding service and devotion, brought honor to the Jerome County Sheriff's Department and to all peace officers across the state of Idaho; and

WHEREAS, Corporal Phillip Anderson and Corporal James Moulson were the Jerome County Sheriff's Department's only trained K-9 officers; and

WHEREAS, the deaths of Corporal Phillip Anderson and Corporal James Moulson are tragedies for all citizens of the state of Idaho, particularly those citizens of Jerome County who most directly benefitted from the service and commitment of these two individuals; and

WHEREAS, Corporal Phillip Anderson and Corporal James Moulson will be remembered and missed by their families, friends and the communities in which they worked and lived as dedicated officers and caring individuals; and

WHEREAS, it is appropriate that the Legislature of the State of Idaho, on behalf of the citizens of this state, recognize and memorialize Corporal Phillip Anderson and Corporal James Moulson and express our sympathy to their families.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we extend our sympathy to the families of Phillip Anderson and James Moulson at the loss of two citizens whose devotion to public service and their communities we commend and recognize.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Resolution to the families of Phillip Anderson and James Moulson with our deepest sympathies.

Adopted by the Senate January 29, 2001
Adopted by the House February 1, 2001

(S.C.R. No. 103)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO BOARD OF PHARMACY RELATING TO LISTING OF THE DRUG CARISOPRODOL.

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 Board of Pharmacy relating to listing of the drug carisoprodol are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 27.01.01, Section 446 and all related subsequent renumbering of the following sections, rules of the Idaho Board of Pharmacy relating to listing of the drug carisoprodol, adopted as a pending rule under Docket number 27-0101-0003, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 5, 2001
Adopted by the House February 22, 2001

(S.C.R. No. 104)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING A CERTAIN ADMINISTRATIVE RULE OF THE IDAHO STATE TAX COMMISSION THAT IMPOSES A FEE OR CHARGE, CONCERNING PENALTIES AND RELATING TO DISHONORED CHECKS.

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 Idaho State Tax Commission inadvertently has submitted

a pending rule concerning penalties and relating to dishonored checks as a nonfee rule, making it necessary to consider the pending rule separately as a pending fee rule for approval by both houses of the legislature by concurrent resolution before the pending fee rule can go into effect by law; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that a certain administrative rule of the Idaho State Tax Commission that imposes a fee or charge concerning penalties and relating to dishonored checks, IDAPA 35.02.01, Section 400, adopted as a pending rule under Docket Number 35-0201-0001, 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 2001 legislative session, be, and the same is hereby approved.

Adopted by the Senate February 8, 2001
Adopted by the House February 20, 2001

(S.C.R. No. 108)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO COLLABORATIVELY DEVELOP A MEDICAID BUY-IN PROGRAM FOR THE DISABLED POPULATION THAT WOULD ALLOW RECIPIENTS WHO RETURN TO THE WORK FORCE TO HAVE THE OPTION OF BUYING MEDICAID COVERAGE ON A SLIDING FEE SCALE UNTIL THEY ARE ABLE TO OBTAIN INSURANCE WHICH PROVIDES COVERAGE FOR THE NECESSARY SERVICES.

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

WHEREAS, Idaho's Medicaid Reform Advisory Council (1996) found that a major barrier to Idahoans with disabilities wanting to work is the fear of losing their Medicaid benefits when they return to the work force;

WHEREAS, individuals wanting to work themselves off the system are trapped by the "all-or-nothing" nature of the Medicaid program (i.e., if a person's income is below a certain level, he or she receives full Medicaid benefits; if a person makes one dollar more, he or she receives nothing);

WHEREAS, the Idaho Medicaid Reform Advisory Council recommended that the Department of Health and Welfare request a federal waiver to establish a Medicaid buy-in program with a sliding fee scale for the disabled population that would allow recipients who return to the work force to keep their Medicaid intact until they are able to obtain insurance which provides coverage for the necessary services;

WHEREAS, the Ticket to Work and Work Incentives Improvement Act of 1999 allows states the option of a Medicaid buy-in to working individuals who would be Medicaid eligible, except for increased income;

WHEREAS, the state was awarded grant funds from the Health Care

Financing Administration (HCFA) to analyze and design a Medicaid buy-in initiative for legislative consideration in 2002.

WHEREAS, a Medicaid buy-in program would enable recipients to achieve self-sufficiency and independence;

WHEREAS, a Medicaid buy-in program would minimize the risk of increased group insurance rates to employers who hire individuals with disabilities;

WHEREAS, a Medicaid buy-in program would help integrate skilled recipients into the work force and transition them off Medicaid;

WHEREAS, over time, a Medicaid buy-in program would enable participants to contribute to society as they pay taxes and reduce or eliminate their need for public assistance.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature directs the Department of Health and Welfare to collaboratively develop a Medicaid buy-in program to help transition people with disabilities back into the work force while making available the necessary health care coverage on a sliding fee scale.

BE IT FURTHER RESOLVED that the Department of Health and Welfare will present the Medicaid buy-in initiative whereby Medicaid recipients who are disabled can work themselves off the system and achieve self-sufficiency and independence for legislative consideration in 2002.

Adopted by the Senate February 14, 2001
Adopted by the House March 15, 2001

(S.C.R. No. 109)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO APPLY FOR A WAIVER ALLOWING SURVEYS OF CERTAIN HEALTH CARE FACILITIES BY INDEPENDENT ACCREDITING ORGANIZATIONS TO BE DEEMED TO MEET STATE INSPECTION REQUIREMENTS.

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

WHEREAS, many skilled nursing facilities and intermediate care facilities are subject to inspections by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or the Commission of Accreditation of Rehabilitation Facilities (CARF) and additional inspections are costly and unnecessarily duplicative; and

WHEREAS, it is in the interests of the facilities, the state of Idaho and the welfare of those who receive care that unnecessary waste be eliminated whenever possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Department of Health and Welfare is directed to research and apply for deemed status with the Health Care Financing Administration (HCFA) to allow other accrediting bodies such as JCAHO or CARF to survey and monitor skilled nursing facilities and intermediate care facilities. The Department of Health

and Welfare should work with representatives of the facilities to develop the specific terms of this proposal and its implementation including: (1) how the deemed status of accrediting survey would be made optional to facilities; (2) how to proceed if a facility did not pass an independent inspection; (3) how the Department would handle complaint investigations; (4) how the state or HCFA can help pay the cost of the surveys.

BE IT FURTHER RESOLVED that if it is possible for the Department of Health and Welfare to implement such a waiver without amendment to applicable state law, they shall do so. If amendment to statute is required, the Department shall submit such proposed changes to the Second Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the Senate February 20, 2001
Adopted by the House March 14, 2001

(S.C.R. No. 110)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO RESEARCH AND ADAPT THE AGED AND DISABLED WAIVER AND/OR STATE PLAN PERSONAL CARE SERVICES TO PROVIDE SERVICES NEEDED BY MENTALLY ILL, DEVELOPMENTALLY DISABLED OR MULTIPLE DIAGNOSED INDIVIDUALS.

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

WHEREAS, there are numerous individuals residing in the state of Idaho with mental illness, developmental disabilities or multiple diagnoses; and

WHEREAS, many of these citizens reside in state institutions and are at risk of imminent institutionalization or reside in programs funded solely by state General Funds; and

WHEREAS, there are currently no Medicaid programs available to provide care for these individuals.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Director of the Department of Health and Welfare is requested to research and modify the circumstances under which the Aged and Disabled Waiver and the State Plan Personal Care Services may be utilized to address the needs of mentally ill, developmentally disabled, and multiple diagnosed individuals who may, by use of these services, save General Fund dollars now being used to maintain the individual in state hospitals, correctional facilities and other care settings funded solely by state General Funds.

BE IT FURTHER RESOLVED that at such time as the Department of Health and Welfare adopts other programs for these individuals more appropriate to their conditions, this modification of the Aged and Disabled Waiver and/or State Plan Personal Care Services would no longer apply. The pur-

suit of modifications to the Aged and Disabled Waiver and/or State Plan Personal Care Services shall ensure that it will not violate any conditions of participation by the state of Idaho in the Medicaid program.

Adopted by the Senate February 27, 2001
Adopted by the House March 12, 2001

(S.C.R. No. 116)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND ACQUIRE PROPERTY FOR A STATE PARK IN AND AROUND BILLINGSLEY CREEK NEAR HAGERMAN, IDAHO.

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

WHEREAS, the Idaho Department of Parks and Recreation has recently been introduced to properties in the Hagerman Valley which have good potential for becoming a significant recreational state park; and

WHEREAS, preserving and protecting these properties along Billingsley Creek represents an unprecedented opportunity to preserve and protect a major scenic, recreational and scientific corridor in the state which is in danger of becoming lost to public access through private development; and

WHEREAS, protection of this area will contribute immediately to the quality of water in Billingsley Creek and the Middle Snake River as a whole; and

WHEREAS, acquisition of these properties will ensure access to unique recreational opportunities in this area including access to two miles of a blue ribbon trophy trout fishing opportunity for Idaho anglers; and

WHEREAS, acquisition of these properties will also provide ownership of an existing fish hatchery and present the opportunity to partner with the existing fish hatchery and with the University of Idaho in developing a key aquaculture and research facility for endangered species;

WHEREAS, acquisition of these facilities will facilitate unique opportunities for conjunctive use research in cooperation with the Idaho Water Resources Institute; and

WHEREAS, acquisition of these properties will also ensure the protection of the historic Vardis Fisher property with ownership of Fisher Lake, 60 cfs of spring water and adjacent properties where the internationally renowned Idaho author lived and worked.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Parks and Recreation to enter into an agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary to provide financing for the acquisition of such property and to make such property available for use by the Department of Parks

and Recreation; or the Department of Parks and Recreation is authorized to acquire such property within the limits of moneys appropriated to it for such purpose.

BE IT FURTHER RESOLVED that this Resolution constitutes authorization required by the provisions of Section 67-6410, Idaho Code.

Adopted by the Senate March 22, 2001
Adopted by the House March 30, 2001

(S.C.R. No. 117)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Department of Insurance, relating to extraordinary exam fees and overpayments, and certain rules of the Outfitters and Guides Licensing Board concerning definitions of unethical/unprofessional conduct relating to failure to pay taxes owed to a governmental entity, and certain rules of the Idaho Transportation Department governing use of state right-of-way relating to full control of access, conduits under the roadway, review and approval of construction plans, trees at the edge of the traveled way, rocks at the edge of the traveled way, and permit application fees, are not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2001 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

(1) IDAPA 18.01.44, Section 020, Subsection 05 g., Rules of the Idaho Department of Insurance relating to extraordinary exam fees, and Section 051, Rules of the Idaho Department of Insurance relating to overpayments, adopted as pending fee rules under Docket number 18-0144-0001; and

(2) IDAPA 25.01.01, Section 002, Subsection 45 j., Rules of the Outfitters and Guides Licensing Board concerning definitions of unethical/unprofessional conduct relating to failure to pay taxes owed to a governmental entity adopted as a pending fee rule under Docket number 25-0101-0001.

(3) IDAPA 39.03.42, Rules of the Idaho Transportation Department governing use of state right-of-way, Section 500, Subsection 03, relating to full control of access and Subsection 05 b., relating to conduits under the roadway and review and approval of construction plans, Section 600, Subsection 04 g., relating to trees at the edge of the traveled way, and Subsection 04 h., relating to rocks at the edge of the traveled way, and Section 700, Subsection 02, relating to permit application fees, adopted as pending fee rules under Docket number 39-0342-0001.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 18.01.44, Section 020, Subsection 05 g., Rules of the Idaho Department of Insurance relating to extraordinary exam fees, and IDAPA 18.01.44, Section 051, Rules of the Idaho Department of Insurance relating to overpayments, adopted as pending fee rules under Docket number 18-0144-0001, IDAPA 25.01.01, Section 002, Subsection 45 j., Rules of the Outfitters and Guides Licensing Board concerning definitions of unethical/unprofessional conduct relating to failure to pay taxes owed to a governmental entity adopted as a pending fee rule under Docket number 25-0101-0001, and IDAPA 39.03.42, Rules of the Idaho Transportation Department governing use of state right-of-way, Section 500, Subsection 03, relating to full control of access and Subsection 05 b., relating to conduits under the roadway and review and approval of construction plans, Section 600, Subsection 04 g., relating to trees at the edge of the traveled way and Subsection 04 h., relating to rocks at the edge of the traveled way, and Section 700, Subsection 02, relating to permit application fees, adopted as pending fee rules under Docket number 39-0342-0001, be, and the same are hereby rejected and not approved and thereby pursuant to Section 67-5291, and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

Adopted by the Senate March 26, 2001
Adopted by the House March 30, 2001

(S.C.R. No. 118)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE.

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

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth 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 2001 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.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Fifty-sixth Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules which were not submitted to the Legislature for review during the 2001 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-sixth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 26, 2001
Adopted by the House March 28, 2001

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING CHARACTER EDUCATION AND MORAL DEVELOPMENT IN PUBLIC SCHOOLS, AND A CONCERN THAT TODAY'S U.S. HISTORY HAS SO NEGLECTED THE REPORTING OF GEORGE WASHINGTON'S VIRTUES THAT STUDENTS TODAY COULD THINK THEY PLAYED NO ROLE IN THE DEVELOPMENT OF THIS NATION.

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

WHEREAS, with discussions about character and personal responsibility dominating the political landscape, there is a renewed interest in the virtues of George Washington, "The True Father of our Country," and the first and last United States president to be elected unanimously; and

WHEREAS, in a letter to Alexander Hamilton, Washington said: "I hope I shall always possess firmness and virtue enough to maintain what I consider the most enviable of all titles, the character of an honest man."; and

WHEREAS, Washington's "crowning" Rule of Civility: "Labor to keep alive in your breast that little spark of celestial fire called conscience."; and

WHEREAS, John Adams, second U.S. president said: "Washington's example will teach wisdom and virtue as long as our history shall be read."; and

WHEREAS, Thomas Jefferson said: "The moderation and virtue of Washington probably prevented this (American) revolution from being closed."; and

WHEREAS, Abraham Lincoln said: "Washington is the mightiest name on earth...in the cause of civil liberty...in moral reformation."; and

WHEREAS, Benjamin Franklin said: "Only a virtuous people are capable of freedom."; and

WHEREAS, Daniel Webster said: "The ingenious youth of America will hold up to themselves the bright model of Washington's example till all its virtues spread out and display themselves to their delighted vision."; and

WHEREAS, General Richard Henry Lee said at Washington's funeral: "Washington was first in war, first in peace, first in the hearts of his countrymen; just, humane, temperate, and sincere; uniform, dignified and commanding; his example was edifying to all around him."; and

WHEREAS, Section 24, Article III of the Constitution of the State of Idaho states: "The legislature should further all wise and well directed efforts for the promotion of temperance and morality."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that in U.S. history and civics classes in Idaho public schools, students are made aware of, and hopefully inspired by, the crucial role George Washington's virtues played in forming the moral foundation of this nation.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to facilitate distribution of this resolution to all entities concerned with public education in Idaho.

Adopted by the House February 22, 2001
Adopted by the Senate March 8, 2001

(H.C.R. No. 2)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY ELECTRIC UTILITY RESTRUCTURING.

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

WHEREAS, there were numerous bills introduced in Congress from 1996 through 2000 which would have provided for the restructuring of the electric utility industry in this country; and

WHEREAS, there are aggregators who are aggressively trying to find customers to purchase electric energy from them; and

WHEREAS, Idaho currently enjoys low electric rates compared to the rest of the nation, mainly because of our hydropower base; and

WHEREAS, some states, including California, have passed legislation to restructure the electric utility industry in those states; and

WHEREAS, there are some benefits to a competitive electric utility industry, there may be some large unintended consequences to the ratepayers and the citizens of the state if such a move is not carefully thought out and planned; and

WHEREAS, it is not the intent of the Legislature to have big winners and big losers as far as classes of electric customers go if the electric utility industry is restructured; and

WHEREAS, there have been many worthwhile social programs included in an electric utility's rate base such as fish mitigation, weatherization and low-income assistance programs, and the Legislature would not like to see those lost by a restructuring; and

WHEREAS, Idaho's water rights system is a complex system of management, and electric utility restructuring could affect demand loads and river flows and have some large unintended consequences if not managed properly.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a Committee to undertake and review the potential restructuring of the electric utility industry from both the statewide perspective and the national perspective. The Committee is directed to involve representatives of industry, agricultural groups, small busi-

nesses, consumers of electricity and conservation interests. The Committee is also authorized to retain the services of a consultant, within appropriated moneys, who is familiar with the electric utility industry and who can provide necessary economic or other research that can assist the Committee and the Legislature in making an informed decision on this most important topic.

BE IT FURTHER RESOLVED that nonlegislative members of the Committee may be appointed by the cochairs of the Committee who are appointed by the Legislative Council. Nonlegislative members of the advisory Committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the Committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the Committee shall make a progress report to the Second Regular Session of the Fifty-sixth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-seventh Idaho Legislature.

Adopted by the House January 19, 2001
Adopted by the Senate January 26, 2001

(H.C.R. No. 3)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-sixth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 8, 2001.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 8, 2001, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 8, 2001
Adopted by the Senate January 8, 2001

(H.C.R. No. 4)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-sixth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 10, 2001.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Wednesday, January 10, 2001, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 10, 2001
Adopted by the Senate January 10, 2001

(H.C.R. No. 5)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DECLARING SEPTEMBER OF EVERY YEAR TO BE PROSTATE CANCER AWARENESS MONTH.

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

WHEREAS, prostate cancer is the most commonly diagnosed form of nonskin cancer and the second leading cause of cancer-related deaths among men; and

WHEREAS, the American Cancer Society reports that there will be an estimated 180,400 new cases of prostate cancer nationally in the year 2001, and approximately 31,900 men will die from prostate cancer in the same year; and

WHEREAS, it is estimated that 800 men in Idaho will be newly diagnosed with prostate cancer in the year 2001, and approximately 100 of these men will die from prostate cancer in the same year; and

WHEREAS, approximately twenty-five percent of prostate cancer occurs in men under the age of 65, during their prime working years, and deaths at any age due to prostate cancer devastate families through lost income, lost partnership and lost support, depriving too many parents, women, children and friends of a man they love; and

WHEREAS, men can reduce their risk of dying from prostate cancer if they follow recommended screening guidelines, including examination by a health care provider, and that increased awareness and use of early detection practices is essential to controlling prostate cancer.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that every year, September is hereby declared to be "Prostate Cancer Awareness Month" in Idaho and the Legislature calls upon the people of this state to observe the month by learning how to prevent prostate cancer and how to detect it early, and by encouraging all men to be screened for the disease.

Adopted by the House January 19, 2001
Adopted by the Senate January 30, 2001

(H.C.R. No. 6)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

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

WHEREAS, a number of major water and natural resource related issues are working their way through various forums and are all subjects that require legislative scrutiny; and

WHEREAS, these issues include the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the biological opinion by the National Marine Fisheries Service for salmon recovery, the expiration and potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring; and

WHEREAS, these issues are all events which will have major impacts upon the future of Idaho and the quality of life our citizens enjoy; and

WHEREAS, it would be more efficient, less costly, and foster better relationships to discuss in advance the potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery than to have the U.S. Bureau of Reclamation's transfer applications, as referenced in Section 42-1763B, Idaho Code, move forward; and

WHEREAS, the Legislature has also approved a committee to study the subject of electric utility restructuring which is a large subject in and of itself, but is one that needs to be coordinated with the above natural resource issues.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of various natural resource issues including, but not limited to, the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the biological opinion by the National Marine Fisheries Service for salmon recovery, the expiration and potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring. The committee

shall consist of ten legislators with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature. All interested parties, including those protestors and intervenors to the Bureau of Reclamation's 1995 water right transfer applications, shall be afforded the opportunity to provide input to the committee.

BE IT FURTHER RESOLVED that upon agreement by the U.S. Bureau of Reclamation to meet and discuss salmon recovery issues prior to January 1, 2002, and the Bureau of Reclamation's expression of willingness to the Idaho Department of Water Resources that the above-referenced transfer applications be held in abeyance, the committee shall study whether mutually satisfactory legislation can be developed on the issue to present for consideration by the Second Regular Session of the Fifty-sixth Idaho Legislature in the year 2002.

BE IT FURTHER RESOLVED that the cochairmen of this committee shall consult and coordinate with the cochairmen of the committee on Electric Utility Restructuring.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall make a progress report to the Second Regular Session of the Fifty-sixth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-seventh Idaho Legislature; provided that the committee shall make a report detailing its findings, recommendations and proposed legislation, if any, regarding the potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery to the Second Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House January 22, 2001
Adopted by the Senate January 26, 2001

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

COMMENDING STACY DRAGILA FOR HER SUPERIOR CONDUCT AND FOR HER ACCOMPLISHMENTS AT THE 2000 SUMMER OLYMPICS IN SYDNEY, AUSTRALIA AND COMMENDING DAVE NIELSEN, HER COACH.

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

WHEREAS, Stacy Dragila is a resident of Pocatello, working toward a Master's Degree in Health Education at Idaho State University where she graduated in 1995 with a degree in physical education/health education; and

WHEREAS, Stacy Dragila excelled as a hurdler and heptathlete during high school and first participated in pole vaulting in 1993 while

attending Idaho State University; and

WHEREAS, Stacy Dragila held five school and venue records at Idaho State University and still ranks in the school's top 10 in 13 outdoor events; and

WHEREAS, Stacy Dragila was inducted into Idaho State University's Ring of Honor in 1999. The Ring of Honor is designed to honor people who have brought pride and the national spotlight to the state of Idaho; and

WHEREAS, Stacy Dragila has consistently been a top ranked performer in the pole vault and heptathlon and owns the world indoor and outdoor records for the women's pole vault. Stacy Dragila captured the official world record by clearing 15 feet 2 1/4 inches at the Olympic trials in Sacramento, California. Unofficial records report Stacy Dragila clearing 15 feet 3 inches at the Pocatello Downtown Street Vault and 15 feet 5 inches at the Santa Barbara Beach Vault in July and August, 2000; and

WHEREAS, on September 25, 2000, Stacy Dragila won a gold medal in the women's pole vault at the 2000 Summer Olympics, clearing 15 feet 1 inch; and

WHEREAS, Dave Nielsen, Idaho State University's Head Track and Field Coach, first recruited Stacy Dragila as a heptathlete for Idaho State University and later introduced her to pole vaulting, encouraging her participation in the event. Dave Nielsen has continued as Stacy Dragila's mentor, coach and friend, inspiring her throughout her career and at the 2000 Summer Olympics and has been named the United States Olympic Committee's "Track and Field Developmental Coach of the Year" as well as the "Nike Elite Track and Field Coach of the Year"; and

WHEREAS, Stacy Dragila participates in the Big Brothers/Big Sisters program and works as an assistant coach with the Idaho State University track team, concentrating on the vault and heptathlon; and

WHEREAS, Stacy Dragila has been featured in "USA Today," "Sports Illustrated" and "ESPN The Magazine" and has appeared on NBC's "Today Show" and in commercials for GMC and VISA, both of which aired during the Super Bowl; and

WHEREAS, Stacy Dragila has climbed to the top of her profession with exemplary strength, focus and determination and is a positive role model for us all.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and honor Dave Nielsen for his excellence in coaching and for the role he played in the Olympic victory of Stacy Dragila as well as the honor bestowed on him in being named the United States Olympic Committee's "Track and Field Developmental Coach of the Year" and the "Nike Elite Track and Field Coach of the Year."

NOW, THEREFORE, BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and honor Stacy Dragila for her superior attitude and conduct, her medal winning performance at the 2000 Summer Olympics at Sydney, Australia, and for the pride she brings to Idaho and America.

Adopted by the House February 1, 2001
Adopted by the Senate February 7, 2001

(H.C.R. No. 11)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO STATE POLICE GOVERNING ALCOHOL BEVERAGE CONTROL AND RELATING TO THE DEFINITION OF A RESTAURANT.

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 Police governing alcohol beverage control and relating to the definition of a restaurant are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that all of the changes made in certain rules of the Idaho State Police governing alcohol beverage control and relating to the definition of a restaurant, adopted as pending rules under Docket number 11-0501-0001, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 7, 2001
Adopted by the Senate February 15, 2001

(H.C.R. No. 13)

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 First Regular Session of the Fifty-sixth 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 incorpo-

rated 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 January, 2001, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-sixth 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 20, 2000, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-sixth 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 to 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 13, 2001
Adopted by the Senate February 21, 2001

(H.C.R. No. 14)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE DAILY JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Daily Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Daily Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Bureau of Copy and Record Services, of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of January, 2001, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-sixth Idaho Legislature, hereinafter mentioned as party of the first part, and BUREAU OF COPY AND RECORD SERVICES, Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Bureau of Copy and Record Services, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST AND SECOND REGULAR SESSIONS
AND ANY EXTRAORDINARY SESSIONS

300 copies of House Journal
300 copies of Senate Journal
600 total copies ..... $18.00 per page
100 additional copies ..... $18.00 per page

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS AGREED that in the printing of the Journal the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 a.m. on each day; provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable delay in furnishing copy for such printing to the party of the second part.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the 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

BUREAU OF COPY AND RECORD SERVICES

By /s/ Mona R. Whittington
MONA R. WHITTINGTON, Supervisor

Adopted by the House February 13, 2001
Adopted by the Senate February 21, 2001

(H.C.R. No. 15)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE PERMANENT JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Permanent Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-sixth 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 January, 2001, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-sixth 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
FIRST AND SECOND REGULAR SESSIONS
AND ANY EXTRAORDINARY SESSIONS

180 copies of House Permanent Journal, including 6 hard-bound gold lettered volumes
180 copies of Senate Permanent Journal, including 6 hard-bound gold lettered volumes
360 total copies ..... $42.00 per page
Additional hard-bound
gold lettered volumes ..... $50.00 per volume

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS 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 the 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 February 13, 2001
Adopted by the Senate February 21, 2001

(H.C.R. No. 16)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of

the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Fifty-sixth Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-sixth Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 25th day of January, 2001, by and between the Speaker of the House of Representatives, Bruce Newcomb, and the President Pro Tempore of the Senate, Robert L. Geddes, the Joint Committee of the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said THE CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding eight hundred (800) copies of the Session Laws of the First Regular Session of the Fifty-sixth Idaho Legislature and for printing and binding eight hundred (800) copies of the Session Laws of the Second Regular Session of the Fifty-sixth Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-sixth Idaho Legislature: Nineteen dollars and ten cents ($19.10) per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus six dollars and seventy-five cents ($6.75) per volume for binding. For pages requiring reduction shots, an additional seven dollars ($7.00) per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at forty-two dollars ($42.00) per single volume, and fifty-three dollars and fifty cents ($53.50) per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 2001, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 2002, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing

shall be done in the form and manner as submitted in written bid dated January 17, 2001, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within sixty (60) days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within thirty (30) days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of fifty dollars ($50.00) per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by Concurrent Resolution has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ 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

THE CAXTON PRINTERS, LTD.

By /s/ Dave Gipson
DAVE GIPSON, Vice President

Adopted by the House February 13, 2001
Adopted by the Senate February 21, 2001

(H.C.R. No. 17)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING APPROPRIATE PERSONNEL TO ASSESS THE IMPACT OF RAIL TRANSPORTATION ON THE ECONOMIC FUTURE OF THE STATE OF IDAHO WITH PARTICULAR EMPHASIS UPON THE RESOURCE AND AGRICULTURE COMMUNITIES IN THE RURAL PORTIONS OF THE STATE.

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

WHEREAS, the railroad and rail transportation are an integral part of the history of transport in Idaho and the west; and

WHEREAS, the Congress of the United States has acknowledged and supported the need for rural rail services; and

WHEREAS, many small communities owe their existence in part to the connections provided by spur lines of the railroad; and

WHEREAS, the agricultural and resource industries, which are facing catastrophic economic trials, depend disproportionately on rail transportation for financial security; and

WHEREAS, the community of Grangeville, Idaho, has recently been added to the list of small Idaho communities which has lost its spur line and faces greater economic challenge as a result; and

WHEREAS, on behalf of the citizens of rural Idaho, it is incumbent upon the Legislature to maintain close vigilance of rail transportation and the transportation network which connect rural communities to markets, resources and assets essential to their future economic health; and

WHEREAS, it is appropriate to focus attention on the problems and the solutions inherent in rail services and potential loss of such services in our rural communities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature urges the appropriate personnel in the Department of Commerce, the Idaho Transportation Department, the Department of Agriculture, the Idaho Historical Society, the Idaho Public Utilities Commission and any others whom the Governor may deem appropriate, under the direction of the director of the Department of Commerce, to work together to assess the impact of rail transportation, or the loss thereof, on the economic future of the state of Idaho with particular emphasis upon the resource and agriculture communities in the rural portions of the state.

BE IT FURTHER RESOLVED that the personnel shall report their find-

ings and recommendations for the retention of Idaho infrastructure and any efforts that can or should be made by the state of Idaho to assure retention to the Second Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House February 16, 2001
Adopted by the Senate March 15, 2001

(H.C.R. No. 21)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS, RECOGNIZING ACTIVITIES OF THE IDAHO CAPITOL COMMISSION, SUPPORTING THE IDAHO CAPITOL COMMISSION'S FINAL MASTER PLAN FOR THE RESTORATION AND REFURBISHMENT OF THE STATE CAPITOL BUILDING, AND AUTHORIZING AND PROVIDING PRIOR LEGISLATIVE APPROVAL FOR THE IDAHO CAPITOL COMMISSION TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO RESTORE AND REFURBISH THE STATE CAPITOL BUILDING AND CONSTITUTING PRIOR LEGISLATIVE APPROVAL IN ACCORDANCE WITH SECTION 67-6410, IDAHO CODE.

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

WHEREAS, the State Capitol Building is the most vital and preeminent public building in Idaho and a symbol of Idaho's sovereignty; and

WHEREAS, the preservation and maintenance of the State Capitol Building represents a vital public interest; and

WHEREAS, to ensure the State Capitol Building's long history and legacy, the Idaho Capitol Commission was created by the 1998 Legislature with a vision of restoring the State Capitol Building to its original splendor by the year 2005, the centennial anniversary of the commencement of the construction of the building; and

WHEREAS, the Idaho Capitol Commission, pursuant to Section 67-1608, Idaho Code, has developed a comprehensive, multi-year master plan for the restoration of the State Capitol Building that would address modifications, improvements and preservation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature hereby supports the final master plan approved by the Idaho Capitol Commission for the comprehensive restoration and refurbishment of the State Capitol Building.

BE IT FURTHER RESOLVED that the Legislature authorizes and approves the Idaho Capitol Commission to enter into an agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, to provide financing and to restore and refurbish the State Capitol Building, and that this resolution shall constitute prior legislative approval in accordance with Section 67-6410, Idaho Code.

Adopted by the House February 20, 2001
Adopted by the Senate February 28, 2001

(H.C.R. No. 24)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND EXPRESSING SUPPORT FOR THE CITY OF ST. MARIES IN ITS EFFORTS TO ENSURE RESPONSIBLE AND ECONOMICAL CLEANUP OF A QUESTIONABLE CREOSOTE SITE WHILE AVOIDING HAVING THE SITE PREMATURELY AND PERHAPS UNNECESSARILY LISTED AS A SUPERFUND SITE.

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

WHEREAS, the preliminary sampling of a site within the city of St. Maries indicates levels of creosote that exceed maximum allowable limits; and

WHEREAS, additional testing is necessary to determine the source, amount and extent of such suspected contamination; and

WHEREAS, funds of up to $200,000 have been committed for such testing by the Idaho Department of Environmental Quality and Carney Products Limited; and

WHEREAS, such testing is also expected to provide information that will identify potentially responsible parties or their successors in interest; and

WHEREAS, the results of such testing will also enable the city of St. Maries and other interested and/or potentially responsible parties to develop a cleanup plan that will address the problem; and

WHEREAS, the city of St. Maries has already expended $194,000 for testing and other expenses even though the city has never operated the site and ownership of the site is currently in question; and

WHEREAS, such expenditure has exhausted current municipal financial resources; and

WHEREAS, the city is interested in ensuring that cleanup is accomplished in an economical and responsible manner; and

WHEREAS, listing of the site as a Superfund site would be premature before testing has identified the amount and extent of any suspected contamination; and

WHEREAS, the stigma from such a premature listing would damage an already fragile economy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature supports the city of St. Maries in its efforts to ensure responsible and economical cleanup of the site in question while avoiding having the site prematurely and perhaps unnecessarily listed as a Superfund site.

Adopted by the House February 23, 2001
Adopted by the Senate March 16, 2001

(H.C.R. No. 25)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO DEPARTMENT OF AGRICULTURE GOVERNING BEEF CATTLE FEEDING OPERATIONS AND RELATING TO ADMINISTRATIVE APPEALS, DEFINITIONS, NUTRIENT MANAGEMENT, DESIGNATION OF BEEF CATTLE FEEDING OPERATIONS AND AUTHORITY TO INSPECT.

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 Department of Agriculture governing beef cattle feeding operations and relating to administrative appeals, definitions, nutrient management, designation of beef cattle feeding operations and authority to inspect, are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 02.04.15, Section 003, in its entirety, relating to administrative appeals; Section 007, subsection 09, relating to manure, subsection 17, relating to process wastewater, and subsection 18, relating to runoff; Section 030, in its entirety, relating to nutrient management; Section 040, in its entirety, relating to designation of beef cattle feeding operations; and Section 050, subsection 03, relating to authority to inspect, rules of the Idaho Department of Agriculture governing beef cattle feeding operations, adopted as pending rules under Docket number 02-0415-0001, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 20, 2001
Adopted by the Senate March 14, 2001

(H.C.R. No. 26, As Amended)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING THE GOVERNOR AND DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO PURSUE OPPORTUNITIES TO COMPACT WITH OUR SISTER STATES TO PURCHASE PRESCRIPTION DRUGS AT ECONOMIC RATES, AND REQUESTING A REPORT.

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

WHEREAS, the cost of prescription drugs is among the issues which causes the greatest concern for citizens of the state of Idaho; and

WHEREAS, in 1999, the amount of money spent on prescription drugs

increased by a record 17.4% and is predicted to continue to grow by similar amounts in coming years; and

WHEREAS, many senior citizens in particular are without any assistance in meeting the costs of prescription drugs; and

WHEREAS, anecdotes about concerned citizens, particularly seniors, who are resorting to skipping pills, cutting pills in half, or discontinuing their medications altogether are too common; and

WHEREAS, it is incumbent upon the Legislature to consider measures to address drug costs because they pose a dilemma with direct impact on the health and well-being of every citizen of the state; and

WHEREAS, among the state responses to this concern has been the formation of the Northeast Legislative Association on Prescription Drug Prices, a coalition of the states of Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont, with the purpose of making prescription drugs more affordable and accessible to the people of their states through the possibility of developing a compact to purchase prescription drugs; and

WHEREAS, many western states could benefit from a similar coalition and it would be a meaningful step in addressing prescription drug costs for our citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the executive branch, particularly the Governor and the Director of the Department of Health and Welfare, to pursue the opportunity to develop a compact with our sister states to facilitate purchases of prescription drugs by the most economic method. Such a program shall require additional legislative consideration, and the Legislature stands ready to consult and cooperate in developing the terms of such an agreement. We ask that a report be made to the House of Representatives Health and Welfare Committee and the Senate Health and Welfare Committee in the first month of the Second Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House March 5, 2001
Adopted by the Senate March 13, 2001

(H.C.R. No. 27)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO STATE BOARD OF EDUCATION GOVERNING THOROUGHNESS AND RELATING TO STATE ACHIEVEMENT STANDARDS.

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 Board of Education governing thoroughness and relating to state achievement standards are not consistent with legislative

intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 08.02.03, Section 004, subsection 02, rules of the Idaho State Board of Education governing thoroughness and relating to incorporation by reference of 9-12 State Achievement Standards, adopted as a pending rule under Docket number 08-0203-0002, be, and the same is hereby rejected and declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that sections of material incorporated by reference under IDAPA 08.02.03, Section 004, subsection 01, rules of the Idaho State Board of Education governing thoroughness and relating to incorporation by reference of K-8 State Achievement Standards, adopted as a pending rule under Docket number 08-0203-0002, and as they appear in the "Idaho State Board of Education K-8 Achievement Standards," approved October 19, 2000 by the Idaho State Board of Education as follows:

Section 547 (Achievement Standards - Mathematics Grade 4), the entire section, as it appears on pages 26 and 27;

Section 588 (Achievement Standards - Mathematics Grade 8), the entire section, as it appears on pages 50 and 51;

Section 687 (Achievement Standards - Geography), the entire section, as it appears on pages 102 and 103;

Section 863 (Achievement Standards - Reading Grade 4), the entire section, as it appears on pages 202 and 203;

Section 864 (Achievement Standards - Communications: Listening, Speaking, and Viewing Grade 4), the entire section, as it appears on pages 203 and 204;

Section 897 (Performance Standards - Grade 8 Reading), the entire section, as it appears on pages 253 and 254; and

Section 898 (Achievement Standards - Grade 8 Communication: Listening, Speaking and Viewing), the entire section, as it appears on pages 254, 255 and 256;

be, and the same are hereby rejected and declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho State Board of Education shall publish notice of the rejected material pursuant to Section 67-5291, Idaho Code, and shall remove the rejected language only from the "Idaho State Board of Education K-8 Achievement Standards," approved October 19, 2000, by the Idaho State Board of Education, which document has been incorporated by reference under IDAPA 08.02.03, Section 004, subsection 01, rules of the Idaho State Board of Education governing thoroughness, adopted as a pending rule under Docket number 08-0203-0002, and approved with the understanding that the Idaho State Board of Education intends to begin the rulemaking process to publish the revised "Idaho State Board of Education K-8 Achievement Standards" in the Idaho Administrative Code.

Adopted by the House February 27, 2001
Adopted by the Senate March 8, 2001

(H.C.R. No. 31)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF ELECTRONIC COMMERCE AND RELATED TECHNOLOGY.

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

WHEREAS, the economic well-being of the state of Idaho and its communities depends on the belief of its citizens that their state and community are places where families can live in safety and security, where quality health care is readily available, where the educational system meets the needs of learners of all ages, where government services are provided in an efficient and effective manner, where opportunities for business and commercial growth are encouraged and supported, and where the state's natural heritage and quality of life are protected and enjoyed; and

WHEREAS, rapid technological advances have significantly altered society and have dramatically changed business practices, methods of communication, and lifestyles in just the last decade. As technology proliferates, governments are naturally affected and must keep up with the so called "New Economy" revolution that will notably transform the lives of citizens and the nature of commerce; and

WHEREAS, citizens of the state of Idaho, both urban and rural, can benefit through high speed access to the Internet and the information it provides. The number of Idaho households and businesses utilizing online services and digital technologies is increasing with the growing trend toward business-to-consumer, business-to-business, and business-to-government e-commerce. There are growing employment opportunities for rural and urban citizens who are skilled in electronic technologies; and

WHEREAS, it is the intent of the legislature to provide the communities of this state with a process to assist them in meeting the economic and societal challenges that have arisen and will continue to arise as new electronic technologies, including wireless, digital subscriber line (DSL) and integrated services digital network (ISDN), are developed, enhanced and marketed. There is a need to review and examine policies and make specific legislative proposals to ensure that electronic technologies and commerce will continue to grow and prosper while delivering social and economic benefits to Idaho's citizens, government and businesses.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth 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 electronic commerce and technology. 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 make a progress report to the Second Regular Session of the Fifty-sixth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-seventh Idaho Legislature.

Adopted by the House March 8, 2001
Adopted by the Senate March 28, 2001

(H.C.R. No. 32)

A CONCURRENT RESOLUTION

PROVIDING FINDINGS OF THE LEGISLATURE TO FOCUS PUBLIC AWARENESS ON THE PROBLEM OF ASSAULTS ON SPORTS OFFICIALS AND URGING SCHOOL DISTRICTS, LITTLE LEAGUE PROGRAMS, HIGH SCHOOL, COLLEGE AND RECREATIONAL PROGRAMS, ALONG WITH LAW ENFORCEMENT AND PROSECUTORS, TO TAKE STEPS NECESSARY TO REDUCE THE INCIDENCE OF VIOLENCE ON SPORTS OFFICIALS AND TO PROSECUTE VIOLATORS TO THE FULL EXTENT OF THE LAW.

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

WHEREAS, sports participation has become a part of American life, ingrained into the consciousness of society;

WHEREAS, sporting events have components essential to their survival including the players, coaches and fans. In addition, and in some sense most importantly, there must be officials to enforce the rules of the game and judge potential disputes between participants on the field;

WHEREAS, many officials volunteer their time or receive only minimal compensation. Many officials participate out of a sheer love of the game and to teach children who play the game the valuable lessons that can be learned through participating in sports. These lessons include that of sportsmanship, working as a team and working within the rules of the game to achieve a common goal;

WHEREAS, sports officials act as on-field judges for their respective sports and as neutral participants who have no stake in the outcome of the game. Officials should be afforded protection from assaults and other negative reactions by participants, coaches and fans;

WHEREAS, increasingly, sports officials are subjected to verbal and even physical assault by disgruntled fans as well as certain coaches and players. This trend follows a growing trend in recent years that, at its foundation, shows a lack of respect for authority figures;

WHEREAS, children are exposed to media displays of professional sports heroes and are compelled to emulate their heroes. Unfortunately, children may also try to emulate them when they act in a negative fashion. If professional athletes are not reprimanded for assaultive behavior against sports officials this gives children the impression that verbally and physically assaulting officials is socially acceptable;

WHEREAS, it is not enough that each state must wait for one of its sports officials to be seriously attacked or beaten before its government takes action to stop this practice. Players, fans and coaches should be deterred from assaulting officials by local authorities hand-

ing out more severe penalties. This would ensure that the fans, especially young children, realize that it is not acceptable to attack an official;

WHEREAS, the sports officials that give their time and energy to officiate games deserve our collective respect and must have complete confidence that they will be able to carry out their responsibilities in a safe environment. As a society, we must act on the belief that respect for authority, whether you agree with it or not, is critical to living, working and playing together. Sports need to be a beacon, highlighting positive accomplishments and the need for sportsmanship and fair play. Although education continues to be important, recent trends point out the need for strong sanctions against those who engage in bad behavior at sporting events.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, calling on all school districts, little league programs, high school, college and recreational programs, along with law enforcement and prosecutors, to do all they can to put an end to the increased threats and batteries on sports officials and to prosecute violators to the full extent of the law.

Adopted by the House March 13, 2001
Adopted by the Senate March 21, 2001

(H.C.R. No. 35)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING EFFORTS TO CREATE THE GREAT WESTERN TRAIL CORRIDOR.

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

WHEREAS, the Great Western Trail has currently been designated as a National Millennium Trail by the White House Millennium Council; and

WHEREAS, the United States Department of Agriculture Forest Service has completed a study on the possibility of designating the trail as a part of the National Trail System; and

WHEREAS, further study is continuing on this concept, the appropriate routes, and appropriate governing features; and

WHEREAS, recognition of the trail is intended to enhance the opportunities for historical, archaeological, geologic, scenic, industrial and agricultural points of discovery for the site visitor; and

WHEREAS, as representatives of the people of the state of Idaho, the Legislature wishes to recognize the Great Western Trail Corridor and to support the concept.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, it is the intent to recognize the efforts of the Great Western Trail Association without in any way impairing private property rights of the citizens.

Adopted by the House March 20, 2001
Adopted by the Senate March 28, 2001

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-sixth Legislature of the State of Idaho, First Regular Session thereof, which convened January 8, 2001, and which adjourned on March 30, 2001, 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, 2001.

Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

CONSTITUTIONAL AMENDMENTS

Submitted for Vote at General Election
November 7, 2000

SENATE JOINT RESOLUTION

(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 be amended 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.

Approved at General Election, November 7, 2000.

HOUSE JOINT RESOLUTION

(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.

Approved at General Election, November 7, 2000.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2000-02

ESTABLISH THE CAPITOL MALL AREA AS A WEAPON FREE ZONE REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-03

WHEREAS, the safety and protection of the public, employees of state government and elected officials is a vital concern; and

WHEREAS, continuing access for the public to state government offices located within the Capitol Mall Area is a high priority; and

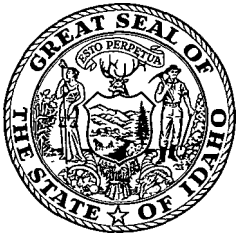
WHEREAS, current state laws provide for safety and protection from the potential threats of weapons in the work environment for the public, local government employees and elected officials in city and county buildings; and

WHEREAS, it is in the best interests of the general public, employees and state officials and the efficient and safe operation of state government to ensure the highest level of safety in the Capitol Mall Area; and

WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area.

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:

1. Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.
2. The following individuals are exempt from this Executive Order:
   a. State Elected Officials;
   b. Peace officers as defined in Idaho Code Section 19-5101;
   c. Criminal investigators of the attorney general's office or a county prosecuting attorney's office;
   d. Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor;
   e. Law enforcement officials authorized to carry a firearm under federal statute.
3. The term "weapon" means: (1) any type of firearm or (2) any knife or similar object which has a blade in excess of six (6) inches in length.
4. "Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street) and the Towers Building (450 West State Street), including all underground tunnels which provide a walkway between these buildings.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, this fifteenth day of May, 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-03

CONTINUING THE IDAHO CRIMINAL JUSTICE COUNCIL AND THE DRUG POLICY BOARD FOR THE STATE AND LOCAL ASSISTANCE FOR NARCOTICS CONTROL PROGRAM, REPEALING AND REPLACING EXECUTIVE ORDER 99-07

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 partnerships, 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 seventeen (17) 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 Chief Justice of the Idaho Supreme Court
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
The State Appellate Public Defender
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 twelve (12) 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
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 state narcotics/drug education officer
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 the fourteenth 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-04

ASSIGNMENTS OF ALL-HAZARD MITIGATION, PREPAREDNESS, RESPONSE AND RECOVERY FUNCTIONS TO STATE AGENCIES IN SUPPORT OF LOCAL AND STATE GOVERNMENT PRIOR TO AND DURING EMERGENCIES AND DISASTERS. REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-01

WHEREAS, widespread disaster resulting from floods, fires, storms, earthquakes, hazardous materials, tornadoes, landslides, mudslides, drought, explosions, riot, hostile military actions, terrorism and the potential use of Weapons of Mass Destruction (WMD), or other catastrophe is an ever present possibility in the State; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster emergency or threat that might conceivably confront the state; and

WHEREAS, local governments accomplish the primary delivery of emergency services in Idaho, and community volunteers including fire, ambulance, rescue, planning and training, deliver 85% of these emergency services; and

WHEREAS, the role of state government should be to support and enhance local community emergency response efforts, including focusing state agency activities on supporting regional and community needs throughout Idaho; and

WHEREAS, the Legislature has directed the development of such state disaster mitigation, preparedness, response, and recovery plans; and

WHEREAS, effective state mitigation, preparedness, response, and recovery planning requires the identification of functions that would be performed during such emergencies, and the assignment of responsibility for developing the capability to implement these plans.

NOW, THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Sections 46-601 and 46-1008, Idaho Code, do hereby assign emergency mitigation, preparedness, response, and recovery functions to the various agencies. Each department and agency with essential functions, whether expressly identified in this Order or not, shall:

I. COORDINATING INSTRUCTION

A. Office of the Adjutant General, Chief, Bureau of Disaster Services

1. Coordinate emergency management activities of all state agencies on behalf of the Governor. (Section 46-1006, Idaho Code).

2. Provide executive supervision and policy guidance to the state Director/Coordinator, Bureau of Disaster Services.

3. Order into active service of the state, the National Guard or any part thereof as directed by the Governor in the event a state of an extreme emergency is declared. (Section 46-601, Idaho Code).

4. Chair the State Domestic Preparedness Council for the purpose of developing a single cohesive strategy for the use of federal terrorism and WMD grants awarded to the State of Idaho.

B. State Director, Bureau of Disaster Services

1. Coordinate state and federal emergency response, recovery and mitigation operations during emergencies and disasters. Provide technical support to local jurisdictions involved in local emergencies and disasters that do not require state human and material resources.

2. Establish and maintain a State Emergency Operations Center for directing the coordination of emergency operations.

3. Develop and coordinate the preparation and implementation of plans and programs for mitigation to prevent or reduce the harmful consequences of disasters in accordance with section 46-1006(1), Idaho Code.

4. Ensure state and local preparedness, response and recovery plans are consistent with national plans and programs. Ensure state agency plans are consistent with the state's emergency management goals and procedures.

5. Coordinate mutual support between the state government and federal agencies.

6. Coordinate all requests from state and local governments for disaster emergency assistance.

7. Coordinate the use of state emergency communications and warning systems. Develop, administer and integrate the state Radio Amateur Civil Emergency Service (RACES) and other volunteer communications programs into a state system or network in accordance with Section 46-1013, Idaho Code.

8. In coordination with the Governor's Press Secretary and/or Communications Director, coordinate and administer the Public Information Emergency Response (PIER) Team program in support of state and local emergency and disaster public information preparedness, emergency evacuation, response and recovery objectives.

9. Function as the single point of contact with the National Domestic Preparedness Office for terrorism issues. Coordinate the integration of state terrorism and WMD plans into annexes in the State Emergency Operations Plan.

II. GENERAL ASSIGNMENTS Each State Agency will:

A. Appoint at least one state agency emergency coordinator to train, exercise and participate in the State Emergency Management Program to facilitate emergency support and logistics in response to emergencies and disasters. Larger departments will, by necessity, need to appoint subdivision emergency coordinators to report to the agency emergency coordinator. Provide the names, addresses and phone numbers of agency emergency coordinators to the Bureau of Disaster Services.

B. Develop and maintain disaster emergency operations plans to carry out the agency's response and recovery support functions. Agency plans will assign disaster emergency duties to all subdivisions and personnel. Plans will be kept current and a copy placed on file in the office of the Bureau of Disaster Services. Each state agency is required to develop and maintain a business resumption plan that explains how the agency will resume business if components of the agency are damaged by natural or man-made disaster. A copy of the current business resumption plan should be kept on file at the Bureau of Disaster Services in case the state infrastructure is affected by disaster or terrorism.

C. During normal daily operations, agencies should notify the Bureau of Disaster Services of any significant event, incident, emergency or disaster, impacting the ability of government to provide public services within the State of Idaho. The Bureau of Disaster Services will notify the Governor's office through the Adjutant General, Chief, Bureau of Disaster Services.

D. Assign appropriate personnel to the State Emergency Operations Center when requested by the Bureau of Disaster Services. Activation of the State Emergency Operations Center may require involvement of agency directors, emergency coordinators, and other agency personnel.

E. Provide coordination assistance and support during disaster and emergency operations as required by the Idaho Emergency Operations Plan and the Federal Response Plan. Agency support will include making resources and facilities available for essential emergency use.

F. Grant and/or use waivers in accordance with the applicable provisions of the Idaho Code for necessary disaster emergency response and recovery operations.

G. Provide full cooperation and support to those agencies that are assigned specific primary support roles in disaster mitigation, preparedness, response and recovery activities.

H. When requested, provide agency incident reports to the Bureau of Disaster Services describing the reporting agency's disaster emergency activities including the area of impact, impact on life and property, level of an agency's commitment, requests for assistance from local government, federal agencies participating in response or recovery, and resource shortfalls. Agency incident reports should be provided at least once every 24 hours in coordination with other Bureau of Disaster Services situation reporting requirements.

I. Upon request and/or upon completion of emergency and disaster operations, compile and submit financial reports in the format designated by the Bureau of Disaster Services that accurately reflect the costs to your agency for providing emergency services. Expenditures will include costs for staff time, travel, major supplies and equipment, and costs, which are a direct result of emergency management activities.

J. Provide supporting data for federal assistance applications and other mitigation, preparedness, response and recovery activities when requested by the Bureau of Disaster Services.

K. Train divisional personnel to meet state emergency response and recovery objectives as coordinated by the Bureau of Disaster Services.

L. Support the coordination of emergency services training through the Bureau of Disaster Services Training Advisory Board. When possible, coordinate training in emergency services for state agency employees, agents or volunteers with the Division of Professional-Technical Education. The Division shall provide information on that training to all interested agencies to enable those other agencies to participate in that training; thereby benefiting from the cost savings of a consolidated and coordinated statewide training program for all state emergency service agencies.

M. Coordinate any agreement or memorandum of understanding that incorporates emergency or disaster mitigation, preparedness, response, and recovery functions with the Bureau of Disaster Services. Such agreements or understandings will be integrated as part of the State Emergency plan.

N. Provide Public Information Officers for Bureau of Disaster Services public information officer training and exercises in preparation for disaster response and recovery operations.

O. Public Information Officers of each state agency are collaterally assigned to the state's PIER Team Program during emergencies and disasters. PIER Team members provide a level of public information expertise not otherwise available to state and local jurisdictions. Public Information Officers will train and exercise quarterly under the auspices of the Bureau of Disaster Services. When emergencies and disasters occur, PIER Teams will be deployed, when necessary, to the State Emergency Operations Center, Joint Information Centers, field support offices and/or local jurisdictions.

III. SPECIFIC ASSIGNMENTS

A. OFFICE OF THE ATTORNEY GENERAL

1. Provide legal advice and assistance to all executive officers of state government and to all offices or agencies of the state regarding any question of law relating to their respective functions.

2. Provide consumer protection advice and assistance in response and recovery phases of a disaster.

B. DEPARTMENT OF ADMINISTRATION

1. Prepare communication and warning studies to improve emergency communications, and assist in the development and implementation of disaster emergency plans for use of all non-military communications and warning systems within the state.

2. Assist other state and local agencies in procuring communications and warning equipment required to fulfill emergency responsibilities. Maintain an inventory and coordinate the availability of mobile and portable radios between state agencies.

3. Promote and develop mitigation strategies to prevent or reduce damage as a result of disasters for state owned or leased buildings and structures in coordination with the State Hazard Mitigation Officer at the Bureau of Disaster Services, the Idaho Department of Transportation and the Division of Building Safety.

4. Provide personnel for damage assessment and damage survey teams in cooperation with the Idaho Transportation Department and Division of Building Safety.

5. Supervise and coordinate the procurement of construction equipment and personnel as it pertains to essential facilities, housing and sanitation in conjunction with the Idaho Transportation Department.

6. Provide state and local governments with emergency contractual assistance and guidance.

7. Provide for the expanded security of the Capitol Mall Complex and state-owned or leased facilities, when required.

8. Coordinate with all state agencies to provide administrative support to the Bureau of Disaster Services when the state EOC is activated. Administrative personnel may be required to work 12-hour shifts to support disaster emergency response and recovery operations. With the concurrence of the Bureau of Disaster Services, following a fiscal evaluation, the Department of Administration may engage administrative support labor through temporary services agencies for a limited period of time.

9. Assist in meeting agency needs relative to losses of state properties and or liability coverage, assignment of adjusters and submission of claims. Submit copies of claims against the State of Idaho as a result of a disaster to the Bureau of Disaster Services.

C. DEPARTMENT OF AGRICULTURE

1. Act as the primary support agency for mitigation, preparedness, response and recovery activities as they pertain to agricultural issues.

2. Act as the primary support agency for securing information concerning agricultural issues during disaster emergencies.

3. Coordinate with local officials for the evacuation of domestic livestock and other animals, and the establishment of an evacuation reception area for appropriate animal care.

4. Coordinate feeding requirements and care arrangements for livestock and other animals evacuated, lost, or abandoned as a result of disaster.

5. Coordinate dead animal removal.

6. Assist with incident response and recovery activities when chemicals, including pesticides, chemical agents and biological agents are suspected or involved.

7. Provide technical assistance concerning livestock health, disease control and preventive medicine.

8. Facilitate the distribution of medical supplies for livestock and other animals.

9. Inspect feed to ensure it is safe for livestock consumption.

10. Provide toxicological and other technical data on pesticides, fertilizers, plant and soil amendments and other chemicals to response personnel and the public.

11. Assist with the disposal of unusable pesticides, fertilizers and plant or soil amendments and help coordinate the transportation of these materials.

12. Provide personnel for damage assessments of commodity warehouses, potato storage facilities, livestock waste lagoon and/or soil sediment pond breaks.

13. Provide programmatic assistance through the Idaho State Department of Agriculture (ISDA) and the State Soil Conservation Commission (SCC) for resumption of agricultural practices and Best Management Practices (BMP) for environmental and economic well being of the state.

14. Provide trained ISDA/SCC personnel for agricultural and conservation damage assessment damage survey teams on private and state lands.

D. STATE CONTROLLER

1. Initiate the warrant payment process in order to fulfill fiscal obligations resulting from goods and services supplied by state agencies during emergency response and recovery operations.

2. Fulfill fiscal obligations to the extent possible that monies exist in the state treasury.

3. During state response to emergencies and disasters, advise the Division of Financial Management and the Bureau of Disaster Services any time the disaster emergency account is inadequate to meet obligations and expenses provided by Section 46-1005A, Idaho Code.

E. DEPARTMENT OF COMMERCE

1. Act as the primary support agency for mitigation, preparedness, response and recovery activities related to economic injury/losses as a result of disasters.

2. Provide an economic impact analysis of the effects of disasters or emergencies when requested by the Bureau of Disaster Services or other state agencies.

3. Provide assistance to local government as coordinated by the Bureau of Disaster Services.

F. DEPARTMENT OF CORRECTIONS

1. Provide personnel for emergency response and recovery assistance.

G. STATE BOARD OF EDUCATION

1. State Department of Education

a) Coordinate the development of emergency disaster plans for all local school district buildings to ensure the safety of school populations in time of emergency.

b) Assist local school districts and other qualifying agencies to develop a policy for the use of buses in an emergency.

c) Prior to and after disasters affecting school facilities, promote mitigation activities to reduce the risk from structural and nonstructural hazards in school facilities in coordination with the State Hazard Mitigation Officer at the Bureau of Disaster Services.

d) Assist in coordinating activities for damage assessments and damage surveys for school facilities.

e) Provide personnel to assist with damage assessment of pubic school facilities.

f) Coordinate the utilization of school facilities for reception, shelter and mass feeding during natural or man-made disasters.

2. The Office of the State Board of Education

a) Coordinate the development of emergency disaster plans for colleges, universities and area vocational-technical facilities to ensure the safety of school populations in time of emergency.

b) In coordination with the State Hazard Mitigation Officer at the Bureau of Disaster Services, promote mitigation activities to reduce the risk from structural and nonstructural hazards in colleges, universities and area vocational-technical facilities.

c) Assist in coordinating activities for damage assessments and damage surveys for higher educational and area vocational-technical facilities.

d) Provide personnel to assist damage assessment of colleges, universities and area vocational-technical facilities.

e) Coordinate the utilization of colleges, universities and area vocational-technical facilities for reception, shelter and mass feeding during natural or man-made disasters.

f) Provide academic personnel for assessment of hazards and for coordinating the activities of investigators for scientific research.

3. Idaho State Historical Society/State Historic Preservation Officer

a) Promote mitigation activities to reduce the potential loss of the state's historic and cultural resources as a result of natural hazards.

b) In coordination with the Bureau of Disaster Services, conduct damage assessments, surveys and reviews of historic and cultural resources in areas affected by disasters.

c) Coordinate activities under Section 106 of the National Historic Preservation Act concerning emergency repairs and recovery projects in those areas affected by disasters.

H. IDAHO DEPARTMENT OF LABOR

1. Report the number of unemployed individuals as a result of a disaster emergency to the Bureau of Disaster Services.

2. Provide unemployment insurance claims service for disaster victims.

3. Provide re-employment assistance to unemployed individuals affected by a disaster emergency.

I. DEPARTMENT OF FISH AND GAME

1. Provide personnel to be used as auxiliary police during emergencies.

2. Assist in search and rescue operations.

3. Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.

4. Provide personnel for damage assessment and damage survey teams.

5. Provide emergency communications.

J. DEPARTMENT OF HEALTH AND WELFARE

1. Coordinate emergency medical and health services throughout the state. Such responsibilities include development of general plans for public health and sanitation; emergency medical assistance; identification and mortuary services; mass care and feeding management; crisis counseling; emergency social services; evacuation of sick and injured; and use of hospitals and other medical facilities.

2. Support implementation of the state's Individual and Family Grant, Crisis Counseling and Community Relations programs during a presidentially declared disaster under the auspices of the Bureau of Disaster Services.

3. Provide damage assessment and survey team personnel for health and welfare-related functional activities.

4. Provide food stamp and disaster welfare services.

5. Provide staff personnel to work in the State Emergency Operations Center and field support centers. Provide personnel to work in the Disaster Field Office during federally declared disasters.

6. Develop a plan for use of personnel and equipment on a regional basis.

7. Through the Emergency Medical Services/State Communications, monitor the National Warning System (NAWAS) until relieved by the Bureau of Disaster Services. Provide emergency communications support, as coordinated by the Bureau of Disaster Services.

K. DIVISION OF ENVIRONMENTAL QUALITY

1. Assess supplies of potable water and coordinate portable water resources with other state agencies.

2. Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.

3. Provide staff personnel to work in the State Emergency Operations Center, and/or field support offices. Provide personnel to work in the Disaster Field Office during federally declared disasters.

4. Develop a plan for use of personnel and equipment on a regional basis.

L. DEPARTMENT OF INSURANCE

1. Provide insurance counseling services for disaster victims.

2. Prepare required insurance certifications for federal disaster assistance.

3. Provide personnel to perform fire and explosion investigations and to assist with prosecution as required. Provide personnel to perform building inspections with regard to fire safety appliances and nonstructural built in fire protection.

M. DIVISION OF BUILDING SAFETY

1. Provide personnel for damage assessment and damage survey teams.

2. Promote and develop mitigation activities in conjunction with the Departments of Administration and Education and the Bureau of Disaster Services.

N. IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY OVERSIGHT PROGRAM (INEEL-OP)

1. Act as the primary technical support agency to the Bureau of Disaster Services for mitigation, preparedness, response and recovery activities as they pertain to all radiological issues.

2. Perform radiological hazard assessment and dose evaluations, dispersion/dose modeling, and protective action guideline development in support of state preparedness and response to radiological releases from INEEL.

3. Coordinate state and local emergency planning efforts concerning INEEL radiological hazards with the Bureau of Disaster Services.

4. Perform as state technical liaison to the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, and the U.S. Environmental Protection Agency for radiological emergencies involving regulated materials and U.S. Department of Energy facilities and transportation.

5. Provide radiation control and protection guidance and support to all state and local emergency responders upon request.

6. Upon request of the Bureau of Disaster Services, provide radiological monitoring using specialized instrumentation and coordinate emergency sample analysis with Idaho State University.

7. Assist the Bureau of Disaster Services in updating the INEEL Fixed Nuclear Facility Emergency Response Plan.

O. DEPARTMENT OF LANDS

1. Develop and direct the state's mitigation, preparedness, response and recovery activities for state endowment lands.

2. Cooperate with federal, state, and local governments in developing plans for and directing activities relating to the prevention and control of wildland and urban/wildland interface fires.

3. Develop plans and direct activities for the emergency protection, management and utilization of land resources, under the Department of Land's jurisdiction.
4. Provide emergency communications assistance.
5. Provide personnel for damage assessment, and damage survey teams.
6. Provide operations personnel in the State Emergency Operations Center, and/or field support offices. During federally declared disasters, provide personnel in the State Operations Section of the Disaster Field Office, when requested.
7. Develop, coordinate and maintain a statewide Fire Service and Rescue Emergency Mutual-Aid Plan. Provide a copy of the Fire Service and Rescue Emergency Mutual-Aid Plan to the Bureau of Disaster Services.

P. DEPARTMENT OF LAW ENFORCEMENT
1. Develop and direct mitigation, preparedness and response programs for civil disorder and terrorism.
2. Provide for the safety and protection of personnel including the evacuation, warning, scene protection and traffic control in conjunction with Idaho Transportation Department.
3. Coordinate all requests for additional state law enforcement.
4. Coordinate with the Bureau of Disaster Services for response and recovery disaster operations in and around crime scenes.
5. Operate a statewide emergency communication system, which may be designated as a primary system during emergencies and disasters.
6. In coordination with the Bureau of Disaster Services, alert state agencies and local governments of impending threats.
7. Enforce statewide emergency traffic controls and evacuation plans.
8. Provide damage assessment and information on disaster incidents to the Bureau of Disaster Services.
9. Provide brand inspection personnel to determine ownership of animals.
10. Assist in search and rescue operations.
11. Develop a plan for use of personnel and equipment on a regional basis.
12. Provide specially trained officers with radiological monitoring equipment to conduct monitoring as coordinated by Bureau of Disaster Services.
13. Conduct required weekly and monthly tests of the State's Emergency Alert System within the prescribed time limits to meet volunteer broadcaster requirements. Provide public warnings when notified by the Bureau of Disaster Services and/or local public officials.

Q. DEPARTMENT OF PARKS AND RECREATION
1. Provide lands and facilities as mass care and feeding centers during emergencies and disasters.
2. Provide personnel for damage assessment and damage survey teams.

R. STATE TAX COMMISSION
1. Provide tax-counseling services for disaster victims as coordinated by the Bureau of Disaster Services.

S. DEPARTMENT OF TRANSPORTATION

1. Provide engineering support to the Bureau of Disaster Services for emergency planning and mitigation including: storms, avalanches, landslides, mudslides and volcanic eruptions, earthquakes and natural and man-made disasters.

2. Develop a plan for use of personnel and equipment on a regional basis.

3. Provide debris removal services and resources as coordinated by the Bureau of Disaster Services.

4. Provide engineering services and resources, for the repair and maintenance of state highways, bridges and airfields.

5. Develop, implement, and manage new emergency highway traffic regulations that may be required as a result of the emergency or disaster.

6. Coordinate the use of state aviation assets and aviation activities and assist the Bureau of Disaster Services with the coordination of requests for restricted air space over emergency and disaster areas.

7. Provide aviation resources for evacuation, search and rescue operations, and aerial radiological monitoring as coordinated by the Bureau of Disaster Services.

8. Operate a statewide emergency communications system, which may be designated as an alternate emergency communications system during an emergency.

9. Activate "Plan Bulldozer" when requested by the Bureau of Disaster Services.

10. Provide specialized heavy construction and transport equipment with operators as coordinated by the Bureau of Disaster Services.

T. DEPARTMENT OF WATER RESOURCES

1. Develop mitigation, preparedness and response programs for flood, drought, and energy shortages in concert with the Bureau of Disaster Services.

2. Conduct dam safety inspections and supervise dam safety practices during times of flooding or imminent failure.

3. Advise the Bureau of Disaster Services of impending emergency conditions such as imminent failure or other conditions involving dam safety.

4. Coordinate operation of water structures to minimize flood damage. Ensure emergency maintenance and repairs are performed to protect life and property during impending or actual occurrence of a disaster.

5. Establish procedures to grant stream channel protection waivers to entities involved in emergency flood fight situations and when channel work is necessary on an emergency basis to protect life and property.

6. Assist agencies and individuals in obtaining emergency authorization from the U.S. Army Corps of Engineers, under Public Law 92-500, to conduct flood control activities in waterways.

7. Provide personnel for damage assessment and damage survey teams.

8. Provide assistance in finding and obtaining alternative water supplies during drought.

9. Assist the Division of Environmental Quality in assuring adequate supplies of potable water.

10. Provide emergency communications, as coordinated by the Bureau of Disaster Services.

U. PUBLIC UTILITIES COMMISSION

1. Assist with energy shortage mitigation, preparedness, response and recovery.

V. DIVISION OF FINANCIAL MANAGEMENT

1. Coordinate and develop a fiscal impact analysis on the effects of a disaster emergency upon request by the Bureau of Disaster Services.

W. IDAHO GEOLOGICAL SURVEY

1. Formulate and direct the state's geologic hazard reduction effort by providing hazard identification, analysis and mapping of the geologic threats.

2. Provide representatives for damage assessment, damage survey, and hazard mitigation teams, for events that involve geologic hazards.

3. Coordinate the activities of geologists, scientists and researchers attempting to study natural hazard events including those invited by the State of Idaho as well as those who respond independently to conduct scientific research and evaluations. Inform the Bureau of Disaster Services of the status of coordination efforts.

X. MILITARY DIVISION

1. National Guard:

a) Provide military support to civil authorities during a disaster emergency in accordance with federal and state laws and regulations.

b) Provide specific guidance as required for emergency preparedness planning and programming for state military forces.

c) Establish a statewide military emergency communications system. During emergencies, maintain communications between the State Emergency Operations Center and State Joint Military Command Post. Develop a capability for utilization of radio communications between the state military forces, state highway districts, and civil law enforcement agencies. Provide a mobile communications center for joint military/civil use as required at the scene of operations during emergencies.

d) Provide logistical assistance to state damage assessment and damage survey teams, as well as Disaster Field Office operations.

2. Bureau of Disaster Services

a) Assist local governments with the development of all-hazard mitigation, preparedness, response, and recovery plans, training and exercises.

b) Administer federal programs for disaster emergency planning and assistance pertinent to state and local governments.

c) Provide training and exercising of the State Emergency Plan and Federal Response Plan.

d) Provide training for state agency personnel in mitigation, preparedness, response and recovery operations.

e) Administer the State's Emergency Alert System in accordance with Section 46-1013, Idaho Code. Collaborate with volunteer broadcasters to facilitate a viable and effective statewide alert system using commercial radio, television, cable television, and other such systems that will alert citizens to impending natural and man-made disasters, when feasible.

3. Bureau of Hazardous Materials

a) Regularly review and revise the Idaho Hazardous Incident Command and Support Plan used by state agencies to provide state assistance for hazardous materials emergencies in Idaho.

b) Coordinate state and federal emergency response efforts for hazardous materials incidents.

c) Provide technical assistance to emergency response agencies in recovering hazardous materials emergency response costs under state and federal statute.

d) Administer and coordinate the five state-sponsored hazardous materials regional response teams. (Coeur d'Alene, Lewiston, Nampa-Caldwell, Boise, and Pocatello).

e) Foster an improved emergency response capability among emergency responders throughout the State of Idaho.

f) Develop and regularly evaluate and revise an annex to the State Emergency Plan for response to incidents involving WMD.

g) Coordinate federal training opportunities under the Office of Justice Programs and the Department of Energy for response to incidents of WMD.

Y. COMMISSION ON AGING

1. Arrange for representation in the Disaster Application Center when requested.

2. Provide information on the effects of the disaster emergency on the elderly.

3. Develop area-wide plans for the following:

a) Assessing the needs of the elderly and homebound elderly.

b) Coordination of senior services through the Area Agencies on Aging during natural or man-made disasters.

c) Providing information/assistance to their clientele and the public.

d) Utilization of senior citizen centers for shelter, mass feeding and rest centers.

e) Identification of homebound isolated elderly clients.

Any emergency preparedness function under this Order or parts thereof may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Chief, Bureau of Disaster Services. The Chief, Bureau of Disaster Services, may assign any new emergency preparedness function to the head of a governmental agency by mutual consent.

The head of each governmental agency is hereby authorized to delegate the functions assigned to him or her by this Order.

This Order repeals and replaces Executive Order No. 96-01.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of April, 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-05

CONTINUATION OF THE DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION, REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-05

WHEREAS, the federal government, under authority granted by the Federal Transit Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized to receive and expend such financial assistance.

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 designation of the Idaho Transportation Department and its Director to receive and expend monies from the federal government for public transportation assistance as provided under the applicable federal statutes.

This Executive Order repeals and replaces Executive Order No. 96-05.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twentieth day of April 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-06

ESTABLISHING THE GOVERNOR'S COORDINATING COUNCIL FOR FAMILIES AND CHILDREN

WHEREAS, fostering the success of state, local and non-profit programs benefiting children and families is a top priority of the State of Idaho;

WHEREAS, many of these programs may have similar or identical missions;

WHEREAS, it is in the best interest of the children and families of the State of Idaho to coordinate these programs, while also ensuring that local control is retained;

WHEREAS, greater coordination will allow for an accurate inventory of existing programs along with an increased understanding of the services available for families and children; and

WHEREAS, access to accurate information will allow the Governor and the Legislature to have the best information when prioritizing among different programs.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of this State, do hereby order that:

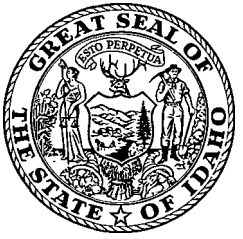
1. There is created within the Office of the Governor the "Governor's Coordinating Council for Families and Children."

2. The Coordinating Council shall be responsible for:
   a. Compiling an inventory of all resumes and programs run by state, local and non-profit organization for the benefit of families and children;
   b. Serving as a clearinghouse of this information for local communities; and
   c. Developing a plan to achieve mutually defined goals.

3. The members shall be appointed for a two-year term by the Governor and serve at the pleasure of the Governor.

4. The objectives for the Coordinating Council shall be as follows:
   a. Maintain a comprehensive inventory of resources and programs serving families and children in Idaho.
   b. Facilitate communication among individuals and organizations providing services to families and children.
   c. Work with organizations/agencies/individuals to identify gaps in service to families and children.
   d. Work with agencies/organization/individuals to develop consistent, accurate, and timely collection and reporting of data to provide comprehensive statistical measurements on Idaho's families and children.
   e. Develop strong state and local partnerships to foster and support results-based community programs.
   f. Create a statewide awareness of the importance of healthy families and children.

5. The coordinating council shall meet and take such actions as are necessary to fulfill the purposes of this Executive Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty fifth day of April 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-tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-07

IDAHO COMMISSION FOR NATIONAL AND COMMUNITY SERVICE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-06

WHEREAS, there is a compelling need for more civic participation to solve community and state problems and to address many unmet social, environmental, educational and public safety needs; and

WHEREAS, promoting the capability of Idaho's people, communities, and enterprises to work together is vital to the long-term prosperity of this state; and

WHEREAS, building and encouraging community collaborations and service is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors; and

WHEREAS, the development of a National Service Program in Idaho requires an administrative vehicle conforming with federal guidelines as set forth in the National and Community Service Trust Act of 1993.

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:

1. The Idaho Commission for National and Community Service ("Commission") is hereby established to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Idaho, as well as to serve as the state's liaison to national, state and community organizations which support the intent of the National and Community Service Trust Act of 1993 ("the Act").

2. The Commission will be composed of no fewer than 15 and no more than 25 voting members to be appointed by the Governor in compliance with federal guidelines as described in the Act of 1993 and as detailed below:

a) The Commission's membership will include a representative of a community-based agency or organization in the state; the head of the State education agency or his or her designee; a representative of local government in the State; a representative of local labor organizations in the State; a representative of business; an individual between the ages of sixteen (16) and twenty-five (25), inclusive, who is a participant or supervisor of a service program for school-age youth or of a campus-based or national service program; a representative of a national service program; an individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth; and an individual with experience in promoting the involvement of older adults (age 55 and older) in service and volunteerism. The Corporation for National and Community Service ("Corporation") will designate one of its employees to serve as an ex officio member on the Commission. Other members may include: educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety services; representatives of Indian tribes; out-of-school youth or at-risk youth; and representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act.

b) Not more than twenty-five (25) percent of the Commission members may be employees of state government, though the Governor may appoint additional state agency representatives to sit on the Commission as non-voting ex officio members. Members may not vote on issues affecting organizations for which they have served as a staff person or as a volunteer at any time during the preceding twelve (12) months.

c) Not more than fifty (50) percent of the Commission plus one member may be from the same political party. To the maximum extent practicable, membership of the state Commission shall be diverse with respect to race, ethnicity, age, gender and disability characteristics. Members will serve for a term of three years. One-third of the appointments to the first Commission will serve terms of one year; and one-third will serve terms of two years; one-third will serve terms of three years. Vacancies among the members shall be filled by an appointment by the Governor to serve for the remainder of the unexpired term.

d) The Commission will elect from among its members a chairperson.

e) The Governor will appoint one individual who is not a member of the Commission to serve at his pleasure as administrator of the Commission.

3. The Commission will have the following duties and responsibilities:

a) To develop a three-year comprehensive national and community service plan and establishment of state priorities;

b) To administer a competitive process to select national service programs to be included in any application to the Corporation for National and Community Service for funding;

c) To prepare an application to the Corporation to receive funding and/or educational awards for the programs designated in the Act;

d) To assist the State education agency in preparing the application for subtitle B school-based service learning programs;

e) To administer the grants awarded pursuant to the Act and to

oversee and monitor the performance and progress of funded programs;
f) To implement, in conjunction with the Corporation, comprehensive, non-duplicative evaluation and monitoring systems;
g) To assist in the development of programs pursuant to the Act;
h) To develop mechanisms for recruitment and placement of people interested in participating in national service programs;
i) To assist in the provision of health and child care benefits to eligible program participants as specified by regulations pertaining to this Act;
j) To make recommendations to the Corporation with respect to priorities within the State for programs receiving assistance pursuant to the Act;
k) To coordinate with other state agencies that administer Federal financial assistance programs under the Community Service Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs;
l) To coordinate its functions with any division of the Corporation, that carries out volunteer service programs in the state; and
m) To provide technical assistance to agencies, corporations and other organizations seeking to develop, strengthen or expand their ability to meet critical needs of the community through service; and
n) To coordinate Idaho's Promise activities to ensure that Idaho's young people have access to the five fundamental resources identified by Ret. General Colin Powell and America's Promise: The Alliance for Youth. The resources include: a healthy start; safe places to go with structured activities, especially during non-school hours; ongoing relationships with caring adults, including parents and mentors; marketable skills through effective education; and opportunities to give back to the community through service; and
o) Other activities as necessary to further the development and implementation of programs which enhance national and community service.

4. The Idaho Department of Correction shall serve as the host agency for administration of the Commission, and, as is deemed appropriate by the Governor, additional support may be requested from the Departments of Employment, Education, Commerce, Health and Welfare, the Division of Vocational Education and the Office of the State Board of Education.

5. The Commission and its activities shall be funded from federal, state and other revenues appropriated to the Idaho Commission on National and Community Service. The Commission is authorized to accept funds and in-kind services from other state and private entities.

6. The Commission shall meet at least quarterly. Failure to attend at least seventy-five (75) percent of the meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-eighth day of June 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-08

ESTABLISHMENT OF THE CAMPAIGN LEADERSHIP TEAM
FOR THE STATE EMPLOYEES CHARITABLE GIVING CAMPAIGN
REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-14

WHEREAS, state employees desire to help improve their communities; and

WHEREAS, state employees have always been very generous in contributing to help those most vulnerable; and

WHEREAS, the State of Idaho has an interest in establishing a single state employee charitable campaign which minimizes disruption in the workplace and administrative costs to Idaho's taxpayers and ensures the voluntary nature of employee participation; and

WHEREAS, a workplace campaign can build morale by providing an opportunity for employees to contribute positively to their communities as state employees; and

WHEREAS, state employees should have the ability to choose to give to any health and human service tax exempt 501(c)3 organization.

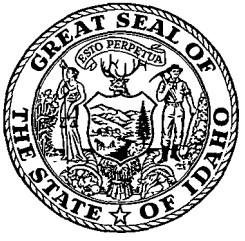
NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

The Governor shall appoint a Campaign Leadership Team including chair and co-chair made up of state employees to establish policy and govern the campaign.

The Governor shall ask each Department Head to appoint a Campaign Coordinator to provide leadership in planning and completing the state campaign for their department.

The Campaign Leadership Team will provide a report of the statewide results to the Governor.

This Executive Order repeals and replaces Executive Order 96-14.



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 May 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-09

IDAHO CODE OF FAIR EMPLOYMENT PRACTICES, REPLACING EXECUTIVE ORDER NO. 95-08

WHEREAS, the United States through its Constitution, laws, executive orders, and regulations has declared that all persons are to be treated fairly and equally; and the State of Idaho is committed to fulfilling that federal mandate; and

WHEREAS, the Legislature of the State of Idaho by Title 44, Chapter 17, and Title 67, Chapter 59, of the Idaho Code has declared that employment discrimination based upon race, color, national origin, religion, disability, sex, or age is illegal; by Title 56, Chapter 7, that the disabled shall be free from employment discrimination in public service; and by Title 65, Chapter 5, that veterans are to be given preference by public employers; and

WHEREAS, every Idahoan should be provided the opportunity to fully develop and use his/her talents. When we allow race, color, religion, national origin, sex, age, and disability to prevent anyone from reaching full potential, we fail that person, our state, and our country. In accordance with the principles of fair employment practices, we must strive to recognize and advance the abilities and talents of all people, while denying no individual his/her rightful opportunities; and

WHEREAS, we must assume our citizen-granted role of leadership in the protection of freedom for all citizens; and we must serve in that leadership role as a model for government, business, industry, labor, and education in this regard.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, in that spirit and to that purpose, do hereby proclaim the following Idaho Code of Fair Employment Practices shall continue to be the governing policy throughout every department of the Executive Branch of Government of the State of Idaho.

ARTICLE I--Employment Policies of State Agencies

State employees shall be recruited, appointed, assigned, and promoted upon the basis of individual merit, in accordance with the principles of fair treatment and non-discrimination on the basis of race, color, sex, religion, national origin, age, or disability. Veterans are to be given preference in accordance with applicable state and federal laws and regulations.

All state departments, commissions, and boards are directed to review their present Human Resource policies and practices regarding recruitment, appointment, promotion, demotion, transfer, retention, discipline,

separation, training, and compensation to assure compliance with this Executive Order. They shall regularly review present state and federal laws and regulations and seek to redress under-utilization, if any, of minorities, women, or individuals with disabilities, and qualified veterans within the state workforce.

The Division of Human Resources shall take positive steps to ensure that the entire examination process; oral, written, and ratings, shall be free from either conscious or inadvertent bias. State agencies shall give wide distribution of notice of employment opportunities so that all citizens may be fully advised of career opportunities in state government. Employment announcements issued by state agencies shall include a statement such as, "The State of Idaho is an Equal Opportunity Employer. In addition, preference may be given to veterans who qualify under state and federal laws and regulations."

ARTICLE II--State Action
All services of every state agency shall be performed without discrimination based on race, color, religion, national origin, sex, age, or disability. No state facility shall be used in furtherance of any discriminatory practice nor shall any state agency become a party to any agreement, arrangement, plan, contract, or subcontract which has the effect of sanctioning such practices.

ARTICLE III--State Financial Assistance
Race, color, religion, national origin, sex, age, or disability shall not be considered in state-administered or sponsored programs involving the distribution of funds to qualified recipients for benefits authorized by law; and state agencies shall not provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

ARTICLE IV--State Employment Services
All state agencies, including educational institutions, which provide employment referral or placement services to public or private employers, shall accept job orders and applications on a non-discriminatory basis. They shall refuse to fill any job order designed, either consciously or inadvertently, to exclude any person from employment because of race, color, religion, national origin, sex, age, or disability except where a bona fide occupational qualification has been established.

ARTICLE V--State Education, Counseling, and Training Program
All educational counseling and vocational guidance programs, employment and training programs, policy declarations and staff services of state agencies or those in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religion, national origin, sex, age, or disability.

ARTICLE VI--Cooperation with Idaho Human Rights Commission
All state departments shall cooperate fully with the Idaho Human Rights Commission if state employees or applicants for state employment file complaints with the Commission. They shall also utilize the services of the Commission when needing technical advice regarding compliance with

the equal employment opportunity provisions of Title 67, Chapter 59, Idaho Code. The Commission shall act as a referral agency for information or complaints concerning discrimination in certain protected classes not covered by Title 67, Chapter 59, Idaho Code.

ARTICLE VII--Enforcement by Appointing Authorities
The head of each state executive department shall be responsible for carrying out the policies of this Idaho Code of Fair Employment Practices and shall inform and educate all commission and board supervisory personnel regarding its intent and spirit. They shall establish clearly written directions to carry out this policy. Upon a showing of credible evidence to the appropriate appointing authority that any officer or employee of the state has violated any of the provisions of this Executive Order or any applicable state or federal law or regulation, the appointing authority shall take appropriate disciplinary action.

Every appointing authority shall be responsible for the development of a complaint procedure to be used by employees and recipients of state services who believe they have been subjected to harassment. This policy shall include at least the following: (1) a statement defining and forbidding harassment of any nature, (2) an investigative procedure designed to protect the confidentiality of participants wherever possible and to effect a timely and fair resolution of the allegation, and (3) a statement advising employees and service recipients of their rights to raise this issue with appropriate governmental agencies and the courts. The Idaho Human Rights Commission and the Division of Human Resources shall assist in the development of these policies.

ARTICLE VIII--Affirmative Action Plans
The agency charged with overseeing the review of the state's Equal Employment and Affirmative Action planning shall be the Division of Human Resources under the Executive Office of the Governor. The Division will consult with appointing authorities and report to the Governor on the State's fair employment practices, including EEO/AA efforts on an annual basis.

This Executive Order repeals and replaces Executive Order No. 95-08.

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 the third day of May 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-10

CONTINUING PROVISIONS FOR STATE COOPERATION WITH THE FEDERAL INSURANCE ADMINISTRATION UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED, REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-10

WHEREAS, uneconomic uses of the state's floodplains have occurred and potential flood losses have increased despite substantial efforts to control floods; and

WHEREAS, national, state, and local studies of areas and property subject to flooding predict increases in flood damage potential and flood losses, despite continuing investment in flood protection structures; and

WHEREAS, the State of Idaho maintains programs for the construction of buildings, roads, and other facilities and annually acquires and disposes of lands in flood hazard areas, significantly influencing patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e., mudflow) areas, and flood-related erosion areas in the state; and

WHEREAS, the Department of Water Resources is the state agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 and regulations set forth in 44 CFR section 60.25; and

WHEREAS, the Federal Insurance Administration has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program, which participation depends on state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e. mudflow) areas, and flood-related erosion areas in the state.

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:

1. The Department of Water Resources is hereby designated to assist in the implementation of 44 CFR section 60.25, Rules and Regulations of the Federal Insurance Administration and will encourage a broad and unified effort to prevent uneconomic use and development of the state's floodplains and, in particular, to lessen the risk of flood losses in connection with state lands and installation and state-financed or supported improvement, specifically as follows:

2. Under the leadership and direction of the Department of Administration, all state agencies directly responsible for the construction of buildings, structures, roads, or other facilities shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities; in the event of construction in the floodplain, management criteria set forth in 44 CFR sections 60.3, 60.4, and 60.5 of the National Flood Insurance Regulations shall apply; flood-proofing measures shall be applied to existing facilities in order to reduce flood damage potential;

3. All state agencies responsible for the administration of grant or loan programs involving the construction of building, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future state expenditures for flood protection and flood disaster relief, shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in such connection;

4. All state agencies responsible for the disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future state expenditures for flood protection and flood disaster relief, shall notify those instrumentalities and private interests that such hazards exist;

5. All state agencies responsible for programs which affect land use planning, including state permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved; and

6. In evaluating flood hazard potential, all state agencies shall coordinate their work with the Department of Water Resources to assure that the most up-to-date data and/or methods of analysis are utilized.

7. As may be permitted by law, the head of each state agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency to be coordinated with the Department of Administration.

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 third day of May 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-tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-11

CONTINUATION OF THE IDAHO COUNCIL FOR PURCHASES FROM SEVERELY DISABLED PEOPLE REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-17

WHEREAS, it is in the public interest to promote employment opportunities for severely disabled people; and

WHEREAS, the rehabilitation facilities of Idaho strive to provide employment opportunities for severely disabled people; and

WHEREAS, the Idaho Code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by severely disabled people employed by rehabilitation facilities.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuation of the Idaho Council for Purchases from Severely Disabled People, as follows:

1) The Council's responsibilities will be:
   - To promote the purchase by state agencies of goods and services produced by severely disabled people in rehabilitation facilities under the auspices of Section 67-2319, Idaho Code;
   - To conduct monitoring and study of the implementation of the purchasing program authorized by said Section 67-2319;
   - To designate a central non-profit organization to coordinate the participation of rehabilitation facilities in the Idaho purchasing program and develop procedures for such participation;
   - To advise the Division of Purchasing on the development and operation of a program to purchase products and services from severely disabled people in rehabilitation facilities; and
   - To provide an annual report of activities, products, services, employment opportunities, and other benefits derived from this program.
2) The Governor shall appoint members of the Council who shall serve at his pleasure. Council members shall be selected from rehabilitation facilities, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, and the Division of Community Rehabilitation. The members of the Council shall elect one of their members Chairman.
3) The Council shall be administratively supported by the Division of Vocational Rehabilitation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of October 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-12

ENERGY CONSERVATION CONSIDERATIONS IN STATE BUILDINGS AND LEASES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-18

WHEREAS, the efficient use of energy is of prime importance to the economic and energy well-being of the State of Idaho; and

WHEREAS, the State of Idaho uses, in its owned and leased buildings, a considerable portion of the state's energy supply; and

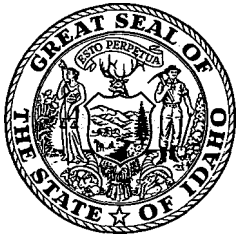
WHEREAS, the state government's ability to control energy use in leased facilities has been minimal, particularly after signing a lease; and

WHEREAS, it is imperative that the state government of Idaho set an example of energy efficiency for owners and operators of public and private buildings.

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 that all building designs and lease agreements shall include, where feasible, energy conservation considerations, including:

1. Chapter 13 of the Uniform Building Code, 1997 Edition;
2. Use of alternative energy sources;
3. Energy management systems and controls to effectively monitor and maintain systems at optimal operations; and
4. State-of-the-art systems and equipment to conserve energy economically.

FURTHER, I order that all lease agreements be reviewed in draft form for compliance with these objectives. All parties are to be notified in any such negotiations that failure to comply with these objectives may be sufficient grounds for voiding the lease agreement. I further order that the signing of such agreements include a statement of accountability to the intent of this order so that compliance will be a part of the lease-drafting procedure rather than a source of conflict after a contract has been signed. I further direct the attention of all persons and agencies in all branches of state government to the spirit of this order. Consideration of long-term energy costs, including seasonal and peaking demands upon the suppliers of energy, shall be a major consideration in construction of all state buildings and execution of lease agreements.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of October 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-13

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 99-03

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, it is important that Idaho have an official organization to coordinate activities relating to the Lewis and Clark Trail with entities and individuals in Idaho and with other Lewis and Clark Trail states and organizations.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, do hereby continue the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on development and management of the Lewis and Clark Trail and commemoration activities relating to the Lewis and Clark Expedition.

The Committee shall:

1. Act as the coordinating organization in planning activities to foster state recognition of the historic significance of the Lewis and Clark Expedition;
2. Promote public awareness of the historic significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreation resources along the Lewis and Clark Trail;
3. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the history and trail of the Lewis and Clark Expedition; and
4. Serve as the official liaison with other Lewis and Clark Trail states, the national Lewis and Clark Trail Heritage Foundation, Inc., and federal departments, bureaus, and committees concerned with the Lewis and Clark Trail, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission, which existed from 1964-1969.

The Committee shall consist of no more than 18 persons who are appointed by the Governor and serve at his pleasure. The membership of the committee shall include the President of the Idaho chapter of the Lewis and Clark Trail Heritage Foundation, Inc., and the Governor or his designee as an ex-officio member.

The Committee shall have regular meetings as determined by the majority of the Committee and shall meet on special occasions upon the call of the Chairperson.

This Executive Order repeals and replaces Executive Order No. 99-03.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of October 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-14

CREATING A WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING AND OVERSIGHT OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-19

WHEREAS, the economic future of Idaho and the prosperity of its residents depend upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS, Idaho is committed to preparing its current and future workforce for the skills necessary in the 21st Century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in developing the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, the development of a comprehensive workforce development strategy for Idaho and the consolidation of federal and state advisory councils will improve planning and oversight functions, improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce, and help provide for the most efficient use of federal, state and local workforce development resources; and

WHEREAS, Idaho's current workforce development efforts and initiatives require clear strategic planning, increased coordination, and consolidated oversight for better coordination of workforce development programs under one council at the state level.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. The Idaho Workforce Development Council (the "Council") is established in accordance with Title VII of the Job Training

Partnership Act, as amended, and referred to as JTPA.

2. The Council shall consist of not more than 33 members appointed by the Governor, drawing upon the membership of the consolidated councils identified in paragraph 2 above, as appropriate and consistent with federal requirements for the nomination and composition requirements set forth in section 702 of the JTPA as amended. The Council's membership, shall be as follows:
   a. Representatives of business and industry shall comprise at least 40% of the members;
   b. At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;
   c. At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;
   d. Representatives from the Department of Labor, the Department of Health & Welfare, the Department of Commerce, the Division of Vocational Rehabilitation, the Division of Vocational Education, the Commission on Aging and the Superintendent of Public Instruction;
   e. A representative of a Community-Based Organization; and
   f. Individuals from the general public who have special knowledge and qualifications with respect to special education and career development needs of hard to serve individuals.
3. The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:
   a. Development of a statewide strategy for workforce development programs which encompasses all workforce programs including, school-to-work, work-to-work, welfare-to-work and economic stimulus initiatives;
   b. Priorities for the use of any federal employment and training block grant and the employment and training related activities under any welfare reform grant as well as state appropriated workforce development funds;
   c. Development, in collaboration with local and state stakeholders, of a substate structure for planning and oversight of the statewide workforce development system;
   d. Streamlining of services to customers to achieve an efficient and effective, customer driven workforce system for the state;
   e. Development of goals, standards and measures to evaluate the effectiveness and efficiency of workforce development programs; and
   f. Implementation of a continuous improvement process designed to ensure high quality services for Idaho's citizen and business customers;
4. The Council shall also be responsible for:
   a. Approval and oversight of the expenditures from the Employment Security Special Administration Fund as set forth in Section 72-1347A, Idaho Code;
   b. Development and oversight of procedures, criteria and per-

formance measures for the Workforce Development Training fund established under Section 71-1347B, Idaho Code;

c. Oversight of all remaining funds and performance of duties of the State Council on Vocational Education as described in the Carl D. Perkins Act under P.L. 101-392, Section 112;

d. Such functions and responsibilities transferred to it from existing councils; and

e. Such other duties as the Governor assigns the Council.

5. The Governor shall name the chair and vice-chair from among the private sector members of the Council;

6. The Council shall be jointly staffed by a management team of directors of state agencies that administer workforce development programs, as designated by the Governor. Funding for the Council shall be provided by the agencies staffing the Council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Labor shall have responsibility for providing secretarial and logistical support to the Council;

7. The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of October 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-15

CONTINUATION OF THE GOVERNOR'S MOTOR CARRIER ADVISORY COMMITTEE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-20

WHEREAS, the people of Idaho are dependent upon the motor carrier industry to deliver raw materials, manufactured goods, agricultural products and other necessities; and

WHEREAS, the motor carrier industry, which employs thousands of Idahoans, requires user participation in developing the rules and regulations to guide the industry.

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 the continuation of the Governor's Motor Carrier Advisory Committee as follows:

The purpose of the Committee shall be to meet quarterly or as needed to review appropriate changes to the safety, size and weight, and operational rules and regulations of state agencies as they apply to common, contract and private motor carriers and to advise the Governor of the Committee's findings and recommendations.

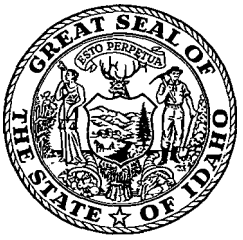
The Committee shall consist of 12 members. The members shall represent the various elements of the trucking industry, including: long haul, heavy haul, short haul, wood products, logging, contracting, agriculture, truck and trailer manufacturing, tankers, concrete and aggregates, private carriers, transcontinental interstate common carriers, and others deemed appropriate by the committee.

Appointment of the members to the Committee shall be made by the Governor. The Committee shall assist the Governor in this task by recommending to him the names of at least two persons for appointment to each seat that becomes open on the Committee. Appointments shall be for staggered three-year terms expiring on July 1, three years after appointment. Committee members shall elect their chairman from among their number.

Committee members shall receive no salary for their services. The Idaho Transportation Department shall, however, reimburse Committee members for expenses incurred in attending Committee meetings.

A representative from each of the following state agencies shall provide support to the Committee: The Idaho Transportation Department, the Idaho State Police, and the Tax Commission. The Idaho Transportation Department shall be the lead agency responsible for providing administrative support.

The Committee shall present all formal recommendations to the participating agencies and the Governor and shall present to the Governor each December a report of the activities of the Committee during that year.



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/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-16

REGARDING THE UTILIZATION AND OVERSIGHT OF THE USE OF STATE VEHICLES BY STATE EMPLOYEES

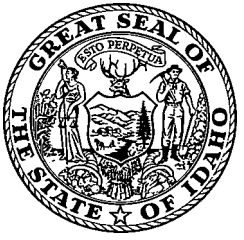
WHEREAS, it is the policy of the State of Idaho to promote the efficient use of Idaho state owned or leased vehicles and;

WHEREAS, the State of Idaho is committed to ensuring the highest level of safety and reliability of our state vehicles.

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 the following:

1. Each department director, agency head, or their designee will develop the departmental policies governing the use, safety, and inspection of vehicles under their control. The written vehicle policy shall be communicated and readily available to the department employees. This policy shall include the identification of an agency employee that will be the agency point of contact.
2. Vehicle policies and plans shall incorporate disposal and replacement criteria which includes maximum life cycle costing.
3. Agencies shall develop an effective recording and reporting system that will be used to assess fleet operations. The assessment shall include a periodic analysis of the comparative cost of vehicle leasing, renting, and ownership as well as routine tracking of vehicle information such as type of vehicle, acquisition date, costs, maintenance records, mileage and/or trip information, name of the person, if any, to whom the vehicle is assigned, and any other information deemed necessary by the department director or their designee.
4. Fleet information shall be current and retained in an equipment management system.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of October 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-17

AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, on the eighth day of February 1996, the twenty-seventh day of December 1996 and the eighteenth day of May 1997, due to severe flooding in various parts of the state of Idaho; by virtue of the authority in me, as Governor, by Idaho Code Sections 46-601 and 46-1008, I issued proclamations declaring that states of extreme and disaster

emergencies existed for all counties in Idaho; and

WHEREAS, tremendous financial obligations and expenses have been and will be incurred by various departments and agencies of the state of Idaho in responding to and assisting in efforts to deal with this extreme flooding emergency; and

WHEREAS, all funds in the Disaster Emergency Account created by Idaho Code Section 46-1005A have or soon will be expended; and

WHEREAS, funds in the general account are available to transfer to the Disaster Emergency Account under the requirements set forth in Idaho Code Section 46-1005A(2)(b); and

WHEREAS, it is my judgment, as Governor of the state of Idaho, that any moneys transferred from the Budget Stabilization Fund up to the limits provided below would not be required to support the current year's appropriation of these funds.

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:

1. The state controller is directed to transfer moneys in the Budget Stabilization Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than one (1) million dollars be transferred from the Budget Stabilization Fund to the Disaster Emergency Account during the current fiscal year.
2. In no event may the revenues made available under this executive order exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for the fiscal year.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twentieth day of December 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-18

ESTABLISHING THE CERTIFIED PUBLIC MANAGER PROGRAM

WHEREAS, the State of Idaho recognizes the value of investing in its human resources; and

WHEREAS, the government agencies of Idaho have identified as critical the need for management development initiatives and, to support and

provide for successful workforce planning; and

WHEREAS, management development should be viewed as an integral tool to improve productivity and service delivery to the citizens of Idaho; and

WHEREAS, Idaho government agencies will benefit from the application of a comprehensive set of management principles and best practices; and

WHEREAS, the State of Idaho's leadership has placed a priority on the use of management knowledge and skills; and

WHEREAS, the Division of Human Resources and the Center for Public Policy and Administration at Boise State University will develop and use a nationally recognized management development curriculum; and

WHEREAS, the Certified Public Manager program is an accepted standard and has proven its value in a significant number of states.

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:

CERTIFIED PUBLIC MANAGER PROGRAM

as a preferred management development program for the State of Idaho and, thereby, actively encourage the participation of state agencies in the development of government managers to enhance the quality and productivity of services delivered to the citizens of Idaho.

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-ninth day of December 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-19

RELATING TO THE DESIGNATION OF EDUCATION FUNDING ASSOCIATION, INC. AS AN AUTHORIZED ENTITY TO PURCHASE STUDENT LOANS RELATING TO RESIDENTS OF THE STATE OF IDAHO OR PERSONS ATTENDING POST SECONDARY EDUCATIONAL INSTITUTIONS IN THE STATE OF IDAHO REPEALING AND REPLACING EXECUTIVE ORDER 96-23

WHEREAS, pursuant to the provisions of Title IV, Part B of the Federal Higher Education Act of 1965, as amended (the "Higher Education Act") (20 U.S.C., Chapter 1071 et seq.) the United States Congress has provided for Federal insurance of student loans made pursuant to the Higher Education Act or, in the alternative, for Federal reimbursement

of guaranty payments made on such student loans in states where state guaranty programs are operated pursuant to the Higher Education Act and the United States Congress has also provided through the Higher Education Act for payment by the Federal government of interest and other subsidies on such student loans; and

WHEREAS, the United States Congress has provided through the Higher Education Act and Section 150(d) of the Internal Revenue Code 1986, as amended ("Section 150(d)"), procedures whereby certain nonprofit corporations may issue tax-exempt "qualified scholarship funding bonds" for the purpose of obtaining funds to finance the acquisition of student loans originated under the Higher Education Act; and

WHEREAS, assuring that loans for post-secondary education are accessible in Idaho at favorable rates of interest and repayment terms is an important objective in Idaho's total effort to provide adequate opportunities for our citizens to benefit from post-secondary education; and

WHEREAS, assuring adequate access to educational loans requires the availability of a statewide secondary market authorized to issue qualified scholarship funding bonds, which provides liquidity for investments in such loans, thereby further encouraging and permitting commercial lenders to make additional educational loans; and

WHEREAS, Education Funding Association, Inc., an Idaho nonprofit corporation (the "Corporation"), was formed under the nonprofit corporation laws of the State of Idaho. In 1996, the Corporation was designated by the Office of the Governor for the State of Idaho as a statewide secondary market authorized to issue qualified scholarship funding bonds; and

WHEREAS, the Corporation established a student loan purchase program designed to increase the amount of funds available for educational loans to students who are residents of Idaho or who are attending post-secondary education institutions in the State of Idaho, as provided by the United States Congress through the Higher Education Act and Section 150(d), and which assures the people of the State of Idaho fair, efficient and competitive access to educational loans and coordinated planning and administration of this program; and

WHEREAS, in my capacity as Chief Executive Officer of the State of Idaho, I desire to facilitate the continued provision of the best possible student loan and educational finance services available to the students in Idaho by renewing the designation of the Corporation as an entity authorized to issue qualified scholarship funding bonds; and

WHEREAS, it is advantageous to all sectors of post-secondary education in the State of Idaho for this State to continue receiving the assistance made available under applicable programs established pursuant to the Federal Higher Education Act.

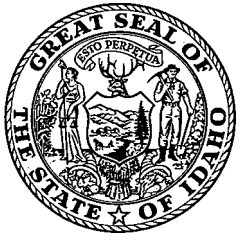
NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, do hereby order as follows:

1. Education Funding Association, Inc. is hereby designated to provide an Idaho educational loan secondary market and warehousing facility pursuant to the provisions of Part B of Title IV of the Higher Education Act of 1965, as amended (20 U.S.C., chapter 1071, et seq.) and Section 150(d) of the Internal Revenue Code of 1986, as amended, and authorized to issue qualified scholarship funding bonds in the State of Idaho.
2. Education Funding Association, Inc. shall meet all of the

requirements of Federal law and regulations as well as the statutes of the State of Idaho, and shall obtain all necessary designations required under Federal law and regulations necessary and appropriate to act in such capacity under the Higher Education Act of 1965, as amended.

3. Education Funding Association, Inc. shall come under the supervision of the Idaho Department of Finance, which shall have authority pursuant to the laws it administers to enforce the provisions of this Order.
4. Prior to the sale of any securities, Education Funding Association, Inc. shall have provided to the Department of Finance the following, unless waived by the Department of Finance:
   (a) A market survey outlining the potential scope of its secondary market, including comments by affected persons;
   (b) A plan for doing business in accordance with the requirements of the Higher Education Act of 1965;
   (c) All approvals, disapprovals and comments by the United States Department of Education; and
   (d) Its Articles of Incorporation and Bylaws setting forth, among other things, its standards for directors, officers, and employees.
5. Unless waived by the Department of Finance, Education Funding Association, Inc. shall:
   (a) Submit to periodic examinations by the Department of Finance;
   (b) File each preliminary prospectus with the Department of Finance prior to the issuance of securities;
   (c) Provide copies to the Department of Finance of any and all internal or external audits from any sources, as well as management letters, adverse actions, or other significant communications from the United States Department of Education;
   (d) Make quarterly financial reports to the Department of Finance; and
   (e) Provide the Department of Finance with prompt notice of any defaults, litigation by or against Education Funding Association, Inc., or any material change in the program offered by Education Funding Association, Inc.
6. This order may be revoked upon a 60-day written notice except that such revocation must be made in good faith, and adequate financial arrangements must be made to insure the proper continuation of coverage for outstanding loans.
7. The State of Idaho assumes no liability as a result of this request. All debts and liabilities resulting from this program shall be the sole responsibility of the Education Funding Association, Inc.

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-ninth day of December 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2000-20

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986
REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-01

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804, Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 98-01 providing therefore; and

WHEREAS, the State Law was amended during the 2000 session of the Idaho legislature to require certain criteria in the allocation of Volume Cap; and

WHEREAS, in order to renew the provisions contained in said Executive Order No. 98-01, to amend the allocation formula in order to meet the requirements of said amendments to the State Law and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State law.

(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law including, without limitation, mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, cer-

tificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.

(3) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.

(4) "Department" means the Department of Commerce of the State.

(5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.

(6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.

(7) "Issuing Authority" means:

(a) any county, city or port district;

(b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;

(c) the State; or

(d) any other entity authorized to issue Bonds in the State.

(8) "Priority Set Aside" means one of the priority set asides established under Section 4(1) hereof.

(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of mortgage credit certificates under Section 25 of the Code.

(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.

(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.

(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.

(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.

(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.

(15) "Year" means each calendar year beginning January 1, 2001.

Section 2.

The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3.

(1) Any Issuing Authority proposing to issue Bonds shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:

(a) the name of the Issuing Authority;
(b) the mailing address of the Issuing Authority;
(c) the tax identification number of the Issuing Authority;
(d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;
(e) the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;
(f) the nature, the purpose and the specific location of the Project or the type of Program;
(g) the initial owner or user of the Project or Program, if other than the Issuing Authority;
(h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project or Program;
(i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to mortgage credit certificates under Section 25 of the Code, the anticipated date on which such mortgage credit certificates are expected to be issued;
(j) the name, address, and telephone number of all parties to the transaction;
(k) the applicable provisions of the Code under which the Bonds are expected to be issued; and
(l) such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State;
(m) any other information or attachments reasonably required by the Director.

(2) The Director shall:
(a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and
(b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4.

(1) Allocations of Volume Cap shall be made each Year according to the following Priority Set Asides:
(a) qualified small issue manufacturing projects under Section 144(a) of the Code, in an amount between 7% and 13% of the total Allocation Dollars available for the Year as determined by the Director;

(b) single family housing financing through the Idaho Housing and Finance Association under Section 143 of the Code, in an amount between 55% and 80% of the total Allocation Dollars available for the Year as determined by the Director;

(c) multifamily housing, as qualified residential rental projects under Section 142(a)(7) of the Code, in an amount between 0% and 8% of the total Allocation Dollars available for the Year as determined by the Director;

(d) student loan programs through the Education Funding Association of Idaho under Section 144(b) of the Code, in an amount between 0% and 15% of the total Allocation Dollars available for the Year as determined by the Director;

(e) beginning farmer financings, arranged by the Idaho Department of Agriculture under Section 144(a) of the Code, in an amount between 0% and 2% of the total Allocation Dollars available for the Year as determined by the Director;

(f) exempt facilities under Section 142(a) of the Code, other than qualified residential rental projects, in an amount between 0% and 32% of the total Allocation Dollars available for the Year as determined by the Director;

(g) any qualified uses for Volume Cap not identified above are eligible for allocations in accordance with Section 4(4) below;

(h) not later than January 31st of each year, subject to the provisions of Section 4(9) hereof, the Director shall determine the amount of Allocation Dollars within each Priority Set Aside, based on the need for, and economic impact of, the Program or Project to be financed under each application and how such expected Program or Project will effectively utilize and efficiently distribute resources throughout the State.

(i) the above Priority Set Asides shall be in effect through August 31 of each Year. Thereafter, allocations shall be made in accordance with Section 4(4) and (5) below. All other potential uses of Volume Cap under the Code, other than those listed in the Priority Set Asides above, may also be allocated on or after September 1 of each Year upon application to the Director as provided in Section 4(4) and (5) below.

(2) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, and if the Director determines that the application demonstrates the need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, the Director will make the requested allocation in the amount so requested, if available under the applicable Priority Set Aside in Section 4(1) above and provided that prior to March 31 of each Year not more than 75% of the total Volume Cap available for such Year has been allocated to Issuing Authorities for specific Programs or Projects, and certify to the

Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director in the chronological order in which completed applications are received within the applicable Priority Set Aside in Section 4(1) above. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.

(3) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of:

(a) a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made or any date until December 27 as determined by the Director if the Program is being allocated Volume Cap under a Priority Set Aside which sets aside Allocation Dollars for a specific Issuing Authority (Sections 4(1)(b), 4(1)(d) and 4(1)(e) above) and such Issuing Authority has a Program for Bond issuance to be carried out throughout the Year,

(b) 12:00 o'clock midnight on December 27 of the Year in which such allocation was made, or

(c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.

(4) On and after September 1 of each Year allocations of Volume Cap shall be made to applicants submitting applications by such date for Project(s) or Program(s) that best demonstrate effective utilization, need, economic impact and efficient distribution of resources throughout the State. The Director and the Department may elect not to allocate Volume Cap if an application does not demonstrate a need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State. If qualified applications have not been received by the Department for all remaining Allocation Dollars by September 1 of such Year, then the Department shall continue to receive additional applications until the first of each succeeding month and make allocations on the same basis until all Allocation Dollars have been allocated.

(5) Until and including December 27 of each Year, any allocation of Allocation Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section

4(3) shall be available for reallocation to applying Issuing Authorities. On December 28 of each Year, any allocation of Allocation Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(3) and any Allocation Dollars for such Year or any Allocation Dollars not allocated under Section 4(4) above shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for allocations of Allocation Dollars on and after September 1 as provided in Section 4(4) above.

(6) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(7) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director, provided there are no pending applications for Volume Cap within the same Priority Set Aside, or if there are other such applications pending, that the application for the allocation being extended best demonstrates the need for, and economic impact of, the Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, and provided further that all other provisions of this Executive Order are complied with.

(8) In the event that the Director is uncertain whether an application meets the requirements set forth in 4(2) or 4(4) above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.

(9) In the case of an application filed prior to the date when the Director makes an allocation under 4(1)(h) above for an allocation from a Priority Set Aside which provides for a minimum percent of Allocation Dollars and sets forth a specific Issuing Authority to receive the Priority Set Aside (specifically, Priority Set Asides 4(1)(b), 4(1)(d) and 4(1)(e)), the Director may, and, at the request of the Issuing Authority, shall, make an allocation of that Year's Allocation Dollars in an amount not to exceed the minimum percentage stated for the Priority Set Aside prior to the date the Director has set for determination of allocations under 4(1)(h) but in no event later than 15 days after the date such application is filed.

Section 5.

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

(a) the carryforward purpose for the Bonds under Section 146(f) of the Code;

(b) any other information required by Section 146(f) of the Code;

(c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing mortgage credit certificates under Section 25 of the Code, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in accordance with the provisions of Section 4(4), granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in accordance with the provisions of Section 4(5). The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying

Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.

Section 6.

No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7.

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds without a certificate or allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall:

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 27 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of
(A) the final decision not to issue all or a stated portion of such Bonds or Certificates, or
(B) the expiration of the allocation, or
(ii) December 27 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8.

In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(1) determine the amount of Allotment Dollars available on December 28 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;
(2) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;
(3) maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;
(4) maintain a record of all information filed by Issuing Authorities under this Executive Order;
(5) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available or at any time remaining available, for allocation under this Executive Order;
(6) the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and
(7) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9.
If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid, inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10.
This Executive Order replaces Executive Order No. 98-01 which is hereby repealed, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11.
The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12.
No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13.
The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14.
This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-ninth day of December 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 tenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2001-01

AUTHORIZING THE CONTINUATION OF THE IDAHO RURAL PARTNERSHIP REPEALING AND REPLACING EXECUTIVE ORDER NO. 97-02

WHEREAS, Idaho is among the most rural states in the nation; and

WHEREAS, Idaho's tremendous geography and sparse population create problems of distance and isolation; and

WHEREAS, the most rural counties in Idaho consistently have lower per capita incomes, higher unemployment rates, lower rates of population growth, higher poverty levels, and less new construction and job growth; and

WHEREAS, the most rural residents of Idaho have less access to health care services, employment training, business assistance, library service, and diverse educational and cultural opportunities; and

WHEREAS, the most rural communities have disproportionately large infrastructure needs for transportation, utility services, and education; and

WHEREAS, the multitude of public and private organizations with an interest in helping rural Idaho need a mechanism for coordination and collaboration; and

WHEREAS, five key areas of need are increased leadership and governance, provision of telecommunication and broad bandwidth to rural communities, the need for excellent and relevant education and work development at all levels, funding for development, maintenance, and improvement of rural infrastructure development, and the development of active local economic development teams.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by law, do hereby authorize the continuation of the Idaho Rural Partnership.

The Rural Partnership's responsibilities will be:

1. To identify organizations, authorities, and resources to address various aspects of rural development;
2. To serve as a clearinghouse of information and as a referral center on rural problems, programs, and policies;
3. To serve as a nonpartisan forum for identifying and understanding rural issues from all perspectives;
4. To assess conditions in rural Idaho and to set goals and specific objectives for improving the quality of life in rural Idaho;
5. To identify collaborative strategies toward meeting these goals and to facilitate the implementation of these strategies by the Partnership's member organizations;

6. To develop better intergovernmental and private/public coordination and to seek out opportunities for new partnerships to achieve rural development goals within the existing structure;
7. To identify and seek solutions to unnecessary impediments to rural development, first within Idaho and then through the National Rural Development Partnership; and
8. To work cooperatively with the National Rural Development Partnership and other state rural development councils.

The Idaho Rural Partnership is a joint effort between local, tribal, state, and federal governments, as well as the profit and not-for-profit private sectors. Its purpose is to foster coordinated approaches to rural development that support local initiatives, not to usurp the individual missions of any of its member organizations or duplicate effort. Membership shall include representation from the following state entities:

1. Executive Office of the Governor
2. Idaho Legislature (4)
3. Department of Commerce
4. Department of Agriculture
5. Department of Labor
6. Department of Health and Welfare
7. Department of Environmental Quality
8. Department of Parks and Recreation
9. Idaho Transportation Department
10. Department of Lands
11. Department of Water Resources
12. Division of Professional and Technical Education
13. Commission on the Arts
14. Small Business Development Centers
15. State Library
16. Public Utilities Commission

A representative of each of the five tribal governments of Idaho shall be invited to participate:

1. Kootenai Tribe
2. Coeur d'Alene Tribe
3. Nez Perce Tribe
4. Shoshone-Paiute Tribes
5. Shoshone-Bannock Tribes

A representative from each of the following local government organizations shall be invited to participate:

1. Association of Idaho Cities
2. Idaho Association of Counties
3. Regional planning or economic development districts
4. Resource Conservation and Development Districts (RC&Ds)
5. Health Districts

Representatives from private and not-for-profit organizations with an interest in the well-being of rural Idaho, including, but not limited to, the following organizations, shall be invited to participate:

1. Private and cooperative utilities
2. Banks and financial institutions
3. Health care providers
4. Idaho Rural Health Education Center
5. Idaho Migrant Council
6. Agricultural and industry organizations

7. Environmental organizations

Representatives and members of the following federal entities shall be invited to join the Partnership and to participate:

1. Senators (2)
2. Congressmen (2)
3. USDA Rural Development
4. USDA Natural Resources Conservation Service
5. USDA Farm Services Agency
6. Idaho Cooperative Extension System
7. USDA Forest Service
8. Bureau of Land Management
9. Bureau of Reclamation
10. Small Business Administration
11. Economic Development Administration
12. Department of Housing and Urban Development
13. Veterans Affairs
14. Department of Energy

Additional Members may be added by consensus of the Partnership.

The Partnership shall meet no less than quarterly. The Partnership shall elect officers and a Board of Directors representing federal, state, local, and tribal governments and the private sector. This Board shall set operating policies and manage the Partnership budget and staff. The Partnership shall submit a report of its activities to the Governor and the Legislature annually.

This Executive Order repeals and replaces Executive Order No. 97-02.

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 the twenty-second day of February in the year of our Lord two-thousand and one, and 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. 2001-02

GOVERNOR'S TASK FORCE FOR CHILDREN AT RISK
REPEALING AND REPLACING EXECUTIVE ORDER NO. 96-22

WHEREAS, Idaho's children are her most valuable and most vulnerable resource; and

WHEREAS, crimes of abuse and neglect can psychologically and physically harm innocent children for life, depriving them of their right to

live happy and productive lives; and

WHEREAS, abuse and neglect of children have been recognized to be multi-generational problems; and

WHEREAS, thousands of incidents of child abuse and neglect occur each year in Idaho; and

WHEREAS, the system that responds to reports of child abuse and neglect requires more effective and efficient statewide coordination and consistent monitoring in order to better protect children; and

WHEREAS, in order to protect all children, those who commit crimes against children need to be held accountable for their actions; and

WHEREAS, the child victims of abuse, neglect, and domestic violence must receive immediate and adequate protection from continued maltreatment; and

WHEREAS, all child victims of abuse and neglect deserve treatment and necessary medical attention; and

WHEREAS, it is the responsibility of all Idahoans to provide a community system of support and protection for these children; and

WHEREAS, the protection of children from abuse and neglect is in the best interest of all Idahoans.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuance of the Governor's Task Force for Children at Risk.

The Task Force's responsibilities are:

1. To review existing systems and procedures and encourage improvements in the investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse to limit the trauma to the child victim;
2. To evaluate, propose, and encourage cooperation between persons and agencies involved in cases of child abuse and domestic violence evaluations;
3. To investigate and recommend optimum models of prevention, evaluation and treatment of victims and offenders;
4. To establish procedures for the review of child fatalities and substantial or severe injuries where the circumstances of the death or injury suggest the possibility of child abuse; and
5. To study, propose, and encourage means to establish a highly professional, stable work force devoted to working with child abuse cases and issues.

The Task Force shall be composed of between 13 and 16 members appointed by the Governor. The membership shall include, but will not be limited to, the following with consideration of cultural and geographical representation:

A Judge (Handling civil and criminal cases)

A Prosecuting Attorney

At least one representative of the Division of Family and Community Services of the Department of Health and Welfare

A law enforcement representative with experience in child abuse cases

A representative of the Department of Correction's Probation and Parole Division

A juvenile correction or probation worker

A defense attorney

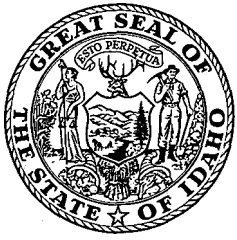
A health professional (pediatrician)

A mental health professional specializing in therapy for abused children
A parent or parent group representative
Individual experienced in working with children with disabilities
A Court Appointed Special Advocate (CASA) representative
A child advocate (Attorney for children)

The members of the Task Force shall serve at the pleasure of the Governor for a four-year term. Reappointment is at the discretion of the Governor with a recommendation from the chair. Members of the Task Force shall elect their chair from among their members.

The Department of Health and Welfare shall be the lead agency, providing support for the Task Force, and shall maintain office staff to carry out the activities directed by the Task Force, as funding is available.

This Executive Order repeals and replaces Executive Order No. 96-22. 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-second day of February in the year of our Lord two thousand-one and 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. 2001-03

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 97-03

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature, by and through the implementation of section 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Program; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Program has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred

Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation and maintenance of the plan.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho do hereby order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, a representative from the Office of the State Controller, and a representative from the Office of the Secretary of State is hereby named as the policy-making board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
   a. Selection of a third-party administrator.
   b. Selection of product companies that sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Program.
   c. Approval and monitoring of the marketing program to introduce and explain the Deferred Compensation Program to state employees.
   d. Review all summary reports produced by the Office of the State Controller and the third-party administrator to insure proper accounting for all funds.
   e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if re-bidding is necessary.
   f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.
   g. Review and approve all plan documents, contracts, bylaws, and rules and regulations.
   h. Review the performance of the third-party administrator.
   i. Review all audits of the Deferred Compensation Program.
3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:
   a. Insure that remittance to the product companies of deferred moneys is made from the periodic payroll.
   b. Review and sign all enrollments, change and claim requests.
   c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.
   d. Communicate with state employees and the third-party administrator concerning routine matters.

e. Provide or arrange to provide completion of any other routine matters as requested by the Deferred Compensation Committee.

This Executive Order repeals and replaces Executive Order No. 97-03. This Executive Order shall cease to be in effect four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capital, the twenty-second day of February, in the year of our Lord two-thousand and one, and 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. 2001-04

ENERGY CONSERVATION CONSIDERATIONS IN STATE BUILDINGS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-12

WHEREAS, the efficient use of energy is of prime importance to the energy supply and economic well-being of the State of Idaho; and

WHEREAS, the State of Idaho uses, in its state building facilities, a considerable portion of the state's energy supply; and

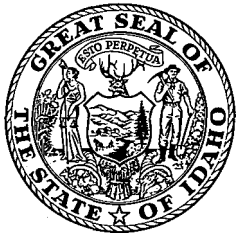
WHEREAS, The Director of Administration did convene a task force for the purposes of identifying energy conservation solutions for the State of Idaho government facilities.

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 that all state government facilities shall include, where feasible, energy conservation strategies as identified by the Department of Administration. The strategies shall maintain that:

1. All personal computer systems should be shut down when not in use for more than two hours. This should include all evening and weekend hours. During working hours, screen savers should be disabled and energy-saving, power-down features should be enabled;
2. The temperatures in all State buildings should be held to between 74-to-78 degrees in the summer and 68-to-70 degrees in the winter. Buildings heated with geothermal water may exceed the winter temperature range;
3. Lights in office areas should be turned off during weekends and evenings;

4. Exterior lighting should be shut off during all daylight hours and between midnight to five o'clock a.m. Necessary security and safety lighting should remain on as required;
5. All main heating, ventilation and air-conditioning systems (HVAC) should be reviewed for efficient operations. Setback times should be re-evaluated and adjusted to the absolute minimum time required to heat and cool buildings to prepare for operations. All filter-changing procedures should be re-evaluated to determine if changes need to be done more often for efficient operation of the systems;
6. The use of personal heaters should be limited to energy-efficient heated mats or other high-efficiency heaters;
7. All hot water heaters should be reduced in temperature to 140 degrees. Some State institutions may require higher heat levels to meet code requirements;
8. All hot water circulation loops should be examined to determine their necessity;
9. Office equipment, such as copy machines, should be shut down during off hours;
10. Lights in storage areas should only be turned on when occupied;
11. HVAC systems should not be operated in off hours for small groups of employees. Heating or cooling an entire building for a small group is not energy efficient;
12. All State building exterior surfaces should be evaluated for thermal efficiency. Insulation, window gaskets and seals should be replaced as required;
13. Off-hour security and janitorial crews should be instructed to turn off lights as work is complete in office areas; and
14. All vending machines should have the lights turned off, and any redundant machines should be removed.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capital, the twenty-second day of February, in the year of our Lord two-thousand and one, and 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. 2001-05

ESTABLISHING THE IDAHO COUNCIL ON CHILDREN'S MENTAL HEALTH

WHEREAS, children with serious emotional disturbances have unique abilities, concerns and diverse needs; and

WHEREAS, serious emotional disturbances interfere with the vital development and maturation of our state's most important resource - its children; and

WHEREAS, the appropriate treatment of children and youth with serious emotional disturbances is cost-effective because it enhances productivity, reduces utilization of more costly and invasive service, lessens social dependence and family disruption; and

WHEREAS, the State of Idaho desires to establish a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and

WHEREAS, these families would benefit from individualized services which are acceptable and accountable to them and others in the communities where they live; and

WHEREAS, children and youth with serious emotional disturbances and their families have the right to, and responsibility for, ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and

WHEREAS, the Idaho Legislature has set forth its policy for the provision of these services in the Idaho Children's Mental Health Services Act; and

WHEREAS, the implementation plan formulated from the recommendations of The Needs Assessment of Idaho's Children with Serious Emotional Disturbances and Their Families proposes that the Idaho Council on Children's Mental Health be established to provide state level leadership in the development of an integrated system of care for children with mental health needs.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Idaho Council on Children's Mental Health.

The Council's responsibilities shall be:

1. To oversee the implementation of the plan and the legislative policy for the provision of access to treatment, prevention, and rehabilitation services for children with serious emotional disturbances;
2. To serve as a vehicle for inter- and intra-agency policy and program development; and
3. To establish local level councils according to resources, population, need and geographic considerations;
4. To define the specific key duties, powers, goals, and outcomes to be achieved by the local councils;
5. To provide leadership through the development of standards, provision of technical assistance, monitoring, evaluating and reporting on the progress of the local councils; and
6. To evaluate and make recommendations regarding the funding and delivery of children's mental health services statewide.

Council membership shall be composed of representatives from the following:

1. The Office of the Governor;
2. The Legislative branch;
3. The Judicial branch;
4. The Department of Health and Welfare;
5. The Department of Juvenile Corrections;
6. The Department of Education;
7. The State Planning Council on Mental Health;
8. A parent representative or advocate; and
9. A representative of providers of children's mental health services.

This Executive Order shall cease to be in effect four years after its entry into force.

Council members shall serve a term of two (2) years. The members may serve additional terms. The Governor shall appoint the Lieutenant Governor to serve as the Chairman of the Council. Staff for the Council will be provided by the Department of Health and Welfare. The Council may establish subcommittees at its discretion.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capitol, the twenty-eighth day of February, in the year of our Lord two-thousand and one, and 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. 2001-06

CONTINUATION OF THE ENERGY RESOURCES DIVISION OF THE IDAHO DEPARTMENT OF WATER RESOURCES REPLACING EXECUTIVE ORDER NO. 96-11 AND TRANSFERRING ENERGY CODES AND STANDARDS FOR BUILDINGS TO THE DIVISION OF BUILDING SAFETY

WHEREAS, energy is a vital resource to Idaho and is inextricably linked to Idaho's water resources; and

WHEREAS, the availability of long-term energy supplies is critical to the well-being of Idaho; and

WHEREAS, it is the responsibility of state government to employ measures to reduce wasteful, uneconomical, and unnecessary uses of energy which will diminish Idaho's energy and water resources; and

WHEREAS, the consolidation of governmental activities relating to water resources and energy has provided efficient state services; and

WHEREAS, the House concurrent Resolution No. 19 (1999 Idaho Sess. Laws 1163) created an Interim Committee on Construction Industry Laws; and

WHEREAS, the Interim Committee issued its findings and recommenda-

tions including a recommendation that some responsibility for matters related to energy codes and standards be transferred to the Division of Building Safety.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuation of the Energy Resources Division of the Idaho Department of Water Resources and the transfer of energy codes and standards for buildings to the Division of Building Safety as follows:

1. TRANSFER AND RETENTION OF FUNCTIONS. The Director of the Department of Water Resources, being authorized by Section 42-1706, Idaho Code, to perform professional duties at the request of the Governor, and as otherwise provided by law, is vested with the following energy planning, policy, and coordination functions:
   a) Advise the Governor, the Legislature, and other public officials of the State's energy requirements, supply, management, conservation, and efficiency efforts;
   b) Serve as the lead state agency to solicit, receive, and disburse any funds from all available sources that can be used to promote the conservation of energy and the development of energy resources;
   c) Pursue and accept federal delegation of responsibility and authority for matters that affect the energy supply, consumption, and conservation by the citizens of Idaho other than energy codes and standards for buildings and those matters under the jurisdiction of the Idaho Public Utilities Commission;
   d) Prepare, and as necessary, implement contingency plans for the conservation and allocation of energy supplies not otherwise regulated by the Public Utilities Commission during periods of shortages and supply interruptions;
   e) Provide technical and funding assistance to the Division of Building Safety for the development, promotion, implementation, and enforcement of energy codes and standards by Building Safety for commercial and residential buildings in the public and private sectors;
   f) Assist local governments, school districts, and public institutions by providing technical and funding assistance for programs to improve energy management and reduce energy consumption;
   g) Provide public information and data on energy supplies, demands, technologies, efficiency measures, and conservation;
   h) Promote energy conservation through research, public information, education, training, technical assistance, funding assistance, and other activities;
   i) Promote the increased utilization of renewable energy resources through funding and technical assistance, research, and public information;
   j) Assist citizens in developing energy-efficient technologies;
   k) Enter into a memorandum of agreement with the Division of Building Safety to transfer two FTPs and associated fund-

ing from the Energy Resources Division of the Department of Water Resources to the Division of Building Safety to accomplish item e) above and to establish the basis for future funding for the development, promotion, implementation, and enforcement of energy codes and standards by Building Safety for commercial and residential buildings.

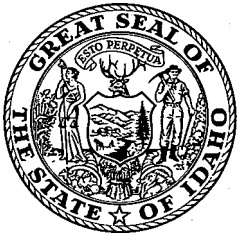
l) Enter into other agreements and contracts and do all else necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.

2. SAVINGS PROVISIONS. All orders, regulations, contracts, and licenses which have been issued in the performance of functions which are retained under this Executive Order, and which are in effect at the time this Executive Order takes effect, shall continue in effect according to their terms until modified or terminated.

a) Whenever the Idaho Office of Energy or the Director thereof is referred to in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, the same shall be considered to mean the Department or the Director of the Department of Water Resources;

b) The duties, responsibilities, and authority of this Executive Order shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law; nothing in this Executive Order shall be construed to provide or imply any regulatory authority by the Energy Division of the Department of Water Resources over public utilities that are subject to the jurisdiction of the Idaho Public Utilities Commission.

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 the eighth day of March in the year of our Lord two-thousand and one, and 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. 2001-07

ESTABLISHING THE IDAHO GEOSPATIAL COMMITTEE

WHEREAS, during the past decade government agencies and private industries have developed increasingly powerful computer systems designed to process and analyze map and other information collectively called Geospatial Information; and

WHEREAS, these systems, referred to as Geospatial Technology, have the potential to significantly increase efficiency and reduce costs to the State for conducting land, water, demographic, social and other natural resource management activities, and are becoming ever more closely linked as component parts of Idaho's information management activities; and

WHEREAS, geospatial products produced and maintained by organizations provide a valuable information infrastructure for public and private entities; and

WHEREAS, Geospatial Technology assists state, federal and local governments in carrying out their mandated responsibilities more efficiently, at reduced costs, with better services to taxpayers as a valuable tool for scientific investigation, resource management and development planning; and

WHEREAS, the related components of Geospatial Technology, together with the computer field in general, are currently in a period of dynamic evolution and growth; and

WHEREAS, it is important to provide channels of communication and cooperation among agencies of the State of Idaho, federal resource management agencies, federal budget agencies, local and tribal governments, private organizations, education institutions and the citizens of Idaho; and

WHEREAS, there is a need to oversee and promote the cooperation and coordination of programs, policies, products, and resources using Geospatial Technology to maximize opportunities and minimize duplication of effort; and

WHEREAS, there is a need to develop and implement policies, guidelines, and standards for producing and sharing Geospatial Information; and

WHEREAS, there is a need to support the ongoing development of a clearinghouse in order to foster the sharing of Geospatial Information; and

WHEREAS, there is a need to provide education, training, and technical support for users of Geospatial Information to support consistency and efficiency; and

WHEREAS, the Idaho Legislature annually appropriates a significant amount of state funds for agency Geospatial Technology activities which could benefit from coordination; and

WHEREAS, Geospatial Technology activities and implementation have a long-term economic benefit to the citizens of Idaho.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order:

1. There is created the Idaho Geospatial Committee.
2. The purpose of the Idaho Geospatial Committee is to provide

policy level direction and promote efficient and effective use of resources for matters related to geographic information. To that end it shall:

a. Promote cooperation among state, federal, tribal and local agencies, universities and the private sector in addressing geographic data and information needs and services in Idaho;

b. Review priorities for statewide geographic information needs and assist in the development of projects, plans, policies, standards, priorities and guidelines for geographic information;

c. Facilitate cooperative and contract arrangements to develop and maintain high-priority geospatial databases and applications programs;

d. Identify and promote a State geospatial information clearinghouse as a vehicle for sharing information on geospatial technology, programs, policies and resources to maximize opportunities and minimize duplication of effort, and to facilitate the standardization, documentation, distribution and exchange of geographic information; and,

e. Provide recommendations to ITRMC, the Governor and the Legislature, when appropriate, concerning issues related to geographic information in Idaho.

3. The Idaho Geospatial Committee shall receive administrative staff support from the Information Technology Resource Management Council staff.

4. The Idaho Geospatial Committee will meet no less than twice annually.

5. The Idaho Geospatial Committee will appoint subcommittees consistent with the needs of the Committee to address issues including, but not limited to: the sharing of geospatial information through a geospatial clearinghouse; technical support and education issues related to geospatial technologies in Idaho; and, outreach and liaison with the Federal Geographic Data Committee and the geospatial coordinating committees in neighboring states.

6. The Idaho Geospatial Committee shall prepare and submit a report to the Information Technology Resource Management Council by December 30 of each year describing the Committee's activities and achievements of the previous year. Additionally, the annual report due on December 30, 2001, shall include bylaws for this committee, address the need to provide education, training, and technical support for users of geospatial information, and make recommendations with respect to the organizational structure of the subcommittees.

7. The Idaho Geospatial Committee shall be composed of no more than sixteen (16) members with knowledge of and interest in the field of geospatial technologies including representatives of: three (3) state agencies, one of whom will serve as chair (appointed by the Chairman of ITRMC), the State Library, and the State GIS Coordinator. Other members may include: the Idaho Federal Framework Coordinator, one (1) representative of the United States Department of Agriculture, one (1) representative of the United States Department of Interior, one (1)

Tribal Government representative, one (1) representative of the State University System, two (2) representatives of the public utilities or private businesses active in geospatial technologies, and three (3) representatives from county and municipal governments, at least two (2) who are local government representatives active in geospatial technologies. The Idaho Geospatial Committee's membership shall be selected by the groups they represent and approved by the Information Technology Resource Management Council.

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 the thirtieth day of April in the year of our Lord two-thousand and one, and 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

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ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Bd = Board
Comm = Committee
Dist = District
H&W = Health and Welfare
Assn = Association
Com = Commission
Dept = Department
F&G = Fish and Game
PUC = Public Utilities Com
PERSI = Public Employee Retirement System of Idaho
UCC = Uniform Commercial Code

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11-CANYON COUNTY

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16-ADA COUNTY

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18-ADA COUNTY

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19-ADA COUNTY

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20-ELMORE & OWYHEE COUNTIES

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25-CASSIA, MINIDOKA & TWIN FALLS COUNTIES

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26-CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

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27-FREMONT & MADISON COUNTIES

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28-BONNEVILLE, FREMONT & TETON COUNTIES

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29-BONNEVILLE COUNTY

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30-BONNEVILLE COUNTY

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Home 522-3072 — FAX 522-1141
Farmer — Wife - Linda
CHAIR - Health/Welfare
State Affairs

31-BINGHAM & BUTTE COUNTIES

J. Stanley Williams (R), Senate . . . . . 2nd Term
(Served 1term in House 1998)
1286 W. 200 South, Pingree 83262
Home 684-4932 FAX 684-9211
Farmer/Rancher Wife - Nancy
Education, Local Government/Taxation
Resources/Environment

Dennis M. Lake (R), House Seat A . . . . . 3rd Term
830 Taber Rd., Blackfoot 83221
Home 684-4967 FAX 684-9336
Agribusiness Wife - Luann
Agricultural Affairs, Appropriations/JFAC
Commerce/Human Resources

Tom Moss (R), House Seat B . . . . . 2nd Term
275 S. 900 West, Blackfoot 83221
Home 684-3800 Bus 785-1940 FAX 785-1591
E-mail: tomnbon@hotmail.com
Attorney Wife - Bonny
Health/Welfare, Judiciary/Rules/Administration
State Affairs

32-BANNOCK, BEAR LAKE, CARIBOU FRANKLIN & ONEIDA COUNTIES

Robert L. Geddes (R), Senate . . . . . 4th 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 Sen FAX 334-2320
E-mail: geddes32@gemstar.net
Environmental Engineer Wife - Tammy
PRESIDENT PRO TEM
State Affairs, Transportation

Larry C. Bradford (R), House Seat A . . . . . 1st Term
3208 E. Club River, Franklin 83237
Home 646-2409
Retired Mink Rancher Wife - Larene
Commerce/Human Resources, Education
Health/Welfare

Eulalie Teichert Langford (R), House Seat B 1st Term
P.O. Box 386, Montpelier, 83254
Home 847-1732 FAX 847-3299
E-mail: eulalie7@juno.com
Retired Business Owner Husband - Duane
Agricultural Affairs, State Affairs

33-BANNOCK COUNTY

Lin Whitworth (D), Senate . . . . . 4th Term
P.O. Box 183, Inkom 83245
Home 775-3773 FAX 775-3149
Farmer/RR Conductor - Retired Wife - Carol
MINORITY CAUCUS CHAIR
COCHAIR - JLOC
Finanace/JFAC, Local Government/Taxation
Transportation

Bert C. Marley (D), House Seat A . . . . . 3rd 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
Agricultural Affairs, Commerce/Human Resources
Education

Roger W. Chase (D), House Seat B . . . . . 3rd 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 . . . . . 5th Term
(Served 1 term, House 1990-92)
2950 Trevor, Pocatello 83201
Home/Bus 238-8800 FAX 238-8802
E-mail:efrasure@iglide.net
Marketing Executive Wife - Analyn
CHAIR--Transportation
Local Government/Taxation

Donna H. Boe (D), House Seat A . . . . . 3rd Term
226 S. 16th Ave., Pocatello 83201
Home 233-5651 FAX 234-4223
E-mail: donnaboe@ida.net
ESL Tutor Husband - Roger
Education, Environmental Affairs, JLOC
Judiciary/Rules/Administration

Kent S. Kunz (R), House Seat B . . . . . 3rd Term
128 Fairway Circle, Pocatello 83201
Home 237-0900 FAX 237-1064
E-mail: kskunz@poky.srv.net
UPRR Locomotive Engineer Wife - Kitty
State Affairs, Transportation/Defense

35-BANNOCK, BINGHAM & POWER COUNTIES

Ralph "Moon" Wheeler (R), Senate . . . . . 4th Term
(Served 2 terms, House 1973-76)
659 Gifford Ave., American Falls 83211
Home 226-2409 FAX 226-5124
Retired Pharmacist Wife - Ann
VICE CHAIR--Local Government/Taxation
Health/Welfare

J. Steven Hadley (R), House Seat A . . . . . 3rd Term
4877 Freedom Ave., Chubbuck 83202
Home 237-9094 Bus 233-5466
Small Business
Appropriations/JFAC, Transportation/Defense

Wayne Kendell (R), House Seat B . . . . . 3rd Term
2652 W. 1200 S., Aberdeen 83210
Home 397-4884 FAX 397-7090 Bus 251-7774
Farmer/Rancher Wife - Shirley T.
Agricultural Affairs, Education
Resources/Conservation