GENERAL LAWS

OF THE

STATE OF IDAHO

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

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Volume 2

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 223
(H.B. No. 313)

AN ACT

RELATING TO ASSUMED BUSINESS NAMES; AMENDING SECTION 53-506, IDAHO CODE, TO DELETE PROVISIONS CONTINUING ASSUMED BUSINESS NAMES AND TO PROVIDE THAT ASSUMED BUSINESS NAMES REMAIN IN EFFECT UNTIL CANCELED; AMENDING SECTION 53-510, IDAHO CODE, TO INCREASE THE FEE FOR FILING AN ASSUMED BUSINESS NAME AND DELETE FEES FOR CONTINUING AN ASSUMED BUSINESS NAME; REPEALING SECTION 53-511, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 53-506, Idaho Code, be, and the same is hereby amended to read as follows:

53-506. EFFECT OF FILING -- DURATION -- CONTINUATION. (1) A person may conduct business under an assumed business name if a certificate of assumed business name has been filed with the secretary of state and is in effect.

(2) A certificate of assumed business name is in effect upon filing ~~for--a--period--of-five-(5)-years,-unless-a-statement-of-continuation-is filed-with-the-secretary-of-state-prior-to-the-lapse--of--the--five--(5) year-period~~ until canceled pursuant to section 53-508, Idaho Code.

~~(3)--A--statement-of-continuation-may-be-filed-with-the-secretary-of state-during-the-six-(6)-month-period-which-ends-on-the-last-day-of--the five--(5)--year--period--of--effectiveness-of-the-certificate-of-assumed business-name.--The-statement-of-continuation-shall-be-in--a--form--prescribed--by--the-secretary-of-state.--The-form-may-be-in-any-medium-permitted-by-the-secretary-of-state.~~

~~(4)--The-filing-of-a-statement-of-continuation-continues-the--period of--effectiveness--of--the-certificate-of-assumed-business-name-for-five (5)-years-from-the-date-on-which-effectiveness-would-have-lapsed-but-for the-filing-of-the-statement-of-continuation.~~

~~(5)--Successive-statements-of-continuation-may--be--filed--for--each successive--five--(5)-year-period-in-the-same-manner-as-the-first-statement-of-continuation.~~

~~(6)--A-statement-of-continuation-shall-be-executed-in-the-same--manner-as-required-for-a-certificate-of-assumed-business-name.~~

SECTION 2. That Section 53-510, Idaho Code, be, and the same is hereby amended to read as follows:

53-510. FEES. The secretary of state shall charge and collect fees for services under this chapter as follows:

(1) For filing a certificate of assumed business name, twenty-five dollars ($20~~5~~.00).

(2) ~~For-filing-a-statement-of--continuation--of--a--certificate--of assumed-business-name,-ten-dollars-($10.00).~~

~~(3)~~ For filing a certificate of amendment to a certificate of assumed business name, ten dollars ($10.00).

(~~4~~3) For filing a certificate of cancellation of a certificate of assumed business name, no charge.

(54) For issuance of certified copies and certificates of fact concerning filing of certificates of assumed business name and related documents, fees as provided in section 67-910, Idaho Code.

SECTION 3. That Section 53-511, Idaho Code, be, and the same is hereby repealed.

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

Approved April 4, 2003.

CHAPTER 224
(H.B. No. 321)

AN ACT

RELATING TO DEVELOPMENT RIGHTS; AMENDING SECTION 67-6515A, IDAHO CODE, TO PROVIDE THAT SELLERS AND BUYERS OF TRANSFERABLE DEVELOPMENT RIGHTS SHALL HAVE THE DISCRETION TO MAKE CERTAIN DETERMINATIONS REGARDING SUCH RIGHTS, TO PROVIDE FOR TIME PERIODS SET PURSUANT TO WRITTEN CONTRACTS, TO PROVIDE THAT ORDINANCES SHALL PRESCRIBE PROCEDURES FOR THE ISSUANCE AND RECORDING OF CERTAIN INSTRUMENTS RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS, TO SET FORTH REQUIREMENTS FOR SUCH INSTRUMENTS AND TO PROVIDE THAT TRANSFERS OF DEVELOPMENT RIGHTS WITHOUT WRITTEN AND RECORDED CONSENT SHALL BE VOID.

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

SECTION 1. That Section 67-6515A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6515A. TRANSFER OF DEVELOPMENT RIGHTS. (1) Any city or county governing body may, by ordinance, create development rights and establish procedures authorizing landowners to voluntarily transfer said development rights subject to:

(a) Such conditions as the governing body shall determine to fulfill the goals of the city or county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations; and

(b) Voluntary acceptance by the landowner of the development rights and any land use restrictions conditional to such acceptance.

(2) Before designating sending areas and receiving areas, a city or county shall conduct an analysis of the market in an attempt to assure that areas designated as receiving areas will have the capacity to accommodate the number of development rights expected to be generated from the sending areas.

(3) Ordinances providing for a transfer of development rights shall not require a property owner in a sending area to sell development rights. Once a transfer of development rights has been exercised it shall constitute a restriction on the development of the property in

perpetuity, unless the city or county elects to extinguish such restriction pursuant to the provisions of this chapter.

(4) A city or county may not condition an application for a permit to which an applicant is otherwise entitled under existing zoning and subdivision ordinances on the acquisition of development rights. A city or county may not condition an application for a zoning district boundary change which is consistent with the comprehensive plan on the acquisition of development rights. A city or county may not reduce the density of an existing zone and thereafter require an applicant to acquire development rights as a condition of approving a request for a zoning district boundary change which would permit greater density.

(5) ~~A person may not acquire a development right without the intent to exercise that right within a receiving area within ten (10) years of the date of acquisition. Upon a showing of good cause, a city or county may extend the right to exercise the development right for an additional period not to exceed five (5) years~~ It shall be at the discretion of the persons selling and buying a transferable development right to determine whether a right will be transferred permanently without being exercised in a designated receiving area or whether a right will have requirements to be exercised within a designated receiving area within a set time period. If the development right is not used before the end of the time period ~~herein~~ provided by written contract and any extension thereof, the development right will revert to the owner of the property from which it was transferred.

(6) No transfer of a development right, as contemplated herein, shall affect the validity or continued right to use any water right that is appurtenant to the real property from which such development right is transferred. The transfer of a water right shall remain subject to the provisions of title 42, Idaho Code.

(7) (a) Ordinances providing for the transfer of development rights shall ~~provide that no transfer of development rights may occur without the written consent of~~ prescribe procedures for the issuance and recording of the instruments necessary to sever development rights from the sending property and to affix the development rights to the receiving property. These instruments shall specifically describe the property, shall be executed by all lienholders and other parties with an interest of record in any of the affected property, ~~from which development rights are proposed to be transferred~~ and shall be recorded with the county recorder. Transfers of development rights without such written and recorded consent shall be void.

(b) A development right which is transferred shall be deemed to be an interest in real property and the rights evidenced thereby shall inure to the benefit of the transferee, his heirs, successors and assigns. An unexercised development right shall not be taxed as real or personal property.

(8) For the purposes of this section:

(a) "Development rights" shall mean the rights permitted to a lot, parcel or area of land under a zoning or other ordinance respecting permissible use, area, density, bulk or height of improvements. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of this section.

(b) "Receiving area" shall mean one (1) or more designated areas of land to which development rights generated from one (1) or more sending areas may be transferred and in which increased development is permitted to occur by reason of such transfer.
(c) "Sending area" shall mean one (1) or more designated areas of land in which development rights may be designated for use in one (1) or more receiving areas.
(d) "Transfer of development rights" shall mean the process by which development rights are transferred from one (1) lot, parcel or area of land in any sending area to another lot, parcel or area of land in one (1) or more receiving areas.

Approved April 4, 2003.

CHAPTER 225
(H.B. No. 331)

AN ACT

RELATING TO LANDSCAPE ARCHITECTS; AMENDING SECTION 54-3002, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3003, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE QUALIFICATIONS FOR LICENSURE, TO REVISE BOARD MEMBERSHIP TERMS, TO REVISE BOARD POWERS AND DUTIES, TO REVISE RENEWAL AND REINSTATEMENT PROVISIONS, TO REVISE ENDORSEMENT PROVISIONS, TO REVISE EXEMPTIONS TO INCLUDE LAND USE PLANNERS, TO MAKE GRAMMATICAL CHANGES, TO REVISE APPLICABILITY FOR INDIVIDUALS, TO PROVIDE FOR APPLICATION OF SEALS FOR CERTIFICATION, TO CLARIFY APPLICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3004, IDAHO CODE, TO REVISE GROUNDS FOR DISCIPLINE, TO PROVIDE FOR THE APPEAL OF ANY BOARD ORDER, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-3005, IDAHO CODE, TO REVISE VIOLATIONS AND PENALTIES, TO PROVIDE CORRECT TERMINOLOGY, TO MAKE TECHNICAL CORRECTIONS AND TO CORRECT A CODIFIER'S ERROR.

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

SECTION 1. That Section 54-3002, Idaho Code, be, and the same is hereby amended to read as follows:

54-3002. DEFINITIONS. ~~(a)~~ As used in this ~~act,~~ chapter:
(1) "~~L~~Landscape architect" means a person who holds a ~~certificate~~ license to practice landscape architecture in the state of Idaho under the authority of this ~~act~~ chapter.
(~~b~~2) "Landscape architecture" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards, but shall not include the application of geological principles. This prac-

tice shall include the location, design and arrangement of such tangible objects as pools, walls, steps, trellises, canopies, and features as are incidental and necessary to the purposes outlined herein, but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of cadastral surveys or final land plats for official recording or approval. It involves the design and arrangement of land forms and the development of outdoor space including, but not limited to, the design of public parks, playgrounds, cemeteries, home and school grounds, and the development of industrial and recreational sites.

(~~c~~3) "Board" means the Idaho state board of landscape architects.

(~~d~~4) "Department" means the department of self-governing agencies of the state of Idaho.

(5) "Landscape architect-in-training" means a person who has met the qualifications of section 54-3003(2), Idaho Code, and is working under the supervision of a licensed landscape architect. A landscape architect-in-training shall use the title "landscape architect-in-training" in accordance with board rule.

(6) "Public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(7) "Rules of professional responsibility" means those rules, if any, promulgated by the board.

SECTION 2. That Section 54-3003, Idaho Code, be, and the same is hereby amended to read as follows:

54-3003. QUALIFICATIONS -- EXAMINATIONS -- BOARD -- ~~CERTIFICATES OF REGISTRATION~~ LICENSES -- FEES -- ~~RECIPROCITY~~ ENDORSEMENT -- EXEMPTIONS -- INDIVIDUALS, PARTNERSHIPS AND CORPORATIONS -- RESTRICTION ON USE OF NAME -- SEAL. (~~a~~1) Application and practice. In order to safeguard human health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice landscape architecture, ~~for hire,~~ shall be required to submit evidence ~~that he is qualified~~ of qualifications to ~~so~~ practice and shall be ~~registered~~ issued a license under the provisions of this ~~act~~ chapter.

(~~b~~2) Qualifications. For ~~license~~ licensure as a landscape architect, evidence must be submitted to the board that the applicant:

(~~1~~a) ~~i~~Is eighteen (18) years of age or older;

(~~2~~b) ~~h~~Has, before admission to the examination, ~~completed the course of study in and been~~ graduated from a college or school of landscape architecture approved by the board. ~~He shall also submit, before admission to the examination, evidence of actual practical experience in landscape architectural work of grade and character satisfactory to the board. Each complete year of study in such approved college or school of landscape architecture may be accepted in lieu of one (1) year of such experience, and the applicant must submit evidence of sufficient additional acceptable experience to total four (4) years of combined education and experience.~~ In lieu of graduation from an ~~accredited~~ approved college or school of landscape architecture, and the practical experience in addition thereto, an applicant may be admitted to the examination upon presenting evidence of at least ~~four~~ eight (~~4~~8) years of actual, prac-

tical experience in landscape ~~architectural work~~ architecture of a grade and character satisfactory to the board, as established by rule, that the applicant is competent to practice landscape architecture.

(~~c~~3) Examinations. Examinations for the license shall be held by the board at least once each year, provided that applications shall have been received during the time announced. The board shall adopt rules covering the subjects and scope of the examinations at the times designated. Every applicant for license as a landscape architect shall be required, in addition to all other requirements, to establish by written examination his competency to plan, design, specify~~,~~ and supervise the installation and construction of landscape architectural projects. Each written examination may be supplemented by such oral examinations as the board may determine.

(~~d~~4) The board.

(a) There is hereby created in the department of self-governing agencies an Idaho state board of landscape architects. The board shall consist of three (3) landscape architects. Members of the board shall be appointed by the governor and must be residents of this state, have the qualifications of landscape architects required by this ~~act~~ chapter, and after the initial board is organized be licensed hereunder. The terms of the members of the board ~~first appointed shall expire as follows: Two (2) members two (2) years later, one (1) member three (3) years later. Thereafter, appointments~~ shall be for four (4) years. ~~terms.~~ Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment in like manner for the unexpired term.

(b) The board ~~may~~ shall have, in addition to the powers set forth elsewhere in this chapter, the following powers and duties:

(i) To authorize, by written agreement, ~~authorize~~ the bureau of occupational licenses to act as agent in its interest, and ~~shall have the power~~ to make such rules as shall be necessary in the performance of its duties;

(ii) To adopt rules of professional responsibility;

(iii) To adopt rules requiring the completion of continuing education by each licensee on an annual basis;

(iv) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding against a licensee under this chapter, to administer oaths, take depositions of witnesses within or outside of the state in the manner provided by law in civil cases, and to apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records and papers as the board deems necessary in a disciplinary proceeding against a licensee. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid in the same manner as other board expenses. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or refusal of any witness to testify to any matter about which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the

board to compel compliance with the subpoena by conducting proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena.

(c) The board shall elect, at its first meeting of every calendar year, a chairman from its members~~, a president, and a secretary--who may--or--may--not-be-a-member-of-the-board. The secretary shall hold such-office-at-the-pleasure-of-the-board-and-shall-receive-a--salary fixed-by-the-board~~. In carrying out the provisions of this ~~act~~ chapter, all members of the board shall be compensated as provided by section 59-509(m), Idaho Code. Payment of travel and other expenses shall be made from the occupational licenses fund.

(~~e~~5) Renewal and reinstatement -- Revenue. ~~Certificates-of-registration-shall-expire-on-the-last-day-of-June-following-their-issuance-or renewal. Renewal-may-be-effected-during-the month-of-June-by-payment--to the-board-of-the-required-fee.~~

(~~1~~a) ~~In--case--any--registrant--fails-to-pay-the-renewal-fee-before thirty-(30)-days-after-the-due-date,-the-renewal-fee--shall--be--the current-fee-plus-an-amount-set-by-the-board;-provided,-that-any-registrant--in-good-standing,-upon-fully-retiring-from-landscape-architectural-practice,-may-withdraw--from--practice--by--giving--written notice--to--the-board-and-may-thereafter-resume-practice-at-any-time upon-payment-of-the-then-current-renewal-fee. Any-registrant,--other than-a-properly-withdrawn-licensee,-who-fails-to-renew-his-registration-for-a-period-of-one-(1)-year-may-be-reinstated-only-on-reexamination-as-is-required-for-new-registrants,-or-reciprocity. The-board shall-issue-a-receipt-to-each-landscape-architect-promptly-upon-payment--of-the-annual-license-fee~~ All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(~~2~~b) Amounts. The amount of fees shall be as determined by the board within the following stated limits:

(~~A~~i) The application fee not to exceed one hundred dollars ($100).

(~~B~~ii) The fee for examination to be established by board rule not to exceed that charged by the council of landscape architectural registration board plus a twenty-five dollar ($25.00) processing fee.

(~~C~~iii) The fee for an original ~~certificate~~ license and the annual license fee not to exceed one hundred twenty-five dollars ($125).

(~~3~~c) Refund. Fees shall be nonrefundable.

(~~4~~d) Deposit. All fees received under the provisions of this ~~act~~ chapter shall be deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred by the board under the provisions of this ~~act~~ chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this ~~act~~ chapter, the provisions of any other law notwithstanding. In no instance will the occupational licenses fund

be obligated to pay any claims ~~which~~ that in aggregate with claims already paid exceed the income to the occupational licenses fund which has been derived by the ~~application~~ of this ~~act~~ chapter.

(~~5~~e) Appropriation. The money paid into the occupational licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this ~~act~~ chapter.

(~~f~~6) ~~Reciprocal~~ Endorsement provisions. The board may ~~certify--for registration~~ approve for licensure:

(a) An individual with a current council of landscape architecture registration board (CLARB) certification; or

(b) ~~W~~with limited examination an applicant who is legally registered or licensed as a landscape architect in any other state or country whose requirements for registration or licensure are at least substantially equivalent to the requirements of this state.

(~~g~~7) Exemptions.

(~~1~~a) None of the provisions of this ~~act~~ chapter shall prevent employees of those lawfully practicing as landscape architects from acting under the instruction, control or supervision of their employers.

(~~2~~b) None of the provisions of this ~~act~~ chapter shall apply to the business conducted in this state by any land use planner, horticulturist, nurseryman, or landscape nurseryman, gardener, landscape gardener, landscape designer, or landscape contractor, as these terms are generally used, or any other person, including, but not limited to, their right to plan and supervise in connection therewith, except that no such person shall use the designation "landscape architect," "landscape architecture," or any description tending to convey the impression that ~~he is~~ they are a ~~registered~~ licensed landscape architect unless ~~he is~~ they are registered as provided in this ~~act~~ chapter.

(~~3~~c) This ~~act~~ chapter shall not apply to architects, professional engineers, geologists, and land surveyors, licensed to practice their respective professions.

(~~h~~8) ~~Act~~ This chapter applies to ~~natural persons~~ individuals only.

(~~1~~a) All ~~certificates of registration~~ licenses shall be issued to ~~natural--persons~~ individuals only but nothing contained in this ~~act~~ chapter shall prevent a duly ~~registered~~ licensed landscape architect from ~~performing his~~ rendering professional services for a corporation, firm, partnership~~,~~ or association.

(~~2~~b) Partners. Each partner in a partnership of landscape architects shall be ~~registered~~ licensed to practice landscape architecture or to provide allied professional services as defined in section 30-1303, Idaho Code. Subject to this requirement, a partnership of landscape architects may use a partnership name if such name consists of:

(~~A~~i) The names of two (2) or more landscape architects.

(~~B~~ii) The names of one (1) or more landscape architects and one (1) or more professional engineers~~,~~ or architects~~, or planners~~.

(~~3~~c) Any person applying to the ~~licensing~~ official of any county or city for a business license to practice landscape architecture shall at the time of such application exhibit to such ~~licensing~~ official satisfactory evidence ~~under--the seal of the board and the hand of~~

~~its secretary~~ that such applicant possesses a current ~~registration~~ Idaho license. The business license shall not be granted until such evidence is presented, any contrary provision of any special act or general act notwithstanding.

(~~1~~9) Qualifications for practice -- ~~s~~Seal:

(~~1~~a) No person shall use the designation "landscape architect" or "landscape architecture~~,~~" or advertise any title or description tending to convey the impression that ~~he~~ the person is a landscape architect, or practicing landscape architecture, unless such person is a ~~registered~~ licensed landscape architect. Every holder of a ~~registration--certificate~~ license shall display it in ~~his~~ the principal office, place of business~~,~~ or place of employment.

(~~2~~b) Every landscape architect shall have a seal approved by the board, which shall contain the name of the landscape architect and the words ~~"Registered~~ "Licensed Landscape Architect, State of Idaho," and such other words or figures as the board may deem necessary and prescribe. ~~All drawings and title pages of specifications,~~

(i) The seal may be a rubber stamp or an electronically applied seal. Whenever the seal is applied, the licensee's written signature and the date shall be adjacent to or across the seal. The seal, signature and date shall be placed on all final reports, drawings and title pages of specifications, design information and calculations. Whenever presented to a client or to the public, such documents that are not final and do not contain a seal, signature and date, shall be clearly marked as "preliminary," "draft," "not for construction" or similar words to distinguish the documents from a finished product.

(ii) The application of the licensee's seal, signature and the date shall constitute certification that the work thereon was prepared by such landscape architect or under the supervision of such landscape architect~~, shall be stamped with the aforesaid seal~~. Each plan or drawing sheet shall be sealed and signed by the licensee or the licensee's agent responsible for each sheet. The principal landscape architect in charge shall sign and seal the title or first sheet. Copies of electronically produced documents listed in paragraph (b)(i) of this subsection that are distributed for informational use, such as for bidding purposes or working copies, may be issued with the licensee's seal and a notice that the original document is on file with the licensee's signature and date. The words "original signed by:" and "date signed:" shall be placed adjacent to or across the seal of the electronic original. The storage location of the original documents shall also be provided. Only the title page of reports, specifications and like documents need bear the seal and signature of the licensee and the date.

(iii) Nothing contained herein shall be construed to permit ~~the seal of~~ a landscape architect to ~~serve~~ practice as a ~~substitute for the seal of a~~ licensed architect, a licensed professional engineer or a licensed land surveyor as these professions are defined by Idaho Code; provided however, nothing contained herein shall be construed to prevent a landscape architect from practicing landscape architecture.

SECTION 3. That Section 54-3004, Idaho Code, be, and the same is hereby amended to read as follows:

54-3004. DISCIPLINARY PROCEEDINGS. Upon giving at least twenty (20) days' notice of its intended action, and affording the holder of a ~~certificate~~ license an opportunity for a hearing to be conducted under the provisions of chapter 52, title 67, Idaho Code, the board may refuse to issue, refuse to renew, revoke or suspend the ~~registration~~ license of any landscape architect upon the following grounds:

(~~a~~1) ~~f~~Fraud or deception in ~~procuring~~ the ~~certification~~ application for or the procurement of a license or in passing any of the examinations prescribed by this ~~act~~ chapter;

(~~b~~2) ~~c~~Conviction of a felony by a court of competent jurisdiction;

(~~c~~3) ~~g~~Gross ~~incompetency~~ negligence in the practice of landscape architecture;

(~~d~~4) ~~f~~Fraud or deceit in the ~~performance~~ practice of ~~official duties~~ landscape architecture;

(~~e~~5) ~~for--w~~Willful violation of any of the provisions of this ~~act~~ chapter or any of the rules promulgated by the board under the authority of this ~~act~~ chapter.

The board may reinstate any revoked or suspended ~~certification~~ license upon such terms as it may impose.

An appeal of any order of the board ~~suspending or revoking the registration of a landscape architect~~ may be taken to the district court of either Ada county or the county in which the ~~holder of the certificate~~ applicant or licensee resides, in accordance with chapter 52, title 67, Idaho Code.

SECTION 4. That Section 54-3005, Idaho Code, be, and the same is hereby amended to read as follows:

54-3005. VIOLATIONS AND PENALTIES. (1) It shall be a violation for any person to:

(a) ~~o~~Offer to practice or ~~hold himself out~~ represent oneself as entitled to practice landscape architecture, unless duly licensed ~~and registered~~ under this ~~act~~ chapter;

(b) ~~present as his own~~ Attempt to use the license of another;

(c) ~~g~~Give false or forged evidence to the board or any member thereof in obtaining a license;

(d) ~~f~~Falsely impersonate any other practitioner, of like or different names;

(e) ~~o~~Otherwise violate any of the provisions of this ~~act~~ chapter.

Such violation shall be ~~punishable by~~ a ~~fine of not more than five hundred dollars ($500)~~ misdemeanor. Each act under this section shall be treated as a separate offense.

(2) Prosecution of violations~~:~~. All violations of this ~~act~~ chapter when reported to the board and duly substantiated by affidavits or other satisfactory evidence shall be investigated by ~~it~~ the board, and if the report is found to be true and the evidence substantiated, the board shall report such violations to the county attorney of the county in which the violation occurred and request prompt prosecution.

Approved April 4, 2003.

CHAPTER 226
(H.B. No. 353)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING PROVISIONS FOR THE REAPPROPRIATION OF CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE SHARING OF FISCAL, HUMAN RESOURCES AND INFORMATION TECHNOLOGY RESOURCES WITH THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION AND THE DIVISION OF VOCATIONAL REHABILITATION.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:				
FROM:				
General Fund	$1,151,200	$3,814,300	$85,900	$5,051,400
Federal Grant Fund	39,300	108,800		148,100
Miscellaneous Revenue Fund		120,900	10,000	130,900
TOTAL	$1,190,500	$4,044,000	$95,900	$5,330,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than nineteen and four-tenths (19.4) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 271, Laws of 2002, to be used for nonrecurring expenditures for the period July 1, 2003, through June 30, 2004.

SECTION 4. The reappropriation for the General Fund moneys 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, 2003, is zero, the reappropriation for the General Fund moneys in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2003, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that 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.

SECTION 5. In order to promote administrative efficiency among the Office of the State Board of Education, Division of Professional-Technical Education, and the Division of Vocational Rehabilitation, it is the intent of the Legislature that the fiscal, human resources and information technology resources funded by this appropriation be shared with the Division of Professional-Technical Education and the Division of Vocational Rehabilitation. Sharing these resources shall not change the mission or purpose of the Office of the State Board of Education and shall not negatively affect its ability to carry out its mission.

Approved April 4, 2003.

CHAPTER 227
(H.B. No. 354)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2004; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Lands the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 400,700	$ 380,200				$ 780,900
Department of Lands Fund	394,300	309,200	$ 23,200			726,700
Endowment Administrative Fund	1,221,100	1,190,900	69,400			2,481,400
Federal Grant Fund	55,500	128,200				183,700
TOTAL	$ 2,071,600	$2,008,500	$ 92,600			$ 4,172,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 976,500	$ 68,600				$ 1,045,100
Department of Lands Fund	1,846,200	1,549,100	$ 30,900			3,426,200
Endowment Administrative Fund	5,140,800	2,817,400	342,500	$483,300		8,784,000
Community Forestry Fund				79,700		79,700
Federal Grant Fund	631,300	1,264,600		158,300		2,054,200
TOTAL	$ 8,594,800	$5,699,700	$373,400	$721,300		$15,389,200
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 623,000	$ 119,700				$ 742,700
Department of Lands Fund	17,500	133,700				151,200
Abandoned Mine Reclamation Fund		251,500				251,500
Land and Building Rental Fund	1,000	62,800				63,800
Endowment Administrative Fund	1,878,800	1,306,400	$ 25,500			3,210,700
TOTAL	$ 2,520,300	$1,874,100	$ 25,500			$ 4,419,900
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$1,859,300	$ 1,859,300
Department of Lands Fund					4,244,800	4,244,800
Fire Suppression Deficiency Fund					124,000	124,000
Federal Grant Fund					3,424,900	3,424,900
TOTAL					$9,653,000	$ 9,653,000
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 236,100	$ 46,300				$ 282,400
GRAND TOTAL	$13,422,800	$9,628,600	$491,500	$721,300	$9,653,000	$33,917,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred forty-nine

and sixty-one hundredths (249.61) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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, 2003.

CHAPTER 228
(H.B. No. 355)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2004.

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

SECTION 1. There is hereby appropriated $8,993,800 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 2003, through June 30, 2004.

Approved April 4, 2003.

CHAPTER 229
(H.B. No. 361)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2004; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE GEM COMMUNITY IMPLEMENTATION GRANTS PROGRAM; 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DEPARTMENT OF COMMERCE:					
FROM:					
General Fund	$1,993,100	$ 969,400		$ 3,250,000	$ 6,212,500
Tourism and Promotion Fund	518,400	2,504,600	$ 6,000	2,802,000	5,831,000
Federal Grant Fund	428,100	129,400	6,000	15,329,500	15,893,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	114,700	104,800			219,500
Seminars and Publications Fund		371,200			371,200
TOTAL	$3,054,300	$4,079,400	$12,000	$21,381,500	$28,527,200
II. IDAHO RURAL PARTNERSHIP:					
FROM:					
Miscellaneous Revenue Fund		$ 124,300			$ 124,300
Federal Grant Fund	$ 103,200	50,200			153,400
TOTAL	$ 103,200	$ 174,500			$ 277,700
GRAND TOTAL	$3,157,500	$4,253,900	$12,000	$21,381,500	$28,804,900

SECTION 2. It is legislative intent that the Department of Commerce should use $400,000 from the Rural Economic Development Grants program to fully fund the Gem Community Implementation Grants program.

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, 2003, through June 30, 2004, 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 4, 2003.

CHAPTER 230
(H.B. No. 305)

AN ACT

RELATING TO THE USE OF LAND BANK FUNDS BY THE STATE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 58-133, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS MAY HOLD PROCEEDS FROM THE SALE OF LAND IN THE LAND BANK FUND FOR A PERIOD NOT TO EXCEED FIVE YEARS FROM THE EFFECTIVE DATE OF SALE AND TO PROVIDE THAT IF BY THE END OF THE FIFTH YEAR, THE PROCEEDS FROM THE LAND SALE HAVE NOT BEEN ENCUMBERED TO PURCHASE OTHER LAND WITHIN THE STATE, THE PROCEEDS SHALL BE DEPOSITED IN THE PERMANENT ENDOWMENT FUND OF THE RESPECTIVE ENDOWMENT ALONG WITH ANY EARNINGS ON THE PROCEEDS FROM THE LAND SALE, UNLESS THE PERIOD IS EXTENDED BY THE LEGISLATURE.

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

SECTION 1. That Section 58-133, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(3) All moneys deposited in the land bank fund, including earnings on those moneys, are hereby continually appropriated to the state board of land commissioners for the purposes enumerated in this section. The state board of land commissioners may hold proceeds from the sale of land in the land bank fund for a period not to exceed ~~two~~ five (~~2~~5) years from the effective date of sale. If, by the end of the ~~second~~ fifth year, the proceeds from the land sale have not been encumbered to purchase other land within the state, the proceeds shall be deposited in the permanent endowment fund of the respective endowment along with any earnings on the proceeds from the land sale, unless the period is extended by the legislature.

Approved April 4, 2003.

CHAPTER 231
(H.B. No. 110, As Amended, As Amended in the Senate)

AN ACT

RELATING TO THE CREATION OF A LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 84, TITLE 39, IDAHO CODE, TO PROVIDE FOR CREATION OF THE LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION, TO PROVIDE MEMBERSHIP, TO PROVIDE DUTIES AND TO ESTABLISH THE LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION FUND.

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 84, Title 39, Idaho Code, and to read as follows:

CHAPTER 84
LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION

39-8401. CREATION OF LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION. There is hereby created in the area in and around Bonner county, the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission.

39-8402. MEMBERSHIP. The commission shall consist of seven (7) members as follows: a chairman and four (4) members who may be residents of the county of Bonner and shall be selected by the governor; the regional director of the United States fish and wildlife service; and the attorney general of the state of Idaho or the attorney general's designee. The governor of the state of Montana or the Montana governor's designee shall be an ex officio member of the commission. The terms of the members shall be three (3) years with the initial term to be staggered in terms of one (1), two (2) and three (3) years by the governor when he makes the appointment. A majority of the commission shall constitute a quorum for the transaction of business. The chairman and the four (4) members appointed by the governor shall be confirmed by the senate. Members shall be compensated as provided in section 59-509(b), Idaho Code.

39-8403. DUTIES OF THE COMMISSION. (1) The Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission shall have the duty to study, investigate and select ways and means of controlling the water quality and water quantity as they relate to waters of Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River for the communities' interests and interests of the state of Idaho and for the survival of the native species of fish contiguous to the Pend Oreille Priest Basin. Those species are bull trout, westslope cutthroat, mountain white fish, pike minnow and the forage base for bull trout and kokanee salmon. The commission shall have the authority to study, investigate, develop and select strategies with the department of water resources, the department of environmental quality, the department of fish and game, the department of lands, the United States fish and wildlife service, and the U.S. army corps of engineers for the preservation of the said species of native fish, scenic beauty, health, recreation, transportation and commercial purposes necessary and desirable for all the inhabitants of the state. The commission shall also have the authority to receive and direct any mitigation moneys into the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission fund created in section 39-8404, Idaho Code.

(2) Nothing in this section shall be construed to authorize the commission to establish or require minimum stream flows or lake levels, which may only be established under the provisions of chapter 15, title 42, Idaho Code.

39-8404. LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION FUND ESTABLISHED. There is hereby created in the state treasury the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission fund. Moneys in the fund may consist of appropriations, federal funds, mitigation moneys, donations or moneys of any source. Moneys in the fund may be dispersed for necessary corrective actions to complete the corrective measures as they pertain to duties of the commission created under this chapter. The release of any mitigation funds from the fund shall be authorized by the state board of examiners. Moneys in the fund may be used to pay the administrative costs of the commission.

Approved April 7, 2003.

CHAPTER 232
(H.B. No. 174, As Amended, As Amended in the Senate)

AN ACT

RELATING TO OPERATION OF VESSELS; AMENDING SECTION 67-7077, IDAHO CODE, TO REVISE WHAT CONSTITUTES UNLAWFUL OPERATION OF VESSELS ON THE WATERS OF THIS STATE.

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

SECTION 1. That Section 67-7077, Idaho Code, be, and the same is hereby amended to read as follows:

67-7077. OPERATION OF VESSELS. It shall be unlawful for any person to operate any vessel on the water of this state:

(a) ~~i~~In a negligent manner as prescribed in section 67-7017, Idaho Code, while within one hundred (100) feet of another vessel; or

(b) ~~a~~At a speed greater than no wake or five (5) miles per hour while within one hundred (100) feet of a dock, swimmer or other person in the water, except when safely pulling a water skier from a dock, or when safely dropping off a water skier ~~who is twelve (12) years of age or younger~~ at or near a dock, or when the swimmer or other person in the water is the vessel's water skier. Except when dropping off a skier at or near a dock all efforts shall be made to reasonably minimize the time and distance the vessel shall travel inside the one hundred (100) foot zone while operating at speeds greater than no wake or five (5) miles per hour.

Approved April 7, 2003.

CHAPTER 233
(S.B. No. 1119)

AN ACT

RELATING TO THE IDAHO EMPLOYER ALCOHOL AND DRUG-FREE WORKPLACE ACT; AMENDING THE HEADING FOR CHAPTER 17, TITLE 72, IDAHO CODE; AMENDING SECTION 72-1701, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1702, IDAHO CODE, TO REMOVE

LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 72-1703, 72-1704, 72-1705 AND 72-1706, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1707, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 72-1708, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO RESTRICT APPLICATION OF THE SECTION; AMENDING SECTIONS 72-1710 AND 72-1711, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 72-1712, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1714, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1715, IDAHO CODE, TO LIMIT APPLICATION OF THE SECTION; AND AMENDING SECTION 72-1716, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO OR ANY POLITICAL SUBDIVISION OF THE STATE THAT CONDUCTS DRUG AND ALCOHOL TESTING OF ALL EMPLOYEES AND PROSPECTIVE EMPLOYEES FOR WHOM SUCH TESTING IS NOT CONSTITUTIONALLY PROHIBITED SHALL QUALIFY FOR AND MAY BE GRANTED THE EMPLOYER PREMIUM REDUCTION.

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

SECTION 1. That the Heading for Chapter 17, Title 72, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 17
IDAHO ~~PRIVATE~~ EMPLOYER ALCOHOL AND DRUG-FREE WORKPLACE ACT

SECTION 2. That Section 72-1701, Idaho Code, be, and the same is hereby amended to read as follows:

72-1701. PURPOSE AND INTENT OF ACT. (1) The purpose of this act is to promote alcohol and drug-free workplaces and otherwise support ~~private~~ employers in their efforts to eliminate substance abuse in the workplace, and thereby enhance workplace safety and increase productivity. This act establishes voluntary drug and alcohol testing guidelines for ~~private~~ employers that, when complied with, will find an employee who tests positive for drugs or alcohol at fault, and will constitute misconduct under the employment security law as provided in section 72-1366, Idaho Code, thus resulting in the denial of unemployment benefits.

(2) It is the further purpose of this act to promote alcohol and drug-free workplaces in order that employers in this state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace and reach their desired levels of success without experiencing the cost delays and tragedies associated with work-related accidents resulting from substance abuse by employees.

SECTION 3. That Section 72-1702, Idaho Code, be, and the same is hereby amended to read as follows:

72-1702. TESTING FOR DRUGS AND/OR ALCOHOL. (1) It is lawful for a private employer to test employees or prospective employees for the presence of drugs or alcohol as a condition of hiring or continued

employment, provided the testing requirements and procedures are in compliance with 42 U.S.C. section 12101.

(2) Nothing herein prohibits an ~~private~~ employer from using the results of a drug or alcohol test conducted by a third party including, but not limited to, law enforcement agencies, hospitals, etc., as the basis for determining whether an employee has committed misconduct.

(3) This act does not change the at-will status of any employee.

SECTION 4. That Section 72-1703, Idaho Code, be, and the same is hereby amended to read as follows:

72-1703. COST OF TESTING OF CURRENT EMPLOYEES. (1) Any drug or alcohol testing by an ~~private~~ employer of current employees shall be deemed work time for purposes of compensation.

(2) All costs of drug and alcohol testing for current employees conducted under the provisions of this act, unless otherwise specified in section 72-1706(2), Idaho Code, shall be paid by the ~~private~~ employer.

SECTION 5. That Section 72-1704, Idaho Code, be, and the same is hereby amended to read as follows:

72-1704. REQUIREMENTS FOR SAMPLE COLLECTION AND TESTING. All sample collection and testing for drugs and alcohol under this act shall be performed in accordance with the following conditions:

(1) The collection of samples shall be performed under reasonable and sanitary conditions;

(2) The ~~private~~ employer or ~~private~~ employer's agent who is responsible for collecting the sample will be instructed as to the proper methods of collection;

(3) Samples shall be collected and tested with due regard to the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;

(4) Sample collection shall be documented and the documentation procedures shall include:

(a) Labeling of samples so as reasonably to preclude the possibility of misidentification of the person tested in relation to the test result provided; and

(b) Handling of samples in accordance with reasonable chain-of-custody and confidentiality procedures;

(5) Sample collection, storage and transportation to the place of testing shall be performed so as reasonably to preclude the possibility of sample contamination and/or adulteration;

(6) Sample testing shall conform to scientifically accepted analytical methods and procedures;

(7) Drug testing shall include a confirmatory test before the result of any test can be used as a basis for action by an ~~private~~ employer under sections 72-1707 and 72-1708, Idaho Code. A confirmatory test refers to the mandatory second or additional test of the same sample that is conducted by a laboratory utilizing a chromatographic technique such as gas chromatography-mass spectrometry or another comparable reliable analytical method;

(8) Positive alcohol tests resulting from the use of an initial

screen saliva test, must include a confirmatory test that utilizes a different testing methodology meant to demonstrate a higher degree of reliability;

(9) Positive alcohol tests resulting from the use of a breath test must include a confirmatory breath test conducted no earlier than fifteen (15) minutes after the initial test; or the use of any other confirmatory test meant to demonstrate a higher degree of reliability.

SECTION 6. That Section 72-1705, Idaho Code, be, and the same is hereby amended to read as follows:

72-1705. ~~PRIVATE~~ EMPLOYER'S WRITTEN TESTING POLICY -- PURPOSES AND REQUIREMENTS FOR COLLECTION AND TESTING. (1) An ~~private~~ employer must have a written policy on drug and/or alcohol testing that is consistent with the requirements of this act, including a statement that violation of the policy may result in termination due to misconduct.

(2) An ~~private~~ employer will receive the full benefits of this act, even if its drug and alcohol testing policy does not conform to all of the statutory provisions, if it follows a drug or alcohol testing policy that was negotiated with its employees' collective bargaining representative or that is consistent with the terms of the collective bargaining agreement.

(3) Testing for the presence of drugs or alcohol by an ~~private~~ employer shall be carried out within the terms of a written policy that has been communicated to affected employees, and is available for review by prospective employees.

(4) The ~~private~~ employer must list the types of tests an employee may be subject to in their written policy, which may include, but are not limited to, the following:

(a) Baseline;
(b) Preemployment;
(c) Post-accident;
(d) Random;
(e) Return to duty;
(f) Follow-up;
(g) Reasonable suspicion.

SECTION 7. That Section 72-1706, Idaho Code, be, and the same is hereby amended to read as follows:

72-1706. RIGHT OF EMPLOYEE OR PROSPECTIVE EMPLOYEE TO EXPLAIN POSITIVE TEST RESULT AND REQUEST FOR RETEST. (1) Any employee or prospective employee who tests positive for drugs or alcohol must be given written notice of that test result, including the type of substance involved, by the ~~private~~ employer. The employee must be given an opportunity to discuss and explain the positive test result with a medical review officer or other qualified person.

(2) Any employee or prospective employee who has a positive test result may request that the same sample be retested by a mutually agreed upon laboratory. A request for retest must be done within seven (7) working days from the date of the first confirmed positive test notification and may be paid for by the employee or prospective employee requesting the test. If the retest results in a negative test outcome, the ~~private~~ employer will reimburse the cost of the retest, compensate

the employee for his time if suspended without pay, or if terminated solely because of the positive test, the employee shall be reinstated with back pay.

SECTION 8. That Section 72-1707, Idaho Code, be, and the same is hereby amended to read as follows:

72-1707. DISCHARGE FOR WORK-RELATED MISCONDUCT -- FAILURE OR REFUSAL OF TESTING. An ~~private~~ employer establishes that an employee was discharged for work-related misconduct, as provided in section 72-1366, Idaho Code, upon a showing that the employer has complied with the requirements of this ~~act~~ chapter and that the discharge was based on:

(1) A confirmed positive drug test or a positive alcohol test, as indicated by a test result of not less than .02 blood alcohol content (BAC), but greater than the level specified in the employer's substance abuse policy;

(2) The employee's refusal to provide a sample for testing; or

(3) The employee's alteration or attempt to alter a test sample by adding a foreign substance for the purpose of making the sample more difficult to analyze; or

(4) The employee's submission of a sample that is not his or her own.

SECTION 9. That Section 72-1708, Idaho Code, be, and the same is hereby amended to read as follows:

72-1708. ~~PRIVATE~~ EMPLOYER'S DISCIPLINARY OR REHABILITATIVE ACTIONS BASED ON TESTING -- CLAIMANT INELIGIBLE FOR BENEFITS. (1) Unless otherwise prohibited, u~~U~~pon receipt of a confirmed positive drug or alcohol test result or other proof which indicates a violation of an ~~private~~ employer's written policy, or upon the refusal of an employee to provide a test sample, or upon an employee's alteration of or attempt to alter a test sample, an ~~private~~ employer may use that test result or the employee's conduct as the basis for disciplinary or refusal-to-hire action that will result in a claimant's ineligibility to receive benefits under the provisions of section 72-1366(4), (5), (6) or (7), Idaho Code. Actions by the ~~private~~ employer may include, but are not limited to, the following:

(a) A requirement that the employee enroll in an ~~private~~ employer-approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, as a condition of continued employment;

(b) Suspension of the employee with or without pay for a period of time;

(c) Termination of the employee;

(d) Other disciplinary measures in conformance with the ~~private~~ employer's usual procedures, including any collective bargaining agreement.

(2) Action taken pursuant to this section shall not create any cause of action against the ~~private~~ employer.

SECTION 10. That Section 72-1710, Idaho Code, be, and the same is hereby amended to read as follows:

72-1710. LIMITATIONS OF EMPLOYER LIABILITY. (1) No cause of action arises in favor of any person based upon the absence of an ~~private~~ employer established program or policy of drug or alcohol testing in accordance with this ~~act~~ chapter.

(2) No cause or action arises in favor of any person against an ~~private~~ employer for any of the following:

(a) Failure to test for drugs or alcohol, or failure to test for a specific drug or other substance;

(b) Failure to test for, or if tested, a failure to detect, any specific drug or other physical abnormality, problem or defect of any kind; or

(c) Termination or suspension of any drug or alcohol testing program or policy.

SECTION 11. That Section 72-1711, Idaho Code, be, and the same is hereby amended to read as follows:

72-1711. FALSE TEST RESULT -- PRESUMPTION AND LIMITATION OF DAMAGES IN CLAIM AGAINST ~~PRIVATE~~ EMPLOYER. (1) No cause of action arises in favor of any person against an ~~private~~ employer who has established a program of drug and alcohol testing in accordance with this ~~act~~ chapter, and who has taken any action based on its established substance abuse and/or disciplinary policies, unless the ~~private~~ employer's action was based on a false test result, and the ~~private~~ employer knew or clearly should have known that the result was in error.

(2) In any claim where it is alleged that an ~~private~~ employer's action was based on a false test result:

(a) There is a rebuttable presumption that the test result was valid if the ~~private~~ employer complied with the provisions of section 72-1704, Idaho Code;

(b) The ~~private~~ employer is not liable for monetary damages if his reliance on a false test result was reasonable and in good faith; and

(c) There is no ~~private~~ employer liability for any action taken related to a "false negative" drug or alcohol test.

SECTION 12. That Section 72-1712, Idaho Code, be, and the same is hereby amended to read as follows:

72-1712. CONFIDENTIALITY OF INFORMATION. (1) All information, interviews, reports, statements, memoranda or test results, written or otherwise, received through a substance abuse testing program shall be kept confidential, and are intended to be used only for an ~~private~~ employer's internal business use; or in a proceeding related to any action taken by or against an ~~private~~ employer under section 72-1707, 72-1708 or 72-1711, Idaho Code, or other dispute between the ~~private~~ employer and the employee or applicant; or as required to be disclosed by the United States department of transportation law or regulation or other federal law; or as required by service of legal process.

(2) The information described in subsection (1) of this section shall be the property of the ~~private~~ employer.

(3) An ~~private~~ employer, laboratory, medical review officer, employee assistance program, drug or alcohol rehabilitation program and their agents, who receive or have access to information concerning test

results shall keep the information confidential, except as provided in subsection (4) of this section.

(4) Nothing in this chapter prohibits an ~~private~~ employer from using information concerning an employee or job applicant's substance abuse test results in a lawful manner with respect to that employee or applicant as provided in chapter 2, title 44, Idaho Code.

SECTION 13. That Section 72-1714, Idaho Code, be, and the same is hereby amended to read as follows:

72-1714. NO PHYSICIAN-PATIENT RELATIONSHIP CREATED. A physician-patient relationship is not created between an employee or prospective employee, and the ~~private~~ employer or any person performing a drug or alcohol test, solely by the establishment of a drug or alcohol testing program in the workplace.

SECTION 14. That Section 72-1715, Idaho Code, be, and the same is hereby amended to read as follows:

72-1715. PUBLIC ENTITIES MAY CONDUCT PROGRAMS. The state of Idaho and any political subdivision thereof may conduct drug and alcohol testing of employees under the provisions of this chapter and as otherwise constitutionally permitted.

SECTION 15. That Section 72-1716, Idaho Code, be, and the same is hereby amended to read as follows:

72-1716. IMPLEMENTATION OF ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM — QUALIFICATION OF EMPLOYER PREMIUM REDUCTION. (1) For each policy of worker's compensation insurance issued or renewed in the state on or after July 1, 1999, a reduction in the premium for the policy may be granted if the insurer determines the insured has established and maintains an alcohol and drug-free workplace program that complies with the requirements of sections 72-1701 through 72-1715, Idaho Code.

(2) The state of Idaho or any political subdivision thereof that conducts drug and alcohol testing of all those employees and prospective employees for whom such testing is not constitutionally prohibited shall qualify for, and may be granted, the employer premium reduction set forth in subsection (1) of this section.

Approved April 7, 2003.

CHAPTER 234
(H.B. No. 83)

AN ACT

RELATING TO LONG TERM LEASING OF STATE LANDS BY THE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 58-307, IDAHO CODE, TO ADD THREE PARCELS OF ENDOWMENT LAND TO THE PROPERTY AVAILABLE FOR LONG TERM LEASES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state public school endowment lands, other than those valuable for stone, coal, oil, gas or other minerals, shall be for a longer term than ten (10) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, only the state endowment lands, other than public school endowment lands, described below may be leased for a period of up to forty-nine (49) years for commercial purposes, under such terms and conditions as may be set by the board, provided that the board consults with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - E1/2, Section 5, T2N, R2E, Boise Meridian, containing three hundred twenty (320) acres, more or less, and located south of the Boise Airport on Pleasant Valley Road.

(b) One (1) parcel - SWSWNW, Section 27, T3N, R2E, Boise Meridian, containing eight (8) acres, more or less, located northeasterly of the Boise Airport and north of the Boise Interagency Fire Center.

(c) Four (4) parcels - E1/2SW, W1/2SE, NESE, Section 31; SW1/4, Section 32, T3N, R2E, Boise Meridian, all containing three hundred sixty (360) acres, more or less, located south of the Boise Airport and west of Pleasant Valley Road.

(d) Three (3) parcels - SWSW, Section 28; Pt. SESE, Section 29 (east of the Railroad R/W, now a bikepath); W1/2NW, Section 33, all in T3N, R18E, Boise Meridian, all containing one hundred twenty-five (125) acres, more or less, located two (2) miles northerly of Hailey, Idaho, excepting therefrom, a parcel of land, containing twenty (20) acres, more or less, at a location to be determined with access to the sheep driveway located on the county road.

(e) One (1) parcel - SWNE, Section 32, T3N, R2E, Boise Meridian, containing forty (40) acres, more or less, located southerly and westerly of the Boise Airport off Gowen Road; Public Building Endowment.

(f) Two (2) parcels - Part NESWNE, Section 35, T3N, R2E, Boise Meridian, containing three and fifteen hundredths (3.15) acres, more or less; Part NENESE, Section 35, T3N, R2E, Boise Meridian, containing one and eight-tenths (1.8) acres, more or less; both located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Normal School Endowment.

(g) One (1) parcel - Part Lot 1, Section 1, T2N, R2E, Boise Merid-

ian, containing five (5) acres, more or less, located near the Gowen Road/State Highway 21 Exit from I-84; Penitentiary Endowment.

(h) One (1) parcel - N1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, excepting that portion deeded to Ada County for a public road, containing twenty-eight and seventy-nine hundredths (28.79) acres, more or less, located south of the Boise Airport and east of Pleasant Valley Road; Normal School Endowment.

(i) One (1) parcel - NWSWSE, S2SWSE, E2SW, Lot 9 (NWSW), Lot 11 (SWSW), Section 19, Township 16 North, Range 3 East, Boise Meridian, containing one hundred eighty-six and forty-nine hundredths (186.49) acres, more or less; NWNE, S2NE, E2W2, Lots 1-4 (W2W2), SE, Section 30, Township 16 North, Range 3 East, Boise Meridian, containing five hundred ninety-four and forty hundredths (594.40) acres, more or less; E2, E2W2, Lots 1-4 (W2W2), Section 31, Township 16 North, Range 3 East, Boise Meridian, containing six hundred forty-three and ten hundredths (643.10) acres, more or less, all located on the west side of Cascade Reservoir.

(j) One (1) parcel - W2NENE, NWNE, Section 8, Township 15 North, Range 3 East, Boise Meridian, containing sixty (60) acres, more or less, located on the west side of Cascade Reservoir.

(4) Notwithstanding any other provisions of law, only the state public school endowment lands described below may be leased for commercial purposes, for a term not to exceed ten (10) years, and the board may grant, upon payment of good and valuable consideration, a preferential right to renew said lease not more than four (4) times, provided that the board shall consult with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - All, Section 16, T3N, R18E, Boise Meridian, containing six hundred forty (640) acres, more or less, and located in Ohio Gulch some five (5) miles northerly of Hailey, Idaho.

(b) One (1) parcel - E1/2NE, Section 16, T18N, R3E, Boise Meridian, containing eighty (80) acres, more or less, and located northwesterly of the intersection of Deinhard Lane and Sampson Trail in McCall, Idaho.

(c) One (1) parcel - S1/2NW, NESW, Part NWSW, Part SWSW, Part SESW, Section 36, T3N, R2E, Boise Meridian, containing one hundred seventy-eight and seventy-one hundredths (178.71) acres, more or less, located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Public School Endowment.

(d) One (1) parcel - NE1/4SW1/4, SE1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, containing fifty (50) acres, more or less, located south of the Boise Airport and east of Pleasant Valley Road; Public School Endowment.

(e) Two (2) parcels - Lot 14 (Pt. NESE), Lot 15 (Pt. NESE), Lot 16 (Pt. N2SE), SWSE, Lot 17 (SESE), Section 22, Township 6 North, Range 36 East, Boise Meridian, containing one hundred sixty and two-tenths (160.20) acres, more or less; NWSW, Pt. SWSW, Section 23, Township 6 North, Range 36 East, Boise Meridian, containing forty-eight (48) acres, more or less, located fifty (50) miles north of Idaho Falls

at the junction of State Highway 28 and Interstate Highway 15.

(f) One (1) parcel - Lot 9 (Pt. NWNE, Pt. NENW), Lot 10 (Pt. SWNE, Pt. SENW), Section 12, Township 2 North, Range 37 East, Boise Meridian, containing nineteen and twenty-seven hundredths (19.27) acres, more or less, located adjacent to the U of I/ISU Center in Idaho Falls.

(g) One (1) parcel - Lots 1 and 2, Section 8, Township 2 North, Range 38 East, Boise Meridian, containing seven and seventy-seven hundredths (7.77) acres, more or less, located on Lincoln Street in Idaho Falls.

(h) One (1) parcel - W1/2, Section 16; Lots 1 and 2 (E2NE), W2NE, Section 17, Township 3 South, Range 18 East, Boise Meridian, containing four hundred eighty and fifty-seven hundredths (480.57) acres, more or less, located on State Highway 93 north of Shoshone at Shoshone Ice Caves.

(5) Notwithstanding any other provisions of law, only the state public school endowment lands described below may be leased for a period of up to forty-nine (49) years for commercial purposes, under such terms and conditions as may be set by the board, provided that the board consults with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - All, Section 36, Township 16 North, Range 2 East, Boise Meridian, containing six hundred forty (640) acres, more or less, located on the west side of Cascade Reservoir.

(6) The term "commercial purposes" means industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, agricultural leases, grazing leases, oil and gas leases, mineral leases, geothermal leases and single family, recreational cottage site and homesite leases are not considered leases for commercial purposes.

(~~6~~7) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(~~7~~8) Except for geothermal, oil and gas, and mineral leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(~~8~~9) All applications to lease or to renew an existing lease which expires December 31 of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of April preceding the date of such expiration. Such applications will be considered by the state land board and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause.

(~~9~~10) Where conflicts appear upon leases which do not contain a

preferential right to renew clause, such applications shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time.

(~~10~~1) In case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(~~11~~2) Commercial leases of the state lands described in this section shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board; in the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In either case, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

Approved April 8, 2003.

CHAPTER 235
(S.B. No. 1002, As Amended)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT; AMENDING SECTION 18-8303, IDAHO CODE, TO DEFINE "CERTIFIED EVALUATOR"; AMENDING SECTION 18-8314, IDAHO CODE, TO PROVIDE THAT THE SEXUAL OFFENDER CLASSIFICATION BOARD SHALL ESTABLISH BY RULE PROCEDURES FOR THE APPROVAL OF CERTIFIED EVALUATORS, TO PROVIDE THAT THE BOARD SHALL ESTABLISH BY RULE CERTIFICATION AND RECERTIFICATION FEES WITHIN STATUTORY LIMITS, AND TO PROVIDE RULEMAKING AUTHORITY FOR THE BOARD; AMENDING SECTION 18-8316, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY AND TO PROVIDE THAT THE BOARD SHALL COMPILE A CENTRAL ROSTER OF CERTIFIED EVALUATORS; AND AMENDING SECTION 18-8317, IDAHO CODE, TO CLARIFY THAT PSYCHOSEXUAL EVALUATIONS SHALL BE CONDUCTED BY CERTIFIED EVALUATORS OR A MENTAL HEALTH PROFESSIONAL EMPLOYED BY THE DEPARTMENT OF CORRECTION IN ACCORDANCE WITH STANDARDS ESTABLISHED BY RULE OF THE BOARD.

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

SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes as set forth in section 18-8304, Idaho Code: 18-1508 (lewd conduct, when the victim is less than twelve (12) years of age); 18-4003(d) (murder committed in the perpetration of rape); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve (12) years of age or the defendant is eighteen (18) years of age or younger); 18-6108 (male rape); and 18-6608 (forcible sexual penetration by use of a foreign object).

(2) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(~~5~~6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(~~6~~7) "Incarceration" means committed to the custody of the Idaho department of correction, but excluding cases where the court has retained jurisdiction.

(~~7~~8) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(~~8~~9) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(~~9~~10) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(~~10~~11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(~~11~~12) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(~~12~~13) "Residence" means the offender's present place of abode.

(~~13~~14) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(~~14~~15) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8314, Idaho Code, and who has

been determined to pose a risk of committing an offense or engaging in predatory sexual conduct.

SECTION 2. That Section 18-8314, Idaho Code, be, and the same is hereby amended to read as follows:

18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD. (1) The board shall review offenders scheduled for release from incarceration, who were sentenced and convicted for one (1) or more of the crimes set forth in sections 18-1506, 18-1506A, 18-1508, 18-4003(d), 18-4502, 18-6101 (but excluding subsection 1. of such section when the offender is eighteen (18) years of age or younger), 18-6108, 18-6602, 18-6605 and 18-6608, Idaho Code, or are recidivists as defined in this chapter, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense.

(2) The board shall review offenders who were sentenced and convicted for crimes enumerated in subsection (1) of this section and recidivists as defined in this chapter, who have been released under supervision, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Such review shall be undertaken upon request of the court having jurisdiction over the offender on probation or of the parole commission if the offender has been released on parole regardless of whether the offender has been reviewed by the board prior to release from incarceration. For purposes of seeking a board review pursuant to this subsection, the court or parole commission may consider all relevant evidence including, but not limited to, the probation or parole official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(3) The board shall by rule:

(a) Establish standards for psychosexual evaluations and the qualifications for ~~approved~~ certified evaluators performing evaluations pursuant to sections 18-8316 and 18-8317, Idaho Code.

(b) Set forth procedures for the approval, certification and quality assurance of evaluators pursuant to this section.

(c) Establish a nonrefundable initial certification processing fee not to exceed one hundred fifty dollars ($150) and a nonrefundable annual recertification processing fee not to exceed one hundred fifty dollars ($150).

(4) The board shall establish guidelines to determine whether an offender scheduled for release is a violent sexual predator presenting a high risk of reoffense. The guidelines shall be established with the assistance of sexual offender treatment and law enforcement professionals who have, by education, experience or training, expertise in the assessment and treatment of sexual offenders.

(a) Factors to be used in establishment of the guidelines must be supported in the sexual offender assessment field as criteria reasonably related to the risk of reoffense and be objective criteria that can be gathered in a consistent and reliable manner.

(b) The guidelines shall include, but are not limited to, the following general categories for risk assessment: seriousness of the offense, offense history, whether the offense was predatory, characteristics of the offender, characteristics of the victim, the rela-

tionship of the offender to the victim, the number of victims and the number of violations of each victim.

(5) If the offender has indicated an intention to reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender shall be deemed a violent sexual predator regardless of application of the guidelines.

(6) Once the board has made its determination, it shall set forth written findings which shall include:

(a) The board's risk assessment and the reasons upon which the risk assessment was based; and

(b) The board's determination whether the offender should be designated as a violent sexual predator and the reasons upon which the determination was based.

(7) The board shall have authority to promulgate rules to carry out the provisions of this chapter.

SECTION 3. That Section 18-8316, Idaho Code, be, and the same is hereby amended to read as follows:

18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVICTION. If ordered by the court, an offender convicted of any offense listed in section 18-8304, Idaho Code, shall submit to an evaluation to be completed and submitted to the court in the form of a written report from a ~~board-certified-psychiatrist-or-by-a-licensed-master's-or-doctoral-level mental-health-professional~~ certified evaluator as defined in section 18-8303, Idaho Code, for the court's consideration prior to sentencing and incarceration or release on ~~probation~~. The court shall select the ~~psychiatrist-or-a-licensed-master's-or-doctoral-level-mental-health-professional-to-perform-the-evaluation~~ certified evaluator from a ~~list~~ central roster of ~~approved~~ evaluators compiled by the ~~district-court~~ sexual offender classification board. A ~~psychiatrist-or-licensed-master's-or doctoral-level-mental-health-professional~~ certified evaluator performing such an evaluation shall be disqualified from providing any treatment ordered as a condition of any sentence, unless waived by the court. For offenders convicted of an offense listed in section 18-8314, Idaho Code, the evaluation shall state whether it is probable that the offender is a violent sexual predator. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by the board pursuant to section 18-8314, Idaho Code.

SECTION 4. That Section 18-8317, Idaho Code, be, and the same is hereby amended to read as follows:

18-8317. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON RELEASE. Every offender convicted and incarcerated for any offense listed in section 18-8314, Idaho Code, and either referred to the board for psychosexual evaluation by the department of correction or whose evaluation under section 18-8316, Idaho Code, states that the offender is a probable violent sexual predator, shall submit to a psychosexual evaluation. The evaluation is to be performed prior to release from incarceration for the purpose of assessing risk of reoffense and to determine whether the offender should be designated as a violent sexual predator. These evaluations shall be performed either by a ~~board-certified-psychiatrist--or--a--licensed-master's-or-doctoral-level-mental-health-profes-~~

~~sional-licensed-by-this-state-pursuant-to-chapter-18,--title--54,--Idaho Code,--and--chapter--23,-title-54,-Idaho-Code,-respectively,-who-has,-by education,-experience-and-training,--expertise--in--the--assessment--and treatment--of-sexual-offenders~~ certified evaluator as defined in section 18-8303, Idaho Code, or a mental health professional employed by the department of correction. The ~~psychiatrist-or-licensed-master's-or-doctoral-level-mental-health-professional~~ individual performing an evaluation under this section shall not be a member of the sexual offender classification board at the time the evaluation is performed. The individual performing the evaluation shall be disqualified from providing any treatment ordered or attached as a condition of parole, unless waived by the department of correction. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by rule of the board pursuant to section 18-8314, Idaho Code.

Approved April 8, 2003.

CHAPTER 236
(S.B. No. 1010, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY; AMENDING SECTION 49-1210, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO CLARIFY PERSONS REQUIRED TO SHOW PROOF OF RESPONSIBILITY, AND TO REMOVE PROVISIONS WHICH REQUIRE THE TRANSPORTATION DEPARTMENT TO VERIFY REGISTRATION OF A VEHICLE BY A PERSON REQUIRED TO SHOW PROOF OF FINANCIAL RESPONSIBILITY; AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Section 49-1210, Idaho Code, be, and the same is hereby amended to read as follows:

49-1210. CERTIFICATE OF INSURANCE AS PROOF. (1) Proof of financial responsibility, as required by the provisions of section 49-1208, Idaho Code, shall be furnished for each motor vehicle registered by any person required to provide such proof, ~~by-filing~~ or shall be furnished by any person required to provide such proof even if the person is not the owner of a motor vehicle. Such persons shall file with the department the written certificate of any insurance carrier duly authorized to do business in this state on a form approved by the department certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate.~~,-and~~ The certificate shall also designate ~~by-explicit-description-or~~ by appropriate reference all motor vehicles covered by that policy, unless the policy is issued to a person who is not the owner of a motor vehicle.

~~(2)--No--motor--vehicle-shall-be-or-continue-to-be-registered-in-the name-of-any-person-required-to-file-proof--of--financial--responsibility unless-the-motor-vehicle-is-so-designated-in-such-a-certificate.~~

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2009.

Approved April 8, 2003.

CHAPTER 237
(S.B. No. 1028)

AN ACT

RELATING TO COURT FEES; AMENDING SECTION 18-918, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 19-5116, IDAHO CODE, TO PROVIDE CODE REFERENCES; AND AMENDING SECTION 31-3201A, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT OF CERTAIN COURT FEES TO THE STATE GENERAL FUND AND TO THE PEACE OFFICERS STANDARDS AND TRAINING FUND.

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

SECTION 1. That Section 18-918, Idaho Code, be, and the same is hereby amended to read as follows:

18-918. DOMESTIC VIOLENCE. (1) For the purpose of this section, "household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(2) As used in this section, "traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

(3) Any household member who commits a battery, as defined in section 18-903, Idaho Code, and willfully and unlawfully inflicts a traumatic injury upon any other household member is guilty of a felony.

(4) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(5) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

(6) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars ($10,000) or by both fine and imprisonment.

(7) (a) Upon a first conviction, the crime of misdemeanor domestic assault or battery is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Upon a second conviction, within ten (10) years of the first conviction, the person so convicted shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars ($2,000) or by both fine and imprisonment. Upon a third or subsequent conviction, within fifteen (15) years of the first conviction, the person so convicted shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars ($5,000) or by both fine and imprisonment.

(b) The maximum penalties provided in this section shall be doubled where the act of domestic assault or battery for which the person is convicted or pleads guilty took place in the presence of a child. For purposes of this section, "in the presence of a child" means in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic assault or battery. For purposes of this section, "child" means a person under sixteen (16) years of age.

(8) (a) Any person who pleads guilty or is found guilty of a violation of this section shall undergo, at the person's own expense, an evaluation by a person, agency or organization approved by the court in accordance with subsection (c) of this section to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment. Such evaluation shall be completed prior to the sentencing date if the court's list of approved evaluators, in accordance with subsection (c) of this section, contains evaluators who are able to perform the evaluation prior to the sentencing dates. If the evaluation recommends counseling or other treatment, the evaluation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or treat-

ment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such counseling or treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation or a comparable program. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) Each judicial district shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as provided in section 31-3201A(pq), Idaho Code.

(d) Counseling or treatment ordered pursuant to this section shall be conducted according to standards established or approved by the Idaho council on domestic violence.

SECTION 2. That Section 19-5116, Idaho Code, be, and the same is hereby amended to read as follows:

19-5116. PEACE OFFICERS STANDARDS AND TRAINING FUND. (a) There is hereby established in the state treasury, the peace officers standards and training fund. All moneys deposited to the fund shall be expended by the peace officers standards and training council for the following purposes:

(1) Training peace officers, county detention officers, and self-sponsored students, within the state of Idaho, including, but not limited to, sheriffs and their deputies, officers of the Idaho state police and conservation officers of the Idaho department of fish and game, and city and county prosecutors and their deputies;

(2) Salaries, costs and expenses relating to such training as provided in subsection (1) of this section;

(3) Such capital expenditures as the peace officers standards and training council may provide, for the acquisition, construction and/or improvement of a peace officers standards and training academy; and

(4) Such expenditures as may be necessary to aid approved peace officers training programs or county detention officer programs certified as having met the standards established by the peace officers standards and training council.

(b) The peace officers standards and training fund shall be funded as provided in sections 31-3201A and 31-3201B, Idaho Code.

(c) All contributions and other moneys and appropriations which are designated for peace officers standards and training shall be deposited in the peace officers standards and training fund.

(d) Moneys received into the fund as provided in subsection (c) of this section, shall be accounted for separately.

(e) If the fiscal year-end balance in the fund pursuant to sections 31-3201A and 31-3201B, Idaho Code, exceeds one million dollars ($1,000,000) the excess shall revert to the general fund.

SECTION 3. That Section 31-3201A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201A. COURT FEES. The clerk of the district court in addition to the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law;

(a) A fee of $39.00 for filing a civil case of any type in the district court or in the magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, and conservatorships of the person or of the estate or both with the following exceptions:

The filing fee shall be $17.00 in each case where the amount of money or damages or the value of personal property claimed does not exceed $300. The filing fee shall be $19.00 in the following types of cases:

(1) Where the amount of money or damages or the value of personal property claimed exceeds $300 but does not exceed $1,000;

(2) Where a case is brought for forcible or unlawful entry or detainer whether brought for rent or possession or both and regardless of the amount;

(3) Where a case is brought under chapter 20, title 16, Idaho Code, for the termination of parent-child relationship;

(4) Where a case is brought under chapter 2, title 32, Idaho Code, for permission to marry;

(5) Where a case involving the administration of a decedent's estate is brought under the Summary Administration of Small Estates Act;

(6) In cases where a court order is issued only for a certain specific reason other than the administering of an estate, including but not limited to proceedings brought under sections 14-114, 15-514, 15-1401, 15-1518 and/or 15-1709, Idaho Code, or for some specific reason;

(7) In cases brought to determine heirship without administration;

(8) In cases brought to determine inheritance or transfer tax;

(9) In proceedings brought for adoption;

(10) In proceedings brought for letters of guardianship of the person or of the estate or both.

No filing fee shall be charged in the following types of cases:

(1) In cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;

(2) In cases brought under the Juvenile Corrections Act;

(3) In cases brought under the Child Protective Act.

In all cases in which a filing fee of $39.00 is paid, $17.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $17.00 of such filing fee shall be paid to the county treasurer who shall~~, within five (5) days after the end of the month~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section. In all cases in which a filing fee of $19.00 is paid, $4.00 of such filing fee

shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $10.00 of such filing fee shall be paid to the county treasurer who shall ~~within five (5) days after the end of the month~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section. In all cases in which a filing fee of $17.00 is paid, $3.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $9.00 of such filing fee shall be paid to the county treasurer who shall ~~within five (5) days after the end of the month~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section.

(b) A fee of $17.50 shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, except when the court orders such fee waived because the person is indigent and unable to pay such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $12.50 of such fee shall be paid to the county treasurer who shall~~, within five (5) days after the end of the month,~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrates court facilities, and $10.00 of such fee shall be paid to the county treasurer who shall~~, within five (5) days after the end of the month,~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section.

(c) A fee of $16.50 shall be paid, but not in advance, by each person found to have committed an infraction or any minor traffic, conservation or ordinance violation; provided that the judge or magistrate may in his or her discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $11.50 of such fee shall be paid to the county treasurer, who shall~~, within five (5) days after the end of the month,~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrate court facilities, and $9.00 of such fee shall be paid to the county treasurer who shall~~, within five (5) days after the end of the month,~~ pay such fees to the state treasurer for deposit in ~~the state general account~~ accordance with subsection (p) of this section.

(d) A fee of $19.00 shall be paid by any party, except the plaintiff, making an appearance in any civil action in the district court or in the magistrate's division of the district court. Of such fee, $4.00 shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $10.00 of such fee shall be paid to the county treasurer who shall ~~within--five-(5)-days-after-the-end-of-the-month~~ pay such fees to the state treasurer for deposit in ~~the-state-general-account~~ accordance with subsection (p) of this section.

(e) A fee of $9.00 shall be paid by the person or persons required to make an account pursuant to either chapter 11 or chapter 18, title 15, Idaho Code, at the time such account is filed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(f) A fee of $19.00 shall be paid upon the filing of a petition of the executor or administrator or of any person interested in an estate for the distribution of such estate, $6.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $13.00 of such fee shall be paid to the county treasurer who shall~~,-within-five-(5)-days-after-the-end-of-the-month,~~ pay such fees to the state treasurer for deposit in ~~the-state-general-account~~ accordance with subsection (p) of this section.

(g) A fee of $7.00 shall be paid by an intervenor upon making an appearance in any civil action in the district court or in the magistrate's division of the district court. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(h) A fee of $8.00 shall be paid by a party filing a third party claim as defined in the Idaho Rules of Civil Procedure. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(i) A fee of $8.00 shall be paid by any party filing a cross-claim. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(j) A fee of $9.00 shall be paid by a party initiating a change of venue. Such fee shall be paid to the clerk of the court of the county to which venue is changed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(k) A fee of $9.00 shall be paid by any party appearing after judgment or applying to reopen a case. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county. A fee of $32.00 shall be paid by a party applying to reopen a divorce action or modify a divorce decree, with all of the fee to be distributed in the same manner as the fee provided for in subsection (a) of this section is distributed.

(l) A fee of $9.00 shall be paid by a party taking an appeal from the magistrate's division of the district court to the district court. No additional fee shall be required if a new trial is granted. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(m) A fee of $9.00 shall be paid by the party taking an appeal from the district court to the supreme court for comparing and certifying the transcript on appeal, if such certificate is required. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(n) Fees not covered by this section shall be set by rule or administrative order of the supreme court.

(o) All fees required to be paid by this section or by rule or administrative order of the supreme court shall be collected by the clerk of the district court or by a person appointed by the clerk of the district court for this purpose. If it appears that there is a necessity for such fees to be collected by persons other than the clerk of the district court or a person designated by the clerk for such purpose, the supreme court by rule or administrative order may provide for the designation of persons authorized to receive such fees. Persons so designated shall account for such fees in the same manner required of the clerk of the district court and shall pay such fees to the clerk of the district court of the county in which such fees are collected.

(p) That portion of the filing fees required to be remitted to the state treasurer for deposit ~~in~~ pursuant to subsections (a), (b), (c), (d) and (f) of this section shall be apportioned ninety percent (90%) to the state general ~~account shall be remitted~~ fund and ten percent (10%) to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, within five (5) days after the end of the month in which such fees were remitted to the county treasurer. That portion of the filing fees required to be remitted to a city treasurer for deposit in the city's general fund shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer.

(q) Of the fees derived from the filing of any divorce action required to be transmitted to the state treasurer, ~~for deposit in the general account,~~ the county treasurer shall retain $5.00, which shall be separately identified and deposited in the district court fund of the county. Such moneys shall be used exclusively for the purpose of establishing a uniform system of qualifying and approving persons, agencies or organizations to conduct evaluations of persons convicted of domestic assault or battery as provided in section 18-918, Idaho Code, and the administration of section 18-918(7), Idaho Code, relating to the evaluation and counseling or other treatment of such persons, including the payment of the costs of evaluating and counseling or other treatment of an indigent defendant. No provision of chapter 52, title 39, Idaho Code, shall apply to the moneys provided for in this subsection.

(r) In consideration of the aforesaid fees the clerk of the district court shall be required to perform all lawful service that may be required of him by any party thereto; provided, that he shall not prepare and furnish any certified copy of any file or record in an action except printed transcript on appeal, without additional compensation as provided by law.

Approved April 8, 2003.

CHAPTER 238
(S.B. No. 1050)

AN ACT

RELATING TO DEATH BENEFITS; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1361A, IDAHO CODE, TO PROVIDE DEATH BENEFITS FOR PUBLIC SAFETY OFFICERS WHO DIE AS THE DIRECT AND PROXIMATE RESULT OF PERSONAL INJURIES SUSTAINED IN THE LINE OF DUTY; AND AMENDING SECTION 67-2028, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO MAKE GRAMMATICAL CHANGES, TO PROVIDE THAT THE ISSUANCE OF A DEFICIENCY WARRANT SHALL BE AUTHORIZED AFTER THE BOARD OF EXAMINERS DETERMINES THAT CERTAIN REQUIREMENTS HAVE BEEN MET, TO REVISE THE METHOD OF BENEFIT PAYMENTS TO DEPENDENT CHILDREN, TO REMOVE LANGUAGE PROVIDING FOR BENEFITS TO PARENTS OF OFFICERS, TO REMOVE LANGUAGE REFERENCING THE EFFECT OF OTHER DEATH BENEFIT PAYMENTS, TO PROVIDE THAT DEATH BENEFITS ARE NOT DEPENDENT ON THE YEARS OF SERVICE OR AGE OF THE OFFICER, TO DEFINE "PUBLIC SAFETY OFFICER," TO PROVIDE THAT BENEFITS SHALL BE PAYABLE ONLY UPON CERTAIN DETERMINATIONS BY THE BOARD OF EXAMINERS AND TO LIMIT APPLICATION; REPEALING SECTION 67-2028, IDAHO CODE; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1361A, Idaho Code, and to read as follows:

59-1361A. PUBLIC SAFETY OFFICER DEATH BENEFITS. (1) On and after July 1, 2003, in the event a public safety officer dies as the direct and proximate result of a personal injury sustained in the line of duty, a death benefit in the amount of one hundred thousand dollars ($100,000) shall be payable as provided in this section to the officer's surviving spouse or, in the event there is no surviving spouse, divided among the officer's dependent children.

(2) Application for benefits under this chapter shall be made to the retirement board. No benefit shall be payable unless it is established, as determined by the retirement board, that:

(a) The officer's death occurred in the line of duty as defined in regulations issued by the United States department of justice pursuant to 42 U.S.C. section 3796, except as modified by the retirement board;

(b) The death was not caused by the intentional misconduct of the officer or by such officer's intentional infliction of injury;

(c) The officer was not voluntarily intoxicated at the time of death; and

(d) Benefit payments will not be paid to a person whose actions were a substantial contributing factor to the death of the officer.

(3) As used in this section:

(a) "Dependent child" means a surviving natural or legally adopted child who is under twenty-one (21) years of age at the time of the officer's death. Benefits to dependent children shall be paid in accordance with the provisions of the Idaho uniform transfers to minors act, as set forth in chapter 8, title 68, Idaho Code; pro-

vided that when there are multiple dependent children, the benefit shall be divided equally among them.

(b) "Public safety officer" means an active member of the retirement system who when injured:

(i) Was designated as a police officer member under section 59-1303, Idaho Code, and had been treated as such for contribution purposes;

(ii) Was a "firefighter" as defined in section 59-1302(16), Idaho Code; or

(iii) Was a "paid firefighter" as defined in section 72-1403(A), Idaho Code.

(4) Benefits payable under this section:

(a) Are separate from and independent of any benefits payable under section 59-1361, Idaho Code;

(b) Are not dependent on years of service or age of the public safety officer; and

(c) Shall not be subject to state income taxes.

(5) The costs of providing this benefit, as determined by the board, shall be paid by the employers of public safety officers as an additional contribution component separate and distinct from all other obligations under this chapter. Such costs will be paid in a manner as determined by the board.

SECTION 2. That Section 67-2028, Idaho Code, be, and the same is hereby amended to read as follows:

67-2028. LAW ENFORCEMENT DEATH BENEFITS. (1) After January 1, 200~~1~~3, in the event a ~~certified peace~~ public safety 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~~ dies as the direct and proximate result of ~~the officer's~~ personal injuries sustained in the line of 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~~ requirements of ~~the officer's duty~~ this section have been met, 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~~ in accordance with the provisions of the Idaho uniform transfers to minors act, as set forth in chapter 8, title 68, Idaho Code.

(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~~ is not dependent on the years of service or age of the public safety officer.

(4) As used in this section, the term "public safety officer" includes only persons, who when injured, were employed as:

(a) County sheriffs;

(b) Deputy county sheriffs:

(i) Holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; provided however, that even though POST certified or required to be POST certified, deputy county sheriffs holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or other duties not within the scope of active law enforcement are not "public safety officers" under this section;

(ii) Holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility; or

(iii) Whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction;

(c) City police chiefs; and

(d) City police officers:

(i) Holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; provided however, that even though POST certified or required to be POST certified, police officers holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or other duties not within the scope of active law enforcement are not "public safety officers" under this section;

(ii) Holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility; or

(iii) Whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction.

(5) No benefit shall be payable unless it is established, as determined by the board of examiners, that:

(a) The officer's death occurred in the line of duty as defined in

regulations issued by the United States department of justice pursuant to 42 U.S.C. section 3796;

(b) The death was not caused by intentional misconduct of the officer or by such officer's intentional infliction of injury;

(c) The officer was not voluntarily intoxicated at the time of death; and

(d) Benefit payments will not be made to a person whose actions were a substantial contributing factor to the death of the officer.

(6) This section shall not apply to any public safety officer, or the family of any such officer, who is eligible for benefits under section 59-1361A, Idaho Code.

SECTION 3. That Section 67-2028, Idaho Code, be, and the same is hereby repealed.

SECTION 4. Sections 1 and 2 of this act shall be in full force and effect on and after July 1, 2003. Section 3 of this act shall be in full force and effect on and after July 1, 2008.

Approved April 8, 2003.

CHAPTER 239
(S.B. No. 1053, As Amended)

AN ACT

RELATING TO SIZE OF VEHICLES AND LOADS; AMENDING SECTION 49-1010, IDAHO CODE, TO INCREASE THE MAXIMUM LENGTH OF VEHICLE COMBINATIONS NOT IN EXCESS OF FOUR VEHICLE UNITS IN CERTAIN INSTANCES AND TO PROVIDE RESTRICTIONS AS TO LENGTH OF CARGO-CARRYING UNITS.

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

SECTION 1. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed ..... 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

(b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed ..... 9 feet.

(c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must not proceed at a speed in excess of twenty-five (25) miles per hour, must display one (1) red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches on the outermost left projection of the tractor or implement being transported, except that the speed restriction of twenty-five (25) miles per hour shall not apply when such tractor or implement of husbandry is being hauled on legal width highway vehicles equipped as required by law.

(2) The height of a vehicle, including the load thereon, shall not exceed ..... 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle ..... 45 feet.

(b) When a trailer or semitrailer, except as noted below ..... 48 feet.

1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed ..... 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semitrailers operating on routes which are a part of the national network as set forth in the Code of Federal Regulations, Title 23, Part 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network and state highways as set forth by policy and approved by the transportation board shall not exceed a length of ..... 53 feet.

(c) When a motor vehicle and one (1) or more trailers, except as noted in subsections (3)(b), (3)(d) and (3)(e) of this section ..... 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below ..... 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor ..... 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in the Code of Federal Regulations, Title 23, Part 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed ..... 68 feet.

(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) ..... 75 feet.

(g) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section ..... 65 feet.
(h) When an auto transporter or boat transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load ..... 75 feet.
(i) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, excluding front and rear overhang of load ..... 65 feet.
(j) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections ..... 75 feet.
(4) The overhang or extension of a load shall not extend:
(a) Beyond the front of a vehicle, more than ..... 4 feet.
(b) Beyond the last axle, more than ..... 15 feet.
(c) Beyond the left fender of a passenger vehicle, more than ..... 0 feet.
(d) Beyond the right fender of a passenger vehicle, more than ..... 6 inches.
(e) To the front and rear combined of an auto transporter or boat transporter, more than ..... 7 feet.
(5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.
(6) No combination shall include more than three (3) units except when a saddlemount combination ..... 75 feet.
(7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred ~~and five~~ fifteen (10~~1~~5) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:
(a) Truck tractor and two (2) trailing units .....95 feet.
(b) Truck tractor and three (3) trailing units .....95 feet.
(c) Truck and two (2) trailing units .....98 feet.

Approved April 8, 2003.

CHAPTER 240
(S.B. No. 1075)

AN ACT

RELATING TO POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO PROTECT THE PUBLIC HEALTH; AMENDING SECTION 56-1001, IDAHO CODE, TO FURTHER DEFINE TERMS; AND AMENDING SECTION 56-1003, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO IMPOSE, SUBJECT TO JUDICIAL REVIEW, ORDERS FOR ISOLATION AND QUARANTINE.

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

SECTION 1. That Section 56-1001, Idaho Code, be, and the same is hereby amended to read as follows:

56-1001. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Board" means the board of health and welfare as created in section 56-1005, Idaho Code.

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

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

(4) "Isolation" means the separation of infected persons, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent.

(5) "Laboratory" means not only facilities for biological, serological, biophysical, cytological and pathological tests, but also facilities for the chemical or other examination of materials from water, air or other substances.

(~~5~~6) "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.

(~~6~~7) "Public swimming pool" means an artificial structure, and its appurtenances, which contains water more than two (2) feet deep which is used or intended to be used for swimming or recreational bathing, and which is for the use of any segment of the public pursuant to a general invitation but not an invitation to a specific occasion or occasions. The term does not include a swimming pool operated solely for and in conjunction with a hotel, motel or other place of lodging, or a trailer park, apartment, condominium or any other residential facility containing multiple dwellings.

(8) "Quarantine" means the restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists.

(~~7~~9) "State" means the state of Idaho.

(~~8~~10) "Substantive" means that which creates, defines or regulates the rights of any person or implements, interprets or prescribes law or policy, but does not include statements concerning only the internal management of the department and not affecting private rights or procedures available to the public.

SECTION 2. That Section 56-1003, Idaho Code, be, and the same is hereby amended to read as follows:

56-1003. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the powers and duties of the department of public health, the department of health, the board of health and all nonenvironmental protection duties of the department of health and welfare are hereby vested to the director of the department of health and welfare. Provided

however, that rulemaking and hearing functions relating to public health and licensure and certification standards shall be vested in the board of health and welfare. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules in those circumstances when the authority to adopt, promulgate, and enforce such rules is not vested in the board of health and welfare, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this chapter, formulate and recommend to the board rules, codes and standards, as may be necessary to deal with problems related to personal health, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of law relating to any purpose which may be necessary and feasible for enforcing the provisions of this chapter including, but not limited to, the maintenance and protection of personal health. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules, codes or standards adopted by him, shall have the general supervision of the promotion and protection of the life, health and mental health of the people of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board;

(b) The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may require that laboratories operated by any city, county, institution, person, firm or corporation for health or environmental purposes conform to standards set by the board of health and welfare and the board of environmental quality;

(c) The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect, or mental defects;

(d) The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state;

(e) The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health;

(f) The supervision and administration of services dealing with the problems of alcoholism including, but not limited to, the care and rehabilitation of persons suffering from alcoholism;

(g) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of health problems. All of the rules and standards adopted by the board shall apply to state institutions;

(h) The supervision and administration of an emergency medical service program including, but not limited to, assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured;

(i) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of health problems;

(j) The enforcement of all laws, rules, codes and standards relating to health.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporations for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

(7) The director, under rules adopted by the board of health and welfare, shall have the power to impose and enforce orders of isolation and quarantine to protect the public from the spread of infectious or communicable diseases or from contamination from chemical or biological agents, whether naturally occurring or propagated by criminal or terrorist act.

(a) An order of isolation or quarantine issued pursuant to this section shall be a final agency action for purposes of judicial review. However, this shall not prevent the director from reconsidering, amending or withdrawing the order. Judicial review of orders of isolation or quarantine shall be de novo. The court may affirm, reverse or modify the order and shall affirm the order if it appears by a preponderance of the evidence that the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by a chemical or biological agent.

(b) If the director has reasonable cause to believe a chemical or biological agent has been released in an identifiable place, including a building or structure, an order of quarantine may be imposed to prevent the movement of persons into or out of that place, for a limited period of time, for the purpose of determining whether a

person or persons at that place have been contaminated with a chemical or biological agent which may create a substantial and immediate danger to the public.

(c) Any person who violates an order of isolation or quarantine shall be guilty of a misdemeanor.

Approved April 8, 2003.

CHAPTER 241
(S.B. No. 1079)

AN ACT

RELATING TO THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL; AMENDING SECTION 40-2401, IDAHO CODE, TO PROVIDE THAT SERVICES PERFORMED BY COUNCIL MEMBERS MAY BE COMPENSATED AT A RATE NOT TO EXCEED ONE HUNDRED DOLLARS PER DAY AS DETERMINED BY THE MEMBERS' RESPECTIVE ASSOCIATIONS AND TO DELETE CERTAIN STATUTORY LIMITS ON REIMBURSEMENT OF COUNCIL MEMBERS FOR ACTUAL AND NECESSARY EXPENSES.

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

SECTION 1. That Section 40-2401, Idaho Code, be, and the same is hereby amended to read as follows:

40-2401. LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL. (1) A local highway technical assistance council is hereby created. The council shall be a public agency, and is the instrumentality of its member jurisdictions. The council and its officers and employees shall not be subject to the administrative or management control of the Idaho transportation department.

(2) The council shall consist of nine (9) members, three (3) each to be appointed by the association of Idaho cities, Idaho association of counties, and the Idaho association of highway districts. Council members shall serve at the pleasure of the appointing authority.

(3) Members of the council may be entitled to compensation for services at ~~the~~ a rate ~~of fifty~~ not to exceed one hundred dollars (~~$50.~~$100) per day as determined by the members' respective associations and actual and necessary expenses~~, subject to the limits as provided in section 67-2008, Idaho Code, if not otherwise compensated by the appointing authority~~. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code. Compensation and reimbursement shall be made from the local highway technical assistance council accounts established in section 40-717, Idaho Code.

Approved April 8, 2003.

CHAPTER 242
(S.B. No. 1082)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-419C, IDAHO CODE, TO ESTABLISH AN IDAHO WHITE WATER RAFTING SPECIAL 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, 49-419C, 49-420, 49-420A, 49-420B, ~~and~~ 49-420C, 49-420D and 49-420E, 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 49-419C, Idaho Code, and to read as follows:

49-419C. IDAHO WHITE WATER RAFTING PLATES. (1) On and after January 1, 2004, 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 white water rafting license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho white water rafting license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dol-

lars ($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 transferred by the state treasurer for deposit to the tourism and promotion fund of the department of commerce, and shall be used by the department of commerce for the general education and promotion of Idaho's white water rivers and the rafting and kayaking industries. The department of commerce shall confer with the consulting panel representing white water river communities and the rafting and kayaking industries before expending any moneys from the fund that were received into the fund from revenue derived from this special license plate program.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho white water rafting license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the department of commerce and the consulting panel representing Idaho's white water river communities and the rafting and kayaking industries, and shall be approved by the Idaho transportation 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 department of commerce. Not more than fifteen percent (15%) of all revenues made available to the department of commerce from the sale and renewal of Idaho white water rafting license plates shall be used by the department of commerce to pay for the costs of the plate design and for those administrative expenses necessarily incurred by operation of the general education and promotion program.

(5) Sample Idaho white water rafting 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 transferred to the tourism and promotion fund of the department of commerce and shall be used for the general education and promotion of Idaho's white water rivers and the rafting and kayaking industries. 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, 2004.

Approved April 8, 2003.

CHAPTER 243
(S.B. No. 1097)

AN ACT

RELATING TO THE IDAHO REAL ESTATE BROKERAGE REPRESENTATION ACT; AMENDING SECTION 54-2087, IDAHO CODE, TO DELETE LANGUAGE REQUIRING THAT BROKERAGES AND THEIR LICENSEES CONDUCT CERTAIN INVESTIGATIONS, TO PROVIDE THAT UPON WRITTEN REQUEST BY A CLIENT OR SELLER BROKERAGES AND

THEIR LICENSEES SHALL REQUEST CERTAIN PROOF RELATING TO A PROSPECTIVE BUYER'S FINANCIAL ABILITY TO PURCHASE REAL PROPERTY AND TO PROVIDE THAT UNLESS OTHERWISE AGREED TO IN WRITING BROKERAGES AND THEIR LICENSEES OWE NO DUTY TO CONDUCT INDEPENDENT INSPECTIONS OF PROPERTY, TO INDEPENDENTLY VERIFY CERTAIN STATEMENTS OR REPRESENTATIONS OR TO CONDUCT INDEPENDENT INVESTIGATIONS RELATING TO A PARTY'S FINANCIAL ABILITY; AND AMENDING SECTION 54-2093, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE VICARIOUS LIABILITY OF CLIENTS, LICENSEES AND BROKERAGES.

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

SECTION 1. That Section 54-2087, Idaho Code, be, and the same is hereby amended to read as follows:

54-2087. DUTIES TO A CLIENT. If a buyer or seller enters into a written contract for representation in a regulated real estate transaction, that buyer or seller becomes a client to whom the brokerage and its licensees owe the following agency duties and obligations:

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

(2) To exercise reasonable skill and care;

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

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

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

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

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

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

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

(5) To maintain the confidentiality of specific client information as defined by and to the extent required in this chapter, and as follows:

(a) The duty to a client continues beyond the termination of representation only so long as the information continues to be confidential client information as defined in this chapter, and only so long as the information does not become generally known in the marketing

community from a source other than the brokerage or its affiliated licensees;

(b) A licensee who personally has gained confidential client information about a buyer or seller while associated with one (1) broker and who later affiliates with a different broker remains obligated to maintain the client confidentiality as required by this chapter;

(c) If a brokerage represents a buyer or seller whose interests conflict with those of a former client, the brokerage shall inform the second client of the broker's prior representation of the former client and that confidential client information obtained during the first representation cannot be given to the second client. Nothing in this section shall prevent the brokerage from asking the former client for permission to release such information;

(d) Nothing in this section is intended to create a privileged communication between any client and any brokerage or licensee for purposes of civil, criminal or administrative legal proceedings.

(6) Unless otherwise agreed to in writing, a brokerage and its licensees owe no duty to a client to conduct an independent inspection of the property and owe no duty to independently verify the accuracy or completeness of any statement or representation made regarding a property. Unless otherwise agreed to in writing, a brokerage and its licensees owe no duty to conduct an independent investigation of either party's financial ability to complete a real estate transaction.

SECTION 2. That Section 54-2093, Idaho Code, be, and the same is hereby amended to read as follows:

54-2093. VICARIOUS LIABILITY ABOLISHED. (1) A client, as defined in this act, whether buyer or seller, shall not be liable for a wrongful act, error, omission or misrepresentation of his broker~~/representative~~, his broker's licensees, or subagent unless the client had actual knowledge of or reasonably should have known of the wrongful act, error, omission or misrepresentation.

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

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

Approved April 8, 2003.

CHAPTER 244
(S.B. No. 1102, As Amended)

AN ACT

RELATING TO HOSPITAL LICENSES AND INSPECTION; AMENDING SECTION 39-1392a, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL AND GRAMMATICAL CHANGES; AMENDING SECTION 39-1392b, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONFIDENTIAL AND PRIVILEGED RECORDS; AMENDING SECTION

39-1392c, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CIVIL LIABILITY IMMUNITY; AMENDING SECTION 39-1392d, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PEER REVIEW RECORDS OF HEALTH CARE ORGANIZATIONS AND TO PROVIDE REFERENCES TO PATIENT CARE RECORDS; REPEALING SECTION 39-1393, IDAHO CODE, RELATING TO NOTIFICATION OF DISCIPLINARY ACTION IMPOSED UPON A PHYSICIAN; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1393, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON A PHYSICIAN; AND AMENDING SECTION 54-1818, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE THAT NO PHYSICIAN OR SURGEON SHALL REPORT CERTAIN INFORMATION RELATING TO PEER REVIEW RECORDS AND TO PROVIDE THAT HEALTH CARE ORGANIZATIONS SHALL NOT BE RELIEVED OF CERTAIN NOTIFICATION OBLIGATIONS.

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

SECTION 1. That Section 39-1392a, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392a. DEFINITIONS. The following terms shall have the following meanings when used in this section:

(~~a~~1) "Group medical practice" means a partnership, corporation, limited liability company, or other association formed for the purpose of offering health care services through physicians and other licensed or otherwise authorized health care providers who are partners, shareholders, members, employees, or contractors of such group medical practice.

(~~b~~2) "Health care organization" means a hospital, in-hospital medical staff committee, medical society, managed care organization, or group medical practice.

(~~c~~3) "Hospital" ~~shall~~ means a facility in Idaho licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1), Idaho Code.

(~~d~~4) "In-hospital medical staff committees" ~~shall~~ means any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.

(~~e~~5) "Managed care organization" means a public or private person or organization which offers a managed care plan.

(~~f~~6) "Managed care plan" means a contract of coverage given to an individual, family or group of covered individuals pursuant to which a member is entitled to receive a defined set of health care benefits through an organized system of health care providers in exchange for defined consideration and which requires the member to use, or creates financial incentives for the member to use, health care providers owned, managed, employed by or under contract with the managed care organization.

(~~g~~7) "Medical society" ~~shall~~ means any duly constituted, authorized and recognized professional society or entity made up of physicians

licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board of medicine, or any official committee appointed by the Idaho state board of medicine.

(8) "Patient care records" means written or otherwise recorded, preserved and maintained records of the medical or surgical diagnostic, clinical, or therapeutic care of any patient treated by or under the direction of licensed professional personnel in every health care organization subject to this act, whether as an in-patient or out-patient of the health care organization.

(9) "Peer review" means the collection, interpretation and analysis of data by a health care organization for the purpose of bettering the system of delivery of health care or to improve the provision of health care or to otherwise reduce patient morbidity and mortality and improve the quality of patient care. Peer review activities by a health care organization include, without limitation:

(a) Credentialing, privileging or affiliating of health care providers as members of, or providers for, a health care organization;

(b) Quality assurance and improvement, patient safety investigations and analysis, patient adverse outcome reviews, and root-cause analysis and investigation activities by a health care organization; and

(c) Professional review action, meaning an action or recommendation of a health care organization which is taken or made in the conduct of peer review, that is based on the competence or professional conduct of an individual physician where such conduct adversely affects or could adversely affect the health or welfare of a patient or the physician's privileges, employment or membership in the health care organization.

(10) "Peer review records" means all evidence of interviews, reports, statements, minutes, memoranda, notes, investigative graphs and compilations and the contents thereof, and all physical materials relating to peer review of any health care organization. "Peer review records" does not mean or include patient care records; provided however, that the records relating to the identification of which particular patient care records were selected for, or reviewed, examined or discussed in peer review by a health care organization and the methodology used for selecting such records shall be considered peer review records.

SECTION 2. That Section 39-1392b, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392b. RECORDS CONFIDENTIAL AND PRIVILEGED. Except as provided in section 39-1392e, Idaho Code, all ~~written records of interviews, all reports, statements, minutes, memoranda, charts, and the contents thereof, and all physical materials relating to research, discipline or medical study of any health care organization, for the purposes set forth in section 39-1392, Idaho Code,~~ peer review records shall be confidential and privileged, and shall not be directly or indirectly subject to subpoena or discovery proceedings or be admitted as evidence, nor shall testimony relating thereto be admitted in evidence, or in any

action of any kind in any court or before any administrative body, agency or person for any purpose whatsoever.~~;provided further n~~No order of censure, suspension or revocation of licensure or ~~hospital~~ health care organization privilege of any physician licensed to practice medicine in Idaho shall be admissible in any civil proceeding seeking damages or other civil relief against the physician or ~~hospital~~ health care organization which may be a ~~party~~ defendant in said cause.~~;provided, h~~However, this section shall not prohibit or otherwise affect the use of ~~said~~ documents, materials or testimony in health care organization proceedings, nor shall it prohibit or otherwise affect the dissemination, for medical purposes, of information contained in such documents or materials or the conclusions and findings of such health care organization.~~;and provided further, that t~~This section shall not affect the admissibility in evidence in any action or proceeding of ~~any original medical records~~ the patient care records of any patient.

SECTION 3. That Section 39-1392c, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392c. IMMUNITY FROM CIVIL LIABILITY. The furnishing of information or provision of opinions to any health care organization~~, as herein defined, or their authorized representatives or investigators,~~ or the receiving and use of such information and opinions shall not subject any ~~person, hospital, managed care organization, sanitarium, nursing or rest home~~ health care organization or other person ~~or agency~~ to any liability or action for money damages or other legal or equitable relief.~~;provided further, c~~Custodians of such records and persons becoming aware of such data and opinions shall not disclose the same except as authorized by ~~the Idaho state board of medicine or pursuant to rules or regulations duly promulgated by said board, except that any licensed hospital in the state of Idaho, acting through its governing board or its medical staff, or by its duly authorized administrative staff,~~ rules adopted by the board of medicine or as otherwise authorized by law. Any health care organization may ~~upon request~~ receive such disclosures, subject to an obligation to preserve the confidential privileged character thereof and subject further to the requirement that such requests shall be made and such use shall be limited to ~~the~~ aid ~~of such hospital in determining hospital privileges which may properly be allowed or refused any physician who is a member of or who is seeking to secure or reinstate membership upon the medical staff of such institution~~ the health care organization in conducting peer review.

SECTION 4. That Section 39-1392d, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392d. PROPERTY OF HEALTH CARE ORGANIZATION. All ~~such written and other records of interviews, all reports, statements, minutes, memoranda, charts and physical property or materials of any kind used in connection with or relating to any such items or investigation or hearing or research discipline or medical study for any of the purposes set forth in section 39-1392, Idaho Code,~~ peer review records of a health care organization shall be the property of the health care organization concerned which obtains or compiles the same.~~;provided, however, this~~ A health care organization may provide peer review records to persons or

entities that perform accreditation, certification or quality assurance review or evaluation of the health care organization. The provision of any peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Persons and entities receiving peer review records shall preserve the confidential privileged character thereof and such persons and entities shall not be subject to subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide persons or entities with peer review records. A health care organization may provide peer review records to persons or entities with whom the health care organization is affiliated through any common ownership interest or by contract, which affiliation or contract includes the person's or entity's involvement in the peer review process or the provision of any management or administrative services to the health care organization. The provision of peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Such persons and entities receiving peer review records shall preserve the confidential privileged character thereof, and such persons and entities shall not be subject to any subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide such persons or entities with peer review records. This section shall in no way impair the rights of individuals conducting such research or studies in the exercise of any right or the discharge of any legitimate responsibility which they may have in connection with such research ~~and~~/or studies and the results thereof. ~~;-and-provided-further;-n~~Nothing in this act shall be construed as restricting or altering the rights of inspection and copying by patients and their duly authorized representatives with respect to ~~the~~ such patients' official ~~chart-maintained-in-connection with-the-course-of-care-provided-such--patients~~ patient care records, which right of copying and inspection and ~~to~~ use of ~~such-charts~~ patient care records and their contents in appropriate judicial proceedings is unaltered by this enactment.

SECTION 5. That Section 39-1393, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 13, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1393, Idaho Code, and to read as follows:

39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON PHYSICIAN. (1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.

(2) A health care organization in Idaho shall report to the board of medicine if it:

(a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or

(b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care organization not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.

(3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:

(a) Restriction or limitation of privileges;

(b) Revocation of privileges;

(c) Suspension of privileges;

(d) Reduction of privileges;

(e) Denial of a request for initial privileges;

(f) Submission to monitoring of the physician's physical or mental condition;

(g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;

(h) Surrender of privileges;

(i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;

(j) Termination of employment;

(k) Suspension of employment lasting longer than thirty (30) days.

(4) The reporting requirements of this section shall not apply to:

(a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;

(b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;

(c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;

(d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and

(e) The denial of a physician's request for additional privileges or credentials with a health care organization.

(5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.

(6) A health care organization required to report a professional

review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:

(a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;

(b) A statement of the specific professional review action sanction; and

(c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of medicine may not request or require production of any peer review records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.

(7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.

(8) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to chapter 3, title 9, Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

SECTION 7. That Section 54-1818, Idaho Code, be, and the same is hereby amended to read as follows:

54-1818. REPORTING OF VIOLATIONS BY PHYSICIANS. A licensed physician and surgeon possessing knowledge of a violation of section 54-1810~~4~~, Idaho Code, by any other physician and surgeon licensed to practice medicine in Idaho shall with reasonable promptness report such knowledge to the board of medicine or its duly authorized committee, agency or representative, and failure to do so shall subject such person to disciplinary action by the state board of medicine as in its discretion the board shall deem proper, pursuant to procedures provided in chapter 18, title 54, Idaho Code; provided, no person shall be civilly liable for communications, reports or acts of any kind made, given or handled under the provisions of this act. <u>However, notwithstanding the foregoing, no physician or surgeon shall be required to report, nor shall any physician or surgeon report, any information known, learned or discovered by that physician or surgeon as a result of participation in</u>

peer review or access to peer review records, as defined in section 39-1392a, Idaho Code. This provision shall not relieve a health care organization of its notification obligations as set forth in section 39-1393, Idaho Code.

Approved April 8, 2003.

CHAPTER 245
(S.B. No. 1108, As Amended, As Amended)

AN ACT

RELATING TO COLLECTION OF PUBLIC DEBTS; AMENDING SECTION 20-607, IDAHO CODE, TO PROVIDE THAT REPRESENTATIVES OF COUNTIES MAY FILE CIVIL ACTIONS IN THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION AND TO REVISE A TIME LIMITATION; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2358, IDAHO CODE, TO PROVIDE THAT PUBLIC AGENCIES MAY RETAIN COLLECTION AGENCIES TO COLLECT PUBLIC DEBTS, TO PROVIDE FOR COLLECTION FEES, TO REQUIRE NOTICE TO DEBTORS, TO LIMIT REMEDIES AND POWERS OF COLLECTION AGENCIES AND TO CLARIFY THE TERM "DEBT"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-607, Idaho Code, be, and the same is hereby amended to read as follows:

20-607. PRISONER REIMBURSEMENT TO THE COUNTY. (1) The county sheriff shall seek reimbursement for any expenses incurred by the county in relation to the charge or charges for which a person was sentenced to a county jail as follows:

(a) From each person who is or was a prisoner, not more than twenty-five dollars ($25.00) per day for the expenses of maintaining that prisoner up to a maximum of five hundred dollars ($500), whichever is less, for the entire period of time the person was confined in the county jail, including any period of pretrial detention;

(b) Any other expenses incurred by the county in order to collect payments under this section;

(c) In pursuing reimbursement under this section the county may investigate the financial status of the person.

(d) The county where the person was sentenced shall charge the person a daily maintenance cost according to paragraph (a) of this subsection and shall seek reimbursement once the debt has been incurred.

(2) Before seeking any reimbursement under this section, the sheriff shall develop a form to be used for determining the financial status of prisoners. The form shall provide for obtaining the age and marital status of the prisoner, the number and ages of children of the prisoner, the number and ages of other dependents, type and value of real estate, type and value of real and personal property, type and value of investments, cash, bank accounts, pensions, annuities, salary, wages and any other personal property of significant cash value. The county shall use the form when investigating the financial status of a prisoner and when seeking reimbursement.

(3) (a) A prisoner in a county jail shall provide accurate information and cooperate with the county sheriff for purposes of satisfying subsection (2) of this section.

(b) A prisoner who willfully refuses to provide accurate information or cooperate as provided in paragraph (a) of this subsection shall not receive a reduction in his or her term under section 20-621, Idaho Code.

(4) At the request of the board of county commissioners, the sheriff of the county shall forward to the board a list containing the name of each sentenced prisoner, term of sentence and date of admission.

(5) (a) Within ~~six~~ one (6) ~~months~~ year of the release of a person as a sentenced prisoner from any county jail, ~~an attorney~~ a representative for that county may file a civil action in the small claims department of the magistrate's division pursuant to the provisions of chapter 23, title 1, Idaho Code, to seek reimbursement from that person for the cost of incarceration. A civil action may be filed only after determining from the financial status form, as required in subsection (2) of this section, that sufficient assets are available to justify further recovery efforts and that further action to collect the daily expense for maintaining the sentenced person by the county will not cause the sentenced person or his dependents to qualify for public assistance.

(b) A civil action brought under this section shall be instituted in the name of the county in which the jail is located and shall state the dates and places of sentence, the length of time set forth in the sentence, the length of time actually served, and the amount or amounts due to the county pursuant to this section.

(c) Before entering any order on behalf of the county against the defendant, the court shall take into consideration any legal obligation of the defendant to support a spouse, minor children, other dependents or provide victim restitution and any moral obligation to support dependents to whom the defendant is providing or has in fact provided support.

(6) The reimbursements secured under this section shall be credited to the justice fund or current expense fund of the county to be available for jail maintenance and operation purposes.

SECTION 2. That Chapter 23, 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 67-2358, Idaho Code, and to read as follows:

67-2358. COLLECTION OF PUBLIC DEBTS -- FEES.

(1) (a) Public agencies, as defined in section 67-2327, Idaho Code, may retain by written contract a collection agency that has a permit pursuant to chapter 22, title 26, Idaho Code, for the purpose of collecting public debts owed by any person, including any restitution that is being collected on behalf of a crime victim.

(b) Any public agency using a collection agency as provided in this section may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee incurred or to be incurred. The amount to be paid for collection services shall be left to the agreement of the public agency and its collection agency or agencies, but in no case shall a contingent fee exceed thirty-three percent (33%) of the unpaid debt per account.

(2) (a) No debt may be assigned to a collection agency unless there has been a reasonable attempt to advise the debtor of the debt and at least thirty (30) days have elapsed from the time such notice was attempted. The public agency shall maintain a record of all attempts to notify the debtor of the existence of the debt.

(b) As used in this subsection, "reasonable attempt" means that the public agency has notified the debtor, either by mail, electronic transaction, telephone or in person, of the existence of the debt and that the public agency is attempting to collect the debt and any information obtained will be used for that purpose. At least one (1) notice sent pursuant to this subsection shall be in writing and shall state:

(i) The amount of the debt;

(ii) That unless the debtor, within thirty (30) days after receipt of notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the public agency;

(iii) That if the debtor notifies the public agency in writing within the thirty (30) day period that the debt, or any portion thereof, is disputed, the public agency will obtain verification of the debt and a copy of such verification will be mailed to the consumer by the public agency; and

(iv) That the public agency may employ a debt collection agency to collect a debt, which may result in additional costs to the debtor if the debtor fails to pay the debt.

(3) Collection agencies acting pursuant to this section shall have only those remedies and powers which are available to them under chapter 22, title 26, Idaho Code.

(4) For purposes of this section, the term "debt" shall include all debts, including the fee required under subsection (1)(b) of this section, except as otherwise provided by law.

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 8, 2003.

CHAPTER 246
(S.B. No. 1115, As Amended in the House)

AN ACT

RELATING TO MODIFICATION OF PROVISIONS FOR MAINTENANCE AND SUPPORT; AMENDING SECTION 32-709, IDAHO CODE, TO PROVIDE THAT THE COURT MAY ALLOW A CREDIT AGAINST CHILD SUPPORT ARREARAGES FOR PERIODS OF TIME EXCEEDING ONE HUNDRED TWENTY DAYS DURING WHICH THE MINOR CHILDREN HAVE LIVED PRIMARILY WITH THE OBLIGATED PARENT WITH THE KNOWLEDGE AND CONSENT OF THE CUSTODIAL PARENT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 32-709, Idaho Code, be, and the same is hereby amended to read as follows:

32-709. MODIFICATION OF PROVISIONS FOR MAINTENANCE AND SUPPORT. (1~~.~~) The provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of a substantial and material change of circumstances.

(2) The court may allow a credit against child support arrearages for periods of time exceeding one hundred twenty (120) days during which the minor children have lived primarily with the obligated parent with the knowledge and consent of the custodial parent.

Approved April 8, 2003.

CHAPTER 247
(S.B. No. 1121)

AN ACT
RELATING TO INTENTIONAL DESTRUCTION OF A TELECOMMUNICATION LINE OR TELECOMMUNICATION INSTRUMENT; AMENDING SECTION 18-6810, IDAHO CODE, TO CLARIFY THAT A VIOLATION CONSTITUTES A MISDEMEANOR BY REMOVING LANGUAGE SPECIFYING A FIRST OFFENSE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-6810, Idaho Code, be, and the same is hereby amended to read as follows:

18-6810. INTENTIONAL DESTRUCTION OF A TELECOMMUNICATION LINE OR TELECOMMUNICATION INSTRUMENT. (1) Any person who intentionally takes down, removes, injures or obstructs in any manner any telecommunication line or, any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof or who intentionally takes, withholds, takes down, removes, injures or obstructs any telephone instrument or other instrument that is used or could be used to facilitate the transmission of messages, signals, facsimiles, video images or other communication by means of telephone, telegraph, cable, wire or the projection of energy or waves without physical connection (such as wireless or cellular), with the intent to prohibit, disrupt, inhibit, delay, disconnect or otherwise interfere with a person's ability to make contact with or otherwise communicate with an emergency service provider is guilty of a misdemeanor ~~for a first offense~~ and shall be punished by a fine of up to one thousand dollars ($1,000) or by imprisonment in the county jail for up to one (1) year, or both.

(2) For purposes of this statute, a "telecommunication line" shall be defined as any line used or that could be used for the transmission of any type of message or information, regardless of form or content.

(3) For purposes of this statute, an "emergency service provider" includes law enforcement, emergency medical service providers (including, but not limited to, ambulance, EMS, or paramedic service providers), fire suppression service providers, dispatch centers, dis-

patch personnel, and any person, entity, or security business (including private business) that has the authority to dispatch such service providers or that otherwise makes available the service of requesting a response, or providing notification of the need for a response, by any of the foregoing emergency service providers. The term "emergency service provider" shall also include any personnel, service or entity that can be contacted, either directly or indirectly, by dialing "911."

Approved April 8, 2003.

CHAPTER 248
(S.B. No. 1127)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1833, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AMENDING SECTION 41-1834, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AMENDING SECTION 41-1835, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AND AMENDING SECTION 41-1836, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1833, Idaho Code, be, and the same is hereby amended to read as follows:

41-1833. EXEMPTION OF PROCEEDS -- LIFE INSURANCE. (1) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life, or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person, and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the policy is made available for his use: provided, that subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before such payment, the insurer shall have received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specification of the amount claimed.

(2) For the purposes of subsection (1) above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

(3) This section shall not be affected by the terms of section 15-6-107, Idaho Code.

SECTION 2. That Section 41-1834, Idaho Code, be, and the same is hereby amended to read as follows:

41-1834. EXEMPTION OF PROCEEDS -- DISABILITY INSURANCE. Except as may otherwise be expressly provided by the policy or contract, the proceeds or avails of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

This section shall not be affected by the terms of section 15-6-107, Idaho Code.

SECTION 3. That Section 41-1835, Idaho Code, be, and the same is hereby amended to read as follows:

41-1835. EXEMPTION OF PROCEEDS -- GROUP INSURANCE. (1) A policy of group life insurance or group disability insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts.

(2) This section shall not apply to group insurance issued pursuant to this code to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

(3) This section shall not be affected by the terms of section 15-6-107, Idaho Code.

SECTION 4. 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 one thousand two hundred ~~and~~ fifty dollars ($1,250) per month for the length of time represented by such installments, and that such periodic payments in excess of one thousand two hundred ~~and~~ fifty dollars ($1,250) 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 one thousand two hundred ~~and~~ fifty dollars ($1,250) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in 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 times during life or lives, or for a specified term or terms.

(4) This section shall not be affected by the terms of section 15-6-107, Idaho Code.

Approved April 8, 2003.

CHAPTER 249
(S.B. No. 1128)

AN ACT

RELATING TO QUALIFICATIONS OF A DESIGNATED EXAMINER FOR PURPOSES OF CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2403, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 66-317, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO DELETE A CODE REFERENCE; AND AMENDING

SECTION 66-329, IDAHO CODE, TO FURTHER GOVERN THE DEFINITION OF A DESIGNATED EXAMINER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 16-2403, Idaho Code, be, and the same is hereby amended to read as follows:

16-2403. DEFINITIONS. As used in this chapter:

(1) "Child" means an individual less than eighteen (18) years of age and not emancipated by either marriage or legal proceeding.

(2) "Consistent with the least restrictive alternative principle" means that services are delivered in the setting which places the fewest restrictions on the personal liberty of the child, and provides the greatest integration with individuals who do not have disabilities, in typical and age appropriate, school, community and family environments, which is consistent with safe, effective and cost-effective treatment for the child and family.

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

(4) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.

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

(6) "Emergency" means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, his family or others, or poses a serious risk of substantial deterioration in the child's condition which cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in his family home.

(7) "Informed consent to treatment" means a knowing and voluntary decision to undergo a specific course of treatment, evidenced in writing, and made by an emancipated child, or a child's parent, or guardian, who has the capacity to make an informed decision, after the staff of the facility or other provider of treatment have explained the nature and effects of the proposed treatment.

(8) "Involuntary treatment" means treatment, services and placement of children provided without consent of the parent of a child, under the authority of a court order obtained pursuant to this chapter, as directed by an order of disposition issued by a designated employee of the department of health and welfare under section 16-2415, Idaho Code.

(9) "Lacks capacity to make an informed decision concerning treatment" means that the parent is unable to understand the nature and effects of hospitalization or treatment, or is unable to engage in a rational decision-making process regarding such hospitalization or treatment, as evidenced by an inability to weigh the risks and benefits, despite conscientious efforts to explain them in terms that the parent can understand.

(10) "Likely to cause harm to himself or to suffer substantial mental or physical deterioration" means that, as evidenced by recent behavior, the child:

(a) Is likely in the near future to inflict substantial physical injury upon himself; or

(b) Is likely to suffer significant deprivation of basic needs such as food, clothing, shelter, health or safety; or

(c) Will suffer a substantial increase or persistence of symptoms of mental illness or serious emotional disturbance which is likely to result in an inability to function in the community without risk to his safety or well-being or the safety or well-being of others, and which cannot be treated adequately with available home and community-based outpatient services.

(11) "Likely to cause harm to others" means that, as evidenced by recent behavior causing, attempting, or threatening such harm with the apparent ability to complete the act, a child is likely to cause physical injury or physical abuse to another person.

(12) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. 6042 and 42 U.S.C. 10801 et seq.

(13) "Serious emotional disturbance" means an emotional or behavioral disorder, or a neuropsychiatric condition which results in a serious disability, and which requires sustained treatment interventions, and causes the child's functioning to be impaired in thought, perception, affect or behavior. A disorder shall be considered to "result in a serious disability" if it causes substantial impairment of functioning in family, school or community. A substance abuse disorder does not, by itself, constitute a serious emotional disturbance, although it may coexist with serious emotional disturbance.

(14) "Special therapy" means any treatment modality used to treat children with serious emotional disturbances which is subject to restrictions or special conditions imposed by the department of health and welfare rules.

(15) "Surrogate parent" means any person appointed to act in the place of the parent of a child for purposes of developing an individual education program under the authority of the individuals with disabilities education act, 20 U.S.C. 1400 et seq., as amended.

(16) "Treatment facility" means a facility or program meeting applicable licensing standards, that has been approved for the provisions of services under this chapter by the department of health and welfare.

SECTION 2. That Section 66-317, Idaho Code, be, and the same is hereby amended to read as follows:

66-317. DEFINITIONS. As used in this chapter, terms shall have the following meanings:

(a) "Department director" means the director of the state department of health and welfare.

(b) "Voluntary patient" means an individual admitted to a facility for evaluation pursuant to section 18-211 or 20-520, Idaho Code, or admitted to a facility for treatment pursuant to section 66-318, Idaho Code.

(c) "Involuntary patient" means an individual committed pursuant to section 18-212, ~~18-214,~~ 66-329 or 66-1201, Idaho Code, or committed pur-

suant to section 16-1608 or 20-520, Idaho Code, and admitted to a facility for the treatment of minors.

(d) "Licensed physician" means an individual licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

(e) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. A~~a~~ny person designated by the department director ~~as~~ will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions. ~~Such persons shall be psychiatrists, licensed psychologists, licensed physicians, a holder of an earned master's level or higher degree in social work from an accredited program, a registered nurse with an earned master's level or higher degree in psychiatric nursing from an accredited program, or a holder of an earned master's level or higher degree in psychology from an accredited program.~~

(f) "Dispositioner" means a designated examiner employed by or under contract with the department of health and welfare and designated by the department director to determine the appropriate location for care and treatment of involuntary patients.

(g) "Facility" means any public or private hospital, sanatorium, institution, mental health center or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate or to provide care or treatment, or both, for the mentally ill.

(h) "Lacks capacity to make informed decisions about treatment" means the inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation of the purpose, nature, and possible significant risks and benefits of treatment.

(i) "Inpatient treatment facility" means a facility in which an individual receives medical and mental treatment for not less than a continuous twenty-four (24) hour period.

(j) "Supervised residential facility" means a facility, other than the individual's home, in which the individual lives and in which there lives, or are otherwise on duty during the times that the individual's presence is expected, persons who are employed to supervise, direct, treat or monitor the individual.

(k) "Likely to injure himself or others" means either:

(1) A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(2) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.

(l) "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility.

(m) "Gravely disabled" means a person who, as the result of mental

illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety.

(n) "Outpatient commitment" means a court order directing a person to comply with specified mental health treatment requirements, not involving the continuous supervision of a person in an inpatient setting, that are reasonably designed to alleviate or to reduce a person's illness or disability, or to maintain or prevent deterioration of the person's mental or emotional functioning. The specified requirements may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person's condition, or participating in individual or group therapy or in educational or vocational programs. Outpatient commitment may be up to one (1) year.

SECTION 3. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (a) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

(b) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(c) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(d) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist~~; no more than one (1) designated examiner may be a physician -- not -- practicing -- psychiatry, -- a -- holder of an earned master's~~

~~level or higher degree in social work from an accredited program, a registered nurse with an earned master's level or higher degree in psychiatric nursing from an accredited program, or a holder of an earned master's level or higher degree in psychology from an accredited program.~~ The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates which shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled due to mental illness. If the proceedings are terminated, the proposed patient shall be released immediately.

(e) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(f) Upon receipt of such application and designated examiners' reports the court shall appoint a time and place for hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney, or if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of kin or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the proposed patient and attorney and for good cause shown, the court may continue the hearing up to an additional fourteen (14) days during which time, for good cause shown, the court may authorize treatment.

(g) An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(h) The hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient, unless the patient waives the right to have venue fixed there.

(i) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply and

any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(j) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(k) If, upon completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that the proposed patient:

(1) is mentally ill; and

(2) is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for an indeterminate period of time not to exceed one (1) year. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility consistent with the needs of each patient committed under this section for observation, care, and treatment.

(l) Nothing in this chapter or in any rule adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(1) has epilepsy, a developmental disability, a physical disability, mental retardation, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(2) is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(3) can be properly cared for privately with the help of willing and able family or friends, and provided, that such persons may be detained or involuntarily admitted if such persons ~~are~~ is mentally ill and presents a substantial risk of injury to himself or others if allowed to remain at liberty.

(m) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and either the patient's spouse, guardian, adult next of kin, or friend.

(n) If the patient has no spouse or guardian and if the patient has property which may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(o) The commitment shall continue until the commitment is terminated and shall be unaffected by the patient's conditional release or change in disposition.

Approved April 8, 2003.

CHAPTER 250
(S.B. No. 1136, As Amended)

AN ACT

RELATING TO DOMESTIC RELATIONS AND THE STATE MILITIA; AMENDING SECTION 32-717, IDAHO CODE, TO PROVIDE THAT WHEN AN ACTIVE MEMBER OF THE IDAHO NATIONAL GUARD HAS BEEN ORDERED OR CALLED TO DUTY, THE MILITARY SERVICE SHALL NOT BE A SUBSTANTIAL OR MATERIAL AND PERMANENT CHANGE IN CIRCUMSTANCE TO MODIFY BY REDUCING THE MEMBER'S PREVIOUSLY DECREED CHILD CUSTODY AND VISITATION PRIVILEGES AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING CONTINGENCIES FOR AN EFFECTIVE DATE.

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

SECTION 1. That Section 32-717, Idaho Code, be, and the same is hereby amended to read as follows:

32-717. CUSTODY OF CHILDREN -- BEST INTEREST. (1) In an action for divorce the court may, before and after judgment, give such direction for the custody, care and education of the children of the marriage as may seem necessary or proper in the best interests of the children. The court shall consider all relevant factors which may include:

(a) The wishes of the child's parent or parents as to his or her custody;

(b) The wishes of the child as to his or her custodian;

(c) The interaction and interrelationship of the child with his or her parent or parents, and his or her siblings;

(d) The child's adjustment to his or her home, school, and community;

(e) The character and circumstances of all individuals involved;

(f) The need to promote continuity and stability in the life of the child; and

(g) Domestic violence as defined in section 39-6303, Idaho Code, whether or not in the presence of the child.

(2) If the parent has a disability as defined in this section, the parent shall have the right to provide evidence and information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The court shall advise the parent of such right. Evaluations of parental fitness shall take into account the use of adaptive equipment and supportive services for parents with disabilities and shall be conducted by, or with the assistance of, a person who has expertise concerning such equipment and services. Nothing in this sec-

tion shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

(3) In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interests of the child.

(4) As used in this chapter:

(a) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(b) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the ~~affect~~ effect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) "Supportive services" ~~means services~~ which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as braille texts or sign language interpreters.

(5) Nothing in this chapter shall be construed to allow discrimination on the basis of disability. In any case where the disability of a parent is found by the court to be relevant to an award of custody of a child, the court shall make specific findings concerning the disability and what ~~affect~~ effect, if any, the court finds the disability has on the best interests of the child.

(6) ~~With reference~~ to this section, when an active member of the Idaho national guard has been ordered or called to duty as defined in section 46-409, Idaho Code, such military service thereunder shall not be a substantial or material and permanent change in circumstance to modify by reducing the member's previously decreed child custody and visitation privileges.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect when the Governor enters an order, and files it with the Secretary of State, calling or ordering members of the Idaho National Guard to state active duty or to Title 32 U.S.C. duty other than for training as defined in Section 46-409, Idaho Code, or on July 1, 2003, whichever occurs first.

Approved April 8, 2003.

CHAPTER 251
(S.B. No. 1137)

AN ACT

RELATING TO THE STATE MILITIA; REPEALING SECTION 46-409, IDAHO CODE; AMENDING CHAPTER 4, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-409, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THE MILITIA CIVIL RELIEF ACT AND TO PROVIDE THAT THE ADJUTANT GENERAL OR HIS DESIGNEE SHALL BE RESPONSIBLE TO EXECUTE CERTIFICATES OF SERVICE; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3719, IDAHO CODE, TO PROVIDE DUTIES OF EDUCATIONAL INSTITUTIONS OF THIS STATE WHENEVER A STUDENT WHO IS AN ACTIVE MEMBER OF THE IDAHO NATIONAL GUARD IS CALLED OR ORDERED TO STATE ACTIVE DUTY FOR THIRTY CONSECUTIVE DAYS OR MORE; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING CONTINGENCIES FOR AN EFFECTIVE DATE.

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

SECTION 1. That Section 46-409, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 4, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-409, Idaho Code, and to read as follows:

46-409. THE MILITIA CIVIL RELIEF ACT. (1) As used in this section, the following terms have the following meanings:

(a) "Active member" means any member of the Idaho air or army national guard who is called or ordered by the governor for thirty (30) consecutive days or more to state active duty, or to duty other than for training under title 32 U.S.C.

(b) "Be called or ordered by the governor" means to be called or ordered by the governor for thirty (30) consecutive days or more to state active duty or to duty other than for training under title 32 U.S.C.

(c) "Duty other than for training" means any state active duty or title 32 U.S.C. duty other than training unless training is required as part of thirty (30) days of the consecutive duty upon the call or order of the governor. Duty other than for training does not include weekend drill, annual training (generally fifteen (15) days) as part of normal national guard service, and does not include attendance at military schools unless such attendance is required as

part of, or occurs in conjunction with thirty (30) days of consecutive duty upon the call or order of the governor.

(d) "Employee" means any person employed by a public or private employer.

(e) "Soldiers' and sailors' civil relief act (SSCRA)" means the provisions of 50 App. U.S.C. section 501 et seq. which protects active military service members.

(f) "State active duty" means any active duty performed for thirty (30) consecutive days or more by an active member of the Idaho national guard in accordance with this title when called or ordered by the governor.

(g) "Uniform services employment and reemployment rights act of 1994 (USERRA)" means the provisions of 38 U.S.C. section 4301 et seq., which gives employees who leave a civilian job to perform military service the right to return to the civilian job held before entering military service with the rights to seniority, to purchase insurance coverage and purchase retirement credit.

(2) Whenever any active member of the Idaho national guard in time of war, armed conflict, or emergency proclaimed by the governor or by the president of the United States, shall be called or ordered by the governor to state active duty for a period of thirty (30) consecutive days or more, or to duty other than for training pursuant to title 32 U.S.C., the provision as then in effect of the soldiers' and sailors' civil relief act, 50 App. U.S.C. section 501 et seq., and the uniform services employment and reemployment rights act, 38 U.S.C. section 4301 et seq., shall apply.

(3) With reference to 50 App. U.S.C. section 581, the adjutant general or his designee shall be responsible to execute certificates of service referred to therein.

SECTION 3. That Chapter 37, 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 33-3719, Idaho Code, and to read as follows:

33-3719. STUDENT CALLED TO ACTIVE DUTY. Whenever any active member of the Idaho national guard is called or ordered by the governor to state active duty for thirty (30) consecutive days or more, or to duty other than for training pursuant to title 32, U.S.C., an educational institution in this state in which the member is enrolled shall grant the member military leave of absence from his education. Individuals on military leave of absence from their educational institution, upon release from military duty, shall be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the educational institution to refund tuition or fees or to credit the tuition, scholarships, grants and fees to the next academic semester or term after the termination of the educational military leave of absence at the option of the student.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect when the Governor enters an order, and files it with the Secretary of State, calling or ordering members of the Idaho National Guard to state active duty or to Title 32 U.S.C. duty other than for training as defined in Section 1 of this act, or on July 1, 2003, whichever occurs first.

Approved April 8, 2003.

CHAPTER 252
(S.B. No. 1139)

AN ACT

RELATING TO THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AMENDING SECTION 67-432, IDAHO CODE, TO PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE SHALL APPOINT A MEMBER TO FILL A SENATE VACANCY WHICH OCCURS ON THE COMMITTEE DURING THE INTERIM WHEN THE LEGISLATURE IS NOT IN SESSION.

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

SECTION 1. That Section 67-432, Idaho Code, be, and the same is hereby amended to read as follows:

67-432. JOINT FINANCE-APPROPRIATIONS COMMITTEE -- CREATION -- MEMBERS. There is hereby created the joint finance-appropriations committee which shall consist of the members of the senate finance committee and the members of the house appropriations committee. Vacancies on the committee which occur during the interim when the legislature is not in session shall be filled by the speaker of the house and the president pro tempore of the senate, but any member thus selected shall be from the same house and the same political party as the member whose seat was vacated, and shall serve until the next regular legislative session.

Approved April 8, 2003.

CHAPTER 253
(S.B. No. 1160)

AN ACT

RELATING TO CRIMES AND PUNISHMENTS; AMENDING SECTION 18-310, IDAHO CODE, TO PROVIDE THAT PERSONS CONVICTED OF MURDER OR VOLUNTARY MANSLAUGHTER SHALL NOT BE RESTORED THE RIGHT TO SHIP, TRANSPORT, POSSESS OR

RECEIVE A FIREARM REGARDLESS OF THE DATE OF THEIR CONVICTION IF THE CONVICTION WAS THE RESULT OF AN OFFENSE COMMITTED BY USE OF A FIREARM.

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

SECTION 1. That Section 18-310, Idaho Code, be, and the same is hereby amended to read as follows:

18-310. IMPRISONMENT — EFFECT ON CIVIL RIGHTS AND OFFICES. (1) A sentence of custody to the Idaho state board of correction suspends all the civil rights of the person so sentenced including the right to refuse treatment authorized by the sentencing court, and forfeits all public offices and all private trusts, authority or power during such imprisonment: provided that any such person may bring an action for damages or other relief in the courts of this state or have an action brought against such person; and provided further that any such person may lawfully exercise all civil rights that are not political during any period of parole or probation, except the right to ship, transport, possess or receive a firearm, and the right to refuse treatment authorized by the sentencing court.

(2) Upon final discharge, a person convicted of any Idaho felony shall be restored the full rights of citizenship, except that for persons convicted of treason or those offenses enumerated in paragraphs (a) through (jj) of this subsection the right to ship, transport, possess or receive a firearm shall not be restored. As used in this subsection, "final discharge" means satisfactory completion of imprisonment, probation and parole as the case may be.

(a) aggravated assault (18-905, 18-915, Idaho Code);
(b) aggravated battery (18-907, 18-915, Idaho Code);
(c) assault with intent to commit a serious felony (18-909, 18-915, Idaho Code);
(d) battery with intent to commit a serious felony (18-911, 18-915, Idaho Code);
(e) burglary (18-1401, Idaho Code);
(f) crime against nature (18-6605, Idaho Code);
(g) domestic battery, felony (18-918, Idaho Code);
(h) enticing of children, felony (18-1509, Idaho Code);
(i) forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);
(j) indecent exposure, felony (18-4116, Idaho Code);
(k) injury to child, felony (18-1501, Idaho Code);
(l) intimidating a witness, felony (18-2604, Idaho Code);
(m) lewd conduct with a minor or child under sixteen (18-1508(3), (4), (5) and (6), Idaho Code);
(n) sexual abuse of a child under sixteen (18-1506, Idaho Code);
(o) sexual exploitation of a child (18-1507, Idaho Code);
(p) felonious rescuing prisoners (18-2501, Idaho Code);
(q) escape by one charged with, convicted of or on probation for a felony (18-2505, Idaho Code);
(r) unlawful possession of a firearm (18-3316, Idaho Code);
(s) degrees of murder (18-4003, Idaho Code);
(t) voluntary manslaughter (18-4006(1), Idaho Code);
(u) assault with intent to murder (18-4015, Idaho Code);

(v) administering poison with intent to kill (18-4014, Idaho Code);
(w) kidnapping (18-4501, Idaho Code);
(x) mayhem (18-5001, Idaho Code);
(y) rape (18-6101, Idaho Code);
(z) male rape (18-6108, Idaho Code);
(aa) robbery (18-6501, Idaho Code);
(bb) ritualized abuse of a child (18-1506A, Idaho Code);
(cc) cannibalism (18-5003, Idaho Code);
(dd) felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, Idaho Code);
(ee) trafficking (37-2732B, Idaho Code);
(ff) threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);
(gg) unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);
(hh) unlawful possession of destructive devices (18-3319, Idaho Code);
(ii) unlawful use of destructive device or bomb (18-3320, Idaho Code);
(jj) attempt (18-306, Idaho Code), conspiracy (18-1701, Idaho Code), or solicitation (18-2001, Idaho Code), to commit any of the crimes described in paragraphs (a) through (ii) of this subsection.
(kk) The provisions of this subsection shall apply only to those persons convicted of the enumerated felonies in paragraphs (a) through (jj) of this subsection on or after July 1, 1991, except that persons convicted of the felonies enumerated in paragraphs (s) and (t) of this subsection, for any degree of murder or voluntary manslaughter, shall not be restored the right to ship, transport, possess or receive a firearm regardless of the date of their conviction if the conviction was the result of an offense committed by use of a firearm.

(3) A person not restored to the civil right to ship, transport, possess or receive a firearm may make application to the commission of pardons and parole to restore the civil right to ship, transport, possess or receive a firearm. The commission shall not accept any such application until five (5) years after the date of final discharge. The commission shall conduct the proceeding upon such application pursuant to rules adopted in accordance with the law. The commission shall not restore the right to ship, transport, possess or receive a firearm to any person convicted of murder in the first degree (18-4003, Idaho Code), murder in the second degree (18-4003, Idaho Code), or any felony enumerated in paragraphs (a) through (jj) of subsection (2), upon which the sentence was enhanced for the use of a firearm during the commission of said felony.

Approved April 8, 2003.

CHAPTER 254
(S.B. No. 1165)

AN ACT

RELATING TO THE PRACTICE OF RESPIRATORY THERAPY; AMENDING SECTION 54-4303, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 43, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4304A, IDAHO CODE, TO REQUIRE A LICENSE OR PERMIT FOR THE PRACTICE OF POLYSOMNOGRAPHY RELATED RESPIRATORY CARE, TO SET FORTH QUALIFICATIONS, TO PROVIDE FOR PERMITS, TO PROVIDE FOR CONTINUING EDUCATION, TO PROVIDE FOR APPLICATION OF CERTAIN PROVISIONS AND TO PROVIDE FOR A CONDITIONAL PERMIT; AND AMENDING SECTION 54-4313, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MEMBERSHIP OF THE LICENSURE BOARD; AND TO PROVIDE FOR THE FILLING OF BOARD VACANCIES FOLLOWING PASSAGE OF THE ACT.

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

SECTION 1. That Section 54-4303, Idaho Code, be, and the same is hereby amended to read as follows:

54-4303. DEFINITIONS. As used in this chapter:

(1) "Act" means the respiratory care practice act of 1991, chapter 43, title 54, Idaho Code.

(2) "Applicant" means a person who applies for a license, permit or a temporary permit pursuant to this chapter.

(3) "Board" means the Idaho state board of medicine established by and constituted pursuant to section 54-1805, Idaho Code, or any successor section or statute.

(4) "Certified pulmonary function technologist" (CPFT) means the professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the national board for respiratory care, inc.

(5) "Certified respiratory therapy technician" (CRTT) means the professional designation earned by a person who has successfully completed the entry level examination administered by the national board for respiratory care, inc.

(6) "Entry level examination" means the certification examination for entry level respiratory therapy practitioners administered by the national board for respiratory care, inc., the successful completion of which entitles a person to the professional designation of "certified respiratory therapy technician" (CRTT).

(7) "Licensed physician" means a physician licensed by the board.

(8) "Licensure" means the issuance of a license to an applicant under the ~~provisions~~ of this chapter entitling such person to hold himself out as a respiratory care practitioner and entitling him to practice or perform respiratory care in the state.

(~~8~~9) "Licensure board" means the licensure board established by this chapter to accept applications under this chapter, to make recommendations and consult with the board and to perform such other duties as may be required or authorized in this chapter or by the board.

(~~9~~10) "National board for respiratory care, inc." means the nationally recognized private testing, examining and credentialing body for the respiratory care profession.

(10~~0~~1) "Performance of respiratory care" means respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy; pharmacologic agents related to respiratory care protocols; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system; observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures.

(1~~1~~2) "Person" means an individual.

(1~~2~~3) "Polysomnography" means the process of analysis, attended monitoring and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders. syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities.

(14) "Polysomnography related respiratory care services" means the limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the board as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate a rule adopted by the board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care which they may provide, including in connection with the provision of polysomnography services.

(15) "Polysomnographic technician" means a person who holds a permit as set forth in section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician.

(16) "Polysomnographic trainee" means a person who holds a temporary permit as set forth in section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee.

(17) "Practice of respiratory care" means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician.

(18) "Registered polysomnographic technologist" means a person who holds a permit as set forth in section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services.

(~~13~~9) "Respiratory care" means the allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician.

(~~14~~20) "Respiratory care practitioner" means a person who has been issued a license by the board under the provisions of this chapter.

(~~15~~21) "Respiratory care protocols" means policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory

care practitioners and other licensed, certified or registered health care practitioners.

(~~16~~22) "Registered pulmonary function technologist" (RPFT) means the professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the national board for respiratory care, inc.

(~~17~~23) "Registered respiratory therapist" (RRT) means the professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the national board for respiratory care, inc.

(~~18~~24) "Respiratory therapist" means a person who practices or provides respiratory care.

(~~19~~25) "Respiratory therapy" means the practice or performance of respiratory care as defined in this chapter including, but not limited to, inhalation therapy.

(26) "Sleep disorder center or laboratory" means a facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory which provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to section 54-4308, Idaho Code, in constant attendance.

(20~~7~~) "Written registry and clinical simulation examinations" means the certification examinations administered by the national board for respiratory care, inc., the successful completion of which entitles a person the professional designation of "registered respiratory therapist" (RRT).

SECTION 2. That Chapter 43, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-4304A, Idaho Code, and to read as follows:

54-4304A. POLYSOMNOGRAPHY RELATED RESPIRATORY CARE. (1) Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to section 54-4308, Idaho Code, or who hold a permit issued by the board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services.

(2) Qualification for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of this section who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to section 54-4308, Idaho Code, must:

(a) Submit an application to the licensure board on forms prescribed by the board and in accordance with the rules adopted by the board pay the permit fee required under this chapter;

(b) Be, on or before the date of issuance of the permit, eighteen (18) years of age or older;

(c) Not have been convicted of an offense or disciplined by a licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the provision of polysomnography related respiratory care services;

(d) Be a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and

(e) Be currently certified in cardiopulmonary resuscitation (CPR).

(3) Registered polysomnographic technologist. An applicant must possess the following qualifications: successful completion of the certification examination as a registered polysomnographic technologist administered by the board of registered polysomnographic technologists (BRPT) or an equivalent examination, approved by the board as recommended by the licensure board, and any additional reasonable minimal requirements as may be adopted by rule of the board.

(4) Polysomnographic technician. An applicant must possess the following qualifications:

(a) Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility; or

(b) Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the board, as recommended by the licensure board and adopted by board rule.

(5) Polysomnographic trainee. An applicant must provide written documentation that an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care provider, or an Idaho licensed physician will directly supervise the applicant's performance of basic polysomnography related respiratory care services and provide documentation of at least one (1) of the following:

(a) That the applicant has at least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field;

(b) That the applicant is currently enrolled in a polysomnography program associated with a state licensed or a nationally accredited education facility; or

(c) That the applicant has successfully completed twenty-four (24) semester credit hours (or a quarter hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility.

(6) Permits.

(a) Permits for registered polysomnographic technologists and permits for polysomnographic technicians shall be issued after applicants have met the requirements of this chapter and submitted an application and payment of a fee in an amount to be fixed by the board. Permits, including renewals, for registered polysomnographic technologists shall be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the board. Permits, including renewals, for polysomnographic technicians shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal appli-

cation and upon payment of a renewal fee in an amount to be fixed by the board.

(b) Temporary permits for polysomnographic trainees shall be issued after applicants have met the requirements of this chapter and submitted an application and payment of a fee in an amount to be fixed by the board. Such permits shall be issued for a period of not more than one (1) year, the exact period to be fixed by the board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee in an amount to be fixed by the board, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years.

(c) Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the licensure board of successful completion of not less than twelve (12) hours of approved continuing education per year in addition to any other requirements for renewal as adopted by board rule. The board, as recommended by the licensure board, may substitute all or a portion of the coursework required in this section when a permittee shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the board, as recommended by the licensure board, to be in full compliance with the education requirements of this section.

(7) The provisions of this chapter governing procedures for suspension and revocation of licenses, payment and assessment of fees and governing misrepresentation, penalties and severability and other administrative procedures shall apply equally to permits for the practice of polysomnography related respiratory care services as to licenses for the practice of respiratory care.

(8) Conditional permit. Any individual who desires to provide polysomnography related respiratory care services as described in this chapter and who meets the requirements of subsection (2) of this section, as well as the necessary requirements as outlined below, may make application for a conditional permit as follows:

(a) An applicant for a conditional polysomnographic technologist permit must provide evidence satisfactory to the board of the successful completion of the certification examination as a registered polysomnographic technologist administered by the board of registered polysomnographic technologists (BRPT) or an equivalent examination, approved by the board, as recommended by the licensure board.

(b) An applicant for a conditional polysomnographic technician permit must provide evidence satisfactory to the board of the successful completion of a minimum of seven hundred twenty (720) hours of experience providing polysomnography services as a paid employee or contractor.

(c) An applicant for a conditional polysomnographic trainee permit must provide evidence satisfactory to the board of the successful completion of a minimum of three hundred sixty (360) hours of experience providing polysomnography services as a paid employee or contractor.

(d) Conditional permits referred shall be issued on or after January 1, 2004, and shall be issued until such time as the board may

adopt rules as may be required for the issuance of regular permits as provided in subsections (3) through (7) of this section.

SECTION 3. That Section 54-4313, Idaho Code, be, and the same is hereby amended to read as follows:

54-4313. LICENSURE BOARD. (1) The licensure board shall consist of five (5) members appointed by the board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being a licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist, and all of whom shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. These members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) such member shall be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first board, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the national board for respiratory care, inc. and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the licensure board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services.

(2) The board, within sixty (60) days following the effective date of this chapter, shall appoint two (2) licensure board members for a term of one (1) year; two (2) for a term of two (2) years; and one (1) for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) The two (2) members of the licensure board who shall be licensed respiratory care practitioners shall be selected by the board of medicine after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho society of respiratory care or other interested associations. The member of the licensure board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the board of medicine after considering a list of three (3) qualified applicants submitted by the Idaho sleep disorder association or other interested associations. The remaining two (2) public members shall be selected by the board of medicine which may solicit nominations of qualified applicants submitted by the Idaho society for respiratory care, the Idaho sleep disorder association or other interested associations or individuals.

(4) The licensure board shall within sixty (60) days after the effective date of this chapter, and annually thereafter, hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) licensure board members.

(45) Each member of the licensure board shall be compensated as provided in section 59-509(h), Idaho Code.

SECTION 4. The first vacancy on the licensure board which occurs following the passage of this act shall be filled by the appointment of a licensed respiratory care practitioner who is also the holder of a valid Idaho permit as a registered polysomnographic technologist when the rules to provide such designation have been adopted by the board.

Approved April 8, 2003.

CHAPTER 255
(S.B. No. 1166)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2003; PROVIDING SIX ADDITIONAL FULL-TIME POSITIONS; 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 338, Laws of 2002, there is hereby appropriated to the Superintendent of Public Instruction/State Department of Education 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, 2002, through June 30, 2003:

FOR:	
Personnel Costs	$ 368,800
Operating Expenditures	942,900
Capital Outlay	24,000
Trustee and Benefit Payments	29,519,100
TOTAL	$30,854,800
FROM:	
Federal Grant Fund	$30,854,800

SECTION 2. In addition to the authorization granted in Section 2, Chapter 338, Laws of 2002, the Superintendent of Public Instruction/State Department of Education is authorized six (6) full-time equivalent positions for the period July 1, 2002, through June 30, 2003.

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 8, 2003.

CHAPTER 256
(S.B. No. 1167)

AN ACT

RELATING TO STATE BUILDINGS; AMENDING SECTION 39-4103, IDAHO CODE, TO PROVIDE THAT ALL BUILDINGS AND OTHER FACILITIES OWNED BY ANY STATE GOVERNMENT AGENCY OR ENTITY, INCLUDING THOSE OWNED, CONSTRUCTED, OR FINANCED BY THE IDAHO STATE BUILDING AUTHORITY, SHALL CONFORM TO THE CODES ADOPTED IN THE IDAHO BUILDING CODE ACT, THE STATE FIRE MARSHAL ACT AND TO CODES FOR PLUMBING AND ELECTRICAL WORK, AND SHALL BE SUBJECT TO THE JURISDICTION OF THE STATE DIVISION OF BUILDING SAFETY AND THE STATE FIRE MARSHAL FOR PURPOSES OF ALL PLAN REVIEWS, PERMITTING AND INSPECTIONS, TO PROVIDE DUTIES OF THE DIVISION OF BUILDING SAFETY AND THE STATE FIRE MARSHAL, TO PROVIDE FOR CODES AND STANDARDS FOR BUILDINGS AND OTHER FACILITIES WHICH ARE CONSTRUCTED OR RENOVATED SPECIFICALLY FOR USE OR OCCUPANCY BY ANY STATE AGENCY OR ENTITY AND TO PROVIDE APPLICATION TO LOCAL GOVERNMENTS REGARDING ISSUANCE OF CERTAIN BUILDING CODE AND PERMITTING ACTIVITIES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 39-4103, Idaho Code, be, and the same is hereby amended to read as follows:

39-4103. SCOPE — EXEMPTIONS. (1) This chapter authorizes the state division of building safety and local governments to adopt and enforce building codes pursuant to the provisions of this chapter.

(2) All buildings and other facilities owned by any state government agency or entity, ~~or which are constructed or renovated specifically for use or occupancy by any such state agency or entity,~~ including those owned, constructed or financed by the Idaho state building authority, shall conform to the codes adopted in this chapter, chapter 2, title 41, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 10, title 54, Idaho Code, and shall be subject to the jurisdiction of the state division of building safety and the state fire marshal for purposes of all plan reviews, permitting and inspections. In performing such plan reviews, permitting and inspections, the division of building safety and the state fire marshal shall route building plans to affected local government agencies, and shall take into consideration local government comments and ordinances and shall promptly notify the local jurisdictions of actions taken and the reasons therefor, and transmit to the local jurisdictions copies of final building plans.

(3) All buildings and other facilities owned by anyone other than state government agencies or entities which are constructed or renovated specifically for use or occupancy by any state agency or entity shall

conform to all state adopted codes and standards. Nothing in this subsection shall limit the authority of local governments to issue permits, review plans and provide a full range of building code enforcement activities for such buildings.

(4) The following is exempt from the provisions of this chapter:

Equipment used primarily for industrial chemical process purposes and for mineral extraction and mineral processing purposes. This exemption shall not include the erection and fabrication of new boilers, pressure vessels and other equipment as required to condition the building for personnel comfort and safety. Equipment in this regard shall mean and shall be limited to facilities or installations for heating, ventilating, air conditioning, refrigerating equipment, elevators, dumbwaiters, escalators, and boilers and pressure vessels associated with building heating systems.

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, 2003.

Approved April 8, 2003.

CHAPTER 257
(H.B. No. 9, As Amended, As Amended in the Senate)

AN ACT

RELATING TO MORTICIANS, FUNERAL DIRECTORS AND EMBALMERS; AMENDING SECTION 54-1102, IDAHO CODE, TO ALPHABETIZE AND REVISE DEFINITIONS, TO DEFINE "CREMATION," "CREMATORY," "HUMAN REMAINS," "CREMAINS," "COLUMBARIUM" AND "ESTABLISHMENT" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1103, IDAHO CODE, TO PROVIDE FOR A RESIDENT TRAINEE LICENSE, TO REMOVE LANGUAGE PERMITTING A LICENSED MORTICIAN TO PERFORM FUNERAL DIRECTOR SERVICES AND A LICENSED RESIDENT TRAINEE TO PERFORM FUNERAL DIRECTOR SERVICES UNDER THE PERSONAL SUPERVISION OF A LICENSED MORTICIAN, TO PROHIBIT THE OPERATION OF A CREMATORY WITHOUT A VALID ESTABLISHMENT LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1104, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS MAY INITIATE THE PROCESS OF CREMATION BY OPERATION OF THE RETORT UNDER THE DIRECTION OF A LICENSED MORTICIAN, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-1106, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF MORTICIANS TO PROVIDE FOR THE LICENSURE AND REGULAR INSPECTION OF FUNERAL ESTABLISHMENTS AND CREMATORIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1108, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING MORTICIAN'S LICENSES, TO PROVIDE FOR EXAMINATIONS FOR MORTICIAN APPLICANTS, TO MAKE GRAMMATICAL CHANGES, TO SET FORTH EXAMINATION REQUIREMENTS FOR FUNERAL DIRECTOR APPLICANTS AND TO REMOVE LANGUAGE REQUIRING THE BOARD TO GRADE OR HAVE LICENSED MORTICIANS GRADE EXAMINATIONS; AMENDING SECTION 54-1109, IDAHO CODE, TO PROVIDE DESCRIPTIVE LANGUAGE, TO SET FORTH REQUIREMENTS FOR FUNERAL DIRECTOR LICENSES, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-1110, IDAHO CODE; AMENDING SECTION 54-1111, IDAHO CODE, TO REVISE AND PROVIDE DESCRIP-

TIVE LANGUAGE, TO PROVIDE FOR THE ISSUANCE OF CREMATORY ESTABLISHMENT LICENSES, TO REVISE AND PROVIDE REQUIREMENTS FOR SUCH ISSUANCE, TO REQUIRE THE MAINTENANCE OF CERTAIN RECORDS, TO DELETE REFERENCES TO FUNERAL ESTABLISHMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1112, IDAHO CODE, TO REVISE REQUIREMENTS FOR RESIDENT TRAINEE LICENSES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-1114, IDAHO CODE; AMENDING SECTION 54-1115, IDAHO CODE, TO PROVIDE FOR A CREMATORY LICENSE FEE OF NOT MORE THAN TWO HUNDRED DOLLARS, TO REMOVE LANGUAGE DISALLOWING THE PRORATION OF FEES FOR A PART YEAR LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1116, IDAHO CODE, TO REMOVE REFERENCES TO FUNERAL ESTABLISHMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1117, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT THE BOARD PROVIDE WRITTEN NOTICE TO A LICENSEE OR APPLICANT CONTAINING A STATEMENT OF CHARGES AND THE HEARING DATE, TIME AND PLACE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1118, IDAHO CODE, TO REMOVE REFERENCES TO FUNERAL ESTABLISHMENTS, TO PROHIBIT LICENSED PERSONS OR THEIR AGENTS FROM PARTICIPATING IN CERTAIN TRANSACTIONS OR BUSINESS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1120, IDAHO CODE, TO PROVIDE DESCRIPTIVE LANGUAGE, TO REQUIRE THAT A PERMIT FOR FINAL DISPOSITION BE SIGNED BY THE INDIVIDUAL AUTHORIZED BY LAW TO CERTIFY THE CAUSE OF DEATH AND TO PROVIDE THAT HUMAN REMAINS SHALL NOT BE DELIVERED TO A CREMATORY OR REMOVED FROM A CASKET OR OTHER CONTAINER WITHOUT WRITTEN CONSENT OF THE PERSON GIVING CONSENT TO THE CREMATION; AMENDING SECTION 54-1128, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1131, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1132, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING FIRMS, PARTNERSHIPS, CORPORATIONS, ASSOCIATIONS AND SALES OR BUSINESS ENTITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1136, IDAHO CODE, TO REMOVE LANGUAGE PERMITTING ADVERTISING OR MARKETING OF PREARRANGEMENT SALES CONTRACTS BY AGENTS OR EMPLOYEES OF CONTRACT SELLERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1138, IDAHO CODE, TO PROVIDE REFERENCE TO FUNERAL DIRECTORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1141, IDAHO CODE, TO MAKE GRAMMATICAL CHANGES AND TO PERMIT ARRANGEMENTS FOR FUNERAL SERVICES THAT DO NOT CONFLICT WITH THE DECEASED'S INSTRUCTIONS FOR DISPOSITION; AND AMENDING SECTION 54-1143, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1102, Idaho Code, be, and the same is hereby amended to read as follows:

54-1102. DEFINITIONS. As used in this act:

~~A.--"Mortician" means any person engaged in or conducting, or holding himself out as engaged in or conducting, any of the following activities:~~

~~(1)--Caring for or preparing dead human bodies for burial or disposal.~~

~~(2)--Disinfecting or preparing dead human bodies by embalming, or otherwise, for funeral service, transportation, burial or disposal.~~

~~(3)--Directing--or--supervising-the-burial-or-disposal-of-dead-human bodies.~~

~~(4)--Arranging-for-funeral-services-for-dead-human-bodies.~~

~~(5)--Selling-funeral-supplies-to-the-public.~~

~~(6)--Conducting,-directing-or-supervising-a-funeral-service.~~

~~(7)--Arranging-for-or-selling-mortician-services-to-the-public.~~

(1) "Board" means the state board of morticians of the state of Idaho or any successor thereof.

(2) "Bureau chief" means the chief of the bureau of occupational licenses.

(3) "Burial" means the interment or entombment of dead human bodies in any manner.

(4) "Cremains" means human remains after cremation.

(5) "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory.

(6) "Crematory" means a building or structure containing one (1) or more retorts for the reduction of bodies of deceased persons to cremated remains.

(7) "Columbarium" means a structure, room or other space in a building or structure containing niches for permanent inurnment of cremains.

(8) "Department" means the department of self-governing agencies of the state of Idaho.

(9) "Embalming" means the disinfecting, preparing or preserving for final disposition of dead human bodies, in whole or in part, or any attempt to do so, by the use or application of chemical substances, fluids or gases on the body, or by the introduction of the same into the body by vascular or hypodermic injection or by direct introduction into organs or cavities, or by any other method or process.

(10) "Establishment" means any funeral establishment or crematory establishment regulated by the board of morticians.

~~B.~~(11) "Funeral director" means any person engaged in or conducting, or holding himself out as engaged in or conducting, any of the following activities:

(~~1~~a) ~~Conducting--funeral--services~~ Directing or supervising the burial, cremation or disposal of dead human bodies.

(~~2~~b) ~~Supervising--or--directing-the-burial-or-disposal-of~~ Arranging for funeral services for dead human bodies.

(~~3~~c) ~~Performing-any-act-or-service-connected-with-such--acts--which is--not-included-within-the-meaning-of-the-term-embalming-as-used-in this-act.-Provided,-however,-this-definition--shall--apply--only--to those--persons-who-are-holders-of-a-funeral-director's-license-which is-valid-to-June-30,-1970~~ Selling funeral goods and services to the public.

(d) Conducting, directing or supervising a funeral service.

~~C.--"Embalming"--means-the-disinfecting,-preparing-or-preserving-for final-disposition-of-dead-human-bodies,-in-whole--or--in--part,--or--any attempt-to-do-so,-by-the-use-or-application-of-chemical-substances,-fluids--or--gases--on-the-body,-or-by-the-introduction-of-the-same-into-the body-by-vascular-or-hypodermic-injection-or-by-direct-introduction--into organs-or-cavities,-or-by-any-other-method-or-process.~~

~~D.--"Burial"--means--the--interment,-cremation-or-entombment-of-dead human-bodies-in-any-manner.~~

~~E.--"Resident-trainee"-means-a-person-who-is-engaged-in-preparing-to~~

~~become licensed as a mortician, and who practices embalming or other acts of a mortician under the direct and immediate personal supervision of a licensed mortician pursuant to a license from the state board of morticians.~~

(12) "Funeral director license" means a yearly license issued by the board to act as a funeral director and perform funeral director services as defined in this chapter.

(13) "Funeral director services" means the services of a funeral director defined in subsection (11) of this section. Funeral director services do not include embalming.

(14) "Funeral establishment" means a place of business ~~conducted~~ at a specific street address or location devoted to the embalming and care and preparation for burial or disposal of dead human bodies including all portions of such business premises and all tools, instruments and supplies used in the preparation and embalming of dead human bodies for burial or disposal, and including any chapel or other facility in which funeral or other religious services may be conducted.

~~G. "Department" means the department of self-governing agencies of the state of Idaho.~~

~~H. "Bureau chief" means the chief of the bureau of occupational licenses.~~

~~I. "Board" means the state board of morticians of the state of Idaho or any successor thereof.~~

~~J. "Mortician license" means a yearly license issued by the board to act as a mortician and perform mortician services as defined in this act.~~

~~K. "Funeral director license" means a yearly license issued by the board to act as a funeral director and perform funeral director services as defined in this act.~~

~~L.~~(15) "Funeral establishment license" means a yearly license issued by the board authorizing the licensee to conduct a funeral establishment as ~~defined in~~ in this ~~act~~ chapter.

~~M. "Resident trainee license" means a yearly license issued by the board to act as a licensed resident trainee and perform mortician services under the direct personal supervision of a licensed mortician as defined in this act.~~

~~N.~~(16) "Funeral services" means any funeral or religious service conducted in connection with, or preparatory to, the burial or disposal of a dead human body.

(17) "Funeral supplies" means caskets, vaults, burial receptacles and any other personal property sold for use in the burial or disposal of a human body.

(18) "Human remains" means the body of a deceased person in any condition or state of decomposition including cremated remains.

(19) "Mortician" means any person engaged in or conducting, or holding himself out as engaged in or conducting, any of the following activities:

(a) Caring for or preparing dead human bodies for burial, cremation or disposal.

(b) Disinfecting or preparing dead human bodies by embalming, or otherwise, for funeral service, transportation, burial, cremation or disposal.

(c) Directing or supervising the burial, cremation or disposal of dead human bodies.

(d) Arranging for funeral services for dead human bodies.

(e) Selling funeral goods and services to the public.

(f) Conducting, directing or supervising a funeral service.

(20) "Mortician license" means a yearly license issued by the board to act as a mortician and perform mortician services as defined in this chapter.

~~O.~~(21) "Mortician services" means the services of a mortician defined in subsection ~~A~~(19) of this section.

~~P. "Funeral director services" means the services of a funeral director defined in subsection B of this section.~~

~~Q. "Funeral supplies" means caskets, vaults, burial receptacles and any other personal property sold for use in the burial or disposal of a human body.~~

(22) "Resident trainee" means a person who is engaged in preparing to become licensed as a mortician or funeral director, and who practices under the direct and immediate personal supervision of a licensed mortician pursuant to rules adopted by the board.

(23) "Resident trainee license" means a yearly license issued by the board to act as a licensed resident trainee and perform services under the direct personal supervision of a licensed mortician as defined in this chapter.

SECTION 2. That Section 54-1103, Idaho Code, be, and the same is hereby amended to read as follows:

54-1103. PERSONS REQUIRED TO HAVE LICENSES. ~~A.~~(1) It shall be unlawful for any person to perform, offer to perform or hold himself out as performing mortician services or any of the acts of a mortician, unless he shall first obtain a mortician license or resident trainee license as provided in this ~~act~~ chapter; and it shall be unlawful for a licensed resident trainee to perform mortician services or any of the acts of a mortician except under the personal supervision of a resident mortician licensed under this ~~act~~ chapter.

~~B.~~(2) It shall be unlawful for any person to perform, offer to perform or hold himself out as performing funeral director services unless he has a funeral director~~'s~~ license or resident trainee license as provided in this ~~act; provided, however, any mortician licensed under this act shall be authorized to perform funeral director services, and a resident trainee licensed under this act shall be authorized to perform funeral director services under the personal supervision of a licensed mortician~~ chapter.

~~C.~~(3) It shall be unlawful for any person to operate a funeral establishment ~~unless he shall~~ or crematory without first obtaining ~~a funeral~~ the valid establishment licenses as provided in this ~~act~~ chapter.

SECTION 3. That Section 54-1104, Idaho Code, be, and the same is hereby amended to read as follows:

54-1104. EXEMPTIONS FROM PROVISIONS OF ~~ACT~~ CHAPTER. There is hereby exempted from the terms and provisions of this ~~act~~ chapter and from the enforcement of the provisions hereof, the following:

~~A.~~(1) Manufacturers, wholesalers and jobbers of caskets, funeral supplies, vaults or other burial receptacles not engaged in performing

mortician services and not selling to the public, except when said sales to the public are sales with immediate delivery of the funeral supplies purchased.

~~B.~~(2) Cemeteries selling vaults or burial receptacles to the public.

~~C.~~(3) Any duly authorized representative of any church, fraternal order or other association or organization honoring the dead who performs a funeral or other religious service under the authority of and pursuant to the religious tenets or practices of such organization. This exemption does not authorize, permit or allow such person to perform the functions of a mortician or funeral director under section 54-1102 ~~A.~~(11) or ~~B.~~(19), Idaho Code, unless he shall be licensed as required by law.

(4) Notwithstanding any other provision of law, the person having the right to control the disposition of the remains of the deceased person pursuant to section 54-1142, Idaho Code, or such person's designee, or a licensed funeral director, may initiate the process of cremation by operation of the retort while under the direct personal supervision of a licensed mortician.

SECTION 4. That Section 54-1106, Idaho Code, be, and the same is hereby amended to read as follows:

54-1106. POWERS AND DUTIES OF BOARD. The state board of morticians shall have the following powers and duties:

~~A.~~(1) To prepare, conduct, and grade examinations of applicants for ~~mortician~~ licenses.

~~B.~~(2) To certify the results of examinations of applicants and certify the applicant as having "passed" or "failed."

~~C.~~(3) To conduct hearings and proceedings in connection with the suspension or revocation of licenses.

~~D.~~(4) To make findings and recommendations to the governor on any and all matters relating to the enforcement of the provisions of this ~~act~~ chapter.

~~E.~~(5) To perform all other duties and exercise all other powers granted under this ~~act~~ chapter, or the laws of the state of Idaho.

~~F.~~(6) To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

~~G.~~(7) To ~~perform all duties and exercise all powers granted under chapter 3, title 27, Idaho Code, pertaining to licensing and regulation~~ provide for the licensure and regular inspection of funeral establishments and crematories.

SECTION 5. That Section 54-1108, Idaho Code, be, and the same is hereby amended to read as follows:

54-1108. EXAMINATION OF APPLICANTS FOR LICENSE -- SUBJECTS -- CERTIFICATION OF RESULTS. The board of morticians shall have the sole power for determining the nature, type and extent of examinations to be taken by applicants for a ~~mortician's~~ license.~~, but such~~ ~~e~~Examinations for mortician applicants shall include generally the following subjects: anatomy, chemistry, physiology, psychology, sanitary science, the care, disinfection, preservation, transportation of and burial, or other final disposition of dead human bodies, and the laws and rules of the state of

Idaho. ~~and--the--rules--of--the--state-department-of-health-and-welfare relating-to-infectious-diseases-and-quarantine~~ Examinations for funeral director applicants shall include generally the following subjects: sociology, psychology, funeral directing, business law, funeral service law, funeral service merchandising, accounting, computers, and the laws and rules of the state of Idaho. The board shall ~~grade,-or-cause-to-have graded-by-licensed-morticians,--the--examinations--and--shall~~ determine whether the applicant has passed or failed such examination. Examinations may be written or as determined at the discretion of the board, and shall be held at such times and at such places within the state of Idaho as determined by the board of morticians. National conference examinations, passed at an accredited embalming college, may be accepted by the board. Upon the conclusion of grading ~~any-and-all-of~~ the above examinations, the board of morticians shall certify the results listing each applicant as having failed or passed the examination, and such determination shall not be subject to review.

SECTION 6. That Section 54-1109, Idaho Code, be, and the same is hereby amended to read as follows:

54-1109. REQUIREMENTS FOR MORTICIAN~~'S~~ LICENSE -- REQUIREMENTS FOR FUNERAL DIRECTOR LICENSE -- LICENSE BY ENDORSEMENT. (~~A~~1) The board shall issue to any person a mortician's license to practice as a mortician and perform mortician services within the state of Idaho who has complied with and fulfilled all of the following requirements:

(~~1~~a) Has attained the age of twenty-one (21) years.

(~~2~~b) Is of good moral character.

(~~3~~c) Has completed and received credit for at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction in a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all of such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the ~~board of~~ morticians.

(~~4~~d) Has successfully completed a course in an embalming school accredited by the American ~~B~~board of ~~F~~funeral ~~S~~service ~~E~~education, ~~I~~inc., or such other embalming school as approved by the board of morticians.

(~~5~~e) Has practiced as a licensed resident trainee in the state of Idaho under the personal supervision of a licensed resident mortician for not less than twelve (12) months, and has assisted in embalming at least twenty-five (25) dead human bodies; provided, however, such practice as a licensed resident trainee of the state of Idaho may be filled and performed either before or after the required post-high school education.

(~~6~~f) Has filed an application with the board as required by this ~~act~~ chapter and paid the required filing fee therefor.

(~~7~~g) Has passed the required examination prepared and conducted by the board of morticians. Provided further, that the board shall determine compliance with all of the above qualifications, except this paragraph relating to examinations, at the time the applicant files his application as hereinafter provided and before the examination is conducted by the board of morticians.

(~~B~~2) The board shall issue to any person a funeral director license

to practice as a funeral director and perform funeral director services within the state of Idaho who has complied with and fulfilled all of the following requirements:

(a) Has attained the age of twenty-one (21) years.

(b) Is of good moral character.

(c) Has completed and received at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction from a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the board.

(d) Has successfully completed at least fifteen (15) semester credit hours or the equivalent from a mortuary college accredited by the American board of funeral service education, inc., or such credits as are otherwise approved by the board, with course of study to include business law, psychology, sociology, funeral service counseling, funeral service management and other classes that relate to conducting funeral business.

(e) Has practiced as a licensed trainee in the state of Idaho under the personal supervision of a licensed mortician for not less than twelve (12) months, and has assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals.

(f) Has successfully passed the required examination as established by the rules of the board. An applicant shall not be qualified to take the examination until all other requirements have been met.

(g) Has filed an application with the board as required by this chapter and paid the required fees.

(3) Any person holding a current, valid license in another state or territory having substantially similar requirements to those existing in this state, may be granted a license without examination, provided:

(~~1~~a) The applicant files with the board a certified statement from the examining board of the state or territory in which the applicant holds his license, verifying the license and showing the basis upon which the license was granted; and

(~~2~~b) The applicant pays the license fee; and

(~~3~~c) The applicant satisfies the board that he understands the laws and ~~regulations~~ rules of this state as to funeral service.

(~~B~~4) A person holding a current, valid license in another state or territory with requirements significantly lower than those of this state who has at least five (5) consecutive years of experience as a licensee in the other state or territory prior to application, may apply for a license to practice in this state without meeting the full requirements of subsection (~~A~~1) of this section. Upon payment of the licensee fee and passing such test of proficiency as the board shall require including, but not limited to, a knowledge of the laws and administrative rules of this state as to funeral service, the board shall grant a license.

SECTION 7. That Section 54-1110, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 54-1111, Idaho Code, be, and the same is hereby amended to read as follows:

54-1111. REQUIREMENTS FOR ~~FUNERAL~~ ESTABLISHMENT LICENSE -- CANCELLATION -- RECORDS -- OPERATION BY LEGAL REPRESENTATIVE OF ESTATE. ~~A.~~(1) The board shall issue a funeral establishment license or crematory establishment license to any person, partnership, association, corporation or other organization to ~~conduct a funeral establishment~~ operate at specific locations only, which has met the following requirements:

(~~1~~a) That the applicant, if an individual, is a licensed mortician or funeral director under this ~~act~~ chapter and is a resident of the state of Idaho.

(~~2~~b) That the applicant has not been refused a license as a mortician or funeral director, or its equivalent, or ~~as a funeral~~ for an establishment, or its equivalent; ~~nor has said applicant~~ or had a ~~mortician's~~ personal or ~~funeral~~ establishment license revoked in Idaho or in any other state.

(~~3~~c) That the applicant has designated the name under which the ~~funeral~~ establishment will operate and has designated a locations for which the ~~general~~ establishment license is to be issued.

(~~4~~d) That the applicant has at least one (1) mortician licensed under this ~~act~~ chapter who is a resident of the state of Idaho and who is, and will be, in the employ or service of the ~~funeral~~ establishment. ~~at its location on a full time basis.~~

(~~5~~e) That the applicant has filed an application ~~with the board as required by this act~~ and paid the required filing fee. ~~therefor.~~ Provided further, that the board shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the board. ~~and its determination shall be final.~~ No ~~funeral~~ establishment license shall be transferable, but an applicant may make application for more than one (1) ~~funeral~~ establishment license so long as all of the requirements are met for each license.

(f) That the applicant for a crematory establishment license holds a current funeral establishment license in the state of Idaho.

~~B.~~(2) All applications for establishment licenses shall be in writing and shall contain the name of the applicant, the address and location of the establishment and a description of the type of structure and equipment to be used in the operation of the establishment, and such further information as may be required by the board to ensure the safe and sanitary operation of the establishment.

(3) The mortician responsible for the operation of an establishment shall maintain such records affecting the handling, custody, care, processing or transportation of human remains as may be required by the laws and rules of the state of Idaho and the board for all human remains received, prepared, cremated or otherwise disposed of by the establishment.

(4) In the event a licensed ~~funeral~~ establishment ceases to have a resident full-time licensed mortician in its employ at its place of ~~business~~, its license shall be canceled immediately by the board upon finding such fact; provided, however, in the event of the death of a licensed mortician who leaves ~~a funeral~~ an establishment as part of the assets of his estate, the legal representative of the estate of the deceased mortician shall be entitled to operate the ~~funeral~~ establishment under the license, or renewals thereof, for a period not to exceed two (2) years from date of death of the mortician without meeting the qualifications of an applicant and without having a full-time licensed

mortician in his employ; provided further, however, this provision shall not permit an unlicensed person to perform mortician services.

SECTION 9. That Section 54-1112, Idaho Code, be, and the same is hereby amended to read as follows:

54-1112. REQUIREMENTS FOR RESIDENT TRAINEE LICENSE. The board shall issue to any person a resident trainee license to practice as a resident trainee and perform ~~mortician~~ services at a particular ~~funeral~~ establishment under the personal supervision of a specified licensed mortician within the state of Idaho who has complied with and fulfilled all of the following requirements:

~~A.~~(1) Has attained the age of eighteen (18) years, and is a resident of the state of Idaho.

~~B.~~(2) Is of good moral character.

~~C.~~(3) Has graduated from an accredited high school or has received an equivalent education as determined by the standards set and established by the state board of education.

~~D.~~(4) Has filed an application with the board as required by this ~~act~~ chapter and paid the required filing fee. ~~therefor.~~ Provided further, that the board shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the board. ~~and its determination shall be final.~~ Provided further, no person shall be eligible to be licensed as a resident trainee who has practiced as a resident trainee or apprentice for a total cumulative period of more than two (2) years in the state of Idaho.

SECTION 10. That Section 54-1114, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 54-1115, Idaho Code, be, and the same is hereby amended to read as follows:

54-1115. LICENSE FEES. There shall be paid with the filing of any application for an original license, or the applications for any renewal of a license, the following license fees:

~~A.~~(1) Not more than one hundred dollars ($100) for a mortician license.

~~B.~~(2) Not more than one hundred dollars ($100) for a funeral director license.

~~C.~~(3) Not more than one hundred fifty dollars ($150) for a funeral establishment license.

~~D.~~(4) Not more than two hundred dollars ($200) for a crematory license.

(5) Not more than one hundred dollars ($100) for a resident trainee license.

~~E.~~(6) Not more than one hundred dollars ($100) for a certificate of authority.

~~F.~~(7) Not more than one hundred dollars ($100) application fee for endorsement and/or examination.

~~There shall be no proration of fees for a part year license.~~ All fees shall be paid to the bureau of occupational licenses.

SECTION 12. That Section 54-1116, Idaho Code, be, and the same is

hereby amended to read as follows:

54-1116. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS -- PROBATION. The board may refuse to issue or may refuse to renew or may suspend or may revoke any license, or may place the holder thereof on a term of probation, after proper hearing, upon finding that the holder of such license committed any of the following acts or omissions:

~~A.~~(1) Conviction of a crime involving moral turpitude.

~~B.~~(2) Conviction of a felony.

~~C.~~(3) Unprofessional conduct, which is hereby defined to include:

(~~1~~a) Misrepresentation or fraud in the conduct of mortician or funeral director services;

(~~2~~b) False or misleading advertising as the holder of a license for the practice of mortician or funeral director services; advertising or using the name of a person who is not an employee of the ~~funeral~~ establishment in connection with that of any ~~funeral~~ establishment;

(~~3~~c) Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs before death or after death; provided, that this shall not be deemed to prohibit general advertising;

(~~4~~d) Employment by the licensee of persons known as "cappers," or "steerers," or "solicitors," or other such persons to solicit or obtain agreements with the public for the performance of mortician services;

(~~5~~e) Employment directly or indirectly, of any resident trainee, agent, assistant, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular mortician, funeral director or ~~funeral~~ establishment;

(~~6~~f) The direct or indirect payment, or offer of payment, of a commission by the licensee, his agents, assistants, or employees for the purpose of securing business;

(~~7~~g) Gross immorality;

(~~8~~h) Aiding or abetting an unlicensed person to practice mortician or funeral director services;

(~~9~~i) Using profane, indecent or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;

(~~10~~j) Violation of any of the provisions of this ~~act~~ chapter;

(~~11~~k) Violation of any state law, or municipal or county ordinance, or ~~regulation~~ rule authorized under this ~~act~~ chapter affecting the handling, custody, care, processing or transportation of dead human bodies;

(~~12~~l) Fraud or misrepresentation in obtaining or renewing a license;

(~~13~~m) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof;

(~~14~~n) Solicitation or acceptance, directly or indirectly, of a request, before need, for an agreement to provide mortician services or funeral supplies at a price less than that offered by such person to others at time of need;

(~~l~~o) Violation of any statutes of any state having to do with prearrangement or prefinancing of mortician services or funeral supplies.

SECTION 13. That Section 54-1117, Idaho Code, be, and the same is hereby amended to read as follows:

54-1117. WRITTEN COMPLAINT -- PROCEDURE FOR SUSPENSION OR REVOCATION OF LICENSE. Upon a written complaint filed with the board of morticians the board shall cause to be held a hearing to determine whether a license of any person issued under this ~~act~~ chapter should be suspended or revoked, or the issuance or renewal thereof refused, because of a violation of any of the causes set forth in the preceding section 54-1116, Idaho Code. ~~At least fifteen (15) days prior to the date set for such hearing, the board shall cause written notice to be sent by certified mail to the licensee or applicant at his last known address, which notice shall contain a statement of the charges made, and the date, time and place set for the hearing.~~ The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any person aggrieved by the action of the board shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 14. That Section 54-1118, Idaho Code, be, and the same is hereby amended to read as follows:

54-1118. SENDING BODY TO ~~FUNERAL~~ AN ESTABLISHMENT WITHOUT INQUIRY PROHIBITED -- EXCEPTIONS -- ANATOMICAL GIFTS -- AUTHORITY REGARDING DISPOSITION. ~~A.~~(1) It shall be unlawful for any public officer or employee, an official of any public institution, any physician or surgeon, or any other person who had a professional relationship with any decedent to send or cause to be sent to any ~~funeral~~ establishment or mortician the remains of any deceased person without having first made due inquiry as to the desires of the decedent as expressed in any prearranged funeral plan as set forth in section 54-1139, Idaho Code, or of the person authorized to direct disposition of the remains under section 54-1142, Idaho Code.

No person licensed ~~as a mortician~~ under this chapter or anyone acting ~~for him~~ on behalf of a licensee shall participate in any transaction or business which in any way interferes with the freedom of choice of the general public to choose a mortician or an ~~funeral~~ establishment to perform the burial or disposal of a human body, except where the body or a part thereof is given for anatomical purposes.

Nothing herein contained shall be construed to govern or limit the authority of any administrator or executor, trustee, or other person having a fiduciary relationship with the deceased.

~~B.~~(2) No company, corporation or association engaged in the business of paying, or providing for the payment, of the expenses for mortician services or funeral supplies, or engaged in the business of providing insurance upon the life of any person for the payment of such expenses upon his death, shall pay any such insurance or benefits to any mortician, funeral director, ~~funeral~~ establishment, or other person in any manner which might or could deprive the decedent as expressed in any prearranged funeral plan as set forth in section 54-1139, Idaho Code, or

of the person authorized to direct disposition of the remains under section 54-1142, Idaho Code, from directing the method, manner and arrangements for the disposition of the remains.

SECTION 15. That Section 54-1120, Idaho Code, be, and the same is hereby amended to read as follows:

54-1120. RECEIVING BODY FOR TRANSPORTATION OUTSIDE STATE WITHOUT PERMIT PROHIBITED -- ~~MORTICIAN'S--CERTIFICATE--REQUIRED~~ CREMATION AND REMOVAL OF HUMAN REMAINS. It shall be unlawful for any public transportation agent of any public transportation facility to receive a dead human body for shipment or transportation by any means of transportation or conveyance to or from any point in this state, or to a point outside this state, unless said embalmed human body is accompanied by a permit for final disposition signed by ~~a registrar of the district where death occurred~~ the individual authorized by law to certify the cause of death. Human remains shall not be delivered to a crematory or removed from the casket or other container without the written consent of the person giving the consent to the cremation of the body.

SECTION 16. That Section 54-1128, Idaho Code, be, and the same is hereby amended to read as follows:

54-1128. VIOLATIONS CONSTITUTING MISDEMEANORS -- EXCEPTIONS -- ENFORCEMENT. Any person who ~~shall~~ knowingly violates any provision of this ~~act~~ chapter, or any licensee under this ~~act~~ chapter who shall commit an act of unprofessional conduct as defined and designated under the provisions of subsection ~~6~~(3) of section 54-1116, Idaho Code, except subsections (~~7~~g) and (~~9~~i) thereof, shall be guilty of a misdemeanor unless such conduct is punishable as a felony elsewhere under the law. It shall be the duty of the board of morticians to see that the provisions of this ~~act~~ chapter are properly administered and enforced throughout the state, and all peace officers and prosecuting attorneys shall aid in their several capacities in discharge of these duties.

SECTION 17. That Section 54-1131, Idaho Code, be, and the same is hereby amended to read as follows:

54-1131. DEFINITIONS. As used in sections 54-1132 through 54-1143, Idaho Code:

~~A.~~(1) "Beneficiary" means the person who is to receive the funeral or cemetery merchandise or funeral or cemetery services.

~~B.~~(2) "Certified person or seller" means any person holding a certificate of registration or who is registered to sell or offer for sale prearrangement sales contracts.

~~C.~~(3) "Funeral or cemetery merchandise" means personal property normally and customarily sold by funeral ~~service~~ establishments, cemeteries, and ~~crematoriums~~ crematory establishments including, but not limited to, caskets or other primary containers, burial vaults, casket-vaults, grave liners, funeral clothing or accessories, monuments, grave markers and cremation urns. It shall include:

(~~1~~a) Merchandise identified for the purchaser or the beneficiary to be manufactured for future delivery and use.

(~~2~~b) Merchandise that has been manufactured and held by the manu-

facturer for future delivery and use.

(~~3~~c) Merchandise that has been manufactured and delivered to and in the possession of the seller, who has placed it, until needed, in storage.

~~D.~~(4) "Funeral or cemetery services" means those services normally and customarily performed by a funeral service practitioner, mortician, funeral ~~service~~ establishment, cemetery or ~~crematorium~~ crematory establishment in conjunction with funeral or memorial services, interment, entombment or cremation.

~~E.~~(5) "Guaranteed contract" means a written prearrangement sales contract that guarantees the beneficiary funeral or cemetery services or funeral or cemetery merchandise contained in the contract and under which no charges other than the sales price contained in the contract shall be required upon delivery of the merchandise or performance of the funeral and cemetery services.

~~F.~~(6) "Nonguaranteed contract" means a written prearrangement sales contract that does not guarantee the beneficiary any specific funeral or cemetery merchandise or services. Any funds paid under this contract are only a deposit to be applied toward the final cost of the funeral or cemetery merchandise or services.

~~G.~~(7) "Prepaid prearrangement sale or prearrangement sales contract" means any sale, other than a contract of life insurance entered into by an insurance company, that has as its purpose the furnishing of funeral or cemetery merchandise or funeral or cemetery services in connection with the final disposition or commemoration of the memory of a dead human body, for use at a time determinable by the death of the person or persons whose body or bodies are to be disposed and where the sale terms require payment or payments to be made at a currently determinable time.

~~H.~~(8) "Primary container" means a casket, rental casket, casket-vault, chapel-vault or other container ~~which~~ that serves as the repository for dead human remains.

~~I.~~(9) "Public cemetery" means a cemetery owned and operated by a cemetery district organized under Idaho law, or by a municipal corporation or political subdivision of the state of Idaho.

~~J.~~(10) "Purchaser" means a beneficiary or a person acting on behalf of a beneficiary who enters into a prearrangement sales contract with a certified person under which any payment or payments made under the contract are required to be deposited in trust.

~~K.~~(11) "Secondary container" means a vault, grave liner, urn or other container purchased by the buyer for a burial or required by the cemet~~ery which~~ that will be the repository for the primary container.

~~L.~~(12) "Trustee" means any bank, trust company or savings institution authorized to do business in the state of Idaho where accounts are insur~~ed with the~~ federal deposit insurance corporation, the federal savings and loan insurance corporation or other similar agency of the United States government.

SECTION 18. That Section 54-1132, Idaho Code, be, and the same is hereby amended to read as follows:

54-1132. CERTIFICATE OF AUTHORITY -- REQUIREMENTS -- DISPLAY OF CERTIFICATE. ~~A.~~(1) No individual~~, firm, partnership, corporation, association, or sales entity or business entity of whatever kind or type,~~

may sell a prepaid contract or provide funeral or cemetery merchandise or funeral or cemetery services pursuant to a prepaid contract without first obtaining a valid certificate of authority.

A certificate of authority for public cemeteries shall be issued by the governing board, city council or board of county commissioners having overall supervision and control of the cemetery. A certificate of authority for privately owned cemeteries shall be issued by the Idaho board of cemeterians. A certificate of authority for persons ~~or entities~~ licensed under chapter 11, title 54, Idaho Code, shall be issued by the state board of morticians.

~~B.~~(2) Any individual~~, firm, partnership, corporation, association or sales business entity~~ seeking to obtain a certificate of authority must submit a statement ~~which~~ that includes the following:

(~~1~~a) The types of prepaid contracts to be written;

(~~2~~b) The name and address of the place of business of the individual~~, firm, partnership, corporation, or association offering the contract~~; and

(~~3~~c) Any information deemed necessary by the certificating authority to show evidence of good moral character, a reputation for fair dealing in business matters, and the absence of a criminal record.

~~C.~~(3) Upon issuance, the certificate of authority shall be posted conspicuously in the holder's place of business.

~~D.~~(4) Any individual ~~or sales or business entity~~ holding a certificate shall present a copy of the certificate to the purchaser before engaging in the activity of selling a prearrangement sales contract.

SECTION 19. That Section 54-1136, Idaho Code, be, and the same is hereby amended to read as follows:

54-1136. SOLICITATION -- LIMITATIONS. ~~A.~~(1) The right of a seller to lawfully advertise shall not be restrained, nor shall general advertising be prohibited.

~~B.~~(2) Advertising and marketing of prearrangement sales contracts is permitted provided that:

(~~1~~a) The seller clearly identifies himself and his product.

(~~2~~b) The seller shows his certificate of authority as provided in section 54-1132, Idaho Code. If the marketing is by telephone, the seller must disclose his certificate of authority.

(~~3~~c) The seller makes an appointment with the prospective buyer if the meeting is at a place other than the seller's place of business.

~~C.~~(3) Advertising and marketing of prearrangement sales contracts is permitted provided that any contract seller ~~or agent or employee or person acting in behalf of any such person~~ shall not:

(~~1~~a) Directly or indirectly call upon or employ any agent, assistant, employee, independent contracting person or any other person to call upon individuals or persons in hospitals, rest homes, or similar institutions for the purpose of soliciting prepaid contracts for making funeral or cemetery or final disposition arrangements without first having been specifically requested to do so by such person or by his next of kin.

(~~2~~b) Solicit for dead human bodies for the purpose of providing funeral or cemetery services, final disposition, or cemetery or funeral merchandise when such solicitation occurs where death is reasonably pending or after death.

(~~3~~c) Solicit or accept or pay any consideration for recommending specified persons to cause a dead human body to be provided funeral or cemetery services or funeral or cemetery merchandise, or the services of a crematory, mausoleum or cemetery except where such arrangement is subject to a prepaid contract.
(~~4~~d) Be involved in solicitation which comprises an uninvited invasion of personal privacy at the personal residence of a person unless the solicitation has been previously and expressly requested by the person solicited.

SECTION 20. That Section 54-1138, Idaho Code, be, and the same is hereby amended to read as follows:

54-1138. ENFORCEMENT PENALTY -- DISCLOSURE OF CONTRACTS UPON SALE OF BUSINESS. ~~A.~~(1) Sections 54-1129 through 54-11~~38~~43, Idaho Code, shall be enforced by the Idaho state board of morticians or by the Idaho state board of cemeterians, depending upon whether the seller is a mortician/funeral director or cemeterian, who shall have authority to promulgate rules ~~and regulations~~ to enforce the provisions.
~~B.~~(2) Any person violating the provisions of sections 54-1129 through 54-11~~37~~43, Idaho Code, shall be guilty of a misdemeanor unless such act is punishable as a felony elsewhere under law.
~~C.~~(3) No funeral service or funeral merchandise provider, be it funeral home or cemetery or third party seller, shall go out of business or sell a substantial part or all of its assets to any other person or firm without first disclosing the full particulars of all prearrangement sales contracts entered into by such seller, including the date of such contract, the purchaser thereof, the beneficiary, the amount of the trust, the name and location of trustee, and the merchandise or services to be provided under the terms of the contract.

SECTION 21. That Section 54-1141, Idaho Code, be, and the same is hereby amended to read as follows:

54-1141. SURVIVOR'S SERVICES. The provisions of section 54-1140, Idaho Code, shall not prevent the deceased person's survivors from, at their own expense, pursuing meaningful services and making arrangements ~~with~~ for funeral services ~~establishments which~~ that do not conflict with the deceased's instructions for disposition.

SECTION 22. That Section 54-1143, Idaho Code, be, and the same is hereby amended to read as follows:

54-1143. RIGHT TO RELY. ~~A.~~(1) Any person signing a funeral service agreement or cremation authorization form or any other authorization for disposition, whether part of a prearranged funeral plan or at time of death, shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the deceased whose remains are sought to be buried or cremated and the signer's authority to order such disposition.
~~B.~~(2) A funeral ~~service~~ establishment, cemetery or crematory establishment shall have the right to rely on such authorization and shall have authority to dispose of human remains upon the receipt of an authorization form signed by the decedent or by the person having the right

to control disposition as set forth in section 54-1142, Idaho Code. There shall be no liability of a funeral ~~service~~ establishment, cemetery or crematory establishment that disposes of human remains pursuant to such authorization, or that releases or disposes of the remains pursuant to such authorization.

Approved April 8, 2003.

CHAPTER 258
(H.B. No. 64, As Amended, As Amended in the Senate)

AN ACT

RELATING TO SNOWMOBILES; AMENDING SECTION 67-7103, IDAHO CODE, TO PROVIDE THAT AN OWNER OF A SNOWMOBILE SHALL ATTACH TO THE SNOWMOBILE THE IDENTIFICATION NUMBER IN A MANNER AS MAY BE PRESCRIBED BY RULES OF THE DEPARTMENT; AND AMENDING SECTION 67-7104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NONRESIDENT, NONCOMMERCIAL SNOWMOBILE OWNERS, TO PROVIDE FOR NONRESIDENT SNOWMOBILE USER CERTIFICATES AND TO ALLOW THE REQUIREMENTS FOR THE NONRESIDENT CERTIFICATE TO BE WAIVED BY THE PARKS AND RECREATION BOARD UPON CERTAIN CONDITIONS.

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

SECTION 1. That Section 67-7103, Idaho Code, be, and the same is hereby amended to read as follows:

67-7103. APPLICATION FOR NUMBER -- ATTACHMENT OF NUMBER -- CERTIFICATE -- APPLICATION FOR TRANSFER OF CERTIFICATE -- TRANSFER OF CERTIFICATE FEE -- TEMPORARY NUMBER -- FEES. (1) On or before November 1 of each year the owner of each snowmobile requiring numbering by the state of Idaho shall file an application for number with the department on forms approved by it. The application shall be signed by the owner and shall, except as provided in subsection (7) of this section, be accompanied by a fee of twenty dollars ($20.00). Upon receipt of the application the department shall issue to the applicant a certificate of number stating the number assigned to the snowmobile and the name and address of the owner. The owner shall ~~paint on or~~ attach to the snowmobile the identification number in a manner as may be prescribed by rules of the department. The number shall be located on the right and left side of the cowling of the snowmobile and shall be completely visible and shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the snowmobile for which issued, wherever the snowmobile is in operation.

(2) The department may issue any certificate of number directly or may authorize any persons to act as vendor for the issuance. In the event a person accepts the authorization, he may be assigned a block of numbers and certificates which upon issue, in conformity with this chapter and with any rules of the department, shall be valid as if issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) Each snowmobile must be registered before it leaves the premises at the time of sale from any retail snowmobile dealer.

(5) The purchaser of a snowmobile shall, within fifteen (15) days immediately after acquisition, make application to the department for transfer to him of the certificate of number issued to the snowmobile, giving his name, address and the number of the snowmobile and shall at the same time pay to the department a fee of three dollars ($3.00). Upon receipt of the application and fee, the department shall transfer the certificate of number issued for the snowmobile to the new owner or owners. Unless the application is made and fee paid within fifteen (15) days, the snowmobile shall be considered to be without a certificate of number and it shall be unlawful for any person to operate that snowmobile until the certificate is issued.

(6) No number other than the number issued to a snowmobile pursuant to this chapter shall be painted, attached, or otherwise displayed on the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.

(7) Resident and nonresident owners of snowmobiles used for rental purposes shall purchase certificates of number for fifty dollars ($50.00) and the certificates of number shall be displayed on the machine at all times.

SECTION 2. That Section 67-7104, Idaho Code, be, and the same is hereby amended to read as follows:

67-7104. NONRESIDENT SNOWMOBILE USER CERTIFICATE REQUIRED. ~~(1)~~ The ~~provisions of this chapter shall not apply to~~ owner of a nonresident, noncommercial ~~owner who has a~~ snowmobile ~~which is currently numbered or licensed by his resident~~ shall not be required to comply with the registration requirements of the state ~~or province, provided that the resident state or province does not charge a snowmobiling fee to~~ of Idaho, ~~residents. If~~ but shall be required to obtain a nonresident ~~operates a~~ snowmobile ~~in this state for a period in excess of fifteen (15) consecutive days, the owner shall be liable for and shall pay to the director or his agent the fee as provided in section 67-7103, Idaho Code.~~

~~(2) Notwithstanding the provisions of subsection (1) of this section, all nonresident operators of snowmobiles used in Idaho shall comply with one (1) of the following requirements:~~

~~(a) The snowmobile shall be registered in Idaho and the certificate of number shall be displayed in the manner provided in section 67-7103, Idaho Code; or~~

~~(b) The nonresident shall obtain a nonresident snowmobile~~ user certificate. A fee ~~upon payment~~ of twenty dollars ($20.00) ~~and the~~ shall be imposed for the issuance of a nonresident snowmobile user certificate. The certificate of number shall be displayed in the same manner as provided in section 67-7103, Idaho Code. Such certificates shall be valid beginning November 1 through October 31 of the following year. Issuance and administration of nonresident snowmobile user certificates shall be conducted in the same manner as provided in section 67-7103, Idaho Code, for numbering of snowmobiles.

(~~3~~1) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

(2) In the absence of a bona fide program in the area or upon the request of the bona fide county snowmobile advisory committee of the nearest affected county in Idaho, the requirements for the nonresident certificate may be waived by the parks and recreation board on specific trails where the snowmobile trail grooming is solely supported by a state other than Idaho.

Approved April 8, 2003.

CHAPTER 259
(H.B. No. 150, As Amended in the Senate)

AN ACT

RELATING TO ADMINISTRATIVE RULES OF THE DEPARTMENT AND BOARD OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-107D, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL UTILIZE THE BEST AVAILABLE PEER REVIEWED SCIENCE AND SUPPORTING STUDIES CONDUCTED IN ACCORDANCE WITH SOUND AND OBJECTIVE SCIENTIFIC PRACTICES AND DATA COLLECTED BY ACCEPTED METHODS OR BEST AVAILABLE METHODS IF THE RELIABILITY OF THE METHOD AND THE NATURE OF THE DECISION JUSTIFIES USE OF THE DATA WHEN PROPOSING RULES AND TO PROVIDE FOR A SUMMARY OF CERTAIN INFORMATION IN THE NOTICE OF RULEMAKING WHEN A RULE PROPOSES A STANDARD NECESSARY TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT.

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

SECTION 1. That Section 39-107D, Idaho Code, be, and the same is hereby amended to read as follows:

39-107D. RULES OF DEPARTMENT OR BOARD. (1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

(3) Any proposed rule subject to this section which proposes a

standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and

(b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and

(c) Identification of each appropriate upper bound or lower bound estimate of risk; and

(d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and

(e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

(4) The department shall also include a summary of the information required by subsection (3) of this section in the notice of rulemaking required by chapter 52, title 67, Idaho Code.

(5) Any rule promulgated or adopted by the board which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, submitted to the standing committee of the legislature pursuant to section 67-5291, Idaho Code, shall include a notice by the board identifying the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government.

(~~3~~6) Nothing provided herein is intended to alter the scope or effect of sections 39-105(3)(g)(v), 39-118B, 39-3601, 39-4404, 39-6205, 39-7210 and 39-7404, Idaho Code, or any other provision of state law which limits or prohibits agency action or rulemaking that is broader in scope or more stringent than federal law or regulations.

Approved April 8, 2003.

CHAPTER 260
(H.B. No. 160, As Amended)

AN ACT

RELATING TO TERMINATION OF PARENTAL RIGHTS; AMENDING SECTION 16-2005, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH THE COURT MAY TERMINATE PARENTAL RIGHTS.

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

SECTION 1. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. The court may grant an order terminating the relationship where it finds one (1) or more of the following conditions exist:

a. The parent has abandoned the child by having willfully failed to maintain a normal parental relationship including, but not limited to, reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section. Provided further, that where termination is sought by a grandparent seeking to adopt the child, willful failure of the parent to maintain a normal parental relationship as provided herein, without just cause, for six (6) months shall constitute prima facie evidence of abandonment.

b. The parent has neglected or abused the child. Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.

c. The presumptive parent is not the natural parent of the child.

d. The parent is unable to discharge parental responsibilities ~~because of mental illness or mental deficiency,~~ and ~~there are reasonable grounds to believe the condition~~ such inability will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

e. If termination is found to be in the best interest of the parent and child, where the petition has been filed by a parent or through an authorized agency, or interested party.

f. Where a consent to termination in the manner and form prescribed by this act has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this act must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination)
of the parental rights of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., ..., unto ...., hereby relinquishing completely and forever, all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ...., and I (we) do hereby expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

DATED: ...., 20...

.....

STATE OF IDAHO)
) ss.
COUNTY OF ....)

On this .... day of ...., 20.., before me, the undersigned ...., ... (Judge or Magistrate) of the District Court of the .... Judicial

District of the state of Idaho, in and for the county of ...., personally appeared ...., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

..... (District Judge or Magistrate)

The court shall accept a consent or a surrender and release executed in another state if:

(1) It is witnessed by a magistrate or district judge of the state where signed; or

(2) The court receives an affidavit or a certificate from a court of comparable jurisdiction stating that the consent or the surrender and release was executed in accordance with the laws of the state in which it was executed, or the court is satisfied by other showing that the consent or surrender and release was executed in accordance with the laws of the state in which it was executed; or

(3) The court shall accept a termination or relinquishment from a sister state that has been ordered by a court of competent jurisdiction under like proceedings; or in any other manner authorized by the laws of a sister state. In a state where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided for pursuant to the laws of such state, and where such failure constitutes an abandonment of such child and constitutes a termination or relinquishment of the rights of the putative father, the court shall accept such failure as a termination in this state without further hearing on the merits, if the court is satisfied that such failure constitutes a termination or relinquishment of parental rights pursuant to the laws of that state.

g. Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

h. The court may grant termination as to a parent:

(1) Who caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years, as defined in section 16-2002 o., Idaho Code; or

(2) Who murdered or intentionally killed the other parent of the child; or if the court determines the parent has been convicted of murder or voluntary manslaughter of another sibling of the child or has aided, abetted, conspired or solicited to commit such murder or voluntary manslaughter and/or if the court determines the parent has been convicted of a felony assault or battery which resulted in serious bodily injury to the child or a sibling; or

(3) Who has been incarcerated and has no possibility of parole; or

(4) If a court determines the child to be an abandoned infant.

There is a rebuttable presumption that termination of the parent-child relationship in any of the circumstances provided in subsection g. of this section is in the best interest of the child.

i. If the parent has a disability, as defined in this chapter, the parent shall have the right to provide evidence to the court regarding

the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. Nothing in this section shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

Approved April 8, 2003.

CHAPTER 261
(H.B. No. 199, As Amended, As Amended in the Senate)

AN ACT

RELATING TO LICENSURE OF ATHLETIC TRAINERS; AMENDING SECTION 54-3902, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING CHAPTER 39, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3903, IDAHO CODE, TO PROVIDE A STATEMENT OF THE SCOPE OF PRACTICE OF ATHLETIC TRAINERS; AMENDING SECTION 54-3903, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROHIBIT USE OF CERTAIN TERMS WITHOUT LICENSURE; AMENDING SECTION 54-3904, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO FURTHER DESCRIBE EXCEPTIONS TO LICENSURE REQUIREMENTS; REPEALING SECTIONS 54-3906 AND 54-3908, IDAHO CODE; AMENDING SECTION 54-3905, IDAHO CODE, TO REDESIGNATE THE SECTION, TO FURTHER DESCRIBE QUALIFICATIONS FOR LICENSURE AND TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTION 54-3907, IDAHO CODE, TO CLARIFY FEES WHICH MAY BE IMPOSED; AMENDING SECTION 54-3909, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO FURTHER GOVERN CONDITIONS FOR PROVISIONAL LICENSURE; AMENDING SECTION 54-3910, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY CONDITIONS FOR REFUSAL TO ISSUE OR RENEW LICENSURE; AMENDING SECTION 54-3911, IDAHO CODE, TO REDESIGNATE THE SECTION, TO SPECIFY CONDITIONS GOVERNING RENEWAL AND REINSTATEMENT OF LICENSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3912, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY CONDITIONS GOVERNING DENIAL, SUSPENSION AND REVOCATION OF A LICENSE; AMENDING SECTION 54-3913, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE ADDITIONAL QUALIFICATIONS FOR MEMBERS OF THE BOARD OF ATHLETIC TRAINERS; AMENDING SECTION 54-3914, IDAHO CODE, TO REDESIGNATE THE SECTION, TO SPECIFY DUTIES OF THE BOARD OF ATHLETIC TRAINERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3915, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO INCREASE COMPENSATION; AND AMENDING SECTIONS 54-3916, 54-3917 AND 54-3918, IDAHO CODE, TO REDESIGNATE THE SECTIONS.

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

SECTION 1. That Section 54-3902, Idaho Code, be, and the same is hereby amended to read as follows:

54-3902. DEFINITIONS. As used in this chapter:

(1) "Athlete" ~~is~~ means a person who ~~is associated with and/or is training for an individual or a team competitive activity which is sponsored by an educational institution, amateur or professional group or other recognized organization~~ participates in exercises, sports, or

games requiring physical strength, agility, flexibility, range of motion, speed or stamina and which exercises, sports or games are of the type generally conducted in association with an educational institution or professional, amateur or recreational sports club or organization.

(2) "Athletic injury" means a physical injury, harm, hurt or common condition (such as heat disorders), incurred by an athlete, preventing or limiting participation in athletic activity, sports or recreation, which athletic trainers are educated to evaluate and treat or refer to the directing physician.

(3) "Athletic trainer"~~,--or--such--other-term-as-recognized-by-the board,~~ means a person ~~with-the-specific-qualifications-for--registration set--forth-pursuant-to-this-chapter,-who,-upon-the-direction-of-the-team physician-and/or-consulting-physician,--carries-out-the-practice-of--prevention,--care--and-reconditioning-of-physical-injuries-incurred-by-athletes,-employing-the-application-of-cold,-heat,-electrical--stimulation, and/or--exercise~~ who has met the qualifications for licensure as set forth in this chapter, is licensed under this chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the board or a designated Idaho licensed chiropractic physician.

(4) "Athletic training" means the application by a licensed athletic trainer of principles and methods of:

(a) Prevention of athletic injuries;

(b) Recognition, evaluation and assessment of athletic injuries and conditions;

(c) Immediate care of athletic injuries including common emergency medical situations;

(d) Rehabilitation and reconditioning of athletic injuries;

(e) Athletic training services administration and organization; and

(f) Education of athletes.

(~~3~~5) "Board" means the Idaho state board of medicine.

(~~4~~6) "Board of athletic trainers" means the Idaho board of athletic trainers established in this chapter.

(7) "Directing physician" means a designated person duly licensed to practice medicine in Idaho, registered with the board or a designated Idaho licensed chiropractic physician, who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, as established by board rule. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the board.

(a) This direction will be provided by verbal order when the directing physician is present and by written order or by athletic training service plans or protocols, as established by board rule, when the directing physician is not present.

(b) Upon referral from a physician licensed in another state and in good standing, the practice of athletic training or physical rehabilitation and/or reconditioning shall be carried out under the written orders of the referring physician and in collaboration with the directing physician.

SECTION 2. That Chapter 39, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3903, Idaho Code, and to read as follows:

54-3903. SCOPE OF PRACTICE. The scope of practice of athletic trainers under the direction of the designated Idaho licensed physician, registered with the board, or a designated Idaho licensed chiropractic physician, includes:

(1) Prevention of athletic injuries by designing and implementing physical conditioning programs, performing preparticipation screenings, fitting protective equipment, designing and constructing protective products and continuously monitoring changes in the environment.

(2) Recognition and evaluation of athletic injuries by obtaining a history of the injury, individual inspection of the injured body part and associated structures and palpatation of bony landmarks and soft tissue structures. Immediate care of athletic injuries may require initiation of cardiopulmonary resuscitation, administration of basic or advanced first aid, removal of athletic equipment, immobilization and transportation of the injured athlete. Concurrent with athletic training service plans or protocols, the athletic trainer will determine if the athlete may return to participation or, if the injury requires further definitive care, the athletic trainer will refer the injured athlete to the appropriate directing physician.

(3) Rehabilitation and reconditioning of athletic injuries by administering therapeutic exercise and physical modalities including cryotherapy, thermotherapy, and intermittent compression or mechanical devices as directed by established, written athletic training service plans or protocols or upon the order of the directing physician.

(4) Athletic training services administration includes implementing athletic training service plans or protocols, writing organizational policies and procedures, complying with governmental and institutional standards and maintaining records to document services rendered.

(5) Education of athletes to facilitate physical conditioning and reconditioning by designing and implementing appropriate programs to minimize the risk of injury.

(6) The scope of practice excludes any independent practice of athletic training by an athletic trainer. An athlete with an athletic injury not incurred in association with an educational institution, professional, amateur or recreational sports club or organization shall be referred by a directing physician, but only after such directing physician has first evaluated the athlete and referred such athlete to the athletic trainer.

SECTION 3. That Section 54-3903, Idaho Code, be, and the same is hereby amended to read as follows:

54-390~~3~~4. ~~REGISTRATION~~ LICENSURE REQUIRED. It shall be unlawful for any person to practice or to offer to practice as an athletic trainer, or to represent such person to be an athletic trainer unless such person is ~~registered~~ licensed under the provisions of this chapter. Only an individual may be ~~registered~~ licensed under this chapter. An individual may not use the title "licensed athletic trainer," "athletic trainer," or "athletic training," the abbreviations "AT," "ATC," "AT,C," "ATC/L," "CAT," "LAT," or any other words, abbreviations or insignia to indicate or imply that the individual is an athletic trainer unless the individual is licensed pursuant to this chapter.

SECTION 4. That Section 54-3904, Idaho Code, be, and the same is hereby amended to read as follows:

54-3904~~5~~. EXCEPTIONS TO ~~REGISTRATION~~ LICENSURE REQUIREMENT. Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring ~~registration~~ licensure pursuant to this chapter of:

(1) Any person licensed in this state by any other law, from engaging in the profession or occupation for which such person is licensed or registered or otherwise regulated; or

(2) Any person employed as an athletic trainer by the government of the United States or any agency thereof, if such person provides athletic trainer services solely under the direction or control of the government agency by which such person is employed; or

(3) Any person pursuing a supervised course of study leading to a degree, licensure or registration as athletic trainer in an accredited or approved educational program, if the person is designated by a title which clearly indicates a student or trainee status; or

(4) Any person fulfilling supervised fieldwork experience requirements as prescribed by the board; or

(5) For purposes of continuing education, consulting, and/or training, any person performing athletic trainer services in the state, if these services are performed for no more than sixty (60) days in a calendar year in association with an athletic trainer ~~registered~~ licensed under this chapter, if:

(a) The person is licensed, registered or certified and in good standing as an athletic trainer in another state; or

(b) The person is certified and in good standing as an athletic trainer by the national athletic trainers' association board of certification or by a nationally recognized credentialing agency, accepted by the board.

(6) Nothing herein shall be construed to require registration of elementary or secondary school teachers, coaches or authorized volunteers who do not hold themselves out to the public as athletic trainers.

(7) This act shall not be construed as to require licensure by persons assisting in an emergency or in providing aid or service for which no fee for service is contemplated, charged or received, provided that the person providing the service or assisting in the emergency does not hold himself out as an athletic trainer.

SECTION 5. That Sections 54-3906 and 54-3908, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Section 54-3905, Idaho Code, be, and the same is hereby amended to read as follows:

54-3905~~6~~. QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE. An applicant for an athletic trainer ~~registration~~ license must possess the following qualifications:

(1) ~~The applicant must have graduated~~ Have received a bachelor's or advanced degree from an accredited four (4) year college or university and ~~completed the requirements~~ met the minimum athletic training curriculum requirement established by the board as recommended by the board of athletic trainers and adopted by board rule.

(2) ~~The--applicant--must-submit-an-application-to-the-board-of-athletic-trainers-on-forms-prescribed~~ Have successfully completed the certification examination administered by the national athletic trainers' association board of certification or equivalent examination approved or recognized by the board as recommended by the board of athletic trainers.

(3) ~~The--applicant-must-successfully-complete-an-examination-administered-by-or-approved~~ Be in good standing with and provide documentation of current certification by the national athletic trainers' association or a nationally recognized credentialing agency, adopted by the board as recommended by the board of athletic trainers.

(4) ~~The-applicant-must~~ Submit an application to the board of athletic trainers on forms prescribed by the board and pay the ~~registration~~ licensure fee required under this chapter.

SECTION 7. That Section 54-3907, Idaho Code, be, and the same is hereby amended to read as follows:

54-3907. FEES. The board, upon recommendation of the board of athletic trainers, shall adopt rules establishing fees for the following:

(1) Initial ~~registration~~ licensure fee;

(2) Renewal of ~~registration~~ licensure fee;

(3) Provisional ~~registration~~ licensure fee;

(4) Inactive ~~registration~~ licensure fee;

(5) ~~Examination~~ Application and renewal fees. Necessary nonrefundable fees shall be made for the exact amount of the transaction and accompany all applications for initial licensure and renewal.

(6) Extraordinary expenses. In those situations where the processing of an application for initial licensure or renewal requires extraordinary expenses, the board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses.

SECTION 8. That Section 54-3909, Idaho Code, be, and the same is hereby amended to read as follows:

54-39~~09~~8. PROVISIONAL ~~REGISTRATION~~ LICENSURE. The board, based upon the recommendation of the board of athletic trainers, may issue provisional ~~registration~~ licensure to applicants who are actively engaged in preparing themselves to meet the qualifications prescribed in this chapter. A provisional ~~registration~~ license shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the board upon recommendation of the board of athletic trainers.

SECTION 9. That Section 54-3910, Idaho Code, be, and the same is hereby amended to read as follows:

54-39~~10~~9. ISSUANCE OF ~~REGISTRATION~~ LICENSURE. (1) The board, based upon recommendation of the board of athletic trainers, shall issue a ~~registration~~ license to any person who meets the requirements of this chapter upon receipt of an application and payment of the prescribed fees.

(2) The board, upon recommendation of the board of athletic trainers, may refuse to issue or renew the license of an applicant who has been convicted of an offense or disciplined by an athletic trainer

licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant to practice athletic training in accordance with the provisions of this chapter, or who has falsified an application for licensure, or refuse any applicant for any cause described under section 54-3911, Idaho Code.

SECTION 10. That Section 54-3911, Idaho Code, be, and the same is hereby amended to read as follows:

54-391~~1~~0. RENEWAL OF ~~REGISTRATION~~ LICENSURE. (1) Any ~~registration~~ licensure issued under this chapter shall be subject to ~~annual~~ renewal and shall expire unless renewed in the manner prescribed by the rules of the board. The board, upon recommendation of the board of athletic trainers, may reinstate a ~~registration cancelled~~ licensure canceled for failure to renew upon compliance with requirements of the board for renewal of ~~registrations~~ licenses.

(a) A license shall be issued for a period of not less than one (1) year nor more than five (5) years, in conformance with administrative rules adopted by the board. Each license shall set forth its expiration date on the face of the certificate. The failure of any licensee to renew his or her license, as required herein and by the rules of the board, shall not deprive such person of the right to renewal, except as provided for in this chapter.

(b) Fees for renewal of licensure of athletic trainers shall be fixed by the board in its rules.

(c) All licensed athletic trainers must be in good standing with and provide documentation of current certification by the national athletic trainers' association board of certification or a nationally recognized credentialing agency, accepted by the board. All athletic trainers holding current Idaho registration/licensure who are not certified by the national athletic trainers' association board of certification or a nationally recognized credentialing agency, accepted by the board, are required to provide documentation of successful completion of eighty (80) hours of board approved continuing educational units during each three (3) year reporting period on forms provided by the board.

(d) All licensed athletic trainers shall report to the board any name change or changes in business and home addresses thirty (30) days after the change becomes final.

(2) Reinstatement of licensure.

(a) Reinstatement of a license that has lapsed for a period of three (3) consecutive years shall require good standing with and documentation of current certification by the national athletic trainers' association board of certification or a nationally recognized credentialing agency, accepted by the board.

(b) Reinstatement of a license that has lapsed for a period of three (3) consecutive years shall require the payment of a renewal fee and reinstatement fee in accordance with the rules adopted by the board, provided however, that no reinstatement fee shall be greater than fifty dollars ($50.00).

(c) Reinstatement of a license that has lapsed for a period of more than three (3) consecutive years shall require reapplying for a license and payment of fees in accordance with the rules adopted by the board. The applicant shall successfully demonstrate to the

board, upon recommendation of the board of athletic trainers, competency in the practice of athletic training. The board, upon recommendation of the board of athletic trainers, may also require the applicant to take an examination, remedial courses, or both, as shall be recommended by the board of athletic trainers.

(3) Upon application and recommendation by the board of athletic trainers, the board shall grant inactive status to a ~~registered~~ licensed athletic trainer who:

(a) Does not practice as an athletic trainer; ~~or~~ and

(b) ~~Maintains any continuing competency requirements established~~ Is in good standing with and provides documentation of current certification by the national athletic trainers' association board of certification or a nationally recognized credentialing agency, accepted by the board.

SECTION 11. That Section 54-3912, Idaho Code, be, and the same is hereby amended to read as follows:

54-391~~2~~1. DENIAL -- SUSPENSION AND REVOCATION OF ~~REGISTRATION~~ LICENSE -- REFUSAL TO RENEW. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the board, upon recommendation of the board of athletic trainers, may deny ~~registration~~ license or refuse to renew a ~~registration~~ license, or may suspend or revoke a ~~registration~~ license or may impose probationary conditions if the applicant for ~~registration~~ licensure has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. All petitions for reconsideration of a denial of a license application or reinstatement application must be made to the board within one (1) year from the date of the denial. Such unprofessional conduct includes, but is not limited to:

(a) Obtaining ~~registration~~ licensure by means of fraud, misrepresentation, or concealment of material facts;

(b) Being guilty of unprofessional conduct, negligence or incompetence in the practice of athletic training as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;

(c) Being convicted of a felony by a court of competent jurisdiction;

(d) The unauthorized practice of medicine;

(e) Use of any advertising statements that deceive or mislead the public or that are untruthful;

(f) Making statements that the licensee knows, or should have known, are false or misleading regarding skill or efficacy or value of treatment or remedy administered by the licensee in the treatment of any condition pertaining to athletic training;

(g) Practicing or offering to practice beyond the scope of athletic training as defined in this chapter or which fails to meet the standard of athletic training provided by other qualified athletic trainers in the same or similar community;

(h) Performance of services while under the influence of alcohol, controlled substances or other skill impairing substances so as to create a risk of harm to a client;

(i) Commission of any act of sexual contact, misconduct, exploitation or intercourse with a client or former client or related to the

licensee's practice of athletic training;

1. Consent of the client shall not be a defense;

2. This paragraph shall not apply to sexual contact between an athletic trainer and the athletic trainer's spouse or a person in a domestic relationship who is also a client;

3. A former client includes a client for whom the athletic trainer has provided athletic training services within the last twelve (12) months;

4. Sexual or romantic relationship with a former client beyond the period of time set forth herein may also be a violation if the athletic trainer uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the client;

(j) Having been judged mentally incompetent by a court of competent jurisdiction;

(k) Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license;

(l) Failing to report to the board any act or omission of a licensee, applicant, or any other person, which violates any provision of this chapter;

(m) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action;

(n) Failing to maintain client confidentiality unless otherwise required by law;

(o) Failing to maintain adequate records. For purposes of this paragraph, "adequate records" means legible records that contain, at a minimum, the athletic training service plan or protocol, written orders, an evaluation of objective findings, the plan of care and the treatment records;

(p) Promoting unnecessary devices, treatment, intervention or service for the financial gain of the practitioner or of a third party;

(q) Violating any provisions of this chapter or any of the rules promulgated by the board under the authority of this chapter.

(2) A denial~~, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a registered athletic trainer may be ordered by the board after a hearing in the manner provided by the rules adopted by the board. An application for reinstatement may be made to the board one (1) year from the date of the revocation of registration. The board shall:~~

~~(a) Accept or reject an application for reinstatement; and~~

~~(b) Hold a hearing to consider such reinstatement~~

of an application for licensure or application for reinstatement shall be considered a contested case as provided for in chapter 52, title 67, Idaho Code, and be subject to the provisions of that chapter, as well as the rules adopted by the board governing contested cases.

(3) Any person who shall be aggrieved by any action of the board in denying, refusing to renew, suspending or revoking a licensure, issuing a censure, imposing any restriction upon a licensee, or imposing any fine, may seek judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 12. That Section 54-3913, Idaho Code, be, and the same is hereby amended to read as follows:

54-39132. BOARD OF ATHLETIC TRAINERS — CREATED — APPOINTMENT — TERMS. (1) A board of athletic trainers is hereby created and made a part of the Idaho state board of medicine.

(2) The board of athletic trainers shall consist of four (4) members, three (3) of whom shall be ~~registered~~ Idaho licensed athletic trainers actively engaged in the practice of athletic training in this state and one (1) of whom shall be a lay person.

(3) The board shall appoint the members of the board of athletic trainers. In making appointments to the board of athletic trainers, the board shall give consideration to recommendations made by professional organizations of athletic trainers and physicians.

(4) All members of the board of athletic trainers shall have been residents of the state of Idaho for one (1) year immediately preceding appointment. In appointing the athletic trainer members of the first board of athletic trainers, the board may appoint any practicing athletic trainer who possesses the qualifications required by section 54-39056, Idaho Code. All members must be persons of integrity and good reputation. The lay member must be a person who has never been authorized to practice a healing art, and who has never had a substantial personal, business, professional or pecuniary connection with a healing art or with a medical education or health care facility, except as a client or potential client.

(5) The board of athletic trainers shall be appointed within thirty (30) days after the effective date of this chapter for terms ending December 31. Of the first members of the board of athletic trainers appointed, one (1) member's term shall expire December 31, 1990; one (1) member's term shall expire December 31, 1991; one (1) member's term shall expire December 31, 1992; and one (1) member's term shall expire December 31, 1993. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment. The board may remove any member for cause at any time prior to the expiration of his term.

(6) The board of athletic trainers shall hold at least one (1) meeting each year. At the meeting, the board of athletic trainers shall elect from among its members for a term of one (1) year commencing on July 1 next, a chairperson. The board of athletic trainers may hold additional meetings on the call of the chairperson or at the written request of any two (2) members of the board of athletic trainers. The board of athletic trainers may appoint committees as it considers necessary to carry out its duties. The quorum required for any meeting of the board of athletic trainers is three (3) members. No action by the board of athletic trainers or its members has any effect unless a quorum of the board of athletic trainers is present.

SECTION 13. That Section 54-3914, Idaho Code, be, and the same is hereby amended to read as follows:

54-39143. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS -- POWERS AND DUTIES. (1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications and fitness of applicants, and approve the ~~examinations~~ applications for ~~registration~~ licensure under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The board of athletic trainers shall ~~conduct examinations of~~ evaluate all applicants for qualification and fitness for ~~registration~~ licensure and make recommendations to and consult with the board concerning issuance of ~~registrations~~ licenses, revocation of ~~registrations~~ licenses and rules to be promulgated under this chapter.

(2) The board shall, upon recommendation of the board of athletic trainers, adopt rules pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, ~~regulations~~ rules relating to professional ~~registration~~ licensure and to the establishment of ethical standards of practice, disciplinary proceedings, ~~registration~~ refusal to renew license proceedings, license suspension proceedings, or ~~registration~~ license revocation proceedings for persons ~~registered~~ licensed to practice as an athletic trainer in this state.

(3) The board of athletic trainers shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Every person ~~registered~~ licensed as an athletic trainer in Idaho shall be subject to discipline pursuant to the powers set forth in this chapter and the rules of the board of medicine promulgated pursuant thereto. The board of athletic trainers shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. Members of the board of athletic trainers shall disqualify themselves and, on motion of any interested party, may on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(5) In addition to its other powers, the board of athletic trainers shall be empowered and authorized:

(a) To recommend that the board reprimand by informal admonition any licensed athletic trainer respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(b) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed athletic trainer incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this paragraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled athletic trainers whether heretofore or hereafter enacted by the legislature of the state of Idaho, but rather shall be construed as complementary thereto.

(c) To recommend that the board accept the resignation and surrender of the license of any athletic trainer under investigation or

prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interests of the public and of justice.

(d) To recommend that the board provide by order for reciprocal discipline in cases involving a licensed athletic trainer or applicant disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.

(e) To recommend that the board provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee or applicant has been found to be in violation of this chapter.

SECTION 14. That Section 54-3915, Idaho Code, be, and the same is hereby amended to read as follows:

54-3915~~4~~. COMPENSATION. The members of the board of athletic trainers shall be compensated as provided in section 59-509(~~b~~e), Idaho Code.

SECTION 15. That Section 54-3916, Idaho Code, be, and the same is hereby amended to read as follows:

54-3916~~5~~. BOARD OF MEDICINE -- ADMINISTRATIVE PROVISIONS. (1) The executive director of the Idaho state board of medicine shall serve as the executive director to the board of athletic trainers.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine account created by section 54-1809, Idaho Code, and all costs and expenses incurred by the board and the board of athletic trainers under the provisions of this chapter shall be a charge against and paid from said account for such purposes, and the moneys collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine account be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the state board of medicine account which has been derived from the application of this chapter.

Money paid into the state board of medicine account pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and the board of athletic trainers in carrying out and enforcing the provisions of this chapter.

SECTION 16. That Section 54-3917, Idaho Code, be, and the same is hereby amended to read as follows:

54-3917~~6~~. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

SECTION 17. That Section 54-3918, Idaho Code, be, and the same is hereby amended to read as follows:

54-3918<u>7</u>. SEVERABILITY. The provisions of this act 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 remaining portions of this chapter.

Approved April 8, 2003.

CHAPTER 262
(H.B. No. 228)

AN ACT

RELATING TO AGRICULTURAL FIELD BURNING; AMENDING SECTION 22-4803, IDAHO CODE, TO PROVIDE THAT RULES PROMULGATED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY RELATING TO OPACITY STANDARDS SHALL NOT APPLY TO CROP RESIDUE BURNING.

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

SECTION 1. That Section 22-4803, Idaho Code, be, and the same is hereby amended to read as follows:

22-4803. AGRICULTURAL FIELD BURNING. (1) The open burning of crop residue grown in agricultural fields shall be an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, and the environmental protection and health act, and any rules promulgated pursuant thereto, are met, and when no other agricultural viable alternatives to burning are available, as determined by the director, for the purpose of:

(a) Disposing of crop residues;

(b) Developing physiological conditions conducive to increased crop yields; or

(c) Controlling diseases, insects, pests or weed infestations.

(2) The following provisions shall apply to all agricultural field burning:

(a) Any person conducting crop residue burning must make every reasonable effort to burn only when weather conditions are conducive to adequate smoke dispersion, and the burning does not emit particulates or other material which exceed the state and federal ambient air quality standards; and

(b) The open burning of crop residue shall be conducted in the field where it was generated.

(3) In Kootenai and Benewah counties, the legislature finds that there are a great many cereal grain, field grass, forage grass, and turf grass fields, and it is a practice to burn these fields to control disease, weeds and pests in these counties. Therefore, in Kootenai and Benewah counties, no person shall conduct or allow any crop residue burning without first registering each field with the DEQ each year burning is conducted. Approved forms for registering fields when needed may be obtained at the DEQ's Coeur d'Alene office. This provision is not met unless the forms contain all required information and are received by the DEQ prior to field ignition.

(4) The use of reburn machines, propane flamers, or other devices to ignite or reignite a field for the purpose of crop residue burning shall be considered an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, the environmental protection and health act, and any rules promulgated thereto, are met.

(5) Any rules promulgated by the DEQ relating to opacity standards shall not apply to crop residue burning.

Approved April 8, 2003.

CHAPTER 263
(H.B. No. 269, As Amended)

AN ACT

RELATING TO THREATS OF VIOLENCE AT SCHOOLS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1225, IDAHO CODE, TO PROVIDE FOR REPORTS OF THREATS OF VIOLENCE OR POTENTIAL VIOLENCE AND TO GOVERN LIABILITY FOR DEFAMATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 12, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1225, Idaho Code, and to read as follows:

33-1225. THREATS OF VIOLENCE -- LIMITATION ON LIABILITY. (1) A communication by any person to a school principal, or designee, or a communication by a student attending the school to the student's teacher, school counselor or school nurse, and any report of that communication to the school principal stating that a specific person has made a threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern. Such communication or report shall only be subject to liability in defamation by clear and convincing evidence that the communication or report was made with knowledge of its falsity or with reckless disregard for the truth or falsity of the communication or report. This section shall not be interpreted to change or eliminate other elements of defamation required by law.

(2) As used in this section, "school" means any public or private school providing instruction in kindergarten or any grades from grade one (1) through grade twelve (12) which is the subject of a threat.

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 8, 2003.

CHAPTER 264
(H.B. No.270)

AN ACT

RELATING TO PURCHASE OF PROPERTY BY THE SCHOOL DISTRICT BOARD OF TRUSTEES; AMENDING SECTION 33-601, IDAHO CODE, TO INCREASE THE MINIMUM EXPENDITURE FOR WHICH THE BOARD MUST ADVERTISE FOR BIDS AND PERMIT THE SCHOOL TRUSTEES TO PROCEED UNDER ITS OWN DIRECTION IN THE CONDITION SPECIFIED.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes.

2. To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, no such contract shall be executed which entails the expenditure of ~~fifteen~~ twenty-five thousand dollars ($~~1~~25,000) or more without notice first being given by publishing twice in the manner required by subsections g. and h. of section 33-402, Idaho Code, unless in cooperation with the division of purchasing or cooperative agency established pursuant to chapter 23, title 67, and/or sections 33-315 through 33-318, Idaho Code. The board of trustees may let the contract to the lowest responsible bidder, or reject any bid, or reject all bids and publish notice for bids, as before. If, thereafter, no satisfactory bid is received, the board may proceed under its own direction~~, subject to the approval of the state board of education~~.

3. To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

4. (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6. of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g. and h. of section 33-402, Idaho Code, except that when the appraised value of the property is less than one thousand dollars ($1,000), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids or at public auction.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than one thousand dollars ($1,000), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property. If the board, by a unanimous vote of those members present, finds that the property has an estimated value of less than five hundred dollars ($500) and is of insufficient value to defray the costs of arranging a sale, the property may be disposed of in the most cost-effective and expedient manner by an employee of the district empowered for that purpose by the board.

(b) Real and personal property may be exchanged hereunder for other property. Provided, however, that aside from the provisions of this paragraph, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or

personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph 4.(b), the board shall have the property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real or personal property.

5. To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

6. To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

8. To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

9. If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

Approved April 8, 2003.

CHAPTER 265
(H.B. No. 273)

AN ACT

RELATING TO RECREATIONAL TRESPASS AND LIMITATION OF LIABILITY OF LANDOWNER; AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE FOR LIMITATION OF LIABILITY OF AN OWNER OF LAND SUBJECT TO A CONSERVATION EASEMENT TO ANY GOVERNMENTAL ENTITY OR NONPROFIT ORGANIZATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

1. "Land" means private or public land, roads, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.

2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

3. "Recreational ~~P~~purposes" includes, but is not limited to, any of the following or any combination thereof: ~~H~~hunting, fishing, swimming, boating, rafting, tubing, camping, ~~p~~icnicking, hiking, pleasure driving, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose.

2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(f) Provisions Apply to Land Subject to a Conservation Easement. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land subject to a conservation easement to any governmental entity or nonprofit organization.

(g) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.

2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.

3. Apply to any person or persons who for compensation permit the land to be used for recreational purposes.

(~~g~~h) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.

Approved April 8, 2003.

CHAPTER 266
(H.B. No. 302)

AN ACT

RELATING TO PROPERTY TAX APPEALS; AMENDING SECTION 63-409, IDAHO CODE, TO PROVIDE THAT IN AN APPEAL TAKEN REGARDING VALUATIONS OF OPERATING PROPERTY THE BURDEN OF PROOF SHALL FALL ON THE PARTY SEEKING AFFIRMATIVE RELIEF, TO PROVIDE STANDARDS AND TO PROVIDE FOR PROCEDURES; AMENDING SECTION 63-502, IDAHO CODE, TO PROVIDE THAT IN AN APPEAL TO THE BOARD OF EQUALIZATION THE TAXPAYER SHALL HAVE THE BURDEN OF PROOF IN SEEKING AFFIRMATIVE RELIEF AND TO PROVIDE A STANDARD OF EVIDENCE; AMENDING SECTION 63-511, IDAHO CODE, TO PROVIDE THAT IN APPEALS TAKEN TO THE BOARD OF TAX APPEALS OR DISTRICT COURT, THE BURDEN OF PROOF SHALL FALL UPON THE PARTY SEEKING AFFIRMATIVE RELIEF, TO PROVIDE STANDARDS AND TO PROVIDE PROCEDURES; AMENDING SECTION 63-3812, IDAHO CODE, TO PROVIDE THAT THE BURDEN OF PROOF SHALL FALL UPON THE PARTY SEEKING AFFIRMATIVE RELIEF, TO PROVIDE STANDARDS AND TO PROVIDE FOR PROCEDURES; DECLARING AN EMERGENCY AND PROVIDING APPLICATION.

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

SECTION 1. That Section 63-409, Idaho Code, be, and the same is hereby amended to read as follows:

63-409. APPEALS FROM STATE TAX COMMISSION VALUATIONS OF OPERATING PROPERTY. (1) Any taxpayer or county assessor who is aggrieved by a state tax commission decision assessing a taxpayer's operating property may file an appeal to the district court of Ada county or, if such operating property is located in only one (1) county, to the district court in and for the county in which such operating property is located. The appeal shall be filed within thirty (30) days after service upon the taxpayer of the decision. The appeal may be based upon any issue presented by the taxpayer to the state tax commission and shall be heard by

the district court in a trial de novo without a jury in the same manner as though it were an original proceeding in that court. Nothing in this section shall be construed to suspend the payment of taxes pending appeal. Payment of taxes while an appeal hereunder is pending shall not operate to waive the right to an appeal. Any final order of the district court under this section shall be subject to appeal to the Idaho supreme court in the manner provided by the Idaho appellate rules.

(2) In any appeal taken pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the state tax commission erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the state tax commission. A preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the state tax commission, and shall grant other relief, invoke such other remedies and issue such orders, in accordance with its decision, as appropriate.

SECTION 2. That Section 63-502, Idaho Code, be, and the same is hereby amended to read as follows:

63-502. FUNCTION OF BOARD OF EQUALIZATION ON ASSESSMENTS. The function of the board of equalization shall be confined strictly to assuring that the market value for assessment purposes of property has been found by the assessor, and to the functions provided for in chapter 6, title 63, Idaho Code, relating to exemptions from taxation. It is hereby made the duty of the board of equalization to enforce and compel a proper classification and assessment of all property required under the provisions of this title to be entered on the property rolls, and in so doing, the board of equalization shall examine the rolls and shall raise or cause to be raised, or lower or cause to be lowered, the assessment of any property which in the judgment of the board has not been properly assessed. The board of equalization must examine and act upon all complaints filed with the board in regard to the assessed value of any property entered on the property rolls and must correct any assessment improperly made. The taxpayer shall have the burden of proof in seeking affirmative relief to establish that the determination of the assessor is erroneous, including any determination of assessed value. A preponderance of the evidence shall suffice to sustain the burden of proof.

SECTION 3. That Section 63-511, Idaho Code, be, and the same is hereby amended to read as follows:

63-511. APPEALS FROM COUNTY BOARD OF EQUALIZATION. (1) Any time within thirty (30) days after mailing of notice of a decision of the board of equalization, or pronouncement of a decision announced at a hearing, an appeal of any act, order or proceeding of the board of equalization, or the failure of the board of equalization to act may be taken to the board of tax appeals. Such appeal may only be filed by the

property owner, the assessor, the state tax commission or by a person aggrieved when he deems such action illegal or prejudicial to the public interest. Nothing in this section shall be construed so as to suspend the payment of property taxes pending said appeal.

(2) Notice of such appeal stating the grounds therefor shall be filed with the county auditor, who shall forthwith transmit to the board of tax appeals a copy of said notice, together with a certified copy of the minutes of the proceedings of the board of equalization resulting in such act, order or proceeding, or a certificate to be furnished by the clerk of the board that said board of equalization has failed to act in the time required by law on any complaint, protest, objection, application or petition in regard to assessment of the complainant's property, or a petition of the state tax commission. The county auditor shall also forthwith transmit all evidence taken in connection with the matter appealed. The county auditor shall submit all such appeals to the board of tax appeals within thirty (30) days of being notified of the appeal or by no later than October 1, whichever is later. The board of tax appeals may receive further evidence and will hear the appeal as provided in chapter 38, title 63, Idaho Code.

(3) Any appeal that may be taken to the board of tax appeals may, during the same time period, be taken to the district court for the county in which the property is located.

(4) In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. A preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The board of tax appeals or the district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The board of tax appeals or the court may affirm, reverse, modify or remand any order of the board of equalization, and shall grant other relief, invoke such other remedies, and issue such orders in accordance with its decision, as appropriate.

SECTION 4. That Section 63-3812, Idaho Code, be, and the same is hereby amended to read as follows:

63-3812. APPEAL FROM BOARD -- PAYMENT OF TAXES WHILE ON APPEAL. Whenever any taxpayer, assessor, the state tax commission or any other party appearing before the board of tax appeals is aggrieved by a decision of the board of tax appeals or a decision on a motion for rehearing, an appeal may be taken to the district court located in the county of residence of the affected taxpayer, or to the district court in and for the county in which property affected by an assessment is located. The appeal shall be taken and perfected in the following manner:

(a) The appellant shall cause notice specifying the grounds of appeal to be filed with the appropriate district court and shall forthwith serve copies of the notice with the clerk of the board of tax

appeals and with all other party to the proceeding before the board within twenty-eight (28) days after copy of the final decision of the board shall have been deposited in the mail. The petition for judicial review shall conform with the requirements of the Idaho rules of civil procedure, including rule 84(e). The grounds of appeal specified in such notice shall frame the issues for such appeal.

(b) Any record made in such matter together with the record of all proceedings shall be filed by the clerk with the district court of the proper county.

(c) Appeals may be based upon any issue presented by the appellant to the board of tax appeals and shall be heard and determined by the court without a jury in a trial de novo on the issues in the same manner as though it were an original proceeding in that court. The burden of proof shall fall upon the party seeking affirmative relief to establish that the decision made by the board of tax appeals is erroneous. A preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the party seeking affirmative relief and the party going forward with the evidence shall shift as in other civil litigation. The court shall render its decision in writing, including therein a concise statement of the facts found by the court and conclusions of law reached by the court. The court may affirm, reverse or modify the order, direct the tax collector of the county or the state tax commission to refund any taxes found in such appeal to be erroneously or illegally assessed or collected or may direct the collection of additional taxes in proper cases.

(d) Nothing in this section shall be construed to suspend the payment of taxes pending any appeal, except that any privileges as to bonds or other rights extended by the provisions of chapters 30 and 36, title 63, Idaho Code, shall not be affected. Payment of taxes while an appeal hereunder is pending shall not operate to waive the right to an appeal.

(e) Any final order of the district court under this section shall be subject to appeal to the supreme court in the manner provided by law.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and shall apply to all appeals filed after such date and to all appeals pending but not yet decided as of such date.

Approved April 8, 2003.

CHAPTER 267
(H.B. No. 306)

AN ACT

RELATING TO HEALTH INSURANCE, THE SMALL EMPLOYER REINSURANCE PROGRAM AND THE HIGH RISK REINSURANCE POOL; AMENDING SECTION 41-4703, IDAHO CODE, TO FURTHER DEFINE THE TERM "CARRIER"; AMENDING SECTION 41-4711, IDAHO CODE, TO PROVIDE THAT ALL CARRIERS SHALL BE SUBJECT TO THE SMALL EMPLOYER CARRIER REINSURANCE PROGRAM, TO REVISE PROCEDURES AND TO CLARIFY THAT ALL AUTHORIZED HEALTH INSURERS ARE SUBJECT TO THE REPORTING REQUIREMENTS RELATING TO THE ASSESSMENT PROCESS IN

THE SMALL EMPLOYER REINSURANCE PROGRAM; AMENDING SECTION 41-5501, IDAHO CODE, TO FURTHER DEFINE THE TERM "CARRIER"; AND AMENDING SECTION 41-5505, IDAHO CODE, TO PROVIDE THAT ANY INDIVIDUAL CARRIER ISSUING AN INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A OR CATASTROPHIC B HEALTH BENEFIT PLAN SHALL BE REINSURED BY THE INDIVIDUAL HIGH RISK REINSURANCE POOL TO THE LEVEL OF COVERAGE PROVIDED IN THE PLAN AND SHALL BE LIABLE TO THE POOL OR THE REINSURANCE PREMIUM; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 a producer as defined in section 41-1003(9), 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, or is authorized to provide, 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" mean 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 2. That Section 41-4711, Idaho Code, be, and the same is hereby amended to read as follows:

41-4711. SMALL EMPLOYER CARRIER REINSURANCE PROGRAM. (1) All ~~reinsuring~~ carriers shall be subject to the provisions of this section.

(2) There is hereby created an independent public bo~~dy corp~~orate and politic to be known as the Idaho small employer health reinsurance program. The program will perform an essential governmental function in the exercise of powers conferred upon it in this act and any assessments imposed or collected pursuant to the operation of the program shall at all times be free from taxation of every kind.

(3) The program shall operate subject to the supervision and control of the board established in section 41-5502, Idaho Code.

(4) Each ~~small employer~~ carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery to small employers in this state in the previous calendar year.

(5) The board shall submit to the director a plan of operation and

thereafter any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the program. The director may, after notice and hearing, approve the plan of operation if the director determines it to be suitable to assure the fair, reasonable and equitable administration of the program, and to provide for the sharing of program gains or losses on an equitable and proportionate basis in accordance with the provisions of this section. The plan of operation shall become effective upon written approval by the director.

(6) If the board fails to submit a suitable plan of operation, the director shall, after notice and hearing, adopt and promulgate a temporary plan of operation. The director shall approve the plan of operation submitted by the board, or adopt a temporary plan of operation if the board fails to submit a suitable plan. The director shall amend or rescind any plan adopted under the provisions of this subsection at the time a plan of operation is submitted by the board and approved by the director.

(7) The plan of operation shall:

(a) Establish procedures for handling and accounting of program assets and moneys and for an annual fiscal reporting to the director;

(b) Establish procedures for selecting an administrator, which shall be properly licensed in this state, and setting forth the powers and duties of the administrator;

(c) Establish procedures for reinsuring risks in accordance with the provisions of this section;

(d) Establish procedures for collecting assessments from ~~reinsuring~~ carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program; and

(e) Provide for any additional matters necessary for the implementation and administration of the program.

(8) The program shall have the general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business, except the power to issue health benefit plans directly to either groups or individuals. In addition thereto, the program shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including the authority, with the approval of the director, to enter into contracts with similar programs of other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any ~~reinsuring~~ carrier~~s~~;

(c) Take any legal action necessary to avoid the payment of improper claims against the program;

(d) Define the health benefit plans, which plans shall allow coordination of benefits, for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of this chapter;

(e) Establish rules, conditions and procedures for reinsuring risks under the program, including ~~board~~ broad discretion to operate ~~separate~~ the small employer ~~and individual~~ reinsurance ~~pools~~ program;

(f) Establish actuarial functions as appropriate for the operation of the program;

(g) Assess carriers in accordance with the provisions of subsection (12) of this section, and to make advance interim assessments of carriers as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year;

(h) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program;

(i) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

(9) A ~~reinsuring~~ carrier may reinsure with the program as provided for in this subsection:

(a) With respect to a small employer basic, standard or catastrophic health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the program shall reinsure up to the level of coverage provided in a small employer basic, standard or catastrophic health benefit plan.

(b) A small employer carrier may reinsure an entire employer group within sixty (60) days of the commencement of the group's coverage under a health benefit plan.

(c) A ~~reinsuring~~ small employer carrier may reinsure an eligible employee or dependent within a period of sixty (60) days following the commencement of the coverage with the small employer. A newly eligible employee or dependent of the reinsured small employer may be reinsured within sixty (60) days of the commencement of his coverage. Newborn dependents of insureds are not eligible for reinsurance unless a parent is already reinsured.

(d) (i) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured employee or dependent until the carrier has incurred an initial level of claims for such employee or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the program. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next fifty thousand dollars ($50,000) of benefit payments during a calendar year and the program shall reinsure the remainder.

(ii) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(e) A reinsuring carrier may terminate reinsurance with the program for one (1) or more of the reinsured employees or dependents on any anniversary of the health benefit plan.

(f) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(10) (a) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers pursuant to this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, subject to the approval of the director, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health benefit plans with benefits similar to the standard health benefit plan, adjusted to reflect retention levels required under the provisions of this chapter.

(b) Premiums for the program shall be as established by the board.

(c) The board periodically shall review the methodology established under the provisions of paragraph (10)(a) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the director.

(d) The board may consider adjustments to the premium rates charged by the program to reflect the use of effective cost containment and managed care arrangements.

(11) If a health benefit plan for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 41-4706, Idaho Code.

(12) (a) Prior to March 1 of each year, the board shall determine and report to the director the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments of carriers.

(c) (i) For the assessment of March 1, 1995, and prior to March 1 of each succeeding year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(ii) The ~~individual~~ assessments shall be determined by multiplying net losses, if net earnings are negative, as defined by subsection (12)(a) of this section, by a fraction, the numerator of which shall be the carrier's total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease, and hospital confinement indemnity in this state as reported in the carrier's annual report pursuant to subsection (16) of this section, and the denominator of which shall be the total pre-

miums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease and hospital confinement indemnity in this state.

(d) If assessments exceed net losses of the program, the excess shall be held at interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(e) Each ~~reinsuring~~ carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the ~~reinsuring~~ carriers with the board or with the director.

(f) The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

(g) A ~~reinsuring~~ carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment of a ~~reinsuring~~ carrier if the director determines that the payment of the assessment would place the ~~reinsuring~~ carrier in a financially impaired condition. If all or part of an assessment against a ~~reinsuring~~ carrier is deferred the amount deferred shall be assessed against the other ~~participating~~ carriers in a manner consistent with the basis for assessment set forth in this subsection. The ~~reinsuring~~ carrier receiving the deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any groups with the program until such time as it pays the assessments.

(13) (a) Neither the participation in the program as reinsuring carriers, the establishment of rates, forms or procedures, nor any other joint or collective action required under the provisions of this chapter shall be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately.

(b) Neither the board nor its employees shall be liable for any obligations of the program. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. The board may provide for indemnification of, and legal representation for, its members and employees.

(14) The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to agents for the sale of small employer basic, standard and catastrophic health benefit plans. In establishing such standards, the board shall take into consideration the need to assure the broad availability of coverages, the objectives of the program, the time and effort expended in placing the coverage, the need to provide ongoing service to the small employer, the levels of compensation currently used in the industry and the overall costs of coverage to small employers selecting these plans.

(15) The program shall be exempt from any and all taxes.

(16) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall

state the number of resident persons insured under the carrier's health benefit plan.

(17) If a reinsuring small employer carrier attempts to reinsure or reinsures an entire employer group, an employee, or a dependent of such employee that, immediately prior to the commencement of such coverage, it covered under a health benefit plan, the board shall assess all costs and losses incurred by the program for claims and administrative expenses relating to such group, employee or dependent of such employee only to the said reinsuring small employer carrier.

(18) Subsection (17) of this section shall apply to assessments made for the 1994 calendar year and each year thereafter.

SECTION 3. 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 a producer as defined in section 41-1003(9), 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, or is authorized to provide, 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 indem-

nity, 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" mean 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.

SECTION 4. That Section 41-5505, Idaho Code, be, and the same is hereby amended to read as follows:

41-5505. REINSURANCE. (1) Any individual carrier issuing an individual basic, standard, catastrophic A, or catastrophic B health benefit plan as provided in this chapter shall ~~receive reinsurance~~ be reinsured by the pool to the level of coverage provided in the plan and shall be liable to the pool for the reinsurance premium.

(2) (a) The pool shall not reimburse a reinsuring carrier with respect to the claims of a reinsured individual or dependent until the carrier has incurred an initial level of claims for such individual or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the pool. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next twenty-five thousand dollars ($25,000) of benefit payments during a calendar year and the pool shall reinsure the remainder.

(b) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(3) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(4) Each carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery in this state in the previous calendar year.

(5) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan, or through excess or stop loss coverage.

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

Approved April 8, 2003.

CHAPTER 268
(H.B. No. 319)

AN ACT

RELATING TO THE SCHOOL BOND LEVY EQUALIZATION SUPPORT PROGRAM; AMENDING SECTION 33-802A, IDAHO CODE, TO CHANGE THE TIME LIMITATIONS WHICH GOVERN LEVY AMOUNTS; AND AMENDING SECTION 33-906, IDAHO CODE, TO PROVIDE A SPECIAL APPLICATION OF STATE PAYMENT PROVISIONS AND TO REQUIRE SPECIFIED REPORTS.

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

SECTION 1. That Section 33-802A, Idaho Code, be, and the same is hereby amended to read as follows:

33-802A. COMPUTATION OF BOND AND BOND INTEREST LEVIES. When the board of trustees of any school district determines and makes the levy required by section 33-802, Idaho Code, and incorporates such levy as a part of the school district's budget to service all maturing bond and bond interest payments for the ensuing fiscal year, it shall take into consideration any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and any balances remaining or that may remain in its bond interest and redemption fund after meeting its bond and bond interest obligations for its current fiscal year. The levy so made for the ensuing fiscal year shall be an amount which, together with any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and the balance in its bond interest and redemption fund remaining after meeting its current fiscal year bond and bond interest obligations, shall satisfy all maturing bond and bond interest payments for at least the ensuing twelve (12) months, and not to exceed the ensuing ~~nineteen~~ twenty-one (~~1~~21) months counted from July 1 of the current calendar year.

SECTION 2. That Section 33-906, Idaho Code, be, and the same is hereby amended to read as follows:

33-906. BOND LEVY EQUALIZATION SUPPORT PROGRAM. Pursuant to section 33-906B, Idaho Code, school districts with a value index below one (1) shall be eligible to receive additional state financial assistance for the cost of annual bond interest and redemption payments made on bonds passed on or after September 15, 2002. However, any school district shall receive no less than ten percent (10%) of the interest cost portion of the annual bond interest and redemption payment for bonds passed on or after September 15, 2002. The state department of education shall disburse such funds to school districts from moneys appropriated from the bond levy equalization fund. The department shall disburse the funds by no later than September 1 of each year for school districts in which voters have approved the issuance of qualifying bonds by no later than January 1 of that calendar year, and which are certifying a qualifying bond interest and redemption payment for the fiscal year in which the disbursement is made. For districts with a value index below one (1), the percentage of each annual bond interest and redemption payment that is paid by the state shall be determined by dividing the difference between one (1) and the school district's value index by one (1) provided that the state shall pay for no more than the interest cost portion of the annual bond interest and redemption payment, and each school district shall receive no less than ten percent (10%) of the interest cost portion of the qualifying bond interest and redemption payment.

For the purposes of this section, the annual bond interest and redemption payment shall be determined by dividing the total payment amounts by the number of fiscal years in which payments are to be made. The interest cost portion of the annual bond interest and redemption payment shall be determined by dividing the total interest paid by the number of fiscal years in which payments are to be made. For school districts not qualifying for a state payment in the first year of the bond interest and redemption payment schedule, due solely to the January 1

eligibility deadline, the state department of education shall distribute an additional payment in the next fiscal year, in the amount of such funds that the school district would have otherwise qualified for in the current fiscal year.

The provisions of this section may not be utilized to refinance existing debt.

School districts shall annually report the status of all qualifying bonds to the state department of education by January 1 of each year, including bonds approved by the voters, but not yet issued. Information submitted shall include the following:

(1) The actual or estimated bond interest and redemption payment schedule;

(2) Any qualifying bond that has been paid off;

(3) Other information as may be required by the state department of education.

Approved April 8, 2003.

CHAPTER 269
(H.B. No. 322)

AN ACT

RELATING TO THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS; AMENDING SECTION 57-728, IDAHO CODE, TO INCREASE THE AMOUNT OF MONEY THE ENDOWMENT FUND INVESTMENT BOARD SHALL MAKE AVAILABLE FROM THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND FOR PURPOSES OF PURCHASING NOTES AND TO PROVIDE THAT THE AMOUNT OF DEBT GUARANTEED BY THE CREDIT ENHANCEMENT PROGRAM SHALL NOT BE GREATER THAN THREE TIMES THE AMOUNT MADE AVAILABLE BY THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-728, Idaho Code, be, and the same is hereby amended to read as follows:

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with chapter 53, title 33, Idaho Code, and may promulgate rules to implement it. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by purchasing notes issued by the state of Idaho, whereby the state may guarantee payment of school district bonded indebtedness in order to avoid an imminent default, providing lower interest rates at which the bonds may be issued.

(2) A school district that seeks the guarantee of bonds under this program shall apply to the state treasurer pursuant to section 33-5304, Idaho Code. The state treasurer shall transmit all approved applications to the board. The board may challenge an approved application within three (3) business days of their receipt of the same. If no challenge is issued within three (3) business days the application shall be deemed

approved by the board. In the event of a challenge in writing to the state treasurer, the treasurer and the board shall have ten (10) business days to mutually approve the application. If after a challenge by the board, the application is not mutually approved within the ten (10) business days, the application shall be deemed rejected. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(3) Upon approval of the credit enhancement program under this section, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section 33-5309, Idaho Code, are insufficient to pay the principal of and interest on the notes issued by the state pursuant to section 33-5308, Idaho Code, the endowment fund shall purchase new notes from the state, in accordance with section 33-5308, Idaho Code, the proceeds of which shall be sufficient to pay the principal of and the interest on the original notes as they become due pursuant to section 33-5308, Idaho Code. The new notes shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to an annual rate ten percent (10%) higher than the average interest earned on the investments of the public school permanent endowment fund in the four (4) calendar quarters preceding the quarter in which the loan occurred and if this figure is not equal to the percentage return of the fund's highest category of investments in its portfolio, then the interest rate shall equal that percentage return on investment, plus all additional administrative costs related to these investments;

(b) The notes, including principal and interest, shall be repaid from the district's next payments pursuant to chapter 8, title 33, Idaho Code, as collected by the state treasurer;

(c) The state may make additional payments on the note;

(d) The endowment fund investment board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the district will not be able to make future payments required under this section.

(4) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in chapter 53, title 33, Idaho Code, to obtain repayment of a delinquent obligation.

(5) For purposes of administering the provisions of this section, the board shall make available the sum of at least ~~one~~ two hundred million dollars ($~~1~~200,000,000) from the public school permanent endowment fund, for purposes of purchasing notes as authorized by this section. The amount of debt guaranteed by the credit enhancement program shall not be greater than ~~two~~ three (~~2~~3) times the amount made available by the public school permanent endowment fund.

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 8, 2003.

CHAPTER 270
(H.B. No. 326)

AN ACT

RELATING TO SAFE SCHOOLS AND REPAIR, RENOVATION OR REPLACEMENT OF UNSAFE OR UNHEALTHY CONDITIONS IN PUBLIC SCHOOL FACILITIES; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1613A, IDAHO CODE, TO PROVIDE THAT THE REPAIR, RENOVATION OR REPLACEMENT OF UNSAFE OR UNHEALTHY CONDITIONS IN PUBLIC SCHOOL FACILITIES IS AN ORDINARY AND NECESSARY EXPENSE WITHIN THE MEANING OF SECTION 3, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO; DECLARING AN EMERGENCY AND PROVIDING APPLICATION TO ALL PENDING PROCEEDINGS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to clarify that expenditures made to abate unsafe or unhealthy conditions in public school facilities in order to provide a safe environment conducive to learning by the repair, renovation, or replacement of unsafe or unhealthy public school facilities are, and have been, ordinary and necessary expenses authorized by the general laws of this state within the meaning of Section 3, Article VIII, of the Constitution of the State of Idaho.

SECTION 2. 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 33-1613A, Idaho Code, and to read as follows:

33-1613A. EXPENDITURES TO ABATE UNSAFE OR UNHEALTHY CONDITIONS. Expenditures to abate unsafe or unhealthy conditions in public school facilities are ordinary and necessary expenses authorized by the general laws of this section within the meaning of section 3, article VIII, of the constitution of the state of Idaho. The general laws of this state authorizing such expenditures include, but are not limited to: the laws relating to expenditures of proceeds of a school district's sale of real or personal property pursuant to chapter 6, title 33, Idaho Code; a school district's collection and expenditure of levies provided by chapter 9, title 33, Idaho Code; a school district's expenditures of state funds provided under the foundation program of chapter 10, title 33, Idaho Code; a school district's expenditures of bond proceeds under chapter 11, title 33, Idaho Code; a school district's expenditures for providing safe transportation pursuant to chapter 15, title 33, Idaho Code; a school district's expenditures of proceeds of loans or grants procured pursuant to section 33-1613, Idaho Code, including previous amendments of section 33-1613, Idaho Code; and a school district's expenditures of forest reserve and mining impact funds pursuant to chapter 13, title 57, Idaho Code. The definitions contained in section 33-1613, Idaho Code, apply to this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and shall apply to all proceedings pending before the courts of this state on the effective date of this act.

Approved April 8, 2003.

CHAPTER 271
(H.B. No. 327)

AN ACT

RELATING TO MUTUAL INSURANCE HOLDING COMPANIES; AMENDING SECTION 41-3821, IDAHO CODE, TO PROVIDE THAT THE FORMATION OF MUTUAL INSURANCE HOLDING COMPANIES SHOULD NOT INCREASE THE TAX BURDEN OF THE MUTUAL INSURANCE HOLDING COMPANY SYSTEM, TO PROVIDE THAT STOCK INSURANCE SUBSIDIARIES SHALL CONTINUE TO BE SUBJECT TO PREMIUM TAXATION AND REAL PROPERTY TAXATION, TO PROVIDE THAT SUBJECT TO THE APPROVAL OF THE DIRECTOR DIVIDENDS OR DISTRIBUTIONS MAY BE ISSUED BY A STOCK INSURANCE SUBSIDIARY TO A MUTUAL INSURANCE HOLDING COMPANY OR INTERMEDIATE HOLDING COMPANY, TO PROVIDE THAT SUCH DIVIDENDS OR DISTRIBUTIONS SHALL BE EXCLUDED FROM IDAHO TAXABLE INCOME AND TO PROVIDE THAT THE EXCLUSION SHALL NOT APPLY IN CERTAIN CIRCUMSTANCES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-3821, Idaho Code, be, and the same is hereby amended to read as follows:

41-3821. MUTUAL INSURANCE HOLDING COMPANIES.

(1) (a) A domestic mutual insurer, upon approval of the director, may reorganize by forming an insurance holding company system, "the mutual insurance holding company," based upon a mutual plan and continuing the corporate existence of the reorganizing insurer as a stock insurer. The director, after a public hearing as provided in section 41-3805, Idaho Code, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the director finds necessary for the protection of the policyholders' interests. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A reorganization pursuant to this subsection is subject to sections 41-3802 and 41-3803, Idaho Code. The director shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurer shall become membership interests in the mutual insur-

ance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer.

(2) (a) A domestic mutual insurer, upon the approval of the director, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing insurer as a stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3805, Idaho Code, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the director finds necessary for the protection of the policyholders' interests. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A merger pursuant to this subsection is subject to sections 41-3802 and 41-3803, Idaho Code. The director shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer. A merger of policyholders' membership interests in a mutual insurer into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to section 41-2857, Idaho Code, and section 41-2857, Idaho Code, is also applicable.

(c) A foreign mutual insurer, which if a domestic corporation would be organized under chapter 3, title 41, Idaho Code, may reorganize upon the approval of the director and in compliance with the requirements of any law or rule which is applicable to the foreign mutual insurer by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing foreign mutual insurer as a foreign stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3805, Idaho Code, may approve the proposed merger. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A merger pursuant to this paragraph is subject to sections 41-3802 and 41-3803, Idaho Code. The reorganizing foreign mutual insurer may remain a foreign company or foreign corporation after the merger, and may be admitted to do business in this state. A foreign mutual insurer which is a party to the merger may at the same time redomesticate in this state

by complying with the applicable requirements of this state and its state of domicile. The provisions of subsection (2)(b) shall apply to a merger authorized under this paragraph.

(3) A mutual insurance holding company resulting from the reorganization of a domestic mutual insurer organized under chapter 1, title 30, Idaho Code, shall be incorporated pursuant to chapter 1, title 30, Idaho Code. This requirement shall supersede any conflicting provisions of chapter 1, title 30, Idaho Code. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the director in the same manner as those of an insurance company.

(4) A mutual insurance holding company is deemed to be an insurer subject to chapter 33, title 41, Idaho Code, and shall automatically be a party to any proceeding under chapter 33, title 41, Idaho Code, involving an insurer which as a result of a reorganization pursuant to subsection (1) or (2) of this section is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 33, title 41, Idaho Code, involving the reorganized insurer, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurer for purposes of satisfying the claims of the reorganized insurer's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the director or as ordered by the district court pursuant to chapter 33, title 41, Idaho Code.

(5) (a) Section 41-2855, Idaho Code, is not applicable to a reorganization or merger pursuant to this section.

(b) Section 41-2855, Idaho Code, is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual insurer organized under chapter 3, title 41, Idaho Code, as if it were a mutual life insurer.

(6) A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in section 30-1402(12), Idaho Code.

(7) The majority of the voting shares of the capital stock of the reorganized insurer, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subject to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurer which is required by this section to be at all times owned by a mutual insurance holding company, is in violation of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurer which is required by this section to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in title 11, Idaho Code. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two (2) or more reorganized insurers or two (2) or more intermediate holding companies which were subsidiaries of the same

mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurers or intermediate holding companies were subject by this section prior to the merger or consolidation.

As used in this section, "majority of the voting shares of the capital stock of the reorganized insurer" means shares of the capital stock of the reorganized insurer which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurer for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurer. The ownership of a majority of the voting shares of the capital stock of the reorganized insurer which are required by this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one (1) or more intermediate holding companies in a corporate structure approved by the director. However, indirect ownership through one (1) or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurer. The director shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

As used in this section, "intermediate holding company" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one (1) or more subsidiary reorganized insurers of which a majority of the voting shares of the capital stock would otherwise have been required by this section to be at all times owned by the mutual insurance holding company.

(8) It is the intent of the legislature that the formation of a mutual insurance holding company should not increase the Idaho tax burden of the mutual insurance holding company system and that a stock insurance subsidiary shall continue to be subject to Idaho insurance premium taxation in lieu of all other taxes except real property taxes as provided in section 41-405, Idaho Code. Subject to approval by the director as required under Idaho law, a stock insurance subsidiary may issue dividends or distributions to the mutual insurance holding company or any intermediate holding company, and such dividends or distributions shall be excluded from the Idaho taxable income of the recipients; provided however, that such exclusion shall not apply to the extent that, in the year preceding the year in which the dividends or distributions were made, the subsidiary insurer's liability for Idaho premium tax was less than the amount of Idaho income tax for which the insurer would have been liable in such year had the insurer been subject to Idaho income taxation rather than premium taxation.

SECTION 2. This act shall be in full force and effect on and after January 1, 2004.

Approved April 8, 2003.

CHAPTER 272
(H.B. No. 339)

AN ACT

RELATING TO WATER AND SEWER DISTRICTS; AMENDING SECTION 42-3212, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL HAVE THE POWER TO MAINTAIN ACCESS TO FACILITIES AND WORKS BY THE REMOVAL OF SNOW FROM ROADS AND LANDS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-3212, Idaho Code, be, and the same is hereby amended to read as follows:

42-3212. GENERAL POWERS OF BOARD. For and on behalf of the district the board shall have the following powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued, and be a party to suits, actions and proceedings;

(d) Except as otherwise provided in this ~~act~~ chapter, to enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the district, including contracts with the United States of America and any of its agencies or instrumentalities, and contracts with corporations, public or private, municipalities, or governmental subdivisions, and to cooperate with any one (1) or more of them in building, erecting or constructing works, canals, pipelines, sewage treatment plants, and other facilities within or without the district. Except in cases in which a district will receive aid from a governmental agency, a notice shall be published for bids on all construction contracts involving an expense of fifteen thousand dollars ($15,000) or more for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses. The district may reject any and all bids, and if it shall appear that the district can perform the work or secure material for less than the lowest bid, it may proceed so to do;

(e) To borrow money and incur indebtedness and evidence the same by certificate, notes or debentures, and to issue bonds, in accordance with the provisions of this ~~act~~ chapter;

(f) To acquire, dispose of and encumber real and personal property, water, water rights, water and sewage systems and plants, and any interest therein, including leases and easements within or without said district;

(g) To refund any bonded indebtedness of the district without an election; provided, however, that the obligations of the district shall not be increased by any refund of bonded indebtedness. Otherwise, the terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds;

(h) To have the management, control and supervision of all the business and affairs of the district, and the construction, installation, operation and maintenance of district improvements therein or therefor;

(i) To hire and retain agents, employees, engineers and attorneys;

(j) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers herein granted, both within and without the district;

(k) To construct and maintain works and establish and maintain facilities across or along any public street or highway, and in, upon, or over any vacant public lands, which public lands are now, or may become, the property of the state of Idaho, and to construct works and establish and maintain facilities across any stream of water or watercourse, and to maintain access to facilities and works by the removal of snow from roads and lands; provided, however, that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof;

(l) To fix and from time to time to increase or decrease water and sewer rates, tolls or charges for services or facilities furnished by the district, and to pledge such revenue for the payment of any indebtedness of the district. The board shall fix rates, tolls and charges and the time or times for the payment thereof. All such rates, tolls and charges not paid within thirty (30) days after the date fixed for the payment thereof shall become delinquent; the board shall certify all such delinquent rates, tolls and charges to the tax collector of the county by the district, not later than the first day of August and shall be, by said tax collector, placed upon the tax roll and collected in the same manner and subject to the same penalties as other district taxes; provided, however, that special assessments certified to the tax collector which are placed on property qualifying for a hardship exemption may be returned to the taxing district from which they originated if the special assessments are not paid within three (3) years. The date of priority of such lien shall be the date upon which such charge becomes delinquent. The board shall shut off or discontinue service for delinquencies in the payment of such rates, tolls or charges, or in the payment of taxes levied pursuant to this ~~act~~ chapter, and prescribe and enforce rules and regulations for the connection with and the disconnection from properties of the facilities of the district. For health and sanitary purposes the board shall have the power to compel the owners of inhabited property within a sewer district to connect their property with the sewer system of such district, and upon a failure so to connect within sixty (60) days after written notice by the board so to do the board may cause such connection to be made and a lien to be filed against the property for the expense incurred in making such connection, provided, however, that no owner shall be compelled to connect his property with such system unless a service line is brought, by the district, to a point within two hundred (200) feet of his dwelling place;

(m) To adopt and amend ~~by-laws~~ bylaws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district;

(n) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this ~~act~~ chapter.

Approved April 8, 2003.

CHAPTER 273
(H.B. No. 357)

AN ACT

RELATING TO SALES OF CIGARETTES; AMENDING SECTION 39-5702, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 39-5710, IDAHO CODE, TO PROVIDE DUTIES OF THE ATTORNEY GENERAL IN THE CONDUCT OF ENFORCEMENT ACTIONS; AMENDING CHAPTER 57, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-5714, 39-5715, 39-5716, 39-5717 AND 39-5718, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR DELIVERY SALES, TO PROVIDE AGE VERIFICATION REQUIREMENTS, TO PROVIDE DISCLOSURE REQUIREMENTS, TO PROVIDE SHIPPING REQUIREMENTS AND TO PROVIDE REGISTRATION AND REPORTING REQUIREMENTS.

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

SECTION 1. That Section 39-5702, Idaho Code, be, and the same is hereby amended to read as follows:

39-5702. DEFINITIONS. The terms used in this chapter are defined as follows:

(1) "Business" means any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities.

(2) "Delivery sale" means to distribute tobacco products to a consumer in a state where either: (a) the individual submits the order for such sale by means of a telephonic or other method of voice transmission, data transfer via computer networks, including the internet and other online services, or facsimile, or the mails; or (b) the tobacco products are delivered by use of the mails or a delivery service.

(3) "Delivery service" means any person who is engaged in the commercial delivery of letters, packages or other containers.

(4) "Department" means the state department of health and welfare or its duly authorized representative.

(~~3~~5) "Distribute" means to give, deliver, sell, offer to give, offer to deliver, offer to sell or cause any person to do the same or hire any person to do the same.

(~~4~~6) "Minor" means a person under eighteen (18) years of age.

(~~5~~7) "Permit" means a permit issued by the department for the sale or distribution of tobacco products.

(~~6~~8) "Permittee" means the holder of a valid permit for the sale or distribution of tobacco products.

(~~7~~9) "Photographic identification" means state, district, territorial, possession, provincial, national or other equivalent government

driver's license, identification card or military card, in all cases bearing a photograph and a date of birth, or a valid passport.

(~~8~~10) "Random unannounced inspection" means an inspection of retail outlets by a law enforcement agency or by the department, with or without the assistance of a minor, to monitor compliance of this chapter.

(~~9~~11) "Seller" means the person who physically sells or distributes tobacco products.

(~~10~~2) "Tobacco product" means any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco.

(~~11~~3) "Vending machine" means any mechanical, electronic or other similar device which, upon the insertion of tokens, money or any other form of payment, dispenses tobacco products.

(~~12~~4) "Vendor assisted sales" means any sale or distribution in which the customer has no access to the product except through the assistance of the seller.

(~~13~~5) "Without a permit" means a business that has failed to obtain a permit or a business whose permit is suspended or revoked.

SECTION 2. That Section 39-5710, Idaho Code, be, and the same is hereby amended to read as follows:

39-5710. CONDUCT OF ENFORCEMENT ACTIONS. (1) It is the intent of the legislature that law enforcement agencies, the attorney general, and the department shall enforce this chapter and rules promulgated pursuant thereto in a manner that can reasonably be expected to significantly reduce the extent to which tobacco products are sold or distributed to minors.

(2) Law enforcement agencies may conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with this chapter. A copy of all citations issued under this chapter shall be submitted to the department.

(3) The department shall conduct at least one (1) random, unannounced inspection per year, with the assistance of a minor, at all locations where tobacco products are sold or distributed at retail to ensure compliance with this chapter. Each year the department shall conduct random unannounced inspections, with the assistance of a minor, equal to the number of permittees multiplied by the violation percentage rate reported for the previous year multiplied by a factor of ten (10). Local law enforcement agencies are encouraged to contract with the department to perform these required inspections.

(4) Minors may assist with random, unannounced inspections with the written consent of a parent or legal guardian. When assisting with these inspections, minors shall not provide false identification, nor make any false statement regarding their age.

(5) Citizens may file a written complaint of noncompliance of this chapter with the department, or with a law enforcement agency. Permit holders under 26 U.S.C. section 5712, may file written complaints relating to delivery sales to the department or the attorney general's offices. Complaints shall be investigated and the proper enforcement actions taken.

(6) Within a reasonable time, not later than two (2) business days after an inspection has occurred, a representative of the business inspected shall be informed in writing of the results of the inspection.

(7) The attorney general or his designee, or any person who holds a permit under 26 U.S.C. section 5712, may bring an action in district court in Idaho to prevent or restrain violations of this chapter by any person or by any person controlling such person.

SECTION 3. That Chapter 57, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-5714, 39-5715, 39-5716, 39-5717 and 39-5718, Idaho Code, and to read as follows:

39-5714. REQUIREMENTS FOR DELIVERY SALES. (1) No permittee shall make a delivery sale of tobacco products to any individual who is under age eighteen (18) years in this state.

(2) Each permittee taking a delivery sale order shall comply with: the age verification requirements set forth in section 39-5715, Idaho Code; the disclosure and notice requirements set forth in section 39-5716, Idaho Code; the shipping requirements set forth in section 39-5717, Idaho Code; the registration and reporting requirements set forth in section 39-5718, Idaho Code; all tax collection requirements provided by title 63, Idaho Code; and all other laws of the state of Idaho generally applicable to sales of tobacco products that occur entirely within Idaho including, but not limited to, those laws imposing excise taxes, sales and use taxes, licensing and tax stamping requirements and escrow or other payment obligations.

39-5715. AGE VERIFICATION REQUIREMENTS. No permittee shall mail or ship tobacco products in connection with a delivery sale order unless, before mailing or shipping such tobacco products, the permittee accepting the delivery sale order first obtains from the prospective customer a certification which includes proof of age that the purchaser is at least eighteen (18) years old, the credit or debit card used for payment has been issued in the purchaser's name, and the address to which the cigarettes are being shipped match the credit card company's address for the cardholder.

39-5716. DISCLOSURE AND NOTICE REQUIREMENTS. For all delivery sales a permittee shall post on any advertisement or website:

(1) The cautionary language for signs under section 39-5704(6), Idaho Code;

(2) A prominent and clearly legible statement that consists of one (1) of the warnings set forth in section 4(a)(1) of the federal cigarette labeling and advertising act (15 U.S.C. section 1333(a)(1)) rotated on a quarterly basis;

(3) A prominent and clearly legible statement that sales of cigarettes are taxable under chapter 25, title 63, Idaho Code, and an explanation of how such tax has been, or is to be paid, with respect to such delivery sale.

39-5717. SHIPPING REQUIREMENTS. Each permittee who mails or ships tobacco products in connection with a delivery sale order shall include as part of the shipping documents a clear and conspicuous statement providing as follows:

"TOBACCO PRODUCTS: IDAHO LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN YEARS, AND REQUIRES THE PAYMENT OF TAXES PURSUANT TO CHAPTER 25, TITLE 63, IDAHO CODE. PERSONS VIOLATING THIS MAY BE CIVILLY AND CRIMINALLY LIABLE."

Anyone delivering any such container distributes tobacco products as defined in section 39-5702(5), Idaho Code, and is subject to the terms and requirements of this chapter. If a permittee taking a delivery sale order also delivers the tobacco products without using a third party delivery service, the permittee shall comply with all the requirements of vendor assisted sales as defined in section 39-5702(14), Idaho Code.

39-5718. REGISTRATION AND REPORTING REQUIREMENTS. (1) Prior to making delivery sales or shipping tobacco products in connection with any such sales, every business shall obtain a permit from the department and file with the state tax commission a statement setting forth the seller's name, trade name and the address of the business's principal place of business and any other place of business.

(2) Not later than the tenth day of each calendar month, each permittee that has made a delivery sale or shipped or delivered tobacco products in connection with any such sale during the previous calendar month shall file with the department and the state tax commission a memorandum or a copy of the invoice which provides for each and every such delivery sale:

(a) The name and address of the individual to whom the delivery sale was made;

(b) The brand or brands of the tobacco products that were sold in such delivery sale; and

(c) The quantity of tobacco products that were sold in such delivery sale.

(3) Any tobacco products sold or attempted to be sold in a delivery sale that does not meet the requirements of this chapter shall be forfeited to the state of Idaho.

Approved April 8, 2003.

CHAPTER 274
(H.B. No. 370)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2004; 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 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:				
FROM:				
General Fund	$2,829,000	$1,290,900	$ 967,700	$ 5,087,600
Driver's Education Fund	139,400	148,600	2,073,900	2,361,900
Public Instruction Fund	230,500	955,400	11,200	1,197,100
Student Tuition Recovery Fund		5,300	49,600	54,900
Federal Grant Fund	3,066,800	2,737,300		5,804,100
Indirect Cost Recovery Fund	317,100	190,400		507,500
Data Processing Services Fund	63,300	42,500		105,800
TOTAL	$6,646,100	$5,370,400	$3,102,400	$15,118,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred twenty-two (122) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 8, 2003.

CHAPTER 275
(H.B. No. 371)

AN ACT
APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2004; 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, 2003, through June 30, 2004:

FOR:	
Personnel Costs	$242,100
Operating Expenditures	56,400
TOTAL	$298,500
FROM:	
General Fund	$298,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than three and eight-tenths (3.8) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 8, 2003.

CHAPTER 276
(S.B. No. 1133, As Amended)

AN ACT

RELATING TO REGULATION OF INSTALLERS OF HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 54, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO PROVIDE EXCEPTIONS, TO PROVIDE DEFINITIONS, TO CREATE THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO PROVIDE POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY, TO PROVIDE REQUIREMENTS FOR ISSUANCE OF CERTIFICATES OF COMPETENCY, TO PROVIDE THAT A CERTIFICATE IS A PREREQUISITE TO ENGAGING IN HEATING, VENTILATION AND AIR CONDITIONING WORK, TO PROVIDE FOUR CLASSIFICATIONS OF COMPETENCY, TO REQUIRE EXAMINATIONS OF ALL APPLICANTS FOR A CERTIFICATE OF COMPETENCY, TO PROVIDE FOR THE ISSUANCE OF A CERTIFICATE OF COMPETENCY, TO PROVIDE FEES FOR EXAMINATIONS, CERTIFICATES AND REGISTRATION OF APPRENTICES, TO PROVIDE FOR CERTIFICATE EXPIRATION AND RENEWAL, TO REQUIRE CERTIFICATES TO BE DISPLAYED IN PLACE OF BUSINESS AND AVAILABLE WHILE ON THE JOB, TO PROVIDE FOR EXCLUSIVE JURISDICTION OF THE STATE FOR ISSUANCE OF CERTIFICATES AND TO PLACE CERTAIN RESTRICTIONS ON LOCAL JURISDICTIONS, TO REQUIRE THAT PERMITS BE OBTAINED PRIOR TO PERFORMING HEATING, VENTILATION AND AIR CONDITIONING WORK WITH AN EXCEPTION, TO PROVIDE FOR APPLICATION AND FEES FOR A PERMIT, TO PROVIDE FOR INSPECTION OF PERMITTED WORK, TO PROVIDE FOR APPROVAL AND CERTIFICATION OF INSPECTIONS, TO PROVIDE FOR REQUESTING AN INSPECTION AND FOR REINSPECTIONS, TO PROVIDE FOR APPOINTMENT AND QUALIFICATION OF INSPECTORS, TO SPECIFY VIOLATIONS AND TO PROVIDE PENALTIES, TO PROVIDE THAT THE ATTORNEY GENERAL AND COUNTY PROSECUTING ATTORNEYS SHALL REPRESENT THE STATE IN ACTIONS OR PROCEEDINGS INVOLVING QUESTIONS RELATIVE TO THIS CHAPTER AND TO CREATE THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 50, Title 54, Idaho Code, and to read as follows:

CHAPTER 50
INSTALLATION OF HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS

54-5001. DECLARATION OF POLICY. The purpose of this chapter is to ensure that installation of all heating, ventilation and air conditioning systems in the state of Idaho shall be in accordance with the most currently adopted codes applicable to the industry and amendments as adopted by local governments. Nothing in this chapter shall require a local government to adopt or implement a mechanical inspection program unless such local government chooses to do so by an ordinance duly adopted. Therefore, the provisions of this chapter shall pertain to those local governments that have adopted mechanical and fuel gas codes.

54-5002. EXCEPTIONS. Certificate of competency requirements of this chapter shall not apply to:

(1) Any person who installs or maintains a heating, ventilation and air conditioning system in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises; and provided further that such person shall comply with the standards and rules applicable to heating, ventilation and air conditioning installation or repairs as provided in this chapter.

(2) Farm buildings located outside the incorporated limits of any city; and a farm is hereby defined to be an agricultural unit on which the owner or occupant resides and from which the owner or occupant derives his principal income and livelihood.

(3) Logging, mining or construction camps when heating, ventilation or air conditioning installations are made to conform to the recommendations of the department of health and welfare.

(4) Work on heating, ventilation or air conditioning systems on premises owned or operated by an employer who regularly employs maintenance or construction heating, ventilation and air conditioning journeymen, provided that alterations, extensions and new construction shall comply with the minimum standards and rules applicable to heating, ventilation and air conditioning practices in accordance with the provisions of this chapter.

54-5003. DEFINITIONS. As used in this chapter:

(1) "Heating, ventilation and air conditioning (HVAC)" means and includes the business, trade, practice or work, materials and fixtures used in the design, construction, installation, improvement, extension and alteration of all piping, venting, ductwork, appliances and appurtenances in connection with any heating, ventilation or air conditioning system or subsystems of such.

(2) "Heating, ventilation and air conditioning apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in installation, improvement, extension, alteration or repair of HVAC systems. An apprentice shall perform HVAC work under the supervision of an HVAC journeyman or HVAC contractor.

(3) "Heating, ventilation and air conditioning contractor" means

any person who fabricates, installs, maintains, services and repairs warm air heating and water heating systems, heat pumps, complete with warm air appliances including, but not limited to, boilers, pool heaters, space heaters, decorative gas and solid-fuel burning furnaces, and gas, propane, electric or oil-fired water heaters; ventilating systems complete with blowers and plenum chambers; air conditioning systems complete with air conditioning unit and the ducts, registers, flues, humidity and thermostatic controls of air, liquid or gas temperatures below fifty (50) degrees fahrenheit or ten (10) degrees celsius, and air filters in connection with any of these systems.

(4) "Heating, ventilation and air conditioning journeyman" means any person who, as his principal occupation, is engaged in the installation, improvement, extension, alteration or repair of HVAC systems and who is familiar with the provisions of this chapter and who works in the employ and under direction of an HVAC contractor.

(5) "Heating, ventilation and air conditioning specialty contractor" means any person who, as his principal occupation, is engaged in a specific aspect of the heating, ventilation and air conditioning trade that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances.

(6) "Heating, ventilation and air conditioning system" means any heating, ventilation or air conditioning system in a residential, private, public or semipublic building or structure including, but not limited to, any mechanical means of heating or air conditioning and to gas piping, venting, ductwork and controls.

(7) "Local government" means any incorporated city or any county in the state.

54-5004. IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD. (1) The Idaho heating, ventilation and air conditioning board, referred to as the board, is hereby created and made part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this chapter, and the board shall make, promulgate and publish such rules as may be necessary to carry out the provisions of this chapter. Except as may be limited or prohibited by law, such rules so made and promulgated shall have the force of statute.

(2) The board shall consist of seven (7) members appointed by the governor, with power of removal for cause. Members shall be appointed for a term of three (3) years. Whenever a vacancy occurs, the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term. All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly perform the functions of the board. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time as prescribed by chapter 4, title 59, Idaho Code.

(3) Of the seven (7) board members, two (2) members shall be active HVAC contractors with not less than five (5) years' experience in the HVAC contracting business; one (1) member shall be a city official; one (1) member shall be a county official; one (1) member shall be a private sector mechanical engineer with experience in mechanical system design; one (1) member of the initial board shall be a contractor member of the Idaho electrical board who shall serve a two (2) year term and thereaf-

ter the sixth board member shall be a specialty contractor who shall serve a three (3) year term; and one (1) member of the initial board shall be a contractor member of the Idaho plumbing board who shall serve a two (2) year term and thereafter the seventh board member shall be an HVAC contractor with not less than five (5) years' experience in the HVAC contracting business who shall serve a three (3) year term.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, the members shall elect one (1) of their number to be chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided in section 59-509(h), Idaho Code.

54-5005. POWERS AND DUTIES OF THE BOARD -- LIMITATION. The board shall have the general administration and supervision of the design, construction, installation, improvement, extension and alteration of heating, ventilation and air conditioning systems, except that which has been heretofore and hereinafter exempted from the jurisdiction of this board, in connection with all buildings, residences and structures in this state including buildings, residences and structures owned by the state or any political subdivision thereof. The division of building safety shall enforce the minimum standards and requirements therefor as provided by this chapter. The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter, and it may, among other things:

(1) Establish the fees to be charged for permits and inspections of heating, ventilation and air conditioning systems under the jurisdiction of the state.

(2) Hold public meetings and attend or be represented at such meetings, within or without the state, prepare and publish rules pertaining to this chapter, and such other information as may be necessary, and furnish copies thereof to those engaged in the business, trade, practice or work of heating, ventilation and air conditioning and to the public upon request.

The powers and duties of the board within the jurisdictional boundaries of local governments that have chosen to adopt and enforce mechanical codes shall be limited to those powers and duties needed to enforce the requirements governing a certificate of competency. Each local government that has chosen to adopt and enforce mechanical codes shall establish fees to be charged for permits and inspections within its jurisdiction.

54-5006. ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY. The administrator shall exercise such powers and duties as are reasonably necessary to enforce standards provided in this chapter, and he may, among other things:

(1) Serve as secretary to the Idaho heating, ventilation and air conditioning board.

(2) Appoint state certificate of competency inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, heating, ventilation and air conditioning systems.

(3) Summon witnesses to appear and testify before him on any matter within the provisions of this chapter. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. Such summons to testify shall be issued and served in like manner as a subpoena to witness issued from the district court, or in other manner consistent with procedure of the division of building safety. In case any witness shall fail or refuse to appear and testify upon being summoned as herein provided, the clerk of the district court of the county shall, upon demand by said administrator or his designated agent, issue a subpoena reciting the demand therefor and summoning the witness to appear and testify at a time and place fixed. Violation of such subpoena or disobedience thereto shall be deemed and punished as a violation of any other subpoena issued from the district court.

(4) Administer oaths and take affirmations of witnesses appearing before him; and have the power to appoint competent persons to issue subpoenas, administer oaths and take testimony.

54-5007. REQUIREMENTS FOR CERTIFICATES OF COMPETENCY. The Idaho heating, ventilation and air conditioning board shall provide standards and procedures and prescribe reasonable rules for examination, qualification and certification of heating, ventilation and air conditioning contractors, journeymen and apprentices. HVAC contractors shall provide a bond in the amount of two thousand dollars ($2,000) or evidence of such coverage by a corporate industry group bond acceptable to the board.

54-5008. CERTIFICATE A PREREQUISITE. On and after July 1, 2004, it shall be unlawful for any person or firm, copartnership, association or corporation to engage in the business, trade, practice or work of heating, ventilation and air conditioning in this state unless such person or responsible person representing such firm, copartnership, association or corporation, has successfully passed an examination as provided herein and has been issued a state certificate of competency. Such certificate of competency shall not be transferable.

54-5009. CLASSIFICATION OF COMPETENCY. There shall be four (4) classifications of competency in the business, trade, practice or work of heating, ventilation and air conditioning as follows:

(1) An apprentice shall be any person who, as his principal occupation, is engaged in learning and assisting in the installation, improvement, extension and alteration or repair of HVAC systems. An apprentice shall not perform HVAC work except under the supervision of an HVAC journeyman or HVAC contractor.

(2) A journeyman shall be any person who, as his principal occupation, is engaged in the installation, improvement, extension and alteration or repair of HVAC systems and who is familiar with the provisions of this chapter and who works in the employ and under direction of an

HVAC contractor and has successfully completed all trade required classes as directed by the board.

(3) A heating, ventilation and air conditioning contractor shall be any business, trade, copartnership, firm or association engaged in, but not limited to, the business, trade, practice or work of installing, maintaining or repairing heating, ventilation or air conditioning appliances, or gas-fired equipment that requires special venting or gas supply piping systems or subsystems in the state of Idaho.

(4) A heating, ventilation and air conditioning specialty contractor shall be any person who, as his principal occupation, is engaged in a specific aspect of the heating, ventilation and air conditioning trade that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A certificate of competency issued for the installation of hearth and barbecue products shall include the authority for all low voltage work necessary to complete the installations.

54-5010. EXAMINATIONS -- NOTIFICATION -- APPLICATION. (1) The Idaho heating, ventilation and air conditioning board shall establish by rule the requirements as to education, continuing education and examinations relating to classifications of competency.

(2) Times and places for examinations shall be determined by the board and all applicants shall be notified thereof.

(3) All applications for examination shall be filed with the board on a form provided by the board. When any person is designated and authorized to be or act as an agent for the applicant, such authorization shall be in writing, signed by the applicant and the person designated, a certified copy of which shall be filed with the board. All applications shall expire and be canceled after a period of one (1) year if the applicant fails to appear for examination within such period.

54-5011. CERTIFICATE OF COMPETENCY. On and after July 1, 2004, a certificate of competency in the form of a card shall be issued to an applicant upon successful completion of the examination. The card shall include the holder's name, classification for which the applicant was examined, the year for which the card is current, the holder's signature, certificate number, and the signature of the administrator of the division of building safety.

54-5012. FEES FOR APPLICATION FOR EXAMINATION, CERTIFICATES OF COMPETENCY AND REGISTRATION OF APPRENTICES.

(1) Application for examination.

(a) HVAC contractor.....$35.00

(b) HVAC journeyman.....$35.00

(2) Certificate of competency, initial issue, valid for one (1) year; or may be issued at the annual rate for up to three (3) years.

(a) HVAC contractor.....$75.00

(b) HVAC journeyman.....$50.00

(3) Renewal of certificate of competency, valid for one (1) year.

(a) HVAC contractor.....$50.00

(b) HVAC journeyman.....$25.00

(4) Each apprentice is required to register annually. The annual registration fee is fifteen dollars ($15.00).

54-5013. CERTIFICATE EXPIRATION -- RENEWAL. (1) Certificates of competency shall expire twelve (12) calendar months from the date of issue, on the last day of the month of the licensing period, unless renewed as provided in this section, or unless sooner revoked or suspended.

(2) Renewal of a certificate may be requested within sixty (60) days prior to the expiration date. Any certificate which has expired may be revived at any time within one (1) year from the first day of the final month of the licensing period, by payment of a thirty-five dollar ($35.00) revival fee in addition to the full annual renewal fee.

54-5014. CERTIFICATE TO BE DISPLAYED AND CARRIED ON THE JOB. (1) All holders of a valid certificate of competency for the classification of contractor or specialty contractor shall display a sign or card for public view in the holder's place of business.

(2) All journeymen and apprentices shall have their certificate of competency or annual registration card available at all times while on the job.

54-5015. EXCLUSIVE JURISDICTION OF THE STATE -- RESTRICTION ON REQUIREMENT FOR ADDITIONAL LICENSES OR FEES. (1) Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue certificates of competency and registration of apprentices to such applicants as are found to be qualified to engage in the trade, business, work or practice of heating, ventilation and air conditioning.

(2) No local jurisdiction shall have the authority to require additional licensure or to require payment of any fees in order for any HVAC contractor, journeyman or apprentice to engage in the heating, ventilation and air conditioning trade within the local jurisdiction or to issue licenses to persons certified or registered under the provisions of this chapter.

(3) Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

54-5016. PERMITS REQUIRED -- EXCEPTION -- LOCAL GOVERNMENT FEES ALLOWED. (1) On and after July 1, 2004, it shall be unlawful for any person, firm, copartnership, association or corporation to do or cause to be done, whether acting as principal, agent or employee, any construction, installation, improvement, extension or alteration of any heating, ventilation or air conditioning system, in any building, residence or structure in the state of Idaho, without first obtaining a permit from the authority having jurisdiction, authorizing such work to be done, except that no permit shall be required to perform work related to repair or maintenance of an existing HVAC system.

(2) No provision of this chapter shall preclude local governments from collecting fees for permits and inspections where such work is regulated and enforced by city or county code or ordinance. Municipalities may also require fees for permits and inspections in areas designated by local code or ordinance as areas of city impact.

54-5017. PERMITS -- APPLICATION -- FEES. (1) On and after July 1, 2004, any person, firm, copartnership, association or corporation entitled to receive a permit, shall make application to the board on a form provided by the board. The application shall require a description of the work proposed to be done, the location, ownership and use of the premises.

(2) A fee as established by rule of the board shall be paid for each permit issued and for each inspection required.

54-5018. INSPECTION BY AGENT. A designated, qualified, properly identified agent of the authority having jurisdiction shall inspect work performed under each permit to ensure compliance with the provisions of this chapter and rules as promulgated by the board, and applicable codes and ordinances as adopted.

54-5019. APPROVAL AND CERTIFICATION OF INSPECTION. The inspector shall either approve the portion of the work completed at the time of inspection, or shall notify the permit holder of a failure to comply with the provisions of this chapter or rules as promulgated by the board. When final inspection has been made and the work is approved, the inspector shall certify to the permit holder by securely attaching an inspector's tag to the equipment stating completion of the final inspection.

54-5020. REQUEST FOR INSPECTION -- FEE FOR REINSPECTION. (1) It shall be the duty of the permit holder to notify the division of building safety at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. If a reinspection is required after the final inspection due to a failure to meet requirements of this chapter, a fee not to exceed the actual cost of reinspection shall be charged.

(2) Local governments that have adopted mechanical codes shall by ordinance establish times within which permit holders shall notify the authority of the desire for an inspection.

54-5021. APPOINTMENT AND QUALIFICATION OF INSPECTORS -- NO FINANCIAL INTEREST. (1) The administrator of the division of building safety, or the local government having jurisdiction, as the case may be, shall appoint such number of inspectors as are necessary for the effective enforcement of this chapter.

(2) All state mechanical inspectors shall be knowledgeable in HVAC installations and demonstrate knowledge of the provisions of this chapter and rules of the administrator and the board. All inspectors shall be certified by rule of the HVAC board as a commercial mechanical inspector or a residential mechanical inspector, depending upon the duties assigned.

(3) No inspector shall be permitted to be engaged or financially interested in business, trade, practice or work related to this chapter, or sell any supplies connected to the HVAC business, nor act as an agent, directly or indirectly, for any person, firm, copartnership, association or corporation so engaged in HVAC. The qualifications and requirements as set forth in this section shall apply to inspectors employed by a municipality.

(4) Each local government mechanical inspector shall be certified as a mechanical inspector.

54-5022. VIOLATION -- MISDEMEANOR -- PENALTY. (1) It shall be a misdemeanor for any person, firm, copartnership, association or corporation by and through a member, representative or agent to:

(a) Engage in the business, trade, practice or work of HVAC without a certificate of competency or without registration;

(b) Perform work without a permit as provided in this chapter;

(c) Violate any provision of this chapter or the rules made by both the administrator of the division of building safety and the Idaho heating, ventilation and air conditioning board;

(d) Refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time; or

(e) Fail, neglect or refuse to obey any lawful order given or made by the administrator.

(2) Such person, firm, copartnership, association or corporation shall be subject to a fine of not less than ten dollars ($10.00) or more than three hundred dollars ($300), or to imprisonment in the county jail not to exceed thirty (30) days, or both. Each such violation shall constitute a separate offense.

54-5023. ATTORNEY GENERAL -- PROSECUTING ATTORNEYS. It shall be the right and duty of the attorney general or the prosecuting attorneys of the various counties to represent and appear for the people of the state of Idaho and the administrator of the division of building safety in all actions and proceedings involving any question under this chapter or under any order or act of the administrator and perform such other services as required.

54-5024. IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD FUND CREATED. All money received by the board or the division of building safety under the terms and provisions of this chapter, shall be paid into the state treasury as directed by the provisions of section 59-1014, Idaho Code, and shall be placed, by the state treasurer, to the credit of the Idaho heating, ventilation and air conditioning board fund, which fund is hereby created as a dedicated fund. All such moneys hereafter placed in said fund, are hereby set aside and perpetually appropriated to the division of building safety to carry into effect the provisions of this chapter.

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

Approved April 14, 2003.

CHAPTER 277
(H.B. No. 17, As Amended)

AN ACT

RELATING TO CHIROPRACTIC PHYSICIANS; AMENDING SECTION 54-705, IDAHO CODE, TO REVISE EXEMPTIONS, TO PROVIDE CORRECT TERMINOLOGY AND TO

MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-708, IDAHO CODE, TO INCREASE THE MAXIMUM FEE FOR LICENSE RENEWALS; AMENDING SECTION 54-709, IDAHO CODE, TO REQUIRE A FEE FOR LICENSURE APPLICATION NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS; AMENDING SECTION 54-710, IDAHO CODE, TO REQUIRE A FEE FOR LICENSURE BY ENDORSEMENT NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS; AND AMENDING SECTION 54-711, IDAHO CODE, TO INCREASE THE MAXIMUM FEES FOR REGISTRATION.

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

SECTION 1. That Section 54-705, Idaho Code, be, and the same is hereby amended to read as follows:

54-705. EXCEPTIONS -- PROHIBITED PRACTICES -- NEGLIGENCE ESTABLISHED. (1) Under the circumstances described and, subject in each case to the limitations stated, the following persons, though not holding a license to practice chiropractic in this state, may engage in activities included in the practice of chiropractic:

(a) A person licensed by this state pursuant to chapter 18, title 54, Idaho Code;

(b) A chiropractic assistant as shall be defined and regulated by the board, administering a procedure set forth in section 54-704, Idaho Code, but not including the adjustment or manipulation of articulations of the body, as specifically directed by a chiropractic physician as long as such directions are within the scope of chiropractic practice;

(c) A person rendering aid in an emergency, for which no fee for the services is contemplated, charged or received;

(d) A person residing in another state or country and authorized to practice chiropractic there, who is called in consultation by a person licensed in this state to practice chiropractic, or who for the purpose of furthering chiropractic education is invited into this state to conduct a lecture, clinic~~,~~ or demonstration, while engaged in activities in connection with the consultation, lecture, clinic~~,~~ or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state;

(e) A person authorized to practice chiropractic in another state or country rendering chiropractic care in a time of disaster or while caring for an ill or injured person while at the scene of an emergency and while continuing to care for such person;

(f) Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring licensure pursuant to the provisions of this chapter, of any person licensed or registered in this state by any other law, from engaging in any health care profession or occupation for which such person is licensed or registered;

(g) ~~Any person exempted under the provisions of section 54-1804, Idaho Code;~~ A medical officer of the armed forces of the United States, of the United States public health service, or of the veterans administration, while engaged in the performance of his official duties;

(h) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(i) A person administering a family remedy to a member of the family;

(j) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;

(k) A person who administers treatment or provides advice regarding the human body and its functions that:

(i) Does not use legend drugs or prescription drugs in such practice;

(ii) Uses natural elements such as air, heat, water and light;

(iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;

(iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who

(v) Does not perform surgery;

(vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter;

(~~k~~l) Any person who practices massage therapy as defined in section 54-704(1)(c), Idaho Code;

(~~l~~m) A chiropractic intern, as defined and regulated by the board, who is registered with the board to practice chiropractic under the direct supervision of a licensed chiropractic physician pursuant to a preceptor program adopted and developed by the rules of the board.

(2) Except as provided in subsection (1) of this section, it is unlawful for any person to practice chiropractic in this state without a license and, upon conviction thereof, shall be fined not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or imprisoned for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment.

(3) It is unlawful for any person to assume or use the title or designation "chiropractor," "chiropractic physician," "doctor of chiropractic," the initials "D.C.," or any word, ~~or~~ title or abbreviation thereof calculated to induce the belief that he is engaged in the practice of chiropractic or to indicate to the public that such person is licensed to practice chiropractic pursuant to this ~~act~~ chapter unless such person is so licensed, and upon conviction thereof, such person shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000), or imprisoned for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment.

(4) When a person has been a recipient of services constituting the unlawful practice of chiropractic, whether or not he knew the rendition of the services was unlawful, proof of the rendition of unlawful services to the recipient, in an action against the provider of such services for damages allegedly caused by the services, constitutes prima facie evidence of negligence, shifting the burden of proof to such provider of unlawful services. The following damages in addition to any other remedies provided by law may be recovered in such an action:

(a) Amount of any fees paid for the unlawful services; and

(b) Reasonable attorney's fees and court costs.

(5) The board shall refer all violations made known to it to an appropriate prosecuting attorney. The board shall render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

SECTION 2. That Section 54-708, Idaho Code, be, and the same is hereby amended to read as follows:

54-708. BOARD TO ISSUE LICENSES. (1) The board shall issue licenses to practice chiropractic to persons who have qualified therefor in accordance with the provisions of this chapter. The board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by sections 54-704 and 54-712, Idaho Code, provided, that the board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. Such licenses shall be issued after payment of the licensing fee in an amount to be fixed by the board, and such licenses shall be issued for a period of one (1) year. Licenses to practice chiropractic shall be renewed on their expiration upon completion of a renewal application and upon payment of a renewal fee, the amount of which shall be fixed by the board, which fee shall not exceed one hundred fifty dollars ($~~10~~50).

(2) The board may renew, on an inactive basis, the license of a physician who is not practicing chiropractic in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an amount not to exceed one hundred fifty dollars ($~~10~~50) and each inactive license shall be issued for a period of one (1) year. A physician holding an inactive license may not engage in the practice of chiropractic in this state. If a physician wishes to convert his inactive license to an active license, he must account to the board for that period of time in which he held an inactive license. All fees authorized by subsections (1) and (2) of this section shall be paid to the bureau of occupational licenses.

(3) Whenever the board determines that an applicant for a license to practice chiropractic is not qualified for such a license pursuant to the provisions of this chapter, the board shall notify the applicant by certified mail of its denial of licensure and the reasons for denial.

SECTION 3. That Section 54-709, Idaho Code, be, and the same is hereby amended to read as follows:

54-709. LICENSURE BY WRITTEN EXAMINATION. (1) Any person seeking to be licensed to practice chiropractic in this state must successfully complete the following requirements before a license will be issued:

(a) Each applicant must submit a completed written application and a fee not to exceed one hundred fifty dollars ($150) to the board on forms furnished by the board, which shall require proof of graduation from an acceptable school of chiropractic;

(b) Each applicant must pass an examination conducted by or acceptable to the board which shall thoroughly test the applicant's fitness to practice chiropractic. Such examinations must include, but shall not be limited to, the following subjects: anatomy and histology; clinical blood chemistry and hematology; pathology; bacteriology; clinical nutrition; hygiene and sanitation; physiology; symptomatology; urinalysis; chiropractic jurisprudence; chiropractic

orthopedics; physiotherapy; chiropractic principles, clinical and physical diagnosis; chiropractic adjustment; neurology, and palpation.

(2) If an applicant fails to pass an examination on two (2) separate occasions, he shall not be eligible to take the examination again for at least one (1) year, and before taking the examination again, he must make a showing to the board that he has successfully engaged in a course of study for the purpose of improving his ability to engage in the practice of chiropractic. Applicants who fail two (2) separate examinations in another state, territory or district of the United States or Canada, must make a showing to the board of successful completion of a course of study prior to examination for licensure.

(3) Applicants may be personally interviewed by the board or a designated committee of the board. The interviews may be conducted to specifically review the applicant's qualifications and professional credentials. The applicant shall be further examined by the board to determine that the applicant possesses the arts and skills of chiropractic adjusting.

SECTION 4. That Section 54-710, Idaho Code, be, and the same is hereby amended to read as follows:

54-710. LICENSURE BY ENDORSEMENT. Any person seeking to be licensed to practice chiropractic in this state who is licensed to practice chiropractic in another state must successfully complete the following requirements before a license to practice chiropractic will be issued.

(1) Each applicant must submit a completed written application <u>and a fee not to exceed one hundred fifty dollars ($150)</u> to the board on forms furnished by the board which require proof of graduation from an acceptable school of chiropractic and which contains proof that the applicant has for five (5) consecutive years immediately prior to application, practiced chiropractic and holds a valid, unrevoked, unsuspended license to practice chiropractic in a state, territory or district of the United States or Canada, and a national board of chiropractic examiner's certificate.

(2) Each applicant must demonstrate that he possesses the requisite qualifications to provide the same standard of chiropractic care as provided by physicians in this state. The board may require further examination to establish such qualifications.

SECTION 5. That Section 54-711, Idaho Code, be, and the same is hereby amended to read as follows:

54-711. TEMPORARY PRACTICE, REGISTRATION AND PERMIT. (1) Any person who has submitted an application to the board for licensure by examination to practice chiropractic in the state of Idaho, may register with the board and be granted a permit to practice chiropractic prior to examination and licensure in accordance with board rules upon the following conditions:

(a) The applicant must submit a completed registration application to the board on forms furnished by the board together with a fee of not more than ~~fifty~~ <u>one hundred</u> dollars (~~$50.~~<u>$100</u>), and must affirmatively show that the applicant will take the next scheduled examination for licensure approved by the board, and that the applicant has

not failed two (2) previous examinations for licensure approved by the board; and

(b) A licensed physician certifies to the board that such applicant will practice chiropractic only under the direct and immediate supervision of such physician and only in the office of such physician.

(2) Any person who has completed the required course of study from an acceptable school of chiropractic, but has not yet graduated, may register with the board and be granted a permit to serve a chiropractic internship in accordance with board rules and upon the following conditions:

(a) The applicant must submit a completed registration application to the board on forms furnished by the board and submit a fee of not more than ~~fifty~~ one hundred dollars ($~~50.~~100); and

(b) A licensed physician certifies to the board that such applicant will practice chiropractic only under the direct and immediate supervision of such physician and only in the office of such physician.

Approved April 14, 2003.

CHAPTER 278
(H.B. No. 65, As Amended in the Senate)

AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 67-4212, IDAHO CODE, TO REVISE THE LIST OF STATE PARKS, RECREATIONAL TRAILWAYS AND AREAS OWNED OR CONTROLLED BY THE STATE OF IDAHO UNDER THE JURISDICTION AND CONTROL OF THE DEPARTMENT OF PARKS AND RECREATION.

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

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

67-4212. STATE PARKS AND RECREATIONAL TRAILWAYS LISTED -- CONTROLLED BY PARK AND RECREATION BOARD OF THE DEPARTMENT OF PARKS AND RECREATION. The following described areas in the state of Idaho, so far as these areas are owned or controlled by the state of Idaho, and used for public, outdoor recreational purposes, are hereby declared to be Idaho state parks or recreational trailways, and they are hereby placed under the jurisdiction and control of the park and recreation board of the department of parks and recreation of the state of Idaho:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) Bruneau Dunes State Park, located approximately three (3) miles south of the Snake River near the town of Bruneau and east of State Highway 51 in Owyhee County.

(17) Malad Gorge State Park, located on the Malad River and south of Interstate Highway 84 in Gooding County~~.~~, including the Crystal Springs, ~~and~~ Niagara Springs, Box Canyon, and Billingsley Creek sState ~~Parks~~ park lands located on the Snake River south of Interstate Highway 84 and east of U.S. 30 in Gooding County.

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

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

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

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

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

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

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

(25) Trail of the Coeur d'Alenes Recreational Trailway, situated on the Union Pacific Railroad right-of-way running from Mullan to Harrison, Idaho.

(26) Coeur d'Alene Lake Parkway State Park, located adjacent to Coeur d'Alene Lake Drive beginning at Rutledge Trailhead and ending at Higgins Point boat launch.

(27) Glade Creek State Park, located approximately one (1) mile south of Lolo Pass along Forest Road #5670.

(28) Ashton-Tetonia Trail, situated on the Union Pacific Railroad right-of-way running from Tetonia to Ashton, Idaho.

(29) Land of the Yankee Fork State Park and historic area, situated along the Custer Motorway running from Challis to Custer, Idaho. The area includes the visitor center and museum located in Challis, the ghost towns of Custer and Bonanza, the Yankee Fork gold dredge, and cemeteries at Custer, Bonanza and Boot Hill.

(30) Castle Rocks State Park, including any department lands in Cassia County situated outside the National Reserve boundary.

Approved April 14, 2003.

CHAPTER 279
(H.B. No. 167, As Amended)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1601, IDAHO CODE, TO PROVIDE THAT DESIGNATED PROVISIONS SHALL NOT BE CONSTRUED TO ALLOW DISCRIMINATION ON THE BASIS OF DISABILITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1602, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 16-1603, IDAHO CODE, TO REVISE JURISDICTIONAL CRITERIA; AMENDING SECTION 16-1608, IDAHO CODE, TO PROVIDE FOR THE INTRODUCTION OF CERTAIN EVIDENCE BY PARENTS OR GUARDIANS WITH DISABILITIES AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 16-1609A, IDAHO CODE, TO PROVIDE THAT PERSONS KNOWLEDGEABLE ABOUT ADAPTIVE EQUIPMENT AND SUPPORTIVE SERVICES FOR PARENTS OR GUARDIANS WITH DISABILITIES MAY PARTICIPATE IN CERTAIN INVESTIGATIONS AND TO REVISE WRITTEN PROTOCOL CRITERIA FOR CERTAIN INVESTIGATIONS AND INTERVIEWS; AMENDING SECTION 16-1610, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 16-1615, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

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

16-1601. POLICY. The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the

judicial processing including periodic review of child abuse, abandonment and neglect cases, and the protection of any children whose life, health or welfare is endangered. At all times the health and safety of the child shall be the primary concern. Each child coming within the purview of this chapter shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho, and if he is removed from the control of one (1) or more of his parents, guardian or other custodian, the state shall secure adequate care for him; provided, however, that the state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship. Nothing in this chapter shall be construed to allow discrimination on the basis of disability. This chapter seeks to coordinate efforts by state and local public agencies, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

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

(2) Take such actions as may be necessary and feasible to prevent the abuse, neglect, abandonment or homelessness of children;

(3) Take such actions as may be necessary to provide the child with permanency including concurrent planning;

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

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

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

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

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

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

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

(3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(4) "Adjudicatory hearing" means a hearing to determine:

(a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency;

(c) Whether aggravated circumstances as defined in section 16-1608, Idaho Code, exist.

(~~4~~5) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(~~5~~6) "Child" means an individual who is under the age of eighteen (18) years.

(~~6~~7) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1630, Idaho Code.

(~~7~~8) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(~~8~~9) "Commit" means to transfer legal and physical custody.

(~~9~~10) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(~~10~~1) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(~~11~~2) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order or who is acting in loco parentis.

(~~12~~3) "Department" means the department of health and welfare and its authorized representatives.

(14) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activity of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(~~13~~5) "Family or household member" shall have the same meaning as in section 39-6303(3), Idaho Code.

(~~14~~6) "Foster care" means twenty-four (24) hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility.

(~~15~~7) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(~~16~~8) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(~~17~~9) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem

for abused, neglected or abandoned children.

(20) "Homeless," as used in this chapter, shall mean that the child is without adequate shelter or other living facilities, and the lack of such shelter or other living facilities poses a threat to the health, safety or well-being of the child.

(~~18~~21) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~19~~22) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

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

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

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

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

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

(2~~0~~3) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(2~~1~~4) "Neglected" means a child:

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

(b) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child ~~because of incarceration, hospitalization, or other physical or mental incapacity~~ and, as a result of such inability, the child lacks the parental care necessary for his health, safety or well-being; or

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

(2~~2~~5) "Permanency hearing" means a hearing to review, approve, reject or modify the permanency plan of the department, and review reasonable efforts in accomplishing the permanency plan.

(2~~3~~6) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(2~~4~~7) "Planning hearing" means a hearing to:

(a) Review, approve, modify or reject the case plan; and

(b) Review reasonable efforts being made to rehabilitate the family; and

(c) Review reasonable efforts being made to reunify the children with a parent or guardian.

(~~25~~8) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(~~26~~9) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(~~27~~30) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(~~28~~31) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(32) "Supportive services," as used in this chapter, shall mean services which assist parents with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations or assistance with effectively using adaptive equipment and accommodations which allow parents with a disability to benefit from other services including, but not limited to, Braille texts or sign language interpreters.

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

16-1603. JURISDICTION OF THE COURTS. (1) Except as otherwise provided herein, the court shall have exclusive original jurisdiction in all proceedings under this chapter concerning any child living or found within the state:

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

(b) Whose parents or other legal custodian fails ~~or--is--unable~~ to provide a stable home environment.

(2) If the court has taken jurisdiction over a child under subsection (1) of this section, it may take jurisdiction over another child living or having custodial visitation in the same household without the filing of a separate petition if it finds all of the following:

(a) The other child is living or is found within the state;

(b) The other child has been exposed to or is at risk of being a victim of abuse, neglect or abandonment;

(c) The other child is listed in the petition or amended petition;

(d) The parents or legal guardians of the other child have notice as provided in section 16-1606, Idaho Code.

SECTION 4. That Section 16-1608, Idaho Code, be, and the same is hereby amended to read as follows:

16-1608. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDATION. (a) When a petition has been filed, the court shall set an adjudicatory hearing to be held no later than thirty (30) days after the filing of the petition.

(b) A pretrial conference shall be held outside the presence of the court within three (3) to five (5) days before the adjudicatory hearing. Investigative reports required under section 16-1609, Idaho Code, shall be delivered to the court with copies to each of the parents and other legal custodians, guardian ad litem and attorney for the child prior to the date set for the pretrial conference.

(c) At the adjudicatory hearing, parents or guardians with disabilities shall have the right to introduce admissible evidence regarding how use of adaptive equipment or supportive services may enable the parent or guardian to carry out the responsibilities of parenting the child by addressing the reason for the removal of the child.

(d) If a preponderance of the evidence at the adjudicatory hearing shows that the child comes within the court's jurisdiction under this chapter upon the grounds set forth in section 16-1603, Idaho Code, the court shall so decree and in its decree shall make a finding on the record of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(~~d~~e) Upon entering its decree the court shall consider any information relevant to the disposition of the child but in any event shall:

(1) Place the child under protective supervision in his own home for an indeterminate period not to exceed the child's eighteenth birthday; or

(2) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency.

(~~e~~f) If the court vests legal custody in the department or other authorized agency, the court shall make detailed written findings based on facts in the record, that, in addition to the findings required in subsection (~~c~~d) of this section, continuation of residence in the home would be contrary to the welfare of the child and that vesting legal custody with the department or other authorized agency would be in the best interests of the child. In addition the court shall make detailed written findings based on facts in the record as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

(1) Reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child;

(2) Reasonable efforts were not made because of immediate danger to the child;

(3) Reasonable efforts to temporarily place the child with related persons were made but were not successful; or

(4) Reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a felony assault that results in serious bodily injury to any child of the parent; or the parental rights of the parent to a sibling have been terminated involuntarily and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination.

(~~f~~g) A decree vesting legal custody in the department shall be binding upon the department and may continue until the child's eighteenth birthday. The decree shall state that the department shall prepare a written case plan within thirty (30) days of placement.

(~~g~~h) A decree vesting legal custody in an authorized agency other than the department shall be for a period of time not to exceed the child's eighteenth birthday, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

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

(~~i~~j) If the court does not find that the child comes within the jurisdiction of this chapter pursuant to subsection (~~c~~d) of this section it shall dismiss the petition.

SECTION 5. That Section 16-1609A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1609A. INVESTIGATION BY MULTIDISCIPLINARY TEAMS. (1) By January 1, 1997, the prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to his special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs, persons knowledgeable about adaptive equipment and supportive services for parents or guardians with disabilities or the guardian ad litem program.

(2) The teams shall develop a written protocol for investigation of child abuse cases and for interviewing alleged victims of such abuse or neglect, including protocols for investigations involving a family member with a disability. Each team shall develop written agreements signed by member agencies, specifying the role of each agency, procedures to be followed to assess risks to the child and criteria and procedures to be followed to ensure the child victim's safety including removal of the alleged offender.

(3) Each team member shall be trained in risk assessment, dynamics of child abuse and interviewing and investigatory techniques.

(4) Each team shall classify, assess and review a representative selection of cases referred to either the department or to law enforcement entities for investigation of child abuse or neglect.

(5) Each multidisciplinary team shall develop policies that provide for an independent review of investigation procedures utilized in cases upon completion of any court actions on those cases. The procedures

shall include independent citizen input. Nonoffending parents of child abuse victims shall be notified of the review procedure.

(6) Prosecuting attorneys of the various counties may determine that multidisciplinary teams may be most effectively established through the use of joint exercise of powers agreements among more than one (1) county and such agreements are hereby authorized.

(7) Lack of review by a multidisciplinary team of a particular case does not defeat the jurisdiction of the court.

SECTION 6. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. PLANNING HEARING. (a) The department shall prepare a written case plan. The case plan shall be filed with the court no later than sixty (60) days from the date the child was removed from the home or thirty (30) days after the adjudicatory hearing, whichever occurs first. Copies of the case plan shall be delivered to the parents and other legal guardians, the guardian ad litem and attorney for the child. Within five (5) days of filing the plan, the court shall hold a planning hearing to determine whether to adopt, reject or modify the case plan proposed by the department.

(b) Notice of the planning hearing shall be provided to the parents, legal guardians, guardians ad litem and foster parents. Although foster parents are provided notice of this hearing, they are not parties to the child protective act action.

(c) The case plan shall set forth reasonable efforts which will be made to make it possible for the child to return to his home and shall concurrently include a plan setting forth reasonable efforts to place the child for adoption with a legal guardian or in another approved permanent placement. Whenever possible, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained through the transition. The plan shall state with specificity the role of the department toward each parent and shall be for an indeterminate period not to exceed the child's eighteenth birthday.

(d) The case plan, as approved by the court, shall be entered into the record as an order of the court. In the absence of a finding of aggravated circumstances as provided for in section 16-1608(e~~f~~)(4), Idaho Code, the court's order shall provide that reasonable efforts shall be made to reunify the family in a timely manner in accordance with the case plan or in the alternative to complete the steps necessary to finalize the permanent placement of the child.

SECTION 7. That Section 16-1615, Idaho Code, be, and the same is hereby amended to read as follows:

16-1615. TERMINATION OF PARENT-CHILD RELATIONSHIP. If the child has been placed in the legal custody of the department or under its protective supervision pursuant to section 16-1608, Idaho Code, the department may petition the court for termination of the parent and child relationship in accordance with chapter 20, title 16, Idaho Code. Unless there are compelling reasons it would not be in the best interest of the child, the department shall be required to file a petition to terminate parental rights within sixty (60) days of a judicial determination that

an infant has been abandoned or that reasonable efforts, as defined in section 16-1608(~~e~~f), Idaho Code, are not required because the court determines the parent has been convicted of murder or voluntary manslaughter of another sibling of the child or has aided, abetted, attempted, conspired or solicited to commit such murder or voluntary manslaughter and/or if the court determines the parent has been convicted of a felony assault or battery which resulted in serious bodily injury to the child or a sibling. The department shall join as a party to the petition if such a petition to terminate is filed by another party; as well as to concurrently identify, recruit, process and approve a qualified family for adoption unless it is determined that such actions would not be in the best interest of the child, or the child is placed with a relative. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within twelve (12) months of the order of termination of parental rights, and every twelve (12) months subsequently until the child is adopted or is in a placement sanctioned by the court. A petition to terminate parental rights shall be filed as a motion in the existing child protective action.

Approved April 14, 2003.

CHAPTER 280
(H.B. No. 169, As Amended, As Amended in the Senate)

AN ACT
RELATING TO RAPE; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE THE DEFINITION OF RAPE; AMENDING SECTION 19-401, IDAHO CODE, TO REVISE DESIGNATED PROSECUTIONS NOT SUBJECT TO A STATUTE OF LIMITATIONS; AND AMENDING SECTION 19-402, IDAHO CODE, TO REVISE DESIGNATED PROSECUTIONS NOT SUBJECT TO A STATUTE OF LIMITATIONS.

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

SECTION 1. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under ~~either~~ <u>any one (1)</u> of the following circumstances:

1. Where the female is under the age of eighteen (18) years.

2. Where she is incapable, through any unsoundness of mind, <u>due to any cause including, but not limited to, mental illness, mental deficiency or developmental disability,</u> whether temporary or permanent, of giving legal consent.

3. Where she resists but her resistance is overcome by force or violence.

4. Where she is prevented from resistance by ~~threats of immediate and great~~ <u>the infliction, attempted infliction, or threatened infliction of</u> bodily harm, accompanied by apparent power of execution; or ~~by~~ <u>is</u>

unable to resist due to any intoxicating, narcotic, or anaesthetic substance. ~~administered by or with the privity of the accused.~~

5. Where she is at the time unconscious of the nature of the act~~, and this is known to the accused~~. As used in this section, "unconscious of the nature of the act" means incapable of resisting because the victim meets one (1) of the following conditions:

(a) Was unconscious or asleep;

(b) Was not aware, knowing, perceiving, or cognizant that the act occurred.

6. Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

7. Where she submits under the belief, instilled by the actor, that if she does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against her; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

SECTION 2. That Section 19-401, Idaho Code, be, and the same is hereby amended to read as follows:

19-401. PROSECUTIONS FOR MURDER, VOLUNTARY MANSLAUGHTER OR RAPE. There is no limitation of time within which a prosecution for murder, voluntary manslaughter, or rape pursuant to section 18-6101 2., 3., 4., ~~or~~ 5. or 7., or section 18-6108, Idaho Code, must be commenced. They may be commenced at any time after the death or rape of the person killed or raped.

SECTION 3. That Section 19-402, Idaho Code, be, and the same is hereby amended to read as follows:

19-402. COMMENCEMENT OF PROSECUTIONS FOR CRIMES AGAINST CHILDREN AND OTHER FELONIES. (1) A prosecution for any felony other than murder, voluntary manslaughter, rape pursuant to section 18-6101 2., 3., 4., ~~or~~ 5. or 7., or section 18-6108, Idaho Code, or any felony committed upon or against a minor child, or an act of terrorism as set forth in sections 18-8102, 18-8103, 18-3322, 18-3323 and 18-3324, Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within five (5) years after its commission. Except as provided in subsection (2) of this section, a prosecution for any felony committed upon or against a minor child must be commenced within five (5) years after the commission of the offense by the filing of the complaint or a finding of an indictment.

(2) A prosecution under section 18-1506 or 18-1508, Idaho Code, must be commenced within five (5) years after the date the child reaches eighteen (18) years of age.

(3) A prosecution under section 18-1506A, Idaho Code, must be commenced within three (3) years after the date of initial disclosure by the victim.

(4) Notwithstanding any other provision of law, an indictment may be found, or an information instituted, at any time without limitation for a prosecution under section 18-8103, 18-3322, 18-3323 or 18-3324, Idaho Code.

Approved April 14, 2003.

CHAPTER 281
(H.B. No. 198, As Amended)

AN ACT

RELATING TO WASTE TIRE DISPOSAL; AMENDING SECTION 39-6501, IDAHO CODE, TO FURTHER DEFINE TERMS AND DEFINE ADDITIONAL TERMS; REPEALING SECTIONS 39-6503, 39-6504 AND 39-6506, IDAHO CODE; AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6502, IDAHO CODE, TO GOVERN EXISTING AND NEW WASTE TIRE STORAGE SITES; AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6503, IDAHO CODE, TO GOVERN DISPOSAL OF WASTE TIRES; AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6504, IDAHO CODE, TO GOVERN THE TRANSPORT OF WASTE TIRES; AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6505, IDAHO CODE, TO PROHIBIT CERTAIN ACTS; AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6506, IDAHO CODE, TO ENCOURAGE IDENTIFICATION OF METHODS FOR RECYCLING AND REUSE OF WASTE TIRES; AMENDING SECTION 39-6507, IDAHO CODE, TO REVISE PENALTIES; AND AMENDING CHAPTER 65, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6508, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE.

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

SECTION 1. That Section 39-6501, Idaho Code, be, and the same is hereby amended to read as follows:

39-6501. DEFINITIONS. As used in this chapter:

(1) "City" means the city where the waste tire storage site is located.

(2) "County" means the county where the waste tire storage site is located.

(3) "Department" means the department of environmental quality.

(4) "Dispose" means to drop, deposit, dump, spill or permanently place any waste tire onto or under the ground or into the waters of this state, or to own or control property where waste tires are dropped, deposited, dumped, spilled or permanently placed onto or under the ground or into the waters of this state.

(5) "Existing waste tire storage site" means any property storing waste tires prior to recycle, reuse, or final disposal as of July 1, 2003, regardless of whether the owner or operator possesses a permit or other written city or county authorization authorizing the storage of waste tires at the property.

(6) "Mining waste tire" means a waste tire which is greater than fifty-four (54) inches in diameter which was used in mining operations. Mining waste tires may be disposed of by burial. The department of lands

shall prepare guidelines to govern the burial of mining waste tires.

(~~2~~7) "Motor vehicle" means any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination or other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but motor vehicle does not include bicycles.

~~(3) "Retail seller of motor vehicle tires" and "wholesale seller of motor vehicle tires" include those persons who sell or lease motor vehicles to others in the ordinary course of business.~~

(8) "New waste tire storage site" means any property that is not storing waste tires as of July 1, 2003, and applies for and receives a permit or other written city or county authorization to store waste tires prior to recycle, reuse or final disposal on or after July 1, 2003.

(9) "Operator" means any person presently, or who was during any period of waste tire storage or disposal, in control of, or having responsibility for a waste tire storage site or a waste tire disposal site.

(10) "Owner" means a person who owned a waste tire storage site or disposal site at any time waste tires are stored or disposed at the property, and the current owner of the waste tire storage site or waste tire disposal site.

(11) "Person" means an individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties.

(12) "Retail tire dealer" means any person actively engaged in the business of selling new, used, or retread replacement tires at the retail level.

(13) "Store" or "storage" means to accumulate more than two hundred (200) waste tires at any time, in a manner that does not constitute final disposal at a waste tire disposal site, or to own or control property on which more than two hundred (200) waste tires accumulate at any given time, in a manner that does not constitute final disposal at a waste tire disposal site. The following activities shall not constitute "storing" or "storage" of waste tires:

(a) A retail tire dealer collecting less than one thousand five hundred (1,500) waste tires at any point in time for each retail business location.

(b) A tire retreader collecting less than three thousand (3,000) waste tires at any point in time for each individual retread operation so long as the waste tires are of the type the retreader is actively retreading.

(c) A wrecking salvage business collecting less than one thousand five hundred (1,500) waste tires for each retail business location.

(d) A waste tire disposal site collecting waste tires for disposal at the site in accordance with the site's approved operating plan.

(e) A wholesale tire dealer collecting less than one thousand five hundred (1,500) waste tires at any point in time for each wholesale business location.

(f) An approved solid waste transfer station or solid waste landfill collecting less than one thousand five hundred (1,500) waste

tires prior to transfer to an approved waste tire storage or disposal site.

(g) A farm or livestock operation which utilizes waste tires to secure farm or livestock silage or wastes provided the total number of waste tires shall not exceed one thousand five hundred (1,500).

(h) A permitted facility storing tires for an approved beneficial use.

(14) "Tire" ~~shall have~~ has the meaning ~~contained~~ provided in section 49-121, Idaho Code.

~~(5) "New tire" means a tire which is not used or retreaded, and is being sold on the market for the first time.~~

(15) "Tire retreader" means any person actively engaged in the business of retreading tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(16) "Transport" or "transporting" means picking up or hauling waste tires.

(~~6~~17) "Waste tire" means a motor vehicle tire ~~that~~ originally used for operation of a vehicle on a public roadway which is no longer suitable for its original intended purpose because of wear, damage or defect.

(~~7~~18) "Waste tire ~~collection~~ storage site" means a new or existing waste tire storage site. ~~where waste tires are collected before being offered for recycling or reuse and where more than fifty (50) tons of used tires are kept on site on any day.~~

~~(8) "Idaho retreader" is a person who accepts passenger and light truck tires generated in Idaho and retreads such tires in Idaho and is registered with the division.~~

~~(9) "Passenger and light truck tire" means any motor vehicle tire with a rim diameter of twelve (12) inches through sixteen (16) inches.~~

~~(10) "Review committee" is an advisory committee appointed by the director of the department to establish and/or review percentages for reimbursing retreaders and other users of waste tires, and to review proposals for other uses, grants to counties and contracts with private entities.~~

~~(11) "Waste tires generated in Idaho" are tires which first become waste tires in Idaho.~~

~~(12) "Mining waste tire" means a waste tire which is greater than fifty four (54) inches in diameter which was used in mining operations. Mining waste tires may be disposed of by burial. The department of lands shall prepare guidelines to govern the burial of mining waste tires.~~

~~(13) "End user" means the first person or company that purchases and uses waste tires, chips or other materials made from waste tires.~~

(19) "Waste tire disposal site" means a public or private municipal solid waste landfill operating in compliance with section 39-6503, Idaho Code.

(20) "Wholesale tire dealer" means any person engaged in the business of selling new replacement tires to tire retailers.

(21) "Wrecking salvage business" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

SECTION 2. That Sections 39-6503, 39-6504 and 39-6506 Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6502, Idaho Code, and to read as follows:

39-6502. WASTE TIRE STORAGE SITES. (1) No person shall store waste tires on any public or private property in this state or in the waters of this state unless the property is a waste tire storage site as defined or otherwise exempted in this chapter.

(2) Permit or local authorization required. No person shall own or operate a waste tire storage site without a permit or other written county or city authorization, as follows:

(a) Counties and cities shall only issue permits or other written authorizations that contain terms and conditions that assure waste tire storage sites are operated in compliance with this chapter and any additional requirements the county or city deems appropriate. Counties and cities shall review waste tire storage site applications pursuant to the procedures contained in section 67-6512, Idaho Code.

(b) Existing waste tire storage sites.

(i) Within three (3) months of the effective date of this chapter, the owner or operator of an existing site that is:

1. Operating without a permit or other written local authorization on the effective date of this chapter, shall apply to the respective county or city jurisdiction for approval to operate the existing site via an approved permit or other written city or county authorization; or

2. Operating with a previously issued permit or other written city or county authorization on the effective date of this chapter, shall notify the respective county or city jurisdiction.

(ii) If an existing waste tire storage facility fails to submit to the county or city an application by October 1, 2003, the existing waste tire storage site shall cease storing waste tires by January 1, 2004.

(iii) If the county or city determines not to issue a permit, other written authorization, or a modification to an existing permit or approval, for the existing waste tire storage site, the existing waste tire storage site shall cease storing waste tires no later than three (3) months after receiving notice of the determination not to issue a permit, other written authorization, or modification for the site.

(c) New waste tire storage sites. The current owner or operator of a new waste tire storage site shall not commence waste tire storage at the site until the county or city issues a permit or other written authorization permitting waste tire storage.

(d) Counties and cities shall issue permits and other written local authorizations for waste tire storage sites.

Upon written request from the city council or board of county commissioners to the department, the department shall be responsible for the permitting and authorization requirements of this section with respect to any application submitted to the county or city, in lieu of the county or city.

(e) Financial assurance. The owner or operator of a waste tire storage site shall maintain financial assurance in the form of a

cash bond payable to the county or city, in an amount acceptable to the county or city where the waste tire storage site is located; provided however, counties and cities shall require a minimum initial financial assurance of two dollars and fifty cents ($2.50) per tire authorized to be stored at the site. The amount of financial assurance shall be adjusted each year in accordance with the consumer price index on the anniversary date of the issuance of the permit or other city or county written authorization. Failure to adjust the amount of financial assurance on the anniversary date each year shall constitute failure to comply with the provisions of this chapter and shall result in automatic revocation of the permit or other written city or county authorization and forfeiture of the bond. Cities and counties shall only process an application submitted under this section when documentation submitted with the application establishes compliance with the financial assurance requirement of this paragraph.

(i) The current owner or operator of an existing waste tire storage site shall comply with the financial assurance requirement of this paragraph by October 1, 2003. Except that the owner or operator of the existing waste tire storage site located in the magic valley as provided by rule of the department shall comply with the financial assurance requirement of this paragraph by July 1, 2005.

(ii) The current owner or operator of a new waste tire storage site shall comply with the financial assurance requirement of this section prior to commencing waste tire storage at the site.

Upon written request from the city council or board of county commissioners to the department, the cash bond will be written in favor of the department, in lieu of the city or county. In such cases, the department will oversee use of the bond should two (2) owners or operators become liable on the bond obligation.

(f) Siting. Counties and cities shall only issue a permit or written authorization to a waste tire storage site when the application establishes that the proposed or existing site is located on property owned as exclusively for industrial use.

(g) Application processing fee. Counties and cities may charge a fee for processing a waste tire storage site permit or authorization application or renewal.

(h) Records. Owners and operators of a waste tire storage site shall record and maintain on-site for a period of three (3) years, operational records including, but not limited to, the daily quantity of tires transported to and from the site, and the estimated quantity of tires located at the site.

(i) Suspension, revocation, renewal of permit or written authorization. The county or city may suspend, revoke, or refuse to renew a waste tire storage site's permit or written authorization if the county or city determines that the site is operating in violation of any requirement of this section or any term or condition of the site's permit or written authorization.

(3) In the event the current owner or operator of an existing or new waste tire storage site fails to comply with the requirements of this section, the board of county commissioners or city council may declare the site a public nuisance; and may declare a public health or

safety emergency based on potential fire hazard, threat of insect borne disease, or potential contamination of the state's ground or surface waters. If the respective governing authority has declared a public health or safety emergency, they may petition the board of examiners for, and the board of examiners may authorize, the issuance of deficiency warrants for the purpose of removing and properly disposing of the tires upon the recommendation of the state fire marshal in the event of fire hazard, or the district health department in the event of insect borne disease hazard, or the department in the event of ground or surface water contamination hazard.

(a) Upon authorization of deficiency warrants by the board of examiners in accordance with provisions of this section, the state controller shall, after notice to the state treasurer, draw deficiency warrants in the authorized amounts against the general fund.

(b) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

(c) The attorney general shall act to fully recover all costs incurred by the state of Idaho and its political subdivisions pursuant to this section.

SECTION 4. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6503, Idaho Code, and to read as follows:

39-6503. WASTE TIRE DISPOSAL. (1) No person shall dispose of waste tires on any public or private property in this state or in the waters of this state except at permitted public or private municipal solid waste landfills which have been approved to accept waste tires in their operating plans as specified in the following subsection.

(2) Waste tires may be disposed at a permitted public or private municipal solid waste landfill with an approved operating plan only if the waste tires have been processed to meet the following criteria:

(a) The volume of one hundred (100) unprepared randomly selected whole tires in one (1) continuous test period must be reduced by at least sixty-five percent (65%) of the original volume as specified in subsection (3) of this section. No single void space greater than one hundred twenty-five (125) cubic inches may remain in the randomly placed processed tires; or

(b) The tires shall be reduced to an average chip size no greater than sixty-four (64) square inches in any randomly selected sample of ten (10) tires or more. No more than forty percent (40%) of the chips may exceed sixty-four (64) square inches.

(3) Tire volumes shall be calculated as follows:

(a) Unprocessed whole tire volume shall be calculated by randomly placing one hundred (100) unprepared randomly selected whole tires in a rectangular container and multiplying the depth of unprocessed tires by the bottom area of the container.

(b) Processed tire volume shall be determined by randomly placing the processed tire test quantity in a rectangular container and leveling the surface. It shall be calculated by multiplying the depth of processed tires by the bottom area of the container.

SECTION 5. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6504, Idaho Code, and to read as follows:

39-6504. TRANSPORT OF WASTE TIRES. (1) No person shall transport waste tires for storage to any location in this state other than to a waste tire storage site for which a city or county has issued a permit or other written county or city authorization in active status.

(2) No person shall transport waste tires for disposal to any location in this state other than to a municipal solid waste landfill which is operating in compliance with the requirements of section 39-6503, Idaho Code.

(3) Nothing in this section shall prohibit any person from transporting waste tires to facilities in the state which possess a valid air quality permit, provided the permit allows for an approved beneficial use of the waste tires.

SECTION 6. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6505, Idaho Code, and to read as follows:

39-6505. PROHIBITED ACTS. No person shall advertise or represent himself/herself as being in the business of accepting waste tires for transport, storage, or disposal without being in full compliance with all the provisions of this chapter.

SECTION 7. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6506, Idaho Code, and to read as follows:

39-6506. RECYCLING AND REUSE OF WASTE TIRES. The state of Idaho seeks to protect human health and the environment by encouraging the recycling and reuse of waste tires. Accordingly, the legislature directs the department to identify approved methods of recycling and reuse of waste tires.

SECTION 8. That Section 39-6507, Idaho Code, be, and the same is hereby amended to read as follows:

39-6507. PENALTIES. ~~(1)~~ Any person who ~~improperly~~ knowingly stores, transports or disposes of a tire in violation of the provisions of this chapter is subject to a civil penalty of not more than five hundred dollars ($500) per violation and is subject to the provisions of the environmental protection and health act contained in section 39-108, Idaho Code. Each tire so disposed of improperly constitutes a separate violation.

~~(2) A person who knowingly violates any provision of this chapter other than as described in subsection (1) of this section, is subject to a civil penalty of not more than one hundred dollars ($100) per violation and is subject to the provisions of the environmental protection and health act contained in section 39-108, Idaho Code.~~

SECTION 9. That Chapter 65, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6508, Idaho Code, and to read as follows:

39-6508. PURPOSE. The state of Idaho supports and encourages the reuse and recycling of waste tires. The legislature finds the paramount public interest in regulating waste tires is to protect public health and safety. In particular, the legislature is concerned with eliminating potential fire hazards; minimizing or eliminating potential breeding grounds for disease-bearing insects; and eliminating potential sources of surface and ground water contamination.

Approved April 14, 2003.

CHAPTER 282
(H.B. No. 218, As Amended in the Senate)

AN ACT

RELATING TO CONFINEMENT UNDER DEATH SENTENCES AND DEATH WARRANTS; REPEALING SECTION 19-2705, IDAHO CODE; AND AMENDING SECTION 19-2706, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE REFERENCE TO DEATH SENTENCES, TO PROVIDE THAT THE WARRANT SHALL BE DIRECTED TO THE DIRECTOR OF THE IDAHO DEPARTMENT OF CORRECTION, TO PROVIDE THAT THE WARDEN OF THE PRISON IN WHICH A PERSON IS INCARCERATED PURSUANT TO A DEATH WARRANT FOR WHICH EXECUTION HAS NOT BEEN STAYED SHALL KEEP THE CONDEMNED PERSON IN SOLITARY CONFINEMENT UNTIL EXECUTION, TO PROVIDE THAT PERSONS UNDER DEATH WARRANT WILL BE ALLOWED CONTACT VISITS WITH THEIR ATTORNEYS OF RECORD AND THE AGENTS OF THEIR ATTORNEYS OF RECORD, TO FURTHER DEFINE TERMS, TO PROVIDE FOR CONTACT VISITS BETWEEN CONDEMNED PERSONS AND CERTAIN PERSONS, TO PROVIDE THAT ALL VISITS WITH CONDEMNED PERSONS SHALL TAKE PLACE ONLY IN ACCORDANCE WITH PRISON RULES, TO PROVIDE THAT PRISON OFFICIALS MAY SUSPEND OR DENY VISITS UNDER CERTAIN CONDITIONS, TO PROVIDE THAT THE CONDEMNED PERSON MAY HAVE CONTACT VISITS WITH CERTAIN PERSONS IN THE SEVEN DAYS IMMEDIATELY PRECEDING A SCHEDULED EXECUTION, TO PROVIDE THAT THE WARDEN IS NOT REQUIRED TO HOLD A PERSON IN SOLITARY CONFINEMENT OR OTHERWISE RESTRICT ACCESS TO SUCH PERSON UNTIL THE STAY OF A DEATH WARRANT IS LIFTED OR A NEW DEATH WARRANT IS ISSUED IF THE PERSON HAS BEEN SENTENCED TO DEATH BUT THE DEATH WARRANT HAS BEEN STAYED, TO PROVIDE THAT NO CONDEMNED PERSON SHALL BE HOUSED IN LESS THAN MAXIMUM SECURITY CONFINEMENT, AND TO PROVIDE THAT THE SECTION DOES NOT LIMIT THE WARDEN'S DISCRETION TO HOUSE A CONDEMNED PERSON UNDER MORE RESTRICTIVE CONDITIONS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 19-2705, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 19-2706, Idaho Code, be, and the same is hereby amended to read as follows:

19-27065. DEATH SENTENCE OR DEATH WARRANT AND CONFINEMENT THEREUNDER -- ACCESS TO CONDEMNED PERSON. (1) Whenever a person is sentenced to death, the judge passing sentence shall, in accordance with section 19-2719, Idaho Code, sign and file a death warrant fixing a date of execution not more than thirty (30) days thereafter.

(2) The warrant shall be directed to the ~~warden~~ director of the ~~state penitentiary~~ Idaho department of correction and shall be delivered to him forthwith.

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

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

(5) For the purposes of this section, "agents of the attorneys of record" means employees of the attorneys of record including investigators, paralegals, legal interns and mitigation specialists but does not include retained experts or other independent contractors of the attorneys of record.

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

(7) No person shall be allowed access to the condemned person under death warrant except law enforcement personnel investigating matters within the scope of their duties, the condemned person's attorneys of record, the agents of the condemned person's attorneys of record, attending physicians, spiritual advisers of the condemned person's choosing and approved visitors.

(8) When a person has been sentenced to death, but the death warrant has been stayed, contact visits between the condemned person and persons other than his attorneys of record and the agents of the attorneys of record may be allowed at the discretion of prison officials.

(9) All visits, contact or noncontact, with a condemned person, whether such person is under sentence of death or death warrant, shall take place only in accordance with prison rules. Prison officials shall have the authority to suspend or deny such visits when public safety or the safe, secure and orderly operation of the prison could be compromised.

(10) In the seven (7) days immediately preceding the scheduled execution of a condemned person, the condemned person may have contact visits with spiritual advisers of the condemned person's choosing and members of the condemned person's family, in addition to the attorneys of record and the agents of the attorneys of record.

(11) When a person has been sentenced to death, but the death warrant has been stayed, the warden is not required to hold such person in solitary confinement or to restrict access to him until the stay of the death warrant is lifted or a new death warrant is issued by the sentencing court; provided however, no condemned person shall be housed in less than maximum security confinement, and provided further that nothing in this section shall be construed to limit the warden's discretion to house such person under conditions more restrictive if necessary to ensure public safety or the safe, secure and orderly operation of the facility.

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

Approved April 14, 2003.

CHAPTER 283
(H.B. No. 301, As Amended in the Senate)

AN ACT

RELATING TO CREATION OF A RURAL PHYSICIAN INCENTIVE PROGRAM; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3723, IDAHO CODE, TO AUTHORIZE ASSESSMENT OF A FEE; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3724, IDAHO CODE, TO PROVIDE FOR PAYMENTS FROM THE INCENTIVE FUND; AND AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3725, IDAHO CODE, TO PROVIDE FOR PAYMENTS FOR PRIMARY CARE PHYSICIANS FROM THE FUND FOR RURAL PHYSICIAN INCENTIVES.

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

SECTION 1. That Chapter 37, 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 33-3723, Idaho Code, and to read as follows:

33-3723. RURAL PHYSICIAN INCENTIVE FEE ASSESSMENT. The state board of education may assess a fee to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for a professional education program in those fields, as those fields are defined by the compact. The fee may not exceed an amount equal to four percent (4%) of the annual average medicine support fee paid by the state. The fee must be assessed by the board and deposited in the rural physician incentive fund established in section 33-3724, Idaho Code.

SECTION 2. That Chapter 37, 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 33-3724, Idaho Code, and to read as follows:

33-3724. RURAL PHYSICIAN INCENTIVE FUND. There is hereby created the rural physician incentive fund in the state treasury. Money is payable into the fund as provided in section 33-3723, Idaho Code. Income and earnings on the fund shall be returned to the fund. The state board of education shall administer the fund as provided by section 33-3725, Idaho Code. The state board of education shall identify an oversight committee made up of knowledgeable individuals or organizations to assist in the administration of this fund. Members of this oversight committee should come from the Idaho hospital association, Idaho medical association, office of rural health, Idaho rural health education center, medical student program administrators and others as appropriate.

SECTION 3. That Chapter 37, 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 33-3725, Idaho Code, and to read as follows:

33-3725. INCENTIVE PAYMENTS FROM FUND. The moneys in the rural physician incentive fund are hereby appropriated for the uses of the fund. The state board of education may use the moneys to pay:

(1) The educational debts of rural physicians who practice primary care medicine in medically underserved areas of the state that demonstrate a need for assistance in physician recruitment; and

(2) The expenses of administering the rural physician incentive program. The expenses of administering the program shall not exceed ten percent (10%) of the annual fees assessed pursuant to section 33-3723, Idaho Code.

The board, through the oversight committee, shall establish procedures for determining the areas of the state that qualify for assistance in physician recruitment. An eligible area must demonstrate that a physician shortage exists or that the area has been unsuccessful in recruiting physicians by other mechanisms.

A physician from an area determined to be eligible under this section may apply to the board for payment of an educational debt directly related to a professional school. Physicians who have paid the fee authorized in section 33-3723, Idaho Code, shall be given a preference over other applicants. To receive the educational debt payments, the physician shall sign an annual contract with the board. The contract must provide that the physician is liable for the payments if the physician ceases to practice in the eligible area during the contract period.

The maximum amount of educational debt payment that a rural physician may receive is fifty thousand dollars ($50,000) over a five (5) year period. The board may structure the payment schedule to make greater payments in the later years. The amount contractually committed in a year shall not exceed the annual amount deposited in the rural physician incentive fund.

Approved April 14, 2003.

CHAPTER 284
(H.B. No. 333)

AN ACT

RELATING TO THE SALE OF ALCOHOLIC BEVERAGES; AMENDING SECTION 23-927, IDAHO CODE, TO PROVIDE THAT CITIES MAY BY ORDINANCE ALLOW THE SALE OF LIQUOR BY THE DRINK ON CERTAIN DAYS AND MAY EXTEND THE HOURS OF THE SALE OF LIQUOR BY THE DRINK; AND AMENDING SECTION 23-1012, IDAHO CODE, TO PROVIDE THAT CITIES MAY EXTEND THE HOURS OF THE SALE OF BEER.

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

SECTION 1. That Section 23-927, Idaho Code, be, and the same is hereby amended to read as follows:

23-927. HOURS OF SALE OF LIQUOR. (1) No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet during the following hours:

a. Sunday, Memorial Day, Thanksgiving and Christmas from 1 o'clock A.M., to 10 o'clock A.M. the following day; provided however, that on any Sunday not otherwise being a prescribed holiday, it shall be lawful for a licensee having banquet area or meeting room facilities, separate and apart from the usual dispensing area (bar room) and separate and apart from a normal public dining room unless such dining room is closed to the public, to therein dispense liquor between the hours of 2 o'clock P.M. and 11 o'clock P.M. to bona fide participants of banquets, receptions or conventions for consumption only within the confines of such banquet area or meeting room facility.

b. On any other day between 1 o'clock A.M. and 10 o'clock A.M.

c. On any day of a general or primary election until after the time when the polls are closed. There is no prohibition against the sale of liquor by the drink during city elections unless the city has enacted an ordinance prohibiting such sales.

d. When any city or county has any ordinance further limiting the hours of sale of liquor, by the drink, then such hours shall be fixed by such ordinance.

(2) A county <u>or city</u> may, however, by ordinance, allow the sale of liquor by the drink on a Sunday, Memorial Day and Thanksgiving, and may also extend until 2 o'clock A.M. the hours of the sale of liquor by the drink.

(3) Any patron present on the licensed premises after the sale of liquor has stopped as provided in subsection (1) and subsection (2) above shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverages already served.

(4) Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon licensed premises after the time provided for in subsection (3) shall be guilty of a misdemeanor.

(5) It shall be the duty of every person who is employed at or upon a licensed premises or who owns or manages a licensed premises and is present upon the licensed premises during the hours and at the time set

forth in subsection (1) and subsection (2) of this section to lock up and keep locked up in a locked room or locked cabinet all unsealed containers of liquor during the hours and at the times set forth in subsection (1) and subsection (2) of this section, and any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor.

SECTION 2. That Section 23-1012, Idaho Code, be, and the same is hereby amended to read as follows:

23-1012. HOURS OF SALE. (1) It shall be unlawful and a misdemeanor for any person in any place licensed to sell beer or where beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, to sell, dispense or give away beer between the hours of one (1) o'clock A.M. and six (6) o'clock A.M.

(2) Any patron present on the licensed premises after the sale of beer has stopped as provided in subsections (1) and (4) herein shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

(3) Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsection (2) shall be guilty of a misdemeanor.

(4) A county or city may, however, extend, until two (2) o'clock A.M., the hours of the sale of beer.

Approved April 14, 2003.

CHAPTER 285
(H.B. No. 335, As Amended)

AN ACT

RELATING TO SENTENCING CRITERIA IN DRUG CASES; AMENDING SECTION 37-2738, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SUBSTANCE ABUSE EVALUATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-1502C, IDAHO CODE, TO CLARIFY A CODE REFERENCE.

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

SECTION 1. That Section 37-2738, Idaho Code, be, and the same is hereby amended to read as follows:

37-2738. SENTENCING CRITERIA IN DRUG CASES. (1) Any person who pleads guilty to, is found guilty of or has a judgment of conviction entered upon a violation of the provisions of subsections (a), (b), (c) or (e), of section 37-2732, Idaho Code, shall be sentenced according to the criteria set forth herein.

(2) Prior to sentencing for a violation enumerated in subsection (1) above, the defendant shall undergo, at his own expense (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code), a substance abuse evaluation at a facility approved by the Idaho department of health and welfare. Provided however, that if

the defendant has no prior or pending charges under the provisions of subsection (a), (b), (c) or (e), of section 37-2732, Idaho Code, and the court does not have any reason to believe that the defendant regularly abuses drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of subsection (b) or (e) of section 37-2732, Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of a substance abuse evaluation with respect to a defendant's violation of the provisions of subsection (a), (b), (c) or (e), of section 37-2732, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or similar assessment which has evaluated the defendant's need for substance abuse treatment conducted within twelve (12) months preceding the date of the defendant's sentencing.

(3) In the event ~~the~~ a substance abuse evaluation indicates the need for substance abuse treatment, the evaluation shall recommend an appropriate treatment program, together with the estimated costs thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration to determine an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event it shall be presumed that substance abuse treatment is needed unless it is shown by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide or report an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, the person or facility performing the evaluation shall not be the person or facility that provides the treatment, unless this requirement is waived by the sentencing court, and with the exception of federally recognized Indian tribes or federal military installations where diagnoses and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court ordered substance abuse treatment for indigent defendants.

(~~3~~4) When sentencing an individual for the crimes enumerated in section (1) of this section, the court shall not enter a withheld judgment unless it finds by a ~~preponderence~~ preponderance of the evidence that:

(a) The defendant has no prior finding of guilt for any felony, any violation of chapter 80, title 18, Idaho Code, or subsections (a), (b), (c) or (e), of section 37-2732, Idaho Code, whatsoever; and

(b) The sentencing court has an abiding conviction that the defendant will successfully complete the terms of probation; and

(c) The defendant has satisfactorily cooperated with law enforcement authorities in the prosecution of drug related crimes of which the defendant has previously had involvement.

(~~4~~5) Any person who pleads guilty to or is found guilty of a violation of the provisions of the Idaho Code identified in subsection (1) of this section shall, when granted a probationary period of any sort what-

soever, be required by the court to complete a period of not less than one hundred (100) hours of community service work.

SECTION 2. That Section 18-1502C, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18) years of age who shall have in his possession any marijuana as defined in section 37-2701(s), Idaho Code, which would constitute a misdemeanor for an adult so charged, or who shall have in his possession any drug paraphernalia as defined in section 37-2701(n), Idaho Code, or who shall unlawfully use or be under the influence of controlled substances in violation of the provisions of section 37-2732C, Idaho Code, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of one thousand dollars ($1,000) or by ninety (90) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 5, title 20, Idaho Code. If the juvenile is adjudicated under the provisions of chapter 5, title 20, Idaho Code, for a violation of this section he shall be sentenced in accordance with the provisions of chapter 5, title 20, Idaho Code. The juvenile shall be adjudicated under chapter 5, title 20, Idaho Code, for a violation of section 37-2732C, Idaho Code, unless the court finds that adjudication under chapter 5, title 20, Idaho Code, is not appropriate in the circumstances.

(2) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(3) Any person who pleads guilty or is found guilty of possession of marijuana pursuant to this section, or any person under eighteen (18) years of age who pleads guilty or is found guilty of a violation of section 37-2732C, Idaho Code, then in addition to the penalty provided in subsection (1) of this section:

(a) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(b) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) The person shall surrender his license or permit to the court.

(d) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(4) The court, in its discretion, may also order the person convicted of possession of marijuana under subsection (1) of this section,

or a person under eighteen (18) years of age who has been convicted of using or being under the influence of a controlled substance in violation of section 37-2732C, Idaho Code, to undergo and complete a substance abuse evaluation and to complete a drug treatment program, as provided in section 37-2738~~(2)~~, Idaho Code.

Approved April 14, 2003.

CHAPTER 286
(H.B. No. 336, As Amended)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING SUBSTANCES; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE THAT COURTS MAY WAIVE ALCOHOL ABUSE EVALUATIONS IN CERTAIN CASES.

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

SECTION 1. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the

first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. section 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period.

(g) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a

mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. section 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, or any substantially conforming foreign criminal felony violation, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4), (5) and (7) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges

with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsections (10)(a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or non-use of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event ~~the~~ an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of

section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified shall not be granted restricted driving privileges to operate a commercial motor vehicle.

Approved April 14, 2003.

CHAPTER 287
(H.B. No. 337)

AN ACT

RELATING TO PAYMENTS TO COURTS; AMENDING CHAPTER 32, TITLE 31, BY THE ADDITION OF A NEW SECTION 31-3221, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF COURT DEBTS BY CREDIT CARD OR DEBIT CARD, TO DEFINE TERMS AND TO AUTHORIZE THE ADOPTION OF COURT RULES.

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

SECTION 1. 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 31-3221, Idaho Code, and to read as follows:

31-3221. PAYMENTS TO COURT BY CREDIT CARD OR DEBIT CARD. (1) The clerk of the district court may accept payment of a debt owed to the court by a credit card or debit card. Any person making payment on a

debt owed to the court by a credit card or debit card shall be assessed an electronic payment convenience fee established by the supreme court, which shall include, among other costs, the amount charged the court by the issuer for the use of the card. This fee may also be paid by credit card or debit card and included in the transaction for the payment of the debt owed to the court. The electronic payment convenience fee shall be separate from the debt owed to the court and shall be deposited into the district court fund. The debt owed to the court shall not be expunged, canceled, released, discharged or satisfied and any receipt or other evidence of payment shall be deemed conditional until the court has received final and unconditional payment of the full amount due from the financing agency or card issuer for the transaction. If an electronic payment once made is subsequently denied, revoked or otherwise canceled for any reason, and the payment is withdrawn from the court, the court may proceed as though payment had never been made.

(2) Definitions. As used in this section:

(a) "Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) "Credit card" means any instrument or device, whether known as a credit card or credit plate or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(c) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(d) "Debt owed to the court" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, cash deposit of bail, moneys expended in providing counsel and other defense services to indigent defendants, or other charges which a court judgment has ordered to be paid to the court or which a party has agreed to pay in criminal or civil cases and includes any interest or penalty on such unpaid amounts as provided for in the judgment or by law.

(e) "Issuer" means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

(3) The supreme court may adopt rules as deemed appropriate for the administration of this section and may enter into contracts with an issuer or other organization to implement the provisions of this section.

Approved April 14, 2003.

CHAPTER 288
(H.B. No. 338)

AN ACT

RELATING TO DEBTS OWED TO THE COURTS; AMENDING CHAPTER 16, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-1624, IDAHO CODE, TO PROVIDE FOR THE SET-OFF OF CERTAIN STATE TAX REFUNDS AND CREDITS TO BE APPLIED TOWARD THE PAYMENT OF DESIGNATED DELINQUENT DEBTS OWED TO

THE COURTS, TO PROVIDE A PROCEDURE, TO PROVIDE FOR PRIORITY OF CERTAIN CLAIMS, TO PROVIDE CERTAIN CONDITIONS, TO PROVIDE FOR ADMINISTRATIVE WAIVERS OF SET-OFFS, TO PROVIDE FOR REIMBURSEMENT OF REFUNDS SET-OFF IN ERROR, TO PROVIDE FOR A SUSPENSE ACCOUNT FOR THE PAYMENT OF AMOUNTS SET-OFF IN ERROR OR FOR THE REFUND OF BALANCES REMAINING AFTER A DEBT TO THE COURTS IS SATISFIED, TO PROVIDE FOR WAIVERS OF THE RIGHT TO CONTEST A SET-OFF, TO PROVIDE FOR OBJECTIONS RELATING TO JOINT RETURNS, TO PROVIDE FOR DEBTS THAT ARE NOT SATISFIED BY REFUND SET-OFFS, TO PROVIDE FOR THE APPLICATION OF PROCEEDS FROM SET-OFFS AND TO AUTHORIZE CERTAIN RULEMAKING AND AGREEMENTS.

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

SECTION 1. That Chapter 16, 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 1-1624, Idaho Code, and to read as follows:

1-1624. SET-OFF PROCEDURE FOR DELINQUENT DEBTS OWED TO THE COURTS. (1) The purpose of this legislation is to enable the Idaho supreme court, as the supervisor of the unified and integrated judicial system of this state, to apply for a set-off of state tax refunds and credits owing to a taxpayer in payment of a delinquent debt owed by the taxpayer to the courts of this state. It is the intent of the legislature that this set-off remedy be in addition to and not in substitution of any other remedy or action provided for by law for the collection of these amounts.

(2) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer, upon notification from the Idaho supreme court, to collect any debt owed to the courts by the taxpayer which is delinquent. A remittance by the state tax commission to the court pursuant to this section shall be deemed to be, to the extent of the remittance, a refund to the taxpayer and any other person who has a claim to such refund, and the state tax commission shall not be liable to any person because of a refund that has been remitted under this section.

(3) A "debt owed to the courts" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, moneys expended in providing counsel and other defense services to indigent defendants, or other charges which a court judgment has ordered to be paid to the court or which a party has agreed to pay in criminal or civil cases and includes any interest or penalty on such unpaid amounts as provided for in the judgment or by law, except this section does not apply to a debt owed to the courts which does not exceed the sum of fifty dollars ($50.00). A debt owed to the courts is delinquent when it is not paid according to the terms of the judgment or order or any agreement entered into between the court and the taxpayer for the payment thereof.

(4) Any claims for current or past-due child support presented under section 56-203D, Idaho Code, or claims for set-off of income tax refunds against any tax liability or overpayment of benefits owed to the state department of labor pursuant to section 63-3077A, Idaho Code, shall take priority over any claim for delinquent debt owed to the courts under this section.

(5) The set-off or withholding of a refund due a taxpayer shall be remitted only after the following conditions have been met:

(a) A debt owed to the courts is delinquent. This section shall not be used to satisfy any amount ordered by the court until the order or judgment is final and the time for appealing the judgment or order has elapsed without any further right on the part of the person owing the amount to judicial review.

(b) All outstanding tax liabilities collectible by the state tax commission are satisfied.

(c) The supreme court shall forward to the state tax commission the full name and social security number of the taxpayer. The tax commission shall notify the supreme court of the amount of refund due the taxpayer and the taxpayer's address on the income tax return.

(d) Upon remittance of any set-off or part thereof, the court shall cause a written notice to be sent to the taxpayer whose refund is subject to the set-off. Notice of the set-off shall be sent by United States mail to the taxpayer at the address listed on the income tax return. Within twenty-one (21) days after such notice has been mailed (not counting Saturday, Sunday or a state holiday as the twenty-first day), the taxpayer may file a written request for an administrative waiver of the set-off in accordance with procedures established by the supreme court, which may impose reasonable requirements concerning the information necessary to process the request for an administrative waiver. No issues or claims previously decided in a court order or judgment, or admitted or agreed to by the taxpayer, shall be considered in connection with a request for an administrative waiver. In the case of a refund that is set-off in error under this section, the court shall reimburse the taxpayer.

(6) The supreme court shall create a suspense account to pay amounts that are found to be set-off in error under the provisions of subsection (5)(d) of this section or to refund any balance that remains after the debt to the courts is satisfied. If no written request for an administrative waiver of the set-off is made within twenty-one (21) days, such failure shall be deemed a waiver of the right to contest the set-off and the amount of the set-off shall be removed from the suspense account and shall be credited to the taxpayer's debt to the courts. The court may waive the twenty-one (21) day time limit in appropriate circumstances.

(7) When set-off is attempted on a joint return under the provisions of this section, the taxpayer not specified to be the obligor in the judgment or agreement creating the debt owed to the court may file a written objection within the time limits specified in subsection (5)(d) of this section and the set-off will be limited to one-half (1/2) of the joint refund.

(8) If the refund is insufficient to satisfy the entire debt owed to the courts, the remainder of the debt may be collected as provided by law or submitted for set-off against subsequent refunds.

(9) The proceeds from the set-off shall be credited to the debt owing to the courts and shall be distributed as provided by law.

(10) The state tax commission and the supreme court independently may adopt rules governing its administration of this section and are authorized to enter into a written agreement to implement and facilitate the provisions of this section, including the method of making remittances of the amount which has been set-off pursuant to this section.

Approved April 14, 2003.

CHAPTER 289
(H.B. No. 358)

AN ACT

RELATING TO THE TOBACCO MASTER SETTLEMENT AGREEMENT; AMENDING SECTION 39-7803, IDAHO CODE, TO REVISE HOW FUNDS PLACED IN ESCROW MAY BE RELEASED; TO PROVIDE SEVERABILITY AND TO PROVIDE A CONTINGENT EFFECTIVE DATE UPON CERTAIN CIRCUMSTANCES OCCURRING AND THE GOVERNOR ISSUING A PROCLAMATION AND FILING THE SAME WITH THE SECRETARY OF STATE; REPEALING SECTION 39-7803, IDAHO CODE; AND AMENDING CHAPTER 78, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-7803, IDAHO CODE, TO PROVIDE REQUIREMENTS UPON TOBACCO PRODUCT MANUFACTURERS SELLING CIGARETTES TO CONSUMERS WITHIN THE STATE.

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

SECTION 1. That Section 39-7803, Idaho Code, be, and the same is hereby amended to read as follows:

39-7803. REQUIREMENTS. Any tobacco product manufacturer selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this act shall do one (1) of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1999: $.0094241 per unit sold after the date of enactment of this act;

2000: $.0104712 per unit sold;

For each of 2001 and 2002: $.0136125 per unit sold;

For each of 2003 through 2006: $.0167539 per unit sold;

For each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) of this subsection shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph: (i) in the order in which they were placed into escrow; and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow <u>on account of units sold in the state</u> in a particular year was greater than ~~the state's allocable share of the total payments that such manufacturer would have been required to make in that~~

~~year--under-the-Master-Settlement-Agreement-(as-determined-pursuant-to-section-IX(i)(2)-of-the-Master--Settlement--Agreement, and--before-any-of-the-adjustments-or-offsets-described-in-section-IX(i)(3)--of--that--Agreement--other--than--the--inflation adjustment)~~ the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) To the extent not released from escrow under subparagraphs (A) or (B) of this paragraph, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the attorney general that it is in compliance with this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(A) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this section, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(B) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(C) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

(4) In any action brought under this section, the court shall award the attorney general, if he is the prevailing party, reasonable costs, expenses and attorney's fees in bringing his action.

SECTION 2. SEVERABILITY. If this act, or any portion of the amendment of subsection (b)(2)(B) of Section 39-7803, Idaho Code, made by this act, is held by a court of competent jurisdiction to be unconstitu-

tional, then Sections 3 and 4 of this act shall be in full force and effect. If such finding occurs, the Governor shall, upon his determination that such event has occurred, make a proclamation declaring said event to have happened and the date of such event and file the same with the Secretary of State.

SECTION 3. That Section 39-7803, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 78, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-7803, Idaho Code, and to read as follows:

39-7803. REQUIREMENTS. Any tobacco product manufacturer selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this act shall do one (1) of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1999: $.0094241 per unit sold after the date of enactment of this act;

2000: $.0104712 per unit sold;

For each of 2001 and 2002: $.0136125 per unit sold;

For each of 2003 through 2006: $.0167539 per unit sold;

For each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) of this subsection shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph: (i) in the order in which they were placed into escrow; and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) To the extent not released from escrow under subparagraphs

(A) or (B) of this paragraph, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the attorney general that it is in compliance with this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(A) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this section, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(B) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(C) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

(4) In any action brought under this section, the court shall award the attorney general, if he is the prevailing party, reasonable costs, expenses and attorney's fees in bringing his action.

Approved April 14, 2003.

CHAPTER 290
(H.B. No. 363)

AN ACT

RELATING TO THE EMERGENCY COMMUNICATIONS ACT; AMENDING SECTION 31-4801, IDAHO CODE, TO PROVIDE FURTHER LEGISLATIVE PURPOSE; AMENDING SECTION 31-4802, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-4803, IDAHO CODE, TO PROVIDE FOR A VOTER APPROVED EMERGENCY COMMUNICATIONS FEE, TO PROVIDE WHEN NO FURTHER VOTE IS NECESSARY, TO PROVIDE FOR REVIEW OF THE FEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4804, IDAHO CODE, TO PROVIDE THE AMOUNT OF THE EMERGENCY COMMUNICATIONS FEE, TO PROVIDE PRO-

CEDURES AND TO PROVIDE FOR USE OF FEES; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4804A, IDAHO CODE, TO PROVIDE FOR ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS; AMENDING SECTION 31-4805, IDAHO CODE, TO PROVIDE FOR A GOVERNING BOARD OR ADMINISTRATOR AFTER THE VOTER APPROVAL OF AN EMERGENCY COMMUNICATIONS FEE; AMENDING SECTION 31-4806, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF AN OFFICIAL OR ADMINISTRATOR TO MAINTAIN, OPERATE, ENHANCE AND GOVERN A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM; AMENDING SECTION 31-4812, IDAHO CODE, TO REVISE IMMUNITY AND CONDITIONS OF LIABILITY STANDARDS IN PROVIDING EMERGENCY COMMUNICATIONS SERVICES; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 31-4813 AND 31-4814, IDAHO CODE, TO PROVIDE APPLICATION TO PREPAID CALLING CARDS, AND TO PROVIDE FOR CONFIDENTIAL AND PROPRIETARY DATA.

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

SECTION 1. That Section 31-4801, Idaho Code, be, and the same is hereby amended to read as follows:

31-4801. PURPOSE. The legislature recognizes that providing consolidated emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, ~~and~~ operation, enhancement and governance of consolidated emergency communications systems.

(1) The legislature of the state of Idaho finds that:

(a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

(b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wire-line services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;

(c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;

(d) Utilization of cellular telephones to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system.

(e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services are available to all citizens of the state and in all areas of the state. Accordingly, it is the intent of the legislature that the association of Idaho cities and the Idaho association of counties establish a task force composed of county commissioners, sheriffs, city councilmen, police chiefs, fire chiefs, emergency medical service providers and telecommunications providers. The purpose of the

task force is to review and, if appropriate, recommend legislation to the second regular session of the fifty-seventh Idaho legislature concerning the: (i) governance of 911 emergency communications systems and (ii) the establishment of emergency communications systems for those counties of the state that do not have such systems.

(2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:

(a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of both telephone lines and wireless communications systems;

(b) Provide that the emergency communications fee shall be exclusively utilized by the counties electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems;

(c) Provide for the agreed-to reimbursement to wireless carriers for their implementation of enhanced consolidated emergency communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems.

SECTION 2. That Section 31-4802, Idaho Code, be, and the same is hereby amended to read as follows:

31-4802. DEFINITIONS. As used in this chapter:

(1) "Access line" means any telephone line, trunk line, network access register, dedicated radio signal, or equivalent that provides switched telecommunications access to a consolidated emergency communications system from either a service address or a place of primary use within this state. In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.

(2) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communications system, and to receive funds for such an operation.

(3) "Basic consolidated emergency system" means consolidated emergency systems that are not enhanced.

(~~2~~4) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.

(5) "Emergency communications fee" means the fee provided for in section 31-4803, Idaho Code.

(6) "Enhanced consolidated emergency system" means consolidated emergency systems that provide enhanced wireless 911 service and include, but are not limited to, the technological capability to provide call back numbers, cell site locations, and the location of calls by latitude and longitude and made through the systems of wireless carriers.

(~~3~~7) "Governing board" means the joint powers board, if the 911 service area is a multicounty area, or the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.

(~~4~~8) "911 service area" means a regional, multicounty, county or area other than a whole county in which area the residents have voted to

establish a consolidated emergency communications system.

(9) "Place of primary use" means the residential street address or the primary business street address in Idaho where the customer's use of the wireless service primarily occurs.

(10) "Telecommunications provider" means any person providing exchange telephone service to a service address within this state or any wireless carrier providing telecommunications service to any customer having a place of primary use within this state.

(11) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such rule.

SECTION 3. That Section 31-4803, Idaho Code, be, and the same is hereby amended to read as follows:

31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM. (1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by chapter 23, title 67, Idaho Code. The service area may be regional, multicounty, ~~county-wide~~ countywide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a ~~county-wide~~ countywide consolidated emergency communications system, or if the voters reject a ~~county-wide~~ countywide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The 911 service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area may authorize funding to support implementation of a consolidated emergency communications system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county or of the 911 service area at either a primary or general election. A notice for any election shall be published for twenty (20) days as required by section 60-109, Idaho Code. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the ~~telephone-line-user~~ emergency communications fee.

(3) If a 911 system is to be financed in whole or in part by ~~a telephone--line--user~~ an emergency communications fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

> "Shall the governing board of ..... be authorized to institute ~~a telephone-line-user~~ an emergency communications fee in an amount no greater than one dollar ($1.00) per month to be used to fund an emergency telephone system, commonly known as 911 service?".

(4) No ~~telephone-line-user~~ emergency communications fee for a consolidated emergency communications system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communications system shall be used by that taxing district for a reduction in the ~~ad--valorem~~ property tax charges of that taxing district.

(6) If the voters of any county or 911 service area have previously approved funding of a consolidated emergency communications system in the manner provided in subsections (2) and (3) of this section, no further vote is necessary to authorize the emergency communications fee set forth in this act.

(7) Effective October 1, 2004, and every year thereafter, the emergency communications fee provided for in this act shall be reviewed and modified as required by this subsection by the board of commissioners of a countywide system or by the governing board of a 911 service area as follows:

(a) The level of the emergency communications fee shall be reviewed and, as appropriate and necessary, readjusted by action of the board of commissioners or the governing board on an annual basis. The board of commissioners or governing board shall set the level of the fee based upon the revenue requirements necessary to implement an annual budget prepared under the direction of the board of commissioners or governing board for the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system, including both basic and, if applicable, enhanced consolidated emergency systems.

(b) The revenues from emergency communications fees shall be exclusively expended pursuant to the budget established in paragraph (a) of this subsection. Use of such revenues for any other purpose is expressly prohibited.

(c) The process of reviewing and setting the level of emergency communications fees shall be governed by the meeting and public notice provisions of section 31-710(4), Idaho Code. For the purposes of this section, the setting of a fee shall be deemed to be the promulgation of a rule such that public participation provisions of section 67-5222, Idaho Code, shall apply to the meetings of the board of commissioners or of a governing board pursuant to this section.

SECTION 4. That Section 31-4804, Idaho Code, be, and the same is hereby amended to read as follows:

31-4804. ~~TELEPHONE-LINE-USER~~ EMERGENCY COMMUNICATIONS FEE. (1) The ~~telephone-line-user~~ emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar ($1.00) per month per ~~exchange~~ access line, ~~trunk-line,--network--access--register,-or-equivalent,~~ and such fee shall be used exclusively to finance the initiation, maintenance, ~~or~~ operation, enhancement and governance of a consolidated emergency communications system ~~within the-boundaries-of-one-(1)-county-or-911-service-area~~ and provide for the reimbursement of wireless carriers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to

this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be collected from customers on a monthly basis by all telecommunications ~~entities which provide local telephone line service~~ providers that make available access lines to persons within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills.

(3) The ~~telephone--companies~~ telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the ~~telephone company~~ telecommunications provider required to remit the same shall be entitled to deduct and retain ~~three fourths of~~ one percent (~~.75~~1%) of the collected amount as the cost of administration for collecting the charge. ~~Local--exchange companies~~ Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, administrative and other day to day operational expenditures, shall continue to be paid through the general funding of the respective governing boards.

SECTION 5. That Chapter 48, 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 31-4804A, Idaho Code, and to read as follows:

31-4804A. ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS. (1) Any county or 911 service area that has established a basic consolidated emergency system may establish an enhanced consolidated emergency system by action of the governing board of the basic consolidated emergency system.

(2) The governing boards establishing enhanced consolidated emergency systems shall request that wireless carriers serving such counties or 911 service areas collectively implement an enhanced consolidated emergency communications system within a reasonable time. When so requested, all wireless carriers serving such counties or 911 service

areas shall implement enhanced consolidated emergency communications systems within a reasonable time. The governing boards and wireless carriers shall enter into agreements that:

(a) Establish the scope and purpose of the proposed enhanced consolidated emergency communications system.

(b) Provide for an agreed-to level of reimbursement for telecommunications providers for the costs of wireless carriers resulting from their implementation and operation of enhanced emergency communications systems that may include the acquisition, construction, financing, installation and operation of all equipment and facilities necessary to implement such enhanced systems.

(c) Provide that the agreed-to level of reimbursement for telecommunications providers for enhanced 911 service may include the costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(d) Provide that reimbursement to a telecommunications provider shall be nondiscriminatory and be made available to all other telecommunications providers.

Agreements shall provide for prompt reimbursement on invoices submitted by wireless carriers to the governing board.

SECTION 6. That Section 31-4805, Idaho Code, be, and the same is hereby amended to read as follows:

31-4805. ESTABLISHMENT OF JOINT POWERS BOARD FOR OPERATION OF EMERGENCY COMMUNICATIONS SERVICE. Within one hundred eighty (180) days following voter approval of ~~a telephone line user~~ <u>an emergency communications</u> fee as provided in section 31-4803, Idaho Code, a governing board or administrator may be established under a joint powers agreement pursuant to sections 67-2326 through 67-2332, Idaho Code. Such joint powers board or administrator shall be responsible for establishing, <u>maintaining, operating, enhancing</u> and governing a consolidated emergency communications system. Providing an emergency communications service shall be considered a governmental function.

SECTION 7. That Section 31-4806, Idaho Code, be, and the same is hereby amended to read as follows:

31-4806. AUTHORIZATION FOR GOVERNING BOARD TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT. Whenever the electors approve imposing the ~~telephone line user~~ <u>emergency communications</u> fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or administrator as provided in this chapter, the governing board is hereby authorized to appoint an official or administrator to <u>maintain, operate, enhance</u> and govern a consolidated emergency communications system.

SECTION 8. That Section 31-4812, Idaho Code, be, and the same is hereby amended to read as follows:

31-4812. IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE. In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that ~~telephone companies providing~~ telecommunications providers making available consolidated emergency communications systems and related services shall not be subject to liability in conjunction with providing such services except on the terms stated below.

(1) No ~~telephone company or~~ telecommunications provider shall be liable to any person for the good faith release to emergency communications system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.

(2) A ~~local exchange telephone company or other~~ telecommunications ~~entity providing~~ provider making available emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.

(3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

SECTION 9. That Chapter 48, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 31-4813 and 31-4814, Idaho Code, and to read as follows:

31-4813. PREPAID CALLING CARDS. The imposition of the emergency communications fee shall not apply to the prepaid calling cards for all forms of access fees.

31-4814. CONFIDENTIAL AND PROPRIETARY DATA. All data submitted to governing boards by wireless carriers deemed by such carriers as confidential and proprietary shall be deemed to be trade secrets pursuant to chapter 3, title 9, Idaho Code.

Approved April 14, 2003.

CHAPTER 291
(H.B. No. 369)

AN ACT

RELATING TO FUNDING FOR THE DRUG COURT AND FAMILY COURT SERVICES FUND; AMENDING SECTION 23-217, IDAHO CODE, TO REVISE THE AMOUNT OF THE SURCHARGE ADDED TO THE PRICE OF GOODS SOLD IN THE STATE LIQUOR DISPENSARY, TO MAKE TECHNICAL CORRECTIONS, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE FOR DISTRIBUTION OF CERTAIN MONEYS INTO THE DRUG COURT AND FAMILY COURT SERVICES FUND; AND AMENDING CHAPTER 16,

TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-1624, IDAHO CODE, TO CREATE THE DRUG COURT AND FAMILY COURT SERVICES FUND AND TO SPECIFY THE USE OF FUND MONEYS.

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

SECTION 1. That Section 23-217, Idaho Code, be, and the same is hereby amended to read as follows:

23-217. SURCHARGE ADDED TO PRICE OF GOODS SOLD -- COLLECTION AND REMISSION BY SUPERINTENDENT. (~~a~~1) The superintendent of the state liquor dispensary is hereby authorized and directed to include in the price of goods hereafter sold in the dispensary, and its branches, a surcharge equal to ~~fifteen per cent~~ two percent (~~15~~2%) of the current price per unit computed to the nearest multiple of five cents (5¢). ~~Provided, however, that~~

(2) A~~a~~fter the price of the surcharge has been included, the superintendent of the state liquor dispensary is hereby authorized and ~~directed~~ to allow a discount of five ~~per cent~~ percent (5%) from the price of each order of goods sold to any licensee, as defined in section 23-902~~e.~~(7), Idaho Code.

(~~b~~3) The surcharge imposed pursuant to this section shall be collected and credited monthly to the ~~liquor account~~ drug court and family court services fund, as set forth in section 1-1624, Idaho Code.

SECTION 2. That Chapter 16, 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 1-1624, Idaho Code, and to read as follows:

1-1624. DRUG COURT AND FAMILY COURT SERVICES FUND. There is hereby created in the office of the state treasurer a special fund to be known as the drug court and family court services fund. Moneys deposited into the fund pursuant to section 23-217, Idaho Code, subject to appropriation by the legislature, shall be used by the supreme court for the operations of drug courts, including drug testing, drug court substance abuse treatment and supervision, and related court programs, as provided in chapter 56, title 19, Idaho Code, and for the purpose of assisting children and families in the courts, as provided in chapter 14, title 32, Idaho Code.

Approved April 14, 2003.

CHAPTER 292
(H.B. No. 377)

AN ACT
APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2004; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Idaho State Police the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,970,800	$ 275,100	$ 85,500		$ 2,331,400
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,672,300	$ 519,400			$ 2,191,700
Indirect Cost Recovery Fund	70,600				70,600
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	471,700	125,700		$3,534,300	4,131,700
TOTAL	$ 2,226,900	$ 701,400		$3,534,300	$ 6,462,600
B. EXECUTIVE PROTECTION:					
FROM:					
General Fund	$ 210,600	$ 80,400			$ 291,000
C. INVESTIGATIONS:					
FROM:					
General Fund	$ 4,347,700	$ 949,700			$ 5,297,400
Drug Donation Fund		281,000	$ 287,200		568,200
Federal Grant Fund	104,400	384,200			488,600
TOTAL	$ 4,452,100	$ 1,614,900	$ 287,200		$ 6,354,200
D. PATROL:					
FROM:					
General Fund	$ 1,774,900	$ 532,700	$ 949,900		$ 3,257,500
Idaho Law Enforcement Fund	11,687,400	2,224,100			13,911,500
Hazardous Materials/ Waste Enforcement Fund	124,600	42,800		$ 67,800	235,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	61,800		300,000		361,800
Federal Grant Fund	1,145,200	1,101,700	445,200		2,692,100
TOTAL	$14,793,900	$ 3,901,300	$1,695,100	$ 67,800	$20,458,100
E. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ 828,000	$ 334,100			$ 1,162,100
Miscellaneous Revenue Fund	66,900	18,400			85,300
TOTAL	$ 894,900	$ 352,500			$ 1,247,400
F. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,449,300	$ 861,200			$ 2,310,500
Idaho Law Enforcement Fund	1,190,900	139,700			1,330,600
Idaho Law Enforcement Telecommunications Fund	305,000	501,400			806,400
Miscellaneous Revenue Fund	596,700	1,104,200	$ 33,000		1,733,900
Federal Grant Fund	84,300	222,900			307,200
TOTAL	$ 3,626,200	$ 2,829,400	$ 33,000		$ 6,488,600
G. FORENSIC SERVICES:					
FROM:					
General Fund	$ 1,764,800	$ 488,900			$ 2,253,700
Miscellaneous Revenue Fund	69,500	179,700			249,200
Drug Donation Fund		30,000			30,000
Federal Grant Fund		99,800			99,800
TOTAL	$ 1,834,300	$ 798,400			$ 2,632,700
DIVISION TOTAL	$28,038,900	$10,278,300	$2,015,300	$3,602,100	$43,934,600
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 853,900	$ 1,015,100		$ 89,300	$ 1,958,300
Miscellaneous Revenue Fund		205,100			205,100
Federal Grant Fund	40,300	137,100		37,900	215,300
TOTAL	$ 894,200	$ 1,357,300		$ 127,200	$ 2,378,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 348,500	$ 311,500	$ 25,000		$ 685,000
Pari-mutuel Distributions Fund				$ 100,000	100,000
TOTAL	$ 348,500	$ 311,500	$ 25,000	$ 100,000	$ 785,000
GRAND TOTAL	$31,252,400	$12,222,200	$2,125,800	$3,829,300	$49,429,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred twenty-seven and seven-hundredths (527.07) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 14, 2003.

CHAPTER 293
(H.B. No. 382)

AN ACT

RELATING TO INDEPENDENT CANDIDATES; AMENDING SECTION 34-708, IDAHO CODE, TO PROVIDE THAT A DECLARATION OF CANDIDACY AS AN INDEPENDENT CANDIDATE MUST BE FILED DURING THE PERIOD SPECIFIED IN SECTION 34-704, IDAHO CODE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 34-708, Idaho Code, be, and the same is hereby amended to read as follows:

34-708. INDEPENDENT CANDIDATES. (1) No person may offer himself as an independent candidate at the primary election.

(2) Any person who desires to offer himself as an independent candidate for federal, state, district, or county office may do so by complying strictly with the provisions of this section. In order to be recognized as an independent candidate, each such candidate must file with the proper officer as provided by section 34-705, Idaho Code, a declaration of candidacy as an independent candidate, ~~between 8 a.m. on the tenth Monday preceding the primary election and 5 p.m. on the eighth Friday preceding the primary election~~ during the period specified in section 34-704, Idaho Code. Such declaration must state that he is

offering himself as an independent candidate, must declare that he has no political party affiliation, and must declare the office for which he seeks election. Each such declaration must be accompanied by a petition containing the following number of signatures of qualified electors:

(a) One thousand (1,000) for any statewide office;

(b) Five hundred (500) for any congressional district office;

(c) Fifty (50) for any legislative district office;

(d) Five (5) for any county office~~;~~.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in section 34-1807, Idaho Code.

(4) If all of the requirements of this section have been met, the proper officer shall cause the name of each independent candidate who has qualified to be placed on the general election ballot, according to instructions of the secretary of state.

Approved April 14, 2003.

CHAPTER 294
(H.B. No. 384)

AN ACT

RELATING TO APPROPRIATIONS FOR THE DEPARTMENT OF JUVENILE CORRECTIONS AND THE IDAHO STATE POLICE; AMENDING SECTION 1, CHAPTER 324, LAWS OF 2002, TO REDUCE THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 2, CHAPTER 324, LAWS OF 2002, TO PROVIDE ADDITIONAL AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE DEPARTMENT OF JUVENILE CORRECTIONS; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2003; PROVIDING TRANSFERS TO THE PEACE OFFICER BENEFIT FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 324, Laws of 2002, be, and the same is hereby amended to read as follows:

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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,580,700	$ 737,000			$ 2,317,700
Miscellaneous Revenue Fund	84,300	117,000	$4,300		205,600
TOTAL	$ 1,665,000	$ 854,000	$4,300		$ 2,523,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 883,700	$ 140,300		$ 3,400,900	$ 4,424,900
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,550,000	4,550,000
Juvenile Corrections Fund	35,800	168,500			204,300
Federal Grant Fund	39,600				39,600
Miscellaneous Revenue Fund				70,000	70,000
TOTAL	$ 959,100	$ 308,800		$ 8,020,900	$ 9,288,800
III. INSTITUTIONS:					
FROM:					
General Fund	$~~12,919,700~~ 12,945,200	$~~1,244,100~~ 1,201,400		$~~11,735,900~~ 11,635,900	$~~25,899,700~~ 25,782,500
State Juvenile Corrections Center Fund		1,272,100			1,272,100
Federal Grant Fund	~~221,100~~ 252,400	91,700		1,110,000	~~1,422,800~~ 1,454,100
Miscellaneous Revenue Fund		362,000		870,000	1,232,000
TOTAL	$~~13,140,800~~ 13,197,600	$~~2,969,900~~ 2,927,200		$~~13,715,900~~ 13,615,900	$~~29,826,600~~ 29,740,700
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 83,500	$ 11,500		$ 56,000	$ 151,000
Federal Grant Fund	183,000	339,900		2,585,600	3,108,500
TOTAL	$ 266,500	$ 351,400		$ 2,641,600	$ 3,259,500
GRAND TOTAL	$~~16,031,400~~ 16,088,200	$~~4,484,100~~ 4,441,400	$4,300	$~~24,378,400~~ 24,278,400	$~~44,898,200~~ 44,812,300

SECTION 2. That Section 2, Chapter 324, Laws of 2002, be, and the same is hereby amended to read as follows:

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hun-

dred ~~forty-nine~~ fifty-three and seventy-five hundredths (~~349~~ 353.75) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 198, Laws of 2002, there is hereby appropriated to the Idaho State Police, 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, 2002, through June 30, 2003: DIVISION OF IDAHO STATE POLICE

DIRECTOR'S OFFICE:

FOR:

Trustee and Benefit Payments	$100,000

FROM:

Peace Officer Benefit Fund	$100,000

SECTION 4. The State Controller shall make cash transfers from the General Fund to the Peace Officer Benefit Fund, at the request of the Director of the Idaho State Police, not to exceed $100,000, for the period July 1, 2002, through June 30, 2003.

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

Approved April 14, 2003.

CHAPTER 295
(H.B. No. 44)

AN ACT

RELATING TO LEASES OF STATE LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO EXEMPT COMMERCIAL LEASES FROM THE LEASE YEAR OF JANUARY 1 THROUGH DECEMBER 31 AND TO EXEMPT COMMERCIAL LEASES FROM AN EXPIRATION DATE ON DECEMBER 31 OF THE YEAR OF EXPIRATION.

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

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state public school endowment lands, other than those valuable for stone, coal, oil, gas or other minerals, shall be for a longer term than ten (10) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public

purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, only the state endowment lands, other than public school endowment lands, described below may be leased for a period of up to forty-nine (49) years for commercial purposes, under such terms and conditions as may be set by the board, provided that the board consults with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - E1/2, Section 5, T2N, R2E, Boise Meridian, containing three hundred twenty (320) acres, more or less, and located south of the Boise Airport on Pleasant Valley Road.

(b) One (1) parcel - SWSWNW, Section 27, T3N, R2E, Boise Meridian, containing eight (8) acres, more or less, located northeasterly of the Boise Airport and north of the Boise Interagency Fire Center.

(c) Four (4) parcels - E1/2SW, W1/2SE, NESE, Section 31; SW1/4, Section 32, T3N, R2E, Boise Meridian, all containing three hundred sixty (360) acres, more or less, located south of the Boise Airport and west of Pleasant Valley Road.

(d) Three (3) parcels - SWSW, Section 28; Pt. SESE, Section 29 (east of the Railroad R/W, now a bikepath); W1/2NW, Section 33, all in T3N, R18E, Boise Meridian, all containing one hundred twenty-five (125) acres, more or less, located two (2) miles northerly of Hailey, Idaho, excepting therefrom, a parcel of land, containing twenty (20) acres, more or less, at a location to be determined with access to the sheep driveway located on the county road.

(e) One (1) parcel - SWNE, Section 32, T3N, R2E, Boise Meridian, containing forty (40) acres, more or less, located southerly and westerly of the Boise Airport off Gowen Road; Public Building Endowment.

(f) Two (2) parcels - Part NESWNE, Section 35, T3N, R2E, Boise Meridian, containing three and fifteen hundredths (3.15) acres, more or less; Part NENESE, Section 35, T3N, R2E, Boise Meridian, containing one and eight-tenths (1.8) acres, more or less; both located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Normal School Endowment.

(g) One (1) parcel - Part Lot 1, Section 1, T2N, R2E, Boise Meridian, containing five (5) acres, more or less, located near the Gowen Road/State Highway 21 Exit from I-84; Penitentiary Endowment.

(h) One (1) parcel - N1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, excepting that portion deeded to Ada County for a public road, containing twenty-eight and seventy-nine hundredths (28.79) acres, more or less, located south of the Boise Airport and east of Pleasant Valley Road; Normal School Endowment.

(4) Notwithstanding any other provisions of law, only the state public school endowment lands described below may be leased for commercial purposes, for a term not to exceed ten (10) years, and the board may grant, upon payment of good and valuable consideration, a preferen-

tial right to renew said lease not more than four (4) times, provided that the board shall consult with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - All, Section 16, T3N, R18E, Boise Meridian, containing six hundred forty (640) acres, more or less, and located in Ohio Gulch some five (5) miles northerly of Hailey, Idaho.

(b) One (1) parcel - E1/2NE, Section 16, T18N, R3E, Boise Meridian, containing eighty (80) acres, more or less, and located northwesterly of the intersection of Deinhard Lane and Sampson Trail in McCall, Idaho.

(c) One (1) parcel - S1/2NW, NESW, Part NWSW, Part SWSW, Part SESW, Section 36, T3N, R2E, Boise Meridian, containing one hundred seventy-eight and seventy-one hundredths (178.71) acres, more or less, located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Public School Endowment.

(d) One (1) parcel - NE1/4SW1/4, SE1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, containing fifty (50) acres, more or less, located south of the Boise Airport and east of Pleasant Valley Road; Public School Endowment.

(e) Two (2) parcels - Lot 14 (Pt. NESE), Lot 15 (Pt. NESE), Lot 16 (Pt. N2SE), SWSE, Lot 17 (SESE), Section 22, Township 6 North, Range 36 East, Boise Meridian, containing one hundred sixty and two-tenths (160.20) acres more or less; NWSW, Pt. SWSW, Section 23, Township 6 North, Range 36 East, Boise Meridian, containing forty-eight (48) acres, more or less, located fifty (50) miles north of Idaho Falls at the junction of State Highway 28 and Interstate Highway 15.

(f) One (1) parcel - Lot 9 (Pt. NWNE, Pt. NENW), Lot 10 (Pt. SWNE, Pt. SENW), Section 12, Township 2 North, Range 37 East, Boise Meridian, containing nineteen and twenty-seven hundredths (19.27) acres, more or less, located adjacent to the U of I/ISU Center in Idaho Falls.

(g) One (1) parcel - Lots 1 and 2, Section 8, Township 2 North, Range 38 East, Boise Meridian, containing seven and seventy-seven hundredths (7.77) acres, more or less, located on Lincoln Street in Idaho Falls.

(h) One (1) parcel - W1/2, Section 16; Lot 1 and 2 (E2NE), W2NE, Section 17, Township 3 South, Range 18 East, Boise Meridian, containing four hundred eighty and fifty-seven hundredths (480.57) acres more or less, located on State Highway 93 north of Shoshone at Shoshone Ice Caves.

(5) The term "commercial purposes" means industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, agricultural leases, grazing leases, oil and gas leases, mineral leases, geothermal leases and single family, recreational cottage site and homesite leases are not considered leases for commercial purposes.

(6) The board may require that all fixed improvements constructed

upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(7) Except for geothermal, oil and gas, ~~and~~ mineral and commercial leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(8) All applications to lease or to renew an existing lease which expires December 31 of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of April preceding the date of such expiration. Such applications will be considered by the state land board and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause.

(9) Where conflicts appear upon leases which do not contain a preferential right to renew clause, such applications shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time.

(10) In case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(11) Commercial leases of the state lands described in this section shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board; in the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In either case, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

Approved April 15, 2003.

CHAPTER 296
(H.B. No. 279)

AN ACT

RELATING TO INCOME TAX WITHHOLDING; AMENDING SECTION 63-3035, IDAHO CODE, TO INCREASE THE MAXIMUM ANNUAL AND MONTHLY AMOUNTS OF WITHHOLDING WHEN THE EMPLOYER MUST PAY TO THE STATE TAX COMMISSION NOT LATER THAN FIVE DAYS AFTER THE END OF THE WITHHOLDING PERIOD, TO PROVIDE THAT COMMENCING IN 2006, THE STATE TAX COMMISSION SHALL DETERMINE WHETHER THE THRESHOLD AMOUNTS MUST BE ADJUSTED TO REFLECT FLUCTUATIONS IN THE COST OF LIVING AND TO INCREASE MONTHLY THRESHOLD AMOUNTS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(4) must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer

for the preceding twelve (12) month period equals or exceeds ~~sixty~~ two hundred forty thousand dollars ($6240,000) per annum or an average of ~~five~~ twenty thousand dollars ($520,000) per month per annum, pay to the state tax commission on the basis of withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and payment shall be made not later than five (5) days after the end of the withholding period.

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

(6) Commencing in ~~1994~~2006, the state tax commission shall determine whether the threshold amounts established by subsection (a)(4) of this section ~~must be adjusted~~ to reflect fluctuations in the cost of living. The commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 USC 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds ~~one~~ five thousand dollars ($~~1~~5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by ~~one~~ five thousand dollars ($~~1~~5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) Every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than quarterly, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code. The return shall show, for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, and such pertinent and necessary information as the state tax commission may require.

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

(c) All moneys deducted and withheld by every employer shall imme-

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

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

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

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

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

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

SECTION 2. This act shall be in full force and effect on and after July 1, 2005.

Approved April 15, 2003.

CHAPTER 297
(H.B. No. 283, As Amended)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6529, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGULATION OF THE SITING OF CERTAIN CONFINED ANIMAL FEEDING OPERATIONS BY BOARDS OF COUNTY COMMISSIONERS, TO REVISE PROVISIONS RELATING TO PUBLIC HEARINGS RELATING TO SITING OF CERTAIN CONFINED ANIMAL FEEDING OPERATIONS, TO PROVIDE FOR THE REJECTION OF A SITE BY BOARDS OF COUNTY COMMISSIONERS, TO STRIKE AN EXEMPTION AND TO STRIKE A PROVISION RELATING TO VOLUNTARY APPLICATION.

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

SECTION 1. That Section 67-6529, Idaho Code, be, and the same is hereby amended to read as follows:

67-6529. APPLICABILITY TO AGRICULTURAL LAND -- COUNTIES MAY REGULATE SITING OF CERTAIN ANIMAL OPERATIONS AND FACILITIES. (1) No power granted hereby shall be construed to empower a board of county commissioners to enact any ordinance or resolution which deprives any owner of full and complete use of agricultural land for production of any agricultural product. Agricultural land shall be defined by local ordinance or resolution.

(2) Notwithstanding any provision of law to the contrary, a board of county commissioners ~~may~~ shall enact ordinances and resolutions to regulate the siting of large confined animal feeding operations and facilities, as they shall be defined by the board, provided however, that the definition of a confined animal feeding operation shall not be less restrictive than the definition contained in section 67-6529C, Idaho Code, including the approval or rejection of sites for the operations and facilities. At a minimum, a county's ordinance or resolution shall provide that the board of county commissioners ~~may reject a site regardless of the approval or rejection of the site by a state agency. A board of county commissioners undertaking such regulation~~ shall hold at least one (1) public hearing affording the public an opportunity to comment on each proposed site before the siting of such facility. Several sites may be considered at any one (1) public hearing. Only members of the public with their primary residence within a one (1) mile radius of a proposed site may provide comment at the hearing. However, this distance may be increased by the board. A record of each hearing and comments received shall be made by the board. The comments shall be duly considered by the board when deciding whether to approve or reject a proposed site. A board of county commissioners may reject a site regard-

less of the approval or rejection of the site by a state agency. ~~A board of county commissioners with a process in place on January 1, 2000, for the siting of large confined animal feeding operations and facilities is exempt from the requirements of this subsection but may choose to operate under this subsection.~~

Approved April 15, 2003.

CHAPTER 298
(H.B. No. 284)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-202B, IDAHO CODE, TO PROVIDE FOR CERTAIN APPLICATION OF DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 42-203A, IDAHO CODE, TO REVISE CRITERIA TO BE CONSIDERED BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES ASSOCIATED WITH THE DETERMINATION OF APPLICATIONS FOR THE APPROPRIATION OF WATER AND TO CLARIFY THE MANNER IN WHICH MINIMUM STREAM FLOW WATER RIGHTS MAY BE ESTABLISHED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-222, IDAHO CODE, TO REVISE CRITERIA TO BE CONSIDERED BY THE DIRECTOR ASSOCIATED WITH THE DETERMINATION OF APPLICATIONS TO CHANGE THE POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS AND TO CLARIFY THE MANNER IN WHICH MINIMUM STREAM FLOW WATER RIGHTS MAY BE ESTABLISHED; AMENDING SECTION 42-240, IDAHO CODE, TO REVISE CRITERIA TO BE CONSIDERED BY THE DIRECTOR ASSOCIATED WITH THE DETERMINATION OF APPLICATIONS TO MAKE CERTAIN EXCHANGES OF WATER; AND AMENDING SECTION 42-1763, IDAHO CODE, TO REVISE CRITERIA TO BE CONSIDERED BY THE DIRECTOR ASSOCIATED WITH THE DETERMINATION OF PROPOSED RENTALS OF WATER FROM THE WATER SUPPLY BANK.

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

SECTION 1. That Section 42-202B, Idaho Code, be, and the same is hereby amended to read as follows:

42-202B. DEFINITIONS. Whenever used in this ~~chapter~~ title, the term:

(1) "Consumptive use" means that portion of the annual volume of water diverted under a water right that is transpired by growing vegetation, evaporated from soils, converted to nonrecoverable water vapor, incorporated into products, or otherwise does not return to the waters of the state. Consumptive use does not include any water that falls as precipitation directly on the place of use unless the precipitation is captured, controlled and used under an appurtenant water right.

(2) "Digital boundary" means the boundary encompassing and defining an area consisting of or incorporating the place of use or permissible place of use for a water right prepared and maintained by the department of water resources using a geographic information system in conformance with the national standard for spatial data accuracy or succeeding standard.

(3) "Local public interest" is defined as the interests that the

people in the area directly affected by a proposed water use have in the effects of such use on the public water resource.

(4) "Municipality" means a city incorporated under section 50-102, Idaho Code, a county, or the state of Idaho acting through a department or institution.

(~~4~~5) "Municipal provider" means:

(a) A municipality that provides water for municipal purposes to its residents and other users within its service area;

(b) Any corporation or association holding a franchise to supply water for municipal purposes, or a political subdivision of the state of Idaho authorized to supply water for municipal purposes, and which does supply water, for municipal purposes to users within its service area; or

(c) A corporation or association which supplies water for municipal purposes through a water system regulated by the state of Idaho as a "public water supply" as described in section 39-103(10), Idaho Code.

(~~5~~6) "Municipal purposes" refers to water for residential, commercial, industrial, irrigation of parks and open space, and related purposes, excluding use of water from geothermal sources for heating, which a municipal provider is entitled or obligated to supply to all those users within a service area, including those located outside the boundaries of a municipality served by a municipal provider.

(~~6~~7) "Planning horizon" refers to the length of time that the department determines is reasonable for a municipal provider to hold water rights to meet reasonably anticipated future needs. The length of the planning horizon may vary according to the needs of the particular municipal provider.

(~~7~~8) "Reasonably anticipated future needs" refers to future uses of water by a municipal provider for municipal purposes within a service area which, on the basis of population and other planning data, are reasonably expected to be required within the planning horizon of each municipality within the service area not inconsistent with comprehensive land use plans approved by each municipality. Reasonably anticipated future needs shall not include uses of water within areas overlapped by conflicting comprehensive land use plans.

(~~8~~9) "Service area" means that area within which a municipal provider is or becomes entitled or obligated to provide water for municipal purposes. For a municipality, the service area shall correspond to its corporate limits, or other recognized boundaries, including changes therein after the permit or license is issued. The service area for a municipality may also include areas outside its corporate limits, or other recognized boundaries, that are within the municipality's established planning area if the constructed delivery system for the area shares a common water distribution system with lands located within the corporate limits. For a municipal provider that is not a municipality, the service area shall correspond to the area that it is authorized or obligated to serve, including changes therein after the permit or license is issued.

SECTION 2. That Section 42-203A, Idaho Code, be, and the same is hereby amended to read as follows:

42-203A. NOTICE UPON RECEIPT OF APPLICATION -- PROTEST -- HEARING AND FINDINGS -- APPEALS. (1) Upon receipt of an application to appropriate the waters of this state, the department of water resources~~,~~ shall prepare a notice in such form as the department may prescribe, specifying: (a) the number of the application; (b) the date of filing thereof; (c) the name and post-office address of the applicant; (d) the source of the water supply; (e) the amount of water to be appropriated; (f) in general the nature of the proposed use; (g) the approximate location of the point of diversion; and (h) ~~and~~ the point of use. The department shall also state in said notice that any protest against the approval of such application, in form prescribed by the department, shall be filed with the department within ten (10) days from the last date of publication of such notice.

(2) The director of the department of water resources shall cause the notice to be published in a newspaper printed within the county wherein the point of diversion lies~~;~~ or, in the event no newspaper is printed in said county, then in a newspaper of general circulation therein. When the application proposes a diversion in excess of ten (10) c.f.s. or one thousand (1,000) acre feet, the director shall cause the notice to be published in a newspaper or newspapers sufficient to achieve statewide circulation. Any notice shall be published at least once each week for two (2) successive weeks.

(3) The director of the department shall cause a copy of the notice of application to be sent by ordinary mail to any person who requests in writing to receive any class of notices of application and who pays an annual mailing fee as established by departmental regulation.

(4) Any person, firm, association or corporation concerned in any such application may, within the time allowed in the notice of application, file with said director of the department of water resources a written protest, together with the statutory filing fee as provided in section 42-221, Idaho Code, against the approval of such application, which protest shall state the name and address of protestant and shall be signed by him or by his agent or attorney and shall clearly set forth his objections to the approval of such application. Hearing upon the protest so filed shall be held within sixty (60) days from the date such protest is received. Notice of this hearing shall be given by mailing notice not less than ten (10) days before the date of hearing and shall be forwarded to both the applicant and the protestant, or protestants, by certified mail. Such notice shall state the names of the applicant and protestant, or protestants, the time and place fixed for the hearing and such other information as the director of the department of water resources may deem advisable. In the event that no protest is filed, then the director of the department of water resources may forthwith approve the application, providing the same in all respects conforms with the requirements of this chapter, and with the regulations of the department of water resources.

(5) Such hearing shall be conducted in accordance with the provisions of section 42-1701A(1) and (2), Idaho Code. The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to

be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest~~, where the local public interest is~~ as defined ~~as the affairs of the people in the area directly affected by the proposed use~~ in section 42-202B, Idaho Code, or (f) that it is contrary to conservation of water resources within the state of Idaho, or (g) that it will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions. Provided however, that minimum stream flow water rights may not be established under the local public interest criterion, and may only be established pursuant to chapter 15, title 42, Idaho Code. The provisions of this section shall apply to any boundary stream between this and any other state in all cases where the water sought to be appropriated has its source largely within the state, irrespective of the location of any proposed power generating plant.

(6) Any person or corporation who has formally appeared at the hearing, aggrieved by the judgment of the director of the department of water resources, may seek judicial review thereof in accordance with section 42-1701A(4), Idaho Code.

SECTION 3. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, it shall be the duty of the

director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence.

When the nature of use of the water right is to be changed to municipal purposes and some or all of the right will be held by a municipal provider to serve reasonably anticipated future needs, the municipal provider shall provide to the department sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

When a water right or a portion thereof to be changed is held by a municipal provider for municipal purposes, as defined in section 42-202B, Idaho Code, that portion of the right held for reasonably anticipated future needs at the time of the change shall not be changed to a place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section ~~42-203A(5)~~ 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right. The director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the

event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter ~~provided~~ set forth. Provided however, minimum stream flow water rights may not be established under the local public interest criterion, and may only be established pursuant to chapter 15, title 42, Idaho Code.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

(3) Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years.

(4) Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights protected from forfeiture under the provisions of section 42-223, Idaho Code, are exempt from this requirement.

(a) Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, to the director of the department of water resources within ten (10) days of the last date of publication.

(b) Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided.

(c) The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use.

(d) In his approval of the application for an extension of time under this section the director of the department of water resources

shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section.

(e) In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(5) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

SECTION 4. That Section 42-240, Idaho Code, be, and the same is hereby amended to read as follows:

42-240. APPLICATION FOR RIGHT TO EXCHANGE WATER -- FILING FEE -- NOTICE -- PROTEST -- HEARING -- APPROVAL OR DENIAL -- APPEAL. (1) Any person holding a right for the use of surface water may make application to the director of the department of water resources to exchange water authorized to be diverted under the right with the same or a different source, or with water authorized to be diverted under one (1) or more other rights from the same source or another surface water source. If the application proposes an exchange with water under another water right, the application shall be accompanied by an agreement in writing subscribed by the person proposing the exchange and each person or organization owning rights to water with whom the exchange is proposed to be made.

(2) The application shall be upon forms furnished by the department and shall contain such information as shall enable the director to determine the nature of the proposed exchange, and shall be accompanied by the statutory filing fee provided under section 42-221, Idaho Code, for an application to change a vested water right.

(3) Upon receipt of the application, it shall be the duty of the director to examine the same and, if otherwise proper, to cause notice of the proposed exchange to be published in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the nature of the proposed exchange of water and shall advise that anyone who wishes to protest shall file notice of protest in accordance

with the provisions of section 42-203A, Idaho Code.

(4) Upon the receipt of any protest it shall be the duty of the director to investigate the same and to conduct a hearing thereon. The director shall also advise the watermaster of the district in which the exchange is proposed, if a district exists, and the watermaster shall notify the director of the watermaster's recommendations on the application. The director shall not take final action on the application or exchange until the director has received the recommendations of the watermaster, including recommended conditions necessary for the exchange of water to be properly administered and regulated.

(5) The director shall examine all the evidence and available information and shall approve the exchange in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the exchange does not constitute an enlargement in use of the original right or rights, the exchange is consistent with the conservation of water resources within the state of Idaho, ~~and~~ the exchange is in the local public interest as defined in section ~~42-203A~~ 42-202B, Idaho Code, and the exchange will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates. Unless otherwise provided in a written agreement between the applicant and other right holders, the director shall condition approval of an exchange so that the exchange will not be operative during times when water is not available to satisfy the exchange, and that during these times the right to use water automatically reverts to the place of use authorized under the water rights. A copy of the approved application for exchange shall be provided to the applicant and the watermaster, and the applicant shall be authorized upon receipt thereof to make the exchange in accordance with the conditions set forth by the director. Should an approved exchange thereafter be discontinued, the applicant or the applicant's successor in interest must so notify the director and the district watermaster.

(6) In the absence of a contrary agreement by the parties to an exchange, when the director has approved a right to exchange storage water for the natural flow of a stream or other water supply, the storage water shall be delivered in preference to any exchange rights subsequently approved using the same storage water right.

(7) Any person or persons feeling themselves aggrieved by a final order or final action of the director under this section may, if a protest was filed and hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

SECTION 5. That Section 42-1763, Idaho Code, be, and the same is hereby amended to read as follows:

42-1763. RENTALS FROM BANK -- APPROVAL BY DIRECTOR. The terms and conditions of any rental of water from the water supply bank must be approved by the director of the department of water resources. The director of the department of water resources may reject and refuse

approval for or may partially approve for a less quantity of water or may approve upon conditions any proposed rental of water from the water supply bank where the proposed use is such that it will reduce the quantity of water available under other existing water rights, the water supply involved is insufficient for the purpose for which it is sought, the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, ~~or--it~~ the rental will conflict with the local public interest ~~where the local public interest is~~ as defined ~~as the affairs of the people in the area directly affected by the proposed use~~ in section 42-202B, Idaho Code, or the rental will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates. The director shall consider in determining whether to approve a rental of water for use outside of the state of Idaho those factors enumerated in subsection (3) of section 42-401, Idaho Code.

Approved April 15, 2003.

CHAPTER 299
(H.B. No. 367)

AN ACT

RELATING TO THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-120A, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO PROVIDE FOR AND IMPLEMENT THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT SHALL ENSURE THAT THE DISTRICT PARTICIPATES IN THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM TO THE FULL EXTENT OF ITS AVAILABILITY; AMENDING SECTION 33-1001, IDAHO CODE, TO DEFINE "IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM," "APPROPRIATE ACCESS" AND "REAL TIME"; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR STATE SUPPORT OF THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM THROUGH THE EDUCATIONAL SUPPORT PROGRAM BEGINNING WITH FISCAL YEAR 2005-2006; AND AMENDING SECTIONS 33-515 AND 33-1004G, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-120A, Idaho Code, and to read as follows:

33-120A. IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM. (1) The state board of education shall adopt rules pursuant to the provisions of chapter 52, title 67, Idaho Code, and under authority of section 33-105, Idaho Code, to provide for and implement the Idaho student information management system.

(2) The state board of education shall ensure that a state operated Idaho student information management system which provides real time, appropriate access to educational data, is available and used by all

Idaho school districts including specially chartered school districts. The board shall also ensure that state agencies, parents and other parties with an interest in education have real time, appropriate access to the system consistent with the user's role as determined by rule of the board.

(3) The terms "Idaho student information management system," "appropriate access" and "real time" shall have such meanings as the terms are defined in section 33-1001, Idaho Code.

SECTION 2. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(i) of this section.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

2. To adopt and carry on, and provide for the financing of, a total

educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

3. To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a textbook adoption committee as provided in section 33-512A, Idaho Code;

4. To protect the morals and health of the pupils;

5. To exclude from school, children not of school age;

6. To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

7. To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

8. To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

9. To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

10. To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

11. To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

12. To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

13. To govern the school district in compliance with state law and rules of the state board of education.

14. To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

15. To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section 33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check. Such employees shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous three (3) years. If the district next employing the substitute still elects to require another criminal history check within the three (3) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost.

16. Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

17. To ensure that each school district, including specially chartered school districts, participates in the Idaho student information management system (ISIMS) to the full extent of its availability. The terms "Idaho student information management system," "appropriate access" and "real time" shall have such meanings as the terms are defined in section 33-1001, Idaho Code.

SECTION 3. That Section 33-1001, Idaho Code, be, and the same is hereby amended to read as follows:

33-1001. DEFINITIONS. The following words and phrases used in this chapter are defined as follows:

1. "Administrative schools" means and applies to all elementary schools and kindergartens within a district that are situated ten (10) miles or less from both the other elementary schools and the principal

administrative office of the district and all secondary schools within a district that are situated fifteen (15) miles or less from other secondary schools of the district.

2. "Average daily attendance" or "pupils in average daily attendance" means the aggregate number of days enrolled students are present, divided by the number of days of school in the reporting period; provided, however, that students for whom no Idaho school district is a home district shall not be considered in such computation.

3. "Elementary grades" or "elementary average daily attendance" means and applies to students enrolled in grades one (1) through six (6) inclusive, or any combination thereof.

4. "Elementary schools" are schools that serve grades one (1) through six (6) inclusive, or any combination thereof.

5. "Elementary/secondary schools" are schools that serve grades one (1) through twelve (12) inclusive, or any combination thereof.

6. "Homebound student" means any student who would normally and regularly attend school, but is confined to home or hospital because of an illness or accident for a period of ten (10) or more consecutive days.

7. "Idaho student information management system (ISIMS)" means a secure, centralized data system where public school information is stored, accessed and analyzed. The system is comprised of two (2) parts: the first part includes a uniform package of software applications used by all public schools in Idaho for student related administrative functions. The software applications shall handle such functions as student scheduling, grade reporting, attendance, recordkeeping, student achievement and teacher resources; the second part is a data warehouse where public school data are stored and contains a number of report-generating software applications. Related definitions within the context of ISIMS are:

(a) "Appropriate access" means secure, legally authorized access to information on the system consistent with the user's role as determined by rule of the state board of education; and

(b) "Real time" means immediate access to current information on the system.

8. "Kindergarten" or "kindergarten average daily attendance" means and applies to all students enrolled in a school year, less than school year, or summer kindergarten program.

~~8~~9. "Public school district" or "school district" or "district" means any public school district organized under the laws of this state, including specially chartered school districts.

~~9~~10. "Secondary grades" or "secondary average daily attendance" means and applies to students enrolled in grades seven (7) through twelve (12) inclusive, or any combination thereof.

~~10~~11. "Secondary schools" are schools that serve grades seven (7) through twelve (12) inclusive, or any combination thereof.

~~11~~12. "Separate elementary school" means an elementary school which measured from itself, traveling on an all-weather road, is situated more than ten (10) miles distance from both the nearest elementary school and elementary/secondary school serving like grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

1~~2~~3. "Separate kindergarten" means a kindergarten which measured from itself, traveling on an all-weather road, is situated more than ten (10) miles distance from both the nearest kindergarten school within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

1~~3~~4. "Separate secondary school" means any secondary school which is located more than fifteen (15) miles by an all-weather road from any other secondary school and elementary/secondary school serving like grades operated by the district.

1~~4~~5. "Support program" means the educational support program as described in section 33-1002, Idaho Code, the transportation support program described in section 33-1006, Idaho Code, and the exceptional education support program as provided in section 33-1007, Idaho Code.

1~~5~~6. "Support unit" means a function of average daily attendance used in the calculations to determine financial support provided the public school districts.

1~~6~~7. "Teacher" means any person employed in a teaching, instructional, supervisory, educational administrative or educational and scientific capacity in any school district. In case of doubt the state board of education shall determine whether any person employed requires certification as a teacher.

SECTION 4. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

2. From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

a. Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

b. Transportation support program as provided in section 33-1006, Idaho Code;

c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

g. Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

h. Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

i. ~~For programs to provide basic curricula necessary to enable stu-~~

~~dents to enter academic or professional technical postsecondary education programs, an allocation of $300 per support unit for the 1994-95 school year only;~~

~~j. For provision of teacher supplies to facilitate classroom instruction, an allocation of $200 per support unit for the 1994-95 school year only;~~

~~k.~~ For expenditure as provided by the public school technology program~~, $10,400,000 for the 1994-95 school year;~~

~~l. For additional school innovation pilot project grants based on recommendations of the Idaho school reform committee, $2,000,000 for the 1994-95 school year;~~

~~m~~j. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit; ~~and~~

k. For expenditure necessary to support the Idaho student information management system (ISIMS) as provided in section 33-120A, Idaho Code, beginning with fiscal year 2005-2006 and each year thereafter, at an amount not less than that expended by the state and the J.A. and Kathryn Albertson foundation combined, on operation of the project in fiscal year 2004-2005; and

~~n~~l. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state educational support funds.

3. Local Districts' Contribution Calculation. Without including any allowance as a credit for prepaid taxes as provided by section 63-1607, Idaho Code, the local districts' contribution shall be four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the total state adjusted market value for assessment purposes for the previous year with such value being determined by the provisions of section 63-315, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes for the previous year as provided in section 63-3502, Idaho Code.

4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state educational support program funds, subsection 1. of this section, together to secure the total educational support program distribution funds.

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units.

The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

7. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

8. District Share of State Funds for Educational Support Program. Ascertain a district's share of state funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 8.b.(1) of this section, and the support units allow-

ance for the approved exceptional child program, subsection 8.b.(2) of this section.

c. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section.

e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this section.

SECTION 5. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection 167. of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance.

Nothing herein shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 6. That Section 33-1004G, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004G. EARLY RETIREMENT INCENTIVE. (1) Each certificated employee of an Idaho public school district as defined in section 33-1001 1~~6~~7., Idaho Code, is eligible for an early retirement incentive, provided they meet the following criteria:

(a) The employee has completed a minimum of ten (10) years of continuous full-time certified employment, which may include time spent on a sabbatical leave, in Idaho public school districts at the time of application.

(b) The employee is not eligible for unreduced service, early or disability retirement from the public employee retirement system of Idaho at the time of application.

(c) The employee is fifty-five (55) years old before September 1 of the year the application is made; provided that persons turning fifty-six (56) years old or greater between August 15 and 31, 2000, will be eligible to receive the retirement incentive option percentage provided in this section that reflects their age on August 15, 2000.

(d) The employee submits his/her application to the state superintendent of public instruction on or before April 1 of the year of application.

(e) The employee is contracted with an Idaho public school district for the entire school year during the year of application and has not been terminated or on a leave of absence for the current or upcoming school year.

(2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive the following amount of the employee's qualifying salary allocation as provided in section 33-1004E, Idaho Code:

at 55 years of age	55% of allocation
at 56 years of age	50% of allocation
at 57 years of age	45% of allocation
at 58 years of age	40% of allocation
at 59 years of age	30% of allocation
at 60 years of age	30% of allocation
at 61 years of age	20% of allocation
at 62 years of age	20% of allocation
at 63 years of age and over	0% of allocation

(b) Certified employees working less than full-time in the application year will have the incentive payment prorated according to their full-time equivalent (FTE) percentage.

(c) Incentive payments for certified employees not placed on the experience and education multiplier table as provided in section 33-1004A, Idaho Code, will be calculated using the BA column of the table.

(3) Incentives and the employer's share of FICA benefits shall be paid by the state department of education to the Idaho public school district with which the applicant was last contracted on or before July 31 of the year of application and acceptance.

(4) Incentives shall be considered additional compensation flowing from the employment relationship and subject to federal and state tax laws. Incentives shall not be considered salary for purposes of the public employee retirement system.

(5) Any employee receiving an early retirement incentive as provided in this section shall not be eligible for future employment with an Idaho school district where such employment would again qualify him/her for participation in the state retirement system.

(6) Any applicant choosing to withdraw their application must notify the state superintendent of public instruction in writing no later than June 20 in the year of application.

(7) A special application of the early retirement incentive shall supersede the limitations of this section to the extent necessary to comply with this subsection. An otherwise qualified certificated employee who becomes medically unable to work prior to July 1 of any year shall be eligible to apply for the early retirement incentive for which the employee would have been eligible retroactive to April 1.

Approved April 15, 2003.

CHAPTER 300
(H.B. No. 385)

AN ACT

RELATING TO CONFIDENTIALITY OF RECORDS RELATING TO JUDICIAL PROCEEDINGS FOR STERILIZATION; AMENDING SECTION 39-3913, IDAHO CODE, AS ADDED BY HOUSE BILL 213, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO PROVIDE REPORTS TO BE PREPARED AND RELEASED TO THE PUBLIC.

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

SECTION 1. That Section 39-3913, Idaho Code, as added by House Bill 213, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

39-3913. CONFIDENTIALITY OF AND ACCESS TO RECORDS. (1) Records developed by the evaluation committee and records contained in court files of judicial proceedings brought under this chapter shall be governed by the provisions of chapter 3, title 9, Idaho Code.

(2) The administrative director of the courts shall compile statistics for each calendar year, accessible to the public, including:

(a) The total number of petitions filed pursuant to this chapter;

(b) The number of petitions in which the evaluation committee recommended a procedure and the number of petitions in which the evaluation committee recommended against a procedure;

(c) The number of petitions granted by the court;

(d) For categories described in paragraphs (b) and (c) of this subsection, the number of appeals taken from the court's order in each category; and

(e) For each of the categories set out in paragraph (d) 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.

Approved April 15, 2003.

CHAPTER 301
(H.B. No. 387)

AN ACT

RELATING TO BINGO PROCEEDS; AMENDING SECTION 67-7702, IDAHO CODE, TO DEFINE THE TERM "PERSON"; AND AMENDING SECTION 67-7709, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE WITHDRAWAL OF FUNDS FROM BINGO ACCOUNTS AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 67-7702, Idaho Code, be, and the same is hereby amended to read as follows:

67-7702. DEFINITIONS. As used in this chapter:

(1) "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game.

(a) Upon approval by the bingo-raffle advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

(b) Card-minding devices are prohibited. Autodaubing features are prohibited.

(c) Bingo shall not include "instant bingo" which is a game of chance played by the selection of one (1) or more prepackaged bingo cards, with the winner determined by the appearance of a preprinted winning designation on the bingo card.

(2) "Bingo-raffle advisory board" means a board of six (6) persons chosen by the governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho.

(3) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo or raffle game.

(4) "Commission" means the Idaho state lottery commission as defined in section 67-7404, Idaho Code.

(5) "Duck race" means a charitable raffle played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of duck races.

(6) "Gross revenues" shall mean all moneys paid by players during a bingo game or session for the playing of bingo or raffle event and shall not include money paid for concessions.

(7) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code, or an unincorporated association recognized under chapter 7, title 53, Idaho Code.

(8) "Organization" means a charitable organization or a nonprofit organization.

(9) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentalities thereof.

(10) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.

(1~~0~~1) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.

(1~~1~~2) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

(1~~2~~3) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.

SECTION 2. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS.

(1) (a) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds.

(b) Funds from bingo accounts must be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person. A check or withdrawal slip shall not be made payable to "cash," "bearer" or a fictitious payee. The nature of the payment made shall be noted on the face of the check or withdrawal slip. Checks for the bingo account shall be imprinted with the words "bingo account" and shall contain the organization's bingo license name on the face of each check. A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips.

(c) Any proceeds available in ~~the~~ a bingo account after payment of the ~~above~~ expenses set forth in paragraph (1)(a) of this subsection shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection.

(d) All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than fifteen percent (15%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is utilized for prizes on the bingo game. Two hundred fifty dollars ($250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo session. Such wages shall be part of the fifteen percent (15%) gross revenues used for administrative expenses. An organization requesting an exemption from the disbursement percentages provided in this subsection for administrative costs may request an exemption from the state lottery commission.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo sessions conducted or sponsored by the licensed organization;

(b) The location and date at which each bingo session was conducted;

(c) The gross revenues of each bingo session;

(d) The fair market value of any prize given at each bingo session;

(e) The amount paid in prizes at each session;

(f) The amount paid to the charitable organization;

(g) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted

with the annual bingo report to the Idaho lottery commission; and

(h) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100).

(3) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this section shall be guilty of a misdemeanor.

(4) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(5) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars ($200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

Approved April 15, 2003.

CHAPTER 302
(H.B. No. 294)

AN ACT

RELATING TO WOLVES; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 36-715, IDAHO CODE, TO PROVIDE FOR TRANSITION FROM FEDERAL MANAGEMENT OF WOLVES TO STATE MANAGEMENT, TO PROVIDE FOR CERTAIN AUTHORITIES AND DUTIES OF THE FISH AND GAME COMMISSION AND THE OFFICE OF SPECIES CONSERVATION RELATING TO WOLF CONSERVATION AND MANAGEMENT AND TO REVISE THE AUTHORITIES AND DUTIES OF THE DEPARTMENT OF FISH AND GAME RELATING TO WOLF CONSERVATION AND MANAGEMENT.

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

SECTION 1. LEGISLATIVE INTENT. It is the public policy of the state of Idaho to use every option to assert state sovereignty and mitigate the impacts of gray wolves on residents of the state of Idaho and to seek the delisting and management of gray wolves at recovery levels that will ensure viable, self-sustaining populations pursuant to the Idaho Wolf Conservation and Management Plan. The state of Idaho arrived at this policy in 2002 with the passage of Senate Concurrent Resolution No. 134, which approved the Idaho Wolf Conservation and Management Plan after objecting to the reintroduction of wolves and after adopting a memorial seeking the removal of wolves from the state. The Idaho Wolf Conservation and Management Plan affirms that Idaho is on the record asking the federal government to remove wolves from the state by the adoption in 2001 of House Joint Memorial No. 5 but that in order to use every available option to mitigate the severe impacts on the residents

of the state of Idaho, the state will seek delisting and manage wolves at recovery levels that will ensure viable, self-sustaining populations pursuant to the Idaho Wolf Conservation and Management Plan. Pursuant to Section 67-818, Idaho Code, the Idaho Wolf Conservation and Management Plan is the policy of the state of Idaho subject to legislative approval, amendment or rejection by concurrent resolution. Idaho directly opposes the fundamental flaw in the federal Endangered Species Act that allows the wolf reintroduction and other federal initiatives to override state policy. Therefore, in addition to the duties described below, the Fish and Game Commission, through the Department of Fish and Game, shall assist the Governor's Office of Species Conservation in seeking changes to federal policy that will ensure full partnership between state and federal government in species conservation.

SECTION 2. That Section 36-715, Idaho Code, be, and the same is hereby amended to read as follows:

36-715. WOLVES -- TRANSITION -- AUTHORITIES AND DUTIES OF THE OFFICE OF SPECIES CONSERVATION -- FISH AND GAME COMMISSION -- DEPARTMENT OF FISH AND GAME. ~~REGARDING--THE--ENDANGERED--SPECIES-ACT.~~ (1) ~~Since wolf/dog-hybridizations-are--known--to--exist--within--Idaho--and--these hybrids-are-not-protected-by-the-United-States-endangered-species-act,-a biological--evaluation-shall-be-required-of-the-animal-to-determine-species-priority-before-the-department-of-fish-and-game-may-take-any-action in-accordance-with-the-United-States-endangered-species-act.~~

~~(2)~~ During the transition from federal management of wolves to state management, the governor's office of species conservation shall be the lead agency and direct implementation of wolf management policy. The department of fish and game ~~shall-not~~ may assist the office of species conservation in efforts to expedite an orderly transition to state management of wolves pursuant to the provisions of the Idaho wolf conservation and management plan. This transition shall be ~~authorized-to-expend funds,-transfer-assets-or-enter-into-a~~ implemented through new or existing cooperative agreements with any agency, department or entity of the United States government ~~concerning-wolves-unless-expressly~~ or any state agencies as authorized by ~~state-statute-except-that~~ the Idaho wolf conservation and management plan.

(2) The office of species conservation, and the commission through the department, ~~is~~ are authorized to ~~provide-a-representative-to~~ participate ~~on-the-northern-rocky-mountain-wolf-recovery-team-and-to-participate~~ in activities regarding nuisance wolves, and ~~except--that--the department--is~~ are allowed to meet and confer with state, local and federal agencies, departments or entities or federally recognized Indian tribes to discuss ~~those--federal--or--tribal-entities'-plans-for-wolf reintroduction-or-for~~ monitoring wolf ~~reintroduction-and--wolf~~ recovery programs. Additionally, the office of species conservation, and the commission through the department, may cooperate with the legislature, counties, federal agencies, departments, such as the United States department of agriculture wildlife services, ~~or~~ entities or federally recognized Indian tribes regarding damage complaints, depredation, effects on ungulate populations, and other conflicts regarding wolves in this state.

(3) The office of species conservation, in conjunction with the department, ~~of-fish-and-game-is-not-authorized-to-participate-in-inves-~~

~~tigations or enforcement actions involving violations of the final rules of the United States fish and wildlife service or section 9 of the United States endangered species act, as the final rules and section 9 regulate~~ shall prepare and submit an annual report to the ~~reintroduction of wolves into central~~ senate resources and environment committee and the house resources and conservation committee on the implementation and progress of the Idaho wolf conservation and management plan. Such report shall document gray wolf effects upon wildlife, depredation on domestic livestock, and any other subject matter as deemed appropriate and requested in writing by the chairman of the senate resources and environment committee or the chairman of the house resources and conservation committee, or any member of the legislature.

~~(3) If a wolf is sighted, the burden of proof concerning the reported presence of the wolf within Idaho shall rest with the observer and the department of fish and game shall take no action to enforce the United States endangered species act regarding wolves in absence of that proof.~~

(4) ~~From the effective date of this act through December 31, 2003, the department of fish and game is authorized to work in conjunction with the wolf oversight committee, as established by the wolf EIS participation plan dated February, 1992, in the development and implementation of an Idaho wolf management plan, provided that:~~

~~(a)~~ The office of species conservation, in conjunction with the department, is authorized to ~~work in conjunction with the wolf oversight committee to~~ develop and coordinate wolf management plans with state agency officials of the states of Wyoming and Montana.

(b5) ~~Any Idaho~~ In implementing the wolf conservation and management plan, ~~so developed by~~ the office of species conservation, and the commission through the department, ~~and wolf oversight committee~~ shall consult with local units of government with respect to, and take into consideration, local economies, custom, culture, and private property rights. The office of species conservation and the department ~~and the wolf oversight committee~~ may consult with federal entities and shall coordinate with state and local government entities in the ~~development~~ implementation of the plan.

(c6) ~~Upon completion of an Idaho wolf management plan, t~~The department ~~and~~ of fish and game, under the ~~wolf oversight committee shall provide a report to~~ direction of the ~~senate resources and environment committee and to~~ commission, is authorized to participate in the ~~house resources and conservation committee and shall provide written copies to all interested parties. When the plan is complete, the speaker of the house of representatives and the president pro tempore of the senate may authorize a joint meeting of the senate resources and environment committee and the house resources and conservation committee to be held during the interim to review the Idaho~~ development of wolf delisting procedures and interim management ~~plan~~ activities including, but not limited to, studies relating to the management of game herds impacted by wolves.

~~(d) Members of the wolf oversight committee shall serve without compensation, but shall be reimbursed actual expenses for attending meetings of the committee from funds provided by the department of fish and game at prevailing state rates.~~

Approved April 16, 2003.

CHAPTER 303
(S.B. No. 1051, As Amended in the House)

AN ACT

RELATING TO INSURANCE CONTRACTS; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1845, IDAHO CODE, TO SPECIFY BENEFITS FOR RECREATIONAL-RELATED ACTIVITIES.

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

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1845, Idaho Code, and to read as follows:

41-1845. RECREATIONAL-RELATED ACTIVITIES. (1) No company providing health insurance benefits may:

(a) Deny health care coverage to any individual based solely on that individual's casual or nonprofessional participation in the following activities: motorcycling, snowmobiling, off-highway vehicle riding, skiing, snowboarding, horseback riding or similar activities; or

(b) Exclude medical benefits under health care coverage to any covered individual based solely on that individual's casual or nonprofessional participation in the following activities: motorcycling, snowmobiling, off-highway vehicle riding, skiing, snowboarding, horseback riding or similar activities.

(2) Nothing in this section shall preclude, alter or otherwise affect the subrogation rights of companies providing health insurance benefits.

Approved April 18, 2003.

CHAPTER 304
(S.B. No. 1073, As Amended in the House)

AN ACT

RELATING TO HEALTH INSURANCE COVERAGE PURSUANT TO A CHILD SUPPORT ORDER; REPEALING SECTIONS 32-1214, 41-2145, 41-2219, 41-3442, 41-3929, 41-4026 AND 41-4717, IDAHO CODE; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214A, IDAHO CODE, TO STATE THE PURPOSE; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214B, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214C, IDAHO CODE, TO AUTHORIZE A MEDICAL SUPPORT ORDER; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214D, IDAHO CODE, TO SPECIFY EXCEPTIONS TO THE REQUIREMENT FOR IMMEDIATE ENROLLMENT; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214E, IDAHO CODE, TO PROHIBIT DENIAL OF ENROLLMENT UNDER CONDITIONS SPECIFIED; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214F, IDAHO CODE, TO REQUIRE NOTICE OF THE REQUIREMENT FOR A

MEDICAL SUPPORT ORDER; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214G, IDAHO CODE, TO DEFINE AUTHORITY OF THE DEPARTMENT FOR ENFORCEMENT OF THE MEDICAL SUPPORT ORDER PROVISIONS; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214H, IDAHO CODE, TO REQUIRE NOTICE OF INTENT TO ENFORCE AN ORDER; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214I, IDAHO CODE, TO PROVIDE CONDITIONS FOR DISENROLLMENT; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214J, IDAHO CODE, TO REQUIRE NOTICE OF INTENT TO TERMINATE COVERAGE; AMENDING CHAPTER 13, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1336, IDAHO CODE, TO REQUIRE COMPLIANCE BY INSURERS; AND AMENDING SECTIONS 41-3434 AND 41-3904, IDAHO CODE, TO DELETE CODE REFERENCES.

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

SECTION 1. That Sections 32-1214, 41-2145, 41-2219, 41-3442, 41-3929, 41-4026 and 41-4717, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214A, Idaho Code, and to read as follows:

32-1214A. PURPOSE. The state of Idaho has an interest in ensuring that its children receive health insurance benefits through private means when available. Therefore, the legislature hereby adopts the national medical support notice required by 42 U.S.C. section 666(a)(19) and the employee retirement income security act, 29 U.S.C. section 1169(a), to allow the department of health and welfare or an obligee to enforce an order for medical support.

SECTION 3. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214B, Idaho Code, and to read as follows:

32-1214B. DEFINITIONS. For the purposes of this chapter, the following definitions apply:

(1) "Child" means any child including an adopted minor child, of a participant in a health benefit plan, recognized under a medical child support order as having a right to enrollment under a health benefit plan.

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

(3) "Health benefit plan" means a group or individual health benefit plan or combination of plans, other than public assistance programs, that provides medical care or benefits for a child.

(4) "Insurer" means every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance or annuity.

(5) "Medical child support order" means any order, including those that meet the requirements of 29 U.S.C. section 1169, or notice issued by either a court or administrative agency that requires a plan administrator, or if none, the employer, to enroll an eligible child in a health benefit plan.

(6) "Obligee" means a party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child.

(7) "Obligor" means the parent ordered by the court to carry or provide health insurance benefits for the parties' minor child.

(8) "Party" means the department, grandparent or any person who is the custodian, other than the parent who owes a duty of medical support.

(9) "Plan administrator" means a person or entity, including a state or local government agency or church, that assesses and collects premiums, accepts and processes claims, and pays benefits for medical care.

SECTION 4. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214C, Idaho Code, and to read as follows:

32-1214C. MEDICAL SUPPORT ORDER. (1) A medical support notice issued to an employer or plan administrator is a qualified medical support order as defined by 29 U.S.C. section 1169(a) through (c).

(2) Upon receipt of a national medical support notice, if the employer has one (1) health benefit plan, the employer shall respond within twenty (20) business days and confirm that the child will be enrolled or explain that one (1) of the conditions identified in section 32-1214D, Idaho Code, exists. The employer shall provide the national medical support notice to the plan administrator within twenty (20) business days.

(3) Upon receipt of a national medical support notice from an employer, the plan administrator shall notify the department or other obligee within forty (40) business days that a health benefit plan will become available for the child, or explain that one (1) of the conditions identified in section 32-1214D, Idaho Code, exists. The plan administrator shall also notify the department or other obligee of any additional steps that need to be taken to complete enrollment. The plan administrator shall notify the department or other obligee when the notice has not been properly filled out, listing the specific deficiencies.

(4) If more than one (1) plan is available, the child shall be enrolled in the obligor's plan. If the obligor has not chosen a health benefit plan, the plan administrator or employer shall provide plan descriptions to the department or other obligee within twenty (20) business days. If the department is enforcing the medical support order, the department shall notify the other obligee of the opportunity to choose the health benefit plan within twenty (20) business days. If for any reason the other obligee does not or is not available to choose, the department shall choose the least expensive health benefit plan available to the obligor.

(5) The employer shall withhold any required premium from the obligor's income or wages. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the premium withheld to the insurer. If the amount of income taken for child support along with the amount taken for medical support exceeds the amount specified in section 11-207, Idaho Code, child support shall be paid first.

(6) The plan administrator or employer shall provide the department or other obligee with the name of the insurer, the extent of coverage

available and other necessary information, and shall make available any necessary claim forms or enrollment membership cards.

(7) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual who is eligible for medical assistance, that are different than the requirements that apply to an agent or assignee of any other covered individual.

(8) A child covered by a qualified medical child support order, or the child's custodial parent, legal guardian, or the provider of services to the child, or a state agency to the extent assigned the child's rights, may file claims and the plan shall make payment for covered benefits or reimbursement directly to such party.

(9) An insurer shall not consider the availability or eligibility for medical assistance under medicaid, 42 U.S.C. section 1396a., in this or any other state when considering eligibility for health benefits or making payments under its plan. To the extent that payment has been made by medicaid, the department is subrogated to the rights of the individual to payment by any other third party for covered health care items or services.

SECTION 5. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214D, Idaho Code, and to read as follows:

32-1214D. EXCEPTIONS TO REQUIREMENT FOR IMMEDIATE ENROLLMENT. The plan administrator or employer shall enroll the child unless the employer or insurer does not offer insurance, the obligor would not qualify for any plan, or the obligor has separated from employment. If insurance is not available because a probationary period exceeds ninety (90) days, the plan administrator or employer shall return the notice to the employer and the department without enrolling the child. If insurance is not available during a probationary period that is ninety (90) days or less, or if ninety (90) days or less remains from a longer waiting period, the plan administrator shall process the enrollment, and notify the employer, the department or other obligee, of the effective date of coverage.

SECTION 6. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214E, Idaho Code, and to read as follows:

32-1214E. PROHIBITION ON DENIAL OF ENROLLMENT. A child shall not be denied enrollment in a health benefit plan because:

(1) The child was born out of wedlock;

(2) The child is not claimed as a dependent on the obligor's federal income tax return;

(3) The child does not reside with the obligor or in the insurer's service area; or

(4) There is no current enrollment season.

SECTION 7. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214F, Idaho Code, and to read as follows:

32-1214F. NOTICE OF MEDICAL SUPPORT ORDER. Any support order or decree that requires a child to be covered by a health benefit plan issued after July 1, 2003, shall include a statement in substantially the following form:

"Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.".

SECTION 8. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214G, Idaho Code, and to read as follows:

32-1214G. AUTHORITY OF THE DEPARTMENT. The department of health and welfare shall have the authority to promulgate rules necessary to implement and enforce orders for medical insurance. The rules shall provide the obligor an opportunity to protest the issuance of the national medical support notice based on mistake of fact.

SECTION 9. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214H, Idaho Code, and to read as follows:

32-1214H. NOTICE OF INTENT TO ENFORCE. If the order for health benefits fails to provide for direct enforcement, the department or other obligee may serve a written notice of intent to enforce the order on the obligor by mail or personal service. If the obligor fails to provide written proof that health benefits have been obtained or applied for within twenty (20) business days of service of the notice, or within twenty (20) business days of health benefits becoming available, the department or other obligee may proceed to enforce the order directly by sending the notice prescribed by section 32-1214C, Idaho Code.

SECTION 10. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214I, Idaho Code, and to read as follows:

32-1214I. DISENROLLMENT. The plan administrator or employer shall not disenroll or eliminate health benefits of any such child unless:

(1) A certified copy of an order terminating the obligation to provide health benefits is provided to a plan administrator or employer;

(2) Confirmation has been received by the plan administrator or employer that the child is enrolled in another comparable health benefit plan;

(3) The employer has eliminated family health benefit plans for all of its employees;

(4) The obligor has separated from employment;

(5) The child is no longer eligible for coverage under the terms of the plan; or

(6) The required premium has not been paid by or on behalf of the child.

SECTION 11. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1214J, Idaho Code, and to read as follows:

32-1214J. NOTICE OF TERMINATION OF COVERAGE. The plan administrator or employer shall notify the department or other obligee within twenty (20) days when health benefits are no longer available and state the reason why.

SECTION 12. That Chapter 13, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1336, Idaho Code, and to read as follows:

41-1336. REQUIREMENTS FOR COMPLIANCE. It shall be a violation of this chapter for an insurer to fail to comply with the requirements applicable to insurers under chapter 12, title 32, Idaho Code.

SECTION 13. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of this code shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions, and for the purposes of such application such corporations shall be deemed to be mutual "insurers":

(1) Chapter 1 (scope of code);

(2) Chapter 2 (the director of insurance);

(3) Section 41-308(2) (general eligibility for certificate of authority -- competence, affiliations of management);

(4) Sections 41-345 through 41-347 (disclosure of material transactions);

(5) Section 41-601 ("assets" defined);

(6) Section 41-603 (assets not allowed);

(7) Section 41-604 (disallowance of "wash" transactions);

(8) Section 41-613 (valuation of bonds);

(9) Section 41-731 (prohibited investments and investment underwriting);

(10) Chapter 13 (trade practices and frauds);

(11) Section 41-2840 (vouchers for expenditures);

(12) Section 41-2841 (borrowed surplus);

(13) Sections 41-2857 (mergers and consolidations, mutual insurers), 41-2858 (bulk reinsurance, mutual insurers), and 41-2859 (mutual member's share of assets on liquidation);

(14) Chapter 33 (supervision, rehabilitation and liquidation);

(15) Sections 799 to 809 of chapter 330 of Session Laws of 1961 (transitory provisions);

(16) Section 41-2106(3) (health history application for disability insurance);

(17) Section 41-2141 (coordination of benefits -- coordination with social security benefits);

(18) Section 41-1839 (attorney fees);

(19) Chapter 46 (long-term care insurance);

(20) Section 41-1844 (prescription drug benefit restrictions prohibited); and

(21) ~~Section 41-2145 (coverage provided to person having insurance);~~

~~(22)~~ Section 41-2216~~,~~ (coordination of benefits -- coordination with social security benefits)~~; and~~

~~(23) Section 41-2219 (coverage provided to person having insurance)~~.

SECTION 14. That Section 41-3904, Idaho Code, be, and the same is hereby amended to read as follows:

41-3904. CERTIFICATE OF AUTHORITY REQUIRED -- EXCEPTIONS -- APPLICATION OF CERTAIN PROVISIONS. (1) No person shall in this state offer a managed care plan on a predetermined and prepaid basis, unless authorized under a certificate of authority issued by the director. A person offering a managed care plan on a predetermined and prepaid basis is deemed to be transacting the business of insurance.

(2) An organization proposing to offer a managed care plan on a predetermined and prepaid basis, after it has filed its application for a certificate of authority as provided in section 41-3906, Idaho Code, and while its application is pending, if permitted by and in accordance with rules promulgated by the director, may inform the public concerning its proposed health care services.

(3) Entities not offering a managed care plan shall not be subject to the provisions of this chapter.

(4) An entity not required to obtain a certificate of authority which holds itself out to the public or markets itself as an organization rendering basic health care services to a specified population through a managed care plan shall be subject to and must comply with the following sections of this chapter but shall not be subject to regulation by the department: 41-3902; 41-3903; 41-3904; 41-3909(1) and (2); 41-3914(1) and (2); 41-3915(1), (2), (3), (4), (5), (6) and (8); 41-3916; 41-3917; 41-3918(1), (2) and (4); 41-3919(1) and (2); 41-3920; 41-3921(2), (3) and (4); 41-3922(2); 41-3926; 41-3927; 41-3928; ~~41-3929;~~ 41-3930 and 41-3932, Idaho Code.

Approved April 21, 2003.

CHAPTER 305
(S.B. No. 1084, As Amended in the House)

AN ACT

RELATING TO DEFERRED COMPENSATION PROGRAMS; AMENDING SECTION 59-513, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO SET UP AND REGULATE DEFERRED COMPENSATION PROGRAMS FOR CERTAIN ELIGIBLE EMPLOYEES, TO PROVIDE RULEMAKING AUTHORITY AND TO PROVIDE CORRECT TERMINOLOGY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-513, Idaho Code, be, and the same is hereby amended to read as follows:

59-513. DEFERRED COMPENSATION PROGRAMS FOR EMPLOYEES OF STATE OR POLITICAL SUBDIVISIONS. The state of Idaho, the state board of education for those employees eligible for participation in the optional retirement programs created in sections 33-107A and 33-107B, Idaho Code, and any county, city, or political subdivision of the state acting through its governing body, is hereby authorized to contract with an employee to defer all or a portion of that employee's income, and may subsequently with the consent of the employee, invest such deferred income in a funding medium for the purpose of funding a deferred compensation program for the employee.

The state board of examiners shall supervise and regulate the deferred compensation program for state employees, and may adopt rules to implement such a program; provided however, that the state board of education shall supervise and regulate any deferred compensation program it establishes and may adopt rules to implement such a program.

The governing body of any county, city, or political subdivision of the state, shall supervise and regulate the deferred compensation program for its employees.

In no event shall the amount of income an employee elects to defer exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement contributions and pension benefits earned by any employee, but any sum so deferred shall not be included in the computation of any income taxes withheld on behalf of any such employee.

Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in the pension systems for public employees which are otherwise provided for.

For the purposes of this ~~act~~ section the state controller is authorized to make such deductions from salary for any employee of the state who has authorized such deductions in writing, and the state board of examiners may designate administrative agents for the state of Idaho to execute all necessary agreements pertaining to the deferred compensation program.

For the purposes of this ~~act~~ section, the term "employee" includes elected or appointed officials.

SECTION 2. This act shall be in full force and effect on and after January 1, 2006, or upon the termination or expiration of the existing restated and amended deferred compensation plan administration agreement implementing the provisions of section 59-513, Idaho Code, whichever occurs first. Provided however, that the State Board of Education may adopt rules to implement the provisions of this act on and after July 1, 2003, so long as such rules do not permit the implementation to occur prior to the effective date of this act.

Approved April 21, 2003.

CHAPTER 306
(S.B. No. 1170)

AN ACT

RELATING TO THE IDAHO DIGITAL LEARNING ACADEMY; AMENDING SECTION 33-5504, IDAHO CODE, TO DIRECT THE BOARD OF DIRECTORS OF THE ACADEMY TO SET FEES CHARGED TO SCHOOL DISTRICTS FOR STUDENT PARTICIPATION, FEES CHARGED FOR SUMMER SCHOOL AND FEES CHARGED TO STUDENTS AND ADULTS FOR PROFESSIONAL DEVELOPMENT OFFERINGS; AMENDING SECTION 33-5505, IDAHO CODE, TO CLARIFY THERE SHALL BE NO CHARGE TO STUDENTS UNLESS THE STUDENT ENROLLS IN ADDITIONAL COURSES BEYOND FULL-TIME ENROLLMENT, TO PROVIDE THERE WILL BE A COST TO SCHOOL DISTRICTS AND TO PROVIDE THAT CERTAIN FUNDS SHALL BE INCLUDED IN THE BUDGET AND AUDIT OF ACADEMY FISCAL RECORDS; AND AMENDING SECTION 33-5508, IDAHO CODE, TO CLARIFY USE OF STATE FUNDS AND TO PROVIDE FOR ADDITIONAL FUNDING THROUGH FEES CHARGED TO SCHOOL DISTRICTS FOR STUDENT PARTICIPATION AND FEES CHARGED FOR SUMMER SCHOOL AND PROFESSIONAL DEVELOPMENT OFFERINGS.

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

SECTION 1. That Section 33-5504, Idaho Code, be, and the same is hereby amended to read as follows:

33-5504. DUTIES OF THE ACADEMY BOARD OF DIRECTORS. The board shall be responsible for ensuring that academy procedures and courses are in compliance with the rules of the state board of education and applicable statutes of the state of Idaho. In addition, the board shall:

(1) Recommend policies to be established by rule of the state board for effecting the purposes of this chapter.

(2) Employ staff as follows:

(a) A director who shall be responsible for staff development, staff evaluation, program development and oversight, and quality assurance;

(b) A professional development coordinator who shall be responsible for training faculty in online course design, development and delivery, and shall assist the director in quality assurance;

(c) Clerical staff as necessary to manage student information, maintain student records, manage academy correspondence, and oversee basic financial accounting as directed;

(d) Appropriate technology staff who shall support faculty in understanding and applying the technical aspects of online course development and delivery;

(e) Faculty and teaching staff who are fully certificated Idaho teachers, to design and deliver planned curriculum content. Such staff shall be provided appropriate and sufficient training as necessary. The number of such staff shall largely be dictated by the number of courses under development, the number of courses offered, and the number of students participating in academy programs.

(3) Obtain housing with a host school district where actual operations of the academy are conducted by academy staff. Housing should be minimal and reasonably portable so that it can be transferred from one (1) host district to another without disruption of the program.

(4) Contract with a service provider for delivery of academy courses online which shall be accessible twenty-four (24) hours a day, seven (7) days a week.

(5) Ensure that the academy is accredited by the state of Idaho and the northwest accreditation association.

(6) Develop policy for earning credit in courses based on mastery of the subject, demonstrated competency, and meeting the standards set for each course.

(7) Provide for articulating the content of certain high school courses with college and university courses in order to award both high school and undergraduate college credit.

(8) Develop policies and practices which provide strict application of time limits for completion of courses.

(9) Develop policies and practices on accountability, both by the student and the teacher, and in accordance with the provisions of section 33-5507, Idaho Code.

(10) Manage the moneys disbursed to the academy board from the superintendent.

(11) Set fees charged to school districts for student participation; fees charged for summer school; and fees charged to students and adults for professional development offerings.

SECTION 2. That Section 33-5505, Idaho Code, be, and the same is hereby amended to read as follows:

33-5505. DEFINITIONS. As used in this chapter:

(1) "Academy board," also referred to in this chapter as "the board" means the board of directors of the Idaho digital learning academy as such board is created in section 33-5503, Idaho Code.

(2) "Host district" means an Idaho school district where the operations of the Idaho digital learning academy are housed. The host district shall also act as the fiscal agent for the academy.

(3) "Idaho digital learning academy" means an online educational program organized as a fully accredited high school with statewide capabilities for delivering accredited courses to Idaho resident students in grades nine (9) through twelve (12) at no cost to the student ~~or school district~~ unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records.

(4) "State board" means the Idaho state board of education. The board is authorized and directed, with the advice and recommendation of the academy board of directors, to promulgate rules to implement the provisions of this chapter.

(5) "Superintendent" means the Idaho state superintendent of public instruction.

SECTION 3. That Section 33-5508, Idaho Code, be, and the same is hereby amended to read as follows:

33-5508. FUNDING. (1) Funding for the infrastructure of the program shall be provided from an annual budget request to the legislature from the superintendent of public instruction. The superintendent shall disburse the funds to the Idaho digital learning academy board of directors who shall use the moneys to develop courses and maintain operations of the academy.

(2) Additional funding for course offerings through the Idaho digital learning academy shall be added to the Idaho digital learning academy budget by charging fees to the school districts for student participation. These fees shall be established annually by the Idaho digital learning academy board of directors and shall reflect the various types of course offerings available. Fees for summer school and professional development offerings to students and adults shall also be established by the Idaho digital learning academy board of directors.

Approved April 21, 2003.

CHAPTER 307
(H.B. No. 365)

AN ACT

RELATING TO REPLACEMENT GROUP AND BLANKET DISABILITY INSURANCE CONTRACTS; AMENDING SECTION 41-2215, IDAHO CODE, TO PROVIDE THAT A STATEMENT OF PREVIOUS COVERAGE SHALL BE PROVIDED BY THE CARRIER AT NO COST AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2215, Idaho Code, be, and the same is hereby amended to read as follows:

41-2215. POLICY STANDARDS -- REPLACEMENT CONTRACTS. (1) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense benefits within a period of sixty (60) days from the date of discontinuance of a prior policy providing such hospital, medical or surgical expense benefits shall immediately cover all employees and dependents validly covered under the previous policy at the date of discontinuance who are within the definitions of eligibility and who would otherwise be eligible for coverage under the succeeding carrier's policy, regardless of any limitations or exclusions relating to active employment or nonconfinement.

(2) With respect to an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and required to be covered under subsection (1) of this section, the succeeding carrier shall be entitled to deduct from any benefits becoming payable under its policy the amount of benefits payable by the prior carrier pursuant to an extension of benefits provision.

(3) An employee or dependent entitled to coverage under a succeeding carrier's policy pursuant to subsections (1) or (2) of this section shall continue to be covered by the succeeding carrier until the earlier of the following:

(a) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's policy~~.~~; or

(b) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and entitled to an extension of benefits pursuant to subsection (2) of section 41-2213, the date the period of extension of benefits terminates or, if the prior carrier's policy is not subject to this act, the date to which benefits would have been extended had the prior carrier's policy been subject to this act.

(4) No provision in a succeeding carrier's policy of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's policy shall be applied with respect to those employees and dependents validly insured under the prior carrier's policy on the date of discontinuance, if benefits for such condition would have been payable under the prior carrier's policy.

(5) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier, at no cost.

Approved April 22, 2003.

CHAPTER 308
(H.B. No. 376)

AN ACT

RELATING TO THE IDAHO HEALTH INSURANCE ACCESS CARD ACT; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-236, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-237, IDAHO CODE, TO STATE LEGISLATIVE PURPOSE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-238, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-239, IDAHO CODE, TO SET FORTH PROVISIONS FOR CHIP PLAN B; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-240, IDAHO CODE, TO SET FORTH PROVISIONS FOR THE CHILDREN'S ACCESS CARD PROGRAM; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-241, IDAHO CODE, TO SET FORTH PROVISIONS FOR THE SMALL BUSINESS HEALTH INSURANCE PILOT PROGRAM; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-242, IDAHO CODE, TO SET FORTH PROVISIONS FOR THE IDAHO HEALTH INSURANCE ACCESS CARD; AND AMENDING SECTION 41-406, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT OF CERTAIN PREMIUM TAX FUNDS TO THE IDAHO HEALTH INSURANCE ACCESS CARD FUND AND TO SPECIFY DISTRIBUTION.

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

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-236, Idaho Code, and to read as follows:

56-236. SHORT TITLE. This act shall be known and may be cited as the "Idaho Health Insurance Access Card Act."

SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-237, Idaho Code, and to read as follows:

56-237. PURPOSE. The purpose and intent of this act is to promote the availability of health insurance to children and families and to adults who are employed by small businesses in Idaho and their dependent spouses whose families' gross incomes fall within one hundred eighty-five percent (185%) of the federal poverty guidelines.

SECTION 3. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-238, Idaho Code, and to read as follows:

56-238. DEFINITIONS. As used in this act:

(1) "Children's access card program" means the program created in section 56-240, Idaho Code.

(2) "CHIP Plan A" means the existing Idaho children's health insurance program for children eligible under federal title XXI whose families' gross incomes do not exceed one hundred fifty percent (150%) of the federal poverty guidelines.

(3) "CHIP Plan B" means the program created in section 56-239, Idaho Code.

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

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

(6) "Eligible adult" means a person:

(a) Over eighteen (18) years of age living in Idaho;

(b) Whose family's gross income is equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines; and

(c) Who is employed full time by a small employer, meaning an employer with two (2) to fifty (50) employees and as such term is defined in section 41-4703, Idaho Code, and who is eligible for health insurance coverage under a small employer health benefit plan regulated under chapter 47, title 41, Idaho Code, or the dependent spouse of such employee.

(7) "Eligible child" means a child under nineteen (19) years of age living in Idaho whose family's gross income falls within federal poverty guidelines for CHIP Plan A or CHIP Plan B. Children currently eligible for CHIP under federal title XXI may elect to participate in either the Idaho children's health insurance program (CHIP Plan A) or the children's access card program. Children whose family's gross income is between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty guidelines may elect to participate in either the CHIP Plan B or the children's access card program.

(8) "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 issued for a period of twelve (12) months or less.

(9) "Small business health insurance pilot program" means the program created in section 56-241, Idaho Code.

SECTION 4. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-239, Idaho Code, and to read as follows:

56-239. CHIP PLAN B. (1) There is hereby created in the department a CHIP Plan B that shall be made available by the department to eligible children, as defined in section 56-238, Idaho Code, whose family's gross income is between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty guidelines. The director shall implement the program by adopting rules recommended by the board of the Idaho high risk reinsurance pool created in section 41-5502, Idaho Code, that authorize policies of health insurance for children enrolled in the CHIP Plan B.

(2) There is hereby created a CHIP Plan B advisory board which shall advise the Idaho high risk reinsurance pool board concerning issues related to the CHIP Plan B. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least two (2) members of the board shall be parents of children who are eligible to participate in the CHIP Plan B.

SECTION 5. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-240, Idaho Code, and to read as follows:

56-240. CHILDREN'S ACCESS CARD PROGRAM. (1) There is hereby created in the department a children's access card program that shall, through the Idaho health insurance access card program, make payments to the insurance company providing coverage under a health benefit plan, as defined in section 56-238, Idaho Code, for a child who is eligible for federal title XXI benefits under CHIP Plan A or CHIP Plan B. In each month the insurance coverage is in effect, a one hundred dollar ($100) payment shall be applied to the monthly insurance premium billed each month by the insurance company with a maximum payment of three hundred dollars ($300) for all dependent children in the family. The director shall implement the program by adopting rules recommended by the board of the Idaho high risk reinsurance pool created in section 41-5502, Idaho Code.

(2) Participation in the children's access card program by any employer shall be optional. Nothing in this act shall be construed to mandate or require that an employer participate in the children's access card program.

(3) There is hereby created a children's access card program advisory board which shall advise the Idaho high risk reinsurance pool board concerning issues related to the children's access card program. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least two (2) members of the board shall be parents of children who are eligible to participate in the children's access card program.

SECTION 6. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-241, Idaho Code, and to read as follows:

56-241. SMALL BUSINESS HEALTH INSURANCE PILOT PROGRAM. (1) There is hereby created in the department a small business health insurance pilot program that shall be made available to up to one thousand (1,000) eligible adults, as defined in section 56-238, Idaho Code, based on available funding. The director shall implement the program by adopting rules recommended by the board of the Idaho high risk reinsurance pool created in section 41-5502, Idaho Code, providing for the payment of the benefit authorized in subsection (2) of this section through the use of the Idaho health insurance access card.

(2) The small business health insurance pilot program shall, through the Idaho health insurance access card program, pay to the insurance company providing insurance coverage through policies regulated under chapter 47, title 41, Idaho Code, for an adult enrolled in the small employer health insurance pilot program, for each month the insurance coverage is in effect, a one hundred dollar ($100) payment to be applied to the monthly insurance premium billed each month by the insurance company.

(3) Participation in the small business health insurance pilot program by any employer shall be optional. Nothing in this act shall be construed to mandate or require that an employer participate in the pilot program. Small employers who choose to participate in the small business health insurance pilot program shall contribute at least fifty percent (50%) of the employee premium and at least fifty percent (50%) of the combination of employee and dependent spouse contribution percentage for those employees and their dependent spouses who are enrolled in the small business health insurance pilot program.

(4) There is hereby created a small business health insurance advisory board which shall advise the Idaho high risk reinsurance pool board concerning issues related to the small business health insurance pilot program. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least four (4) members of the board shall be representatives of small businesses, meaning those with two (2) to fifty (50) employees, that offer employee health benefit plans regulated under chapter 47, title 41, Idaho Code.

SECTION 7. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-242, Idaho Code, and to read as follows:

56-242. IDAHO HEALTH INSURANCE ACCESS CARD. (1) The director shall develop an Idaho health insurance access card program in the department to implement the children's access card program and the small business health insurance pilot program.

(2) (a) There is hereby created and established in the state treasury a fund to be known as the "Idaho health insurance access card fund." Moneys in the fund shall be maintained in three (3) subaccounts, identified respectively as the "CHIP Plan B subaccount," the "children's access card program subaccount" and the "small business health insurance pilot program subaccount." Appropriations, matching federal funds, grants, donations and moneys from other sources shall be paid into the fund. The department shall administer the fund. Any interest earned on the investment of idle moneys in the fund shall be returned to and deposited in the fund.

(b) Moneys in the CHIP Plan B subaccount, the children's access card program subaccount and the small business health insurance pilot program subaccount shall be expended pursuant to appropriation for the payment of benefits and capped administrative costs of the department.

(3) The director shall apply for waivers of federal title XXI and title XIX to subsidize health care coverage under the CHIP Plan B, the children's access card program and the small business health insurance pilot program. Federal matching funds received by the department to provide coverage under CHIP Plan B, the children's access card program and the small business health insurance pilot program shall be deposited in the appropriate subaccount.

(4) The director is authorized to promulgate rules recommended by the board of the Idaho high risk reinsurance pool to implement the CHIP Plan B, the children's access card program and the small business health insurance pilot program.

(5) Insurers offering health benefit plans regulated under chapter 47, title 41, Idaho Code, shall accept payment for such plans under the small business health insurance pilot program pursuant to rules promulgated by the department. Insurers offering health benefit plans, as defined in section 56-238, Idaho Code, shall accept payment for such plans under the children's access card program.

(6) The CHIP Plan B and the children's access card program shall be implemented by July 1, 2004. Implementation of the small business health insurance pilot program shall begin on July 1, 2005.

SECTION 8. That Section 41-406, Idaho Code, be, and the same is hereby amended to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) The director may deposit up to twenty percent (20%) of the funds received in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the insurance refund account on June 30 of each and every year in excess of forty thousand dollars ($40,000) shall be transferred to the general fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

(b) That portion of the premium tax, payable to the public employee retirement fund as provided in section 59-1394, Idaho Code, shall be distributed to that fund.

(c) That portion of the premium tax necessary to cover administrative costs incurred by the department in placing insurance companies or any other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative fund which is hereby created. There is hereby appropriated out of the insurance insolvency administrative fund so much thereof as shall be necessary, but not to exceed two hundred thousand dollars ($200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervision. A balance of one hundred thousand dollars ($100,000) shall be maintained in this fund on June 30 of each year.

(d) After all other deductions authorized in this section have been made, if the premium tax remaining exceeds forty-five million dollars ($45,000,000), one-fourth (1/4) of such excess is hereby appropriated and shall be paid to the Idaho high risk individual reinsurance pool established in chapter 55, title 41, Idaho Code, and one-fourth (1/4) of such excess above fifty-five million dollars ($55,000,000) is hereby appropriated and shall be paid to the Idaho health insurance access card fund, established in section 56-242, Idaho Code, with eighty percent (80%) of such moneys to be appropriated to the CHIP Plan B subaccount and the children's access card program subaccount and twenty percent (20%) of such moneys, not to exceed one million two hundred thousand dollars ($1,200,000) per year, to be appropriated to the small business health insurance pilot program subaccount.

(e) The balance of the premium tax, fines and penalties shall be distributed to the general fund of the state of Idaho.

(f) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month, and shall deliver a certified copy of the statement to the state treasurer.

Approved April 22, 2003.

CHAPTER 309
(S.B. No. 1164)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2004; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2004, OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 2003, pursuant to the provisions of subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 2004, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Fifty-seventh Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2004, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Fifty-seventh Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2004, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and

effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 23, 2003.

CHAPTER 310
(S.B. No. 1175)

AN ACT

RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTION 9-348, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS TO ALLOW STUDENT DIRECTORY INFORMATION TO BE RELEASED TO MILITARY RECRUITERS FOR MILITARY RECRUITING PURPOSES PURSUANT TO THE REQUIREMENTS OF FEDERAL LAWS.

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

SECTION 1. That Section 9-348, Idaho Code, be, and the same is hereby amended to read as follows:

9-348. PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS -- PENALTY. (1) Except as provided in subsections (2), (3), (4), (5), (6), (7), ~~and~~ (8) and (9) of this section, in order to protect the privacy of those who deal with public agencies or an independent public body corporate and politic:

(a) No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency or independent public body corporate and politic may be used as a mailing list or a telephone number list except by the agency or independent public body corporate and politic or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by

Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) This section does not apply to lists to be used to give notice required by any statute, ordinance, rule, law or by any governing agency.

(9) This section does not apply to student directory information provided by colleges, universities, secondary schools and school districts to military recruiters for military recruiting purposes pursuant to the requirements of federal laws.

(10) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars ($1,000) which shall be paid into the general account.

Approved April 23, 2003.

CHAPTER 311
(S.B. No. 1178)

AN ACT

RELATING TO THE EMERGENCY COMMUNICATIONS ACT; AMENDING SECTION 31-4801, IDAHO CODE, AS AMENDED BY HOUSE BILL 363, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO PROVIDE FOR UTILIZATION OF THE EMERGENCY COMMUNICATIONS FEE BY A 911 SERVICE AREA; AND AMENDING SECTION 31-4804, IDAHO CODE, AS AMENDED BY HOUSE BILL 363, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO PROVIDE FOR REIMBURSEMENT OF TELECOMMUNICATIONS PROVIDERS.

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

SECTION 1. That Section 31-4801, Idaho Code, as amended by House Bill 363, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is amended to read as follows:

31-4801. PURPOSE. The legislature recognizes that providing consolidated emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency communications systems.

(1) The legislature of the state of Idaho finds that:

(a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

(b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wire-line services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;

(c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;

(d) Utilization of cellular telephones to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system.

(e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services are available to all citizens of the state and in all areas of the state. Accordingly, it is the intent of the legislature that the association of Idaho cities and the Idaho association of counties establish a task force composed of county commissioners, sheriffs, city councilmen, police chiefs, fire chiefs, emergency medical service providers and telecommunications providers. The purpose of the task force is to review and, if appropriate, recommend legislation to the second regular session of the fifty-seventh Idaho legislature concerning the: (i) governance of 911 emergency communications systems and (ii) the establishment of emergency communications systems for those counties of the state that do not have such systems.

(2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:

(a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of both telephone lines and wireless communications systems;

(b) Provide that the emergency communications fee shall be exclusively utilized by the counties <u>or 911 service areas</u> electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems;

(c) Provide for the agreed-to reimbursement to wireless carriers for their implementation of enhanced consolidated emergency communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems.

SECTION 2. That Section 31-4804, Idaho Code, as amended by House Bill 363, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is amended to read as follows:

31-4804. EMERGENCY COMMUNICATIONS FEE. (1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar ($1.00) per month per access line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of ~~wireless carriers~~ telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be collected from customers on a monthly basis by all telecommunications providers that make available access lines to persons within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, administrative and other day to day operational expenditures, shall continue to be paid through the general funding of the respective governing boards.

Approved April 23, 2003.

CHAPTER 312
(H.B. No. 374, As Amended in the Senate)

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2512, IDAHO CODE, TO CLARIFY THAT ADVANCE DEPOSIT WAGERING ON HORSE RACING CONDUCTED BY LICENSEES IS DECLARED TO BE LAWFUL, TO PROVIDE PROCEDURES, TO PROVIDE LIMITS, TO PROVIDE FOR A SOURCE MARKET FEE FOR OUT OF STATE WAGERS, TO DEFINE TERMS, TO PROVIDE FOR DISTRIBUTION OF FUNDS AND TO PROVIDE FOR RULES BY THE RACING COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) (a) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have annually conducted live race meets in the state of Idaho during the preceding two (2) calendar years, and have an agreement reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code. The agreement shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

(b) In addition to the restrictions recited in paragraph (a) of this subsection, live horse race licensees that have had a total race handle from both live races and simulcast races exceeding five million dollars ($5,000,000) during the last calendar year in operation shall not have a license authorizing simulcasting and/or televised races issued or renewed if the licensee has not run in the calendar year immediately preceding the year for which the application for a license is being made for at least ninety percent (90%) of the number of live race days that were conducted by that licensee in 1989.

(c) The commission may issue a license authorizing simulcast and/or televised races to a live horse race licensee only after that licensee has conducted at that facility a minimum of forty (40) live horse races in each of the two (2) calendar years preceding the application for such license. The requirements of this paragraph are only applicable to live horse race licensees who have received their initial live horse race license after April 1, 1997.

(3) Such pari-mutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules of the commission, be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

(4) The participation by a licensee in an interstate combined wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(5) Advance deposit wagering on live and/or simulcast horse racing conducted by licensees is hereby declared to be lawful and within the scope of the licensee's license. As used in this section, "advance deposit wagering" means a form of wagering in which an account holder may deposit money with a licensee and then use the balance to fund wagers. The bettor can then contact the licensee from a location without actually being physically present at the licensee's premises in order to communicate the desired use of those funds for wagering purposes. However, no wager can be accepted by the licensee that exceeds the amount in the account held by the licensee for the person placing the wager. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be illegal unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission. All moneys in the advance deposit wagering accounts held by the commission are hereby continuously appropriated to the commission for payment as required by this section. Payments to recipients shall be made annually, but not later than December 31. Distribution of the source market fee shall be forty percent (40%) to purses at all tracks weighted by number of races ran through the year of distribution, forty percent (40%) to the simulcast sites in the state weighted by the annual simulcast handle. five percent (5%) to the track distribution fund. five percent (5%) to the breed distribution fund. five percent (5%) to the Idaho state racing commission and five percent (5%) to the public school income fund. For purposes of this section, wagering instructions concerning funds held in an advance deposit account shall be deemed to be issued within the licensee's enclosure. As used in this section, "source market fee" means that part of a wager, made outside of the state by an Idaho resident, that is returned to the state of Idaho. The commission may promulgate rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this subsection.

(6) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(~~6~~7) It shall be unlawful to conduct pool selling, bookmaking, or to circulate handbooks, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel system.

SECTION 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 23, 2003.

CHAPTER 313
(H.B. No. 386, As amended)

AN ACT
RELATING TO BINGO GAMES AND RAFFLES; AMENDING SECTION 67-7713, IDAHO CODE, TO REVISE LICENSURE REQUIREMENTS FOR BINGO GAMES AND RAFFLES.

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

SECTION 1. That Section 67-7713, Idaho Code, be, and the same is hereby amended to read as follows:

67-7713. ~~EXEMPTION FROM~~ LICENSURE REQUIREMENTS. A charitable or nonprofit organization conducting a bingo game shall ~~not~~ be required to obtain a license if the gross annual bingo sales are ~~less than~~ ten thousand dollars ($10,000) ~~and/~~or more. ~~if the aggregate total amount for prize(s) offered, in cash or merchandise, for any one (1) session, is less than one thousand dollars ($1,000).~~ A charitable or nonprofit organization conducting a raffle shall ~~not~~ be required to obtain a license if ~~the gross annual raffle sales are less than ten thousand dollars ($10,000) and/or if~~ the maximum aggregate value of merchandise ~~does not~~ exceeds one thousand dollars ($1,000).

Approved April 23, 2003.

CHAPTER 314
(H.B. No. 392)

AN ACT
RELATING TO BINGO; AMENDING SECTION 67-7709, IDAHO CODE, TO REQUIRE ADDITIONAL REQUIREMENTS FOR STATEMENTS PREPARED BY CHARITABLE OR NONPROFIT ORGANIZATIONS CONDUCTING BINGO GAMES AND TO REQUIRE THE USE OF NONREUSABLE COLORED BINGO PAPER SO THAT ALL SALES MAY BE TRACKED, TO PROVIDE REQUIREMENTS FOR THE PAPER AND TO PROVIDE REQUIREMENTS FOR ORGANIZATIONS USING NONREUSABLE BINGO PAPER.

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

SECTION 1. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS. (1) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds. Any proceeds available in the account after payment of the above expenses shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection. All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than fifteen percent (15%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is utilized for prizes on the bingo game. Two hundred fifty dollars ($250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo session. Such wages shall be part of the fifteen percent (15%) gross revenues used for administrative expenses. An organization requesting an exemption from the disbursement percentages provided in this subsection for administrative costs may request an exemption from the state lottery commission.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo sessions conducted or sponsored by the licensed organization;

(b) The location and date at which each bingo session was conducted;

(c) The gross revenues of each bingo session;

(d) The fair market value of any prize given at each bingo session;
(e) The number of individual players participating in each session;
(f) The number of cards played in each session;
(g) The amount paid in prizes at each session;
(~~f~~h) The amount paid to the charitable organization;
(~~g~~i) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and
(~~h~~j) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100).

(3) Any organization required to be licensed to conduct bingo operations under the provisions of this chapter shall use only nonreusable colored bingo paper so that all sales may be tracked. The nonreusable colored paper must have a series and serial number on each card. At the conclusion of each session, all organizations using nonreusable bingo paper must track their bingo sales per session by recording the series and serial numbers of all paper sold, damaged, donated or used for promotion in that session. Each such organization shall keep a ledger of the numbers of all such papers used during each session. All paper must be tracked as either sold, damaged, donated, used for promotion, or omitted from the original distributor or manufacturer. Paper tracking ledgers and invoices from the distributor or manufacturer for nonrefundable colored bingo paper must be kept with the permanent records for that bingo operation.

(4) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this ~~section~~ shall be guilty of a misdemeanor.

(~~4~~5) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(~~5~~6) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars ($200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

Approved April 23, 2003.

CHAPTER 315
(H.B. No. 395)

AN ACT

RELATING TO PERMITS FOR OVERWEIGHT VEHICLE LOADS; AMENDING SECTION 49-432, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF PERMITS IN LIEU OF A REGISTRATION FEE FOR VEHICLES WEIGHING UP TO A MAXIMUM OF ONE HUNDRED TWENTY-NINE THOUSAND POUNDS GROSS VEHICLE WEIGHT AND TO EXTEND

THE SCHEDULE OF THIRTY DAY TEMPORARY PERMITS; AMENDING SECTION 49-1004, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE THAT THE DEPARTMENT SHALL AND LOCAL PUBLIC HIGHWAY AGENCIES MAY IN THEIR DISCRETION ISSUE ANNUAL PERMITS ON DESIGNATED PILOT PROJECT ROUTES FOR OPERATION OF VEHICLES WEIGHING UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS, TO DELETE THE REQUIREMENT THAT THE IDAHO TRANSPORTATION BOARD SHALL ESTABLISH CRITERIA FOR NONSTATE PILOT PROJECT ROUTES, TO CLARIFY THAT STATE PILOT PROJECT ROUTES ARE DESIGNATED BY THE LEGISLATURE, TO REVISE AN EXISTING STATE PILOT PROJECT ROUTE, TO DESIGNATE ADDITIONAL STATE PILOT PROJECT ROUTES, TO PROVIDE THAT LOCAL PUBLIC HIGHWAY AGENCIES ARE AUTHORIZED TO ISSUE ANNUAL PERMITS AND THAT SUCH PERMITS SHALL BE IN WRITING, TO PROVIDE THAT THE ENTITY ISSUING A PERMIT SHALL RETAIN THE ADMINISTRATIVE PERMIT FEE TO COVER ADMINISTRATIVE COSTS, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE PROPER TERMINOLOGY; PROVIDING LEGISLATIVE INTENT REGARDING REPORTING REQUIREMENTS AND TO PROVIDE A SUNSET CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-432, Idaho Code, be, and the same is hereby amended to read as follows:

49-432. TEMPORARY REGISTRATION 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 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) One hundred twenty (120) hour permit
Single vehicle $30.00
Combination of vehicles $60.00

(b) Fuel permit $30.00

(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~~ twenty-nine thousand (1~~0~~29,000) 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	116,000	129,000
50,001-60,000	$225	$250	$275	$300	$325	$350
60,001-70,000	$150	$175	$200	$225~~0~~	$250	$275
70,001-78,000	$ 75	$150	$175	$200	$225	$250
78,001-84,000		$ 75	$150	$175	$200	$225
84,001-94,000			$ 75	$150	$175	$200
94,001-104,000				$ 75	$100	$125
104,001-112,000					$ 75	$100
112,001-128,000						$ 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 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.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling 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 three dollars ($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.

(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 one hundred twenty (120) hour 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 2. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- SPECIAL PILOT PROJECT ROUTES AND ANNUAL PERMITS. (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection (2). Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1 Gross weight of vehicle and load in pounds	Column 2 Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents ($1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

~~(e) From July 1, 1998, through June 30, 1999, the fee charged per mile pursuant to this subsection shall be assessed at one-half (1/2) the calculated fee. On and after July 1, 1999, the fee charged per mile shall be calculated and assessed in accordance with this subsection.~~

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special pilot project route permit authorizing travel on pilot project routes ~~may~~ shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such pilot project routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction~~, based on criteria established by the board~~. No local public highway agency shall approve a pilot project route which provides a thoroughfare for interstate carriers to pass through the state. State pilot project routes designated by the ~~board based on criteria established by the board~~ legislature and identified on a map entitled "Designated Pilot Project Routes" are:

(a) Ashton to Kimberly to Twin Falls to Nevada using US-20, US-30, SH-33, US-93, SH-25, SH-50 and SH-74.

(b) ~~Interstate-15-to-Wyoming-or-Utah-border-using-US-30,-SH-34--and~~ US-91 from its junction with SH-34 to the Utah border.

(c) US-30 from its junction with I-15 to the Wyoming border.

(d) US-95 south from Fruitland to junction with SH-55.

(e) SH-19 between Wilder and Caldwell.

(f) SH-78 between Marsing and Hammett.

(g) SH-67 from Mountain Home to junction with SH-78 at Grandview.

(h) SH-55 from intersection with Farmway Road to junction with US-95.

(i) SH-25 from the intersection of SH-24 to Paul.

(j) SH-25 from intersection with US-93 to Hazelton.

(k) SH-24 from intersection with US-93 to intersection with SH-25.

(l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.

(m) SH-34 from milepost 78 to the junction with US-91.

(n) US-26 from the intersection with 45th West to the junction with US-91; and US-91 from the intersection with Canyon Road to the junction with US-26.

(o) SH-22 from Dubois to the junction with SH-33.

(p) SH-45 from junction with SH-78 to intersection with I-84 business loop; I-84 business loop to intersection with SH-55; SH-55 to I-84 interchange no. 35.

Additions or deletions to the approved state pilot project routes specified in ~~paragraphs-(a)-and-(b)-of~~ this subsection (4) shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on pilot project routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state pilot project routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars ($50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized ~~to--request--the department~~ to issue special pilot project permits ~~on-their-behalf.~~ and such permits shall be in writing. Administrative ~~p~~Permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the ~~weight-distance~~ appropriate registration fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate ~~weight-distance~~ vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code.

SECTION 3. It is the intent of the Legislature that the Idaho Transportation Department shall periodically report to the Legislature on the effect of the pilot project program. The Department shall report on the results of its monitoring and evaluation of all important impacts, including impacts to safety, bridges and pavement on all the State Pilot Project Routes designated in subsection (4) of Section 49-1004, Idaho Code. Reports shall be submitted to the Legislature no

later than January 30 in the years 2007, 2010 and 2013. The Pilot Project Program shall sunset on and after July 1, 2013, unless otherwise extended or sooner repealed by the Legislature.

SECTION 4. This act shall be in full force and effect on and after July 1, 2003.

Approved April 23, 2003.

CHAPTER 316
(H.B. No. 391)

AN ACT

RELATING TO SMOKE MANAGEMENT AND CROP RESIDUE DISPOSAL; AMENDING SECTION 22-4801, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS AND INTENT; AMENDING SECTION 22-4803, IDAHO CODE, TO PROVIDE FOR CERTAIN OPEN BURNING IN COMPLIANCE WITH DESIGNATED PROVISIONS WHEN NO OTHER ECONOMICALLY VIABLE ALTERNATIVES TO BURNING ARE AVAILABLE, TO PROVIDE REQUIREMENTS FOR CROP RESIDUE BURNING IN SPECIFIED COUNTIES, TO PROVIDE FOR REGISTRATION OF CERTAIN FIELDS WITH THE IDAHO DEPARTMENT OF AGRICULTURE, TO REQUIRE CERTAIN AUTHORIZATION FROM THE DEPARTMENT AND TO PROVIDE THAT REQUIRED INFORMATION FOR REGISTRATION MUST BE RECEIVED BY THE DEPARTMENT PRIOR TO FIELD IGNITION; AMENDING CHAPTER 48, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-4803A, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF AGRICULTURE TO MAKE CERTAIN DETERMINATIONS AND TAKE CERTAIN ACTIONS RELATING TO VIOLATIONS OF DESIGNATED SMOKE MANAGEMENT AND CROP RESIDUE DISPOSAL PROVISIONS, TO PROVIDE FOR VIOLATIONS, TO PROVIDE PENALTIES, TO PROVIDE PROCEDURES, TO PROVIDE FOR MONEYS COLLECTED FOR VIOLATIONS, TO PROVIDE FOR INVESTIGATIONS AND INSPECTIONS, TO PROVIDE A STATUTE OF LIMITATIONS FOR CERTAIN CIVIL AND ADMINISTRATIVE PROCEEDINGS, TO PROVIDE FOR COMPLAINTS, TO PROVIDE THAT AUTHORIZED CROP RESIDUE BURNING SHALL NOT CONSTITUTE A NUISANCE OR TRESPASS AND TO PROVIDE THAT DESIGNATED PROVISIONS RELATING TO CROP RESIDUE BURNING SHALL NOT BE CONSTRUED TO CREATE CERTAIN PRIVATE CAUSES OF ACTION; AND AMENDING SECTION 22-4804, IDAHO CODE, TO PROVIDE FOR REGISTERED COUNTIES, TO STRIKE REFERENCE TO REGISTRATION OF FIELDS WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, TO REVISE PROVISIONS RELATING TO FEES FOR BURNING OF REGISTERED FIELDS IN DESIGNATED COUNTIES, TO PROVIDE FOR PAYMENT OF FEES TO THE DEPARTMENT, TO PROVIDE FOR THE REMITTANCE OF THE FEES BY THE DEPARTMENT TO THE STATE TREASURER, TO STRIKE REFERENCE TO CERTAIN RULEMAKING BY THE BOARD OF HEALTH AND WELFARE RELATING TO FEES FOR CROP BURNING, TO PROVIDE FOR USE BY THE DEPARTMENT OF MONEYS FROM THE AGRICULTURAL SMOKE MANAGEMENT ACCOUNT, TO REVISE PROVISIONS RELATING TO THE USE OF MONEYS FROM THE AGRICULTURAL SMOKE MANAGEMENT ACCOUNT FOR RESEARCH AND TO STRIKE PROVISIONS RELATING TO A SMOKE MANAGEMENT ADVISORY BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-4801, Idaho Code, be, and the same is hereby amended to read as follows:

22-4801. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that the current knowledge and technology support the practice of burning crop residue to control disease, weeds, pests, and to enhance crop rotations. It is the intent of the legislature to promote agricultural activities~~.--Currently--some--of--those--activities-include-crop-residue burning~~ while at the same time protecting public health. The legislature finds that due to the climate, soils, and crop rotations unique to north Idaho counties, crop residue burning is a prevalent agricultural practice and that there is an environmental benefit to protecting water quality from the growing of certain crops in environmentally sensitive areas. It is the intent of the legislature to reduce the loss to the state of its agricultural resources by providing a safe harbor to farmers when burning crop residues in compliance with this chapter and limiting the circumstances under which agricultural operations may be exposed to claims outside of the lawful framework for crop residue burning. The director of the Idaho department of agriculture may promulgate rules relating to crop residue burning under this chapter. Further, the legislature encourages the Idaho department of agriculture and the Idaho department of environmental quality to cooperate with local communities and the agricultural community ~~and~~ in order to establish ~~voluntary~~ smoke management and crop residue burning programs. The legislature encourages the Idaho department of agriculture and the agricultural community to pursue alternative means to crop residue disposal. Nothing in this chapter shall prohibit the Idaho department of environmental quality from enforcing the environmental protection and health act, chapter 1, title 39, Idaho Code, and the rules promulgated pursuant thereto, as they relate to air quality and protection of the state and national ambient air quality standards.

SECTION 2. That Section 22-4803, Idaho Code, be, and the same is hereby amended to read as follows:

22-4803. AGRICULTURAL FIELD BURNING. (1) The open burning of crop residue grown in agricultural fields shall be an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, and the environmental protection and health act, and any rules promulgated pursuant thereto, are met, and when no other ~~agricultural~~ economically viable alternatives to burning are available, as determined by the director, for the purpose of:

(a) Disposing of crop residues;

(b) Developing physiological conditions conducive to increased crop yields; or

(c) Controlling diseases, insects, pests or weed infestations.

(2) The following provisions shall apply to all agricultural field burning:

(a) In order to minimize impacts upon populated areas of the counties designated in subsection (3) of this section, a~~A~~ny person conducting crop residue burning must make every reasonable effort to burn only when weather conditions are conducive to adequate smoke dispersion, and the burning does not emit particulates or other material which exceed the state and federal ambient air quality standards; and

(b) The open burning of crop residue shall be conducted in the field where it was generated.

(3) In Kootenai, ~~and~~ Benewah, Boundary, Bonner, Shoshone, Latah, Clearwater, Nez Perce, Lewis and Idaho counties, the legislature finds that there are a great many cereal grain, field grass, forage grass, and turf grass fields, and it is a practice to burn these fields to control disease, weeds and pests in these counties. Therefore, in ~~Kootenai--and Benewah~~ the counties specifically identified in this subsection, no person shall conduct or allow any crop residue burning without first registering each field with the ~~DEQ~~ department each year burning is conducted~~.--Approved--forms--for--registering--fields-when-needed-may-be obtained-at-the-DEQ's-Coeur-d'Alene-office~~, and without first receiving authorization from the department that the conditions of subsection (2)(a) of this section are met. This provision is not met unless ~~the forms--contain~~ all ~~required~~ information ~~and-are~~ required by the department for registration is received by the ~~DEQ~~ department prior to field ignition.

(4) The use of reburn machines, propane flamers, or other devices to ignite or reignite a field for the purpose of crop residue burning shall be considered an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, the environmental protection and health act, and any rules promulgated thereto, are met.

SECTION 3. That Chapter 48, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-4803A, Idaho Code, and to read as follows:

22-4803A. VIOLATIONS -- PENALTIES -- INSPECTION -- COMPLAINTS. (1) If it is determined by the department that any person who engages in or allows crop residue burning of a field or fields required to be registered pursuant to section 22-4803(3), Idaho Code, has violated any provision of this chapter, that person shall be deemed to have committed a first time violation, provided that the person has not, within the previous three (3) years been determined by the department to have committed a violation of the provisions of this chapter.

(a) The department shall provide the person determined to have committed the violation 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.

(b) Any person determined to have committed a first time violation shall be prohibited from crop residue burning for a period of one (1) year from the date of the violation. The prohibition shall include all fields located within the state of Idaho that are owned or controlled by the violating party, whether or not previously registered.

(2) Any person, after having been determined to have committed a first time violation pursuant to the provisions of this section, shall be deemed to have committed a subsequent violation if the person is determined by the department to have committed a subsequent violation within a three (3) year period of time from the time of the first violation.

(a) Those persons having been determined to have committed a subsequent violation, shall be assessed a civil penalty by the department or its duly authorized agent, in an amount not to exceed ten thousand dollars ($10,000) for each offense, and shall be liable for

reasonable attorney's fees and costs incurred by the department associated with assessment of the civil penalty.

(b) Assessment of a civil penalty as provided herein may be made in conjunction with any other department administrative action and shall be based on the severity of the offense and the degree of cooperation with the department.

(c) 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.

(d) In the event 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, then the department may commence and prosecute an action to compel payment of the penalty in the district court in and for the county in which the violation occurred.

(e) 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.

(f) Moneys collected for violations shall be deposited in the state treasury and credited to the state agricultural smoke management account created in section 22-4804, Idaho Code.

(g) The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, and other mitigating factors. The director shall prepare a written report setting forth the basis upon which any monetary penalty is imposed and/or computed and shall retain the report on file with the department.

(3) The director, or his designee is authorized to enter upon public or private property for the purpose of investigating or inspecting for possible violations. All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho.

(4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or any rule promulgated pursuant to this chapter more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.

(5) The department shall investigate all agricultural field burning and crop residue disposal complaints lodged against persons conducting burning in Kootenai, Benewah, Boundary, Bonner, Shoshone, Latah, Clearwater, Nez Perce, Lewis and Idaho counties. Provided however, that should multiple complaints be lodged relating to agricultural field burning or crop residue disposal regarding the same location, date and time, then the department shall only be required to complete one (1) investigation. A complaint must include the name, address and telephone number of the complainant. Complaints pursuant to this section are a public record open to public inspection and copying pursuant to chapter 3, title 9, Idaho Code.

(6) Crop residue burning conducted in accordance with section 22-4803, Idaho Code, shall not constitute a private or public nuisance or constitute a trespass. Nothing in this chapter shall be construed to create a private cause of action against any person who engages in or allows crop residue burning of a field or fields required to be registered pursuant to section 22-4803(3), Idaho Code, provided such activities are conducted in accordance with chapter 48, title 22, Idaho Code, and rules promulgated thereunder.

SECTION 4. That Section 22-4804, Idaho Code, be, and the same is hereby amended to read as follows:

22-4804. ~~KOOTENAI AND BENEWAH~~ REGISTERED COUNTIES -- AGRICULTURAL BURNING FEES -- ACCOUNT -- RULES -- RESEARCH -- MANAGEMENT PROGRAM. (1) Any person who registers a field ~~with the DEQ~~ for agricultural burning in Kootenai, ~~or~~ Benewah, Boundary, Bonner, Shoshone, Latah, Clearwater, Nez Perce, Lewis or Idaho counties shall pay to the ~~DEQ~~ department a fee of one dollar ($1.00) per acre of cropland to be burned. The ~~DEQ~~ department shall remit all fees monthly to the state treasurer, who shall deposit the moneys in the state agricultural smoke management account which is hereby created. ~~The board of health and welfare may, upon the recommendation of the DEQ, adopt rules pertaining to:~~

~~(a) Collection, handling, and refund of fees established in subsection (1) of this section; and~~

~~(b) Disbursement of funds from the account as provided in subsection (2) of this section.~~

(2) The ~~DEQ~~ department may use moneys from the agricultural smoke management account as appropriated annually by the legislature for:

(a) Research to:

(i) Develop alternative crops which do not require burning;

(ii) Improve burning and cultural practices for crops which may require burning; ~~and~~

(iii) Explore alternatives to burning; and

(iv) If appropriate, study and evaluate any public health impacts of burning; and

(b) Supplementation of appropriated general account moneys for implementation of agricultural smoke management programs referenced in section 22-4801, Idaho Code.

~~(3) A smoke management advisory board is established in the DEQ to advise the DEQ administrator or his designee in the administration and enforcement of the provisions of this section by overseeing the funds provided and to review and recommend research programs. The board shall consist of six (6) members: three (3) from the agricultural community and three (3) nonagriculturists from the general public, appointed by the governor and to serve at the pleasure of the governor. The seventh member shall be ex officio and shall be the administrator of the DEQ or his designee.~~

~~(4) The board shall, on the first day of each July or as soon thereafter as practicable, elect a chairman and a vice chairman from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected it officers, the secretary shall certify the results of the election to the administrator of the DEQ. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be pre-~~

~~served--in--the--offices--of-the-DEQ.-If-the-chairman-is-absent-from-any meeting-of-the-board,-his-duties-shall-be-discharged-by-the-vice--chairman.--All-members-of-the-board-present-at-a-meeting-shall-be-entitled-to vote-on-any-question,-matter,-or-thing-which-properly-comes-before-it.~~

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

Approved April 23, 2003.

CHAPTER 317
(H.B. No. 394)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-116A, IDAHO CODE, TO PROVIDE FOR COMPLIANCE AGREEMENT SCHEDULES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-116A, Idaho Code, and to read as follows:

39-116A. COMPLIANCE AGREEMENT SCHEDULES. (1) The director is hereby authorized to enter into a compliance agreement schedule with any person. An agreement entered into under this section shall not relieve any person from the obligation to comply with applicable human health and environmental protection statutes and rules, but may include an enforceable schedule for actions necessary for the person to come into or maintain compliance as expeditiously as practicable with such statutes and rules, if the person demonstrates to the satisfaction of the department that such a schedule is appropriate, given the factors listed in subsection (4) of this section. The provisions of this section shall not apply where prohibited by federal or state law.

(2) The department may propose, and the board adopt, rules necessary for the implementation of this section.

(3) In establishing any compliance agreement schedule, the term of the agreement shall not exceed ten (10) years, although successive agreements may be entered into. Agreements shall provide for annual meetings between the department and the person to reassess whether, considering the factors listed in subsection (4) of this section, the schedule and other terms of the agreement are still appropriate. All agreements must be signed by the director or his designee and an authorized representative on behalf of the person. All agreements are enforceable as orders under the provisions of this chapter.

(4) Agreements and schedules entered into under this act shall take into account, in descending priority the:

(a) Protection of public health;

(b) Protection of environment;

(c) Ability of the person to pay for costs of compliance;

(d) Current fiscal obligations of the person;
(e) Other factors as determined by the department or the board.

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 24, 2003.

CHAPTER 318
(H.B. No. 400, As Amended in the Senate)

AN ACT

RELATING TO TAXATION AND REVENUE; TO PROVIDE A SHORT TITLE; AMENDING SECTION 63-3619, IDAHO CODE, TO INCREASE THE RATE OF THE SALES TAX TO SIX PERCENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3621, IDAHO CODE, TO INCREASE THE RATE OF THE USE TAX TO SIX PERCENT FOR PROPERTY ACQUIRED ON AND AFTER MAY 1, 2003; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE THE DISTRIBUTION FORMULA FOR DISTRIBUTION OF SALES TAX REVENUES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTIONS 63-3619 AND 63-3621, IDAHO CODE; REPEALING SECTION 63-3638, IDAHO CODE; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3619, IDAHO CODE, TO PROVIDE A SALES TAX OF FIVE PERCENT; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3621, IDAHO CODE, TO PROVIDE IMPOSITION OF A USE TAX RATE OF FIVE PERCENT; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3638, IDAHO CODE, TO PROVIDE DISTRIBUTION OF SALES TAX REVENUES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. SHORT TITLE. This act shall be known and may be cited as the "2003 Economic Recovery and Stabilization Act."

SECTION 2. That Section 63-3619, Idaho Code, be, and the same is hereby amended to read as follows:

63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon each sale at retail at the rate of ~~five per cent~~ <u>six percent</u> (~~5~~<u>6</u>%) of the sales price of all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, ~~instalment~~ <u>installment,</u> conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer

shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by rule provide that the amount collected by the retailer from the customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales slip or other proof of sale.

(f) The taxes imposed by this chapter shall apply to the sales to contractors purchasing for use in the performance of contracts with the United States.

SECTION 3. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after ~~July~~ May 1, ~~1965~~2003, for storage, use, or other consumption in this state at the rate of ~~five~~ six percent (5~~6~~%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless ~~the~~ property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement

for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or

brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 4. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in section 63-3203, Idaho Code, shall be distributed by the tax commission as follows:

(1) An amount of money shall be distributed to the state refund

account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars ($5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of section 63-709, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-709, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) One dollar ($1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(9) ~~Thirteen and three-quarters~~ Eleven and five-tenths percent (~~13.75~~11.5%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars ($1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (9)(c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (9)(c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (9)(c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (89)(d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (9)(d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (9)(d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current

property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1)(e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose 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.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (9)(d).

(vii) For purposes of this subsection (9)(d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(10) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

SECTION 5. That Sections 63-3619 and 63-3621, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Section 63-3638, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 36, 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 63-3619, Idaho Code, and to read as follows:

63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon each sale at retail at the rate of five percent (5%) of the sales price of all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the

bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by rule provide that the amount collected by the retailer from the customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales slip or other proof of sale.

(f) The taxes imposed by this chapter shall apply to the sales to contractors purchasing for use in the performance of contracts with the United States.

SECTION 8. That Chapter 36, 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 63-3621, Idaho Code, and to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 2005, for storage, use, or other consumption in this state at the rate of five percent (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining

a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 9. That Chapter 36, 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 63-3638, Idaho Code, and to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in section 63-3203, Idaho Code, shall be distributed by the tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized

under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars ($5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of section 63-709, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-709, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) One dollar ($1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(9) Thirteen and three-quarters percent (13.75%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to

the various counties as follows:

(i) One million three hundred twenty thousand dollars ($1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (9)(c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (9)(c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (9)(c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (9)(d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (9)(d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (9)(d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax

commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1)(e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose 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.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (9)(d).

(vii) For purposes of this subsection (9)(d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(10) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

SECTION 10. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3 and 10 of this act shall be in full force and effect on and after May 1, 2003; and Section 4 of this act shall be in full force and effect on and after June 1, 2003. Sections 5, 7 and 8 of this act shall be in full force and effect on and after July 1, 2005. Sections 6 and 9 of this act shall be in full force and effect on and after August 1, 2005.

Approved April 25, 2003.

CHAPTER 319
(S.B. No. 1180)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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, 2003, through June 30, 2004:

IDAHO STATE CAPITOL COMMISSION:

FOR:	
Personnel Costs	$29,500
Operating Expenditures	69,700
TOTAL	$99,200
FROM:	
Capitol Endowment Income Fund	$99,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Capitol Commission is authorized no more than one-half (0.50) full-time equivalent position at any point during the period July 1, 2003, through June 30, 2004, 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 Department of Administration for the Idaho State Capitol Commission the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 207, Laws of 2002, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004.

Approved April 29, 2003.

CHAPTER 320
(S.B. No. 1181)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2004; 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 amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2003, through June 30, 2004:

FROM:	
General Fund	$ 2,085,000
Miscellaneous Revenue Fund	9,161,500
Veterans Services Endowment Income Fund	571,700
Federal Grant Fund	4,964,600
TOTAL	$16,782,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred five and thirty-two hundredths (305.32) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 30, 2003.

CHAPTER 321
(S.B. No. 1182)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2004; 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON AGING:				
FROM:				
General Fund	$487,600	$ 64,600	$ 3,929,200	$ 4,481,400
Federal Grant Fund	419,500	228,500	6,225,200	6,873,200
Miscellaneous Revenue Fund		35,000		35,000
TOTAL	$907,100	$328,100	$10,154,400	$11,389,600

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, 2003, through June 30, 2004, 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 30, 2003.

CHAPTER 322
(S.B. No. 1183)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REDUCING THE FISCAL YEAR 2003 APPROPRIATION; REPEALING SECTION 3, CHAPTER 230, LAWS OF 2002; AND DECLARING AN EMERGENCY FOR SECTIONS 3 AND 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund (Licenses)	$ 2,544,800	$ 2,523,300	$2,452,600	$364,500	$ 7,885,200
Fish and Game Fund (Other)		16,100			16,100
Fish and Game Set-aside Fund (Licenses)	100	61,300			61,400
Fish and Game Set-aside Fund (Other)		300			300
Fish and Game Primary Depredation Fund		2,500			2,500
Fish and Game Secondary Depredation Fund		2,500			2,500
Fish and Game Expendable Trust Fund		14,100			14,100
Fish and Game Nonexpendable Trust Fund		5,900			5,900
Fish and Game Fund (Federal)	2,645,200	3,181,000	40,800		5,867,000
TOTAL	$ 5,190,100	$ 5,807,000	$2,493,400	$364,500	$13,855,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund (Licenses)	$ 6,368,700	$ 1,775,700	$ 326,300		$ 8,470,700
Fish and Game Fund (Other)	83,100	18,800	1,900		103,800
Fish and Game Set-aside Fund (Other)		10,500			10,500
Fish and Game Expendable Trust Fund		20,800			20,800
TOTAL	$ 6,451,800	$ 1,825,800	$ 328,200		$ 8,605,800
III. FISHERIES:					
FROM:					
Fish and Game Fund (Licenses)	$ 2,879,700	$ 1,862,800	$ 711,500		$ 5,454,000
Fish and Game Fund (Other)	1,266,700	754,600	53,000		2,074,300
Fish and Game Set-aside Fund (Licenses)	150,100	218,400	140,000		508,500
Fish and Game Set-aside Fund (Other)	51,400	30,000			81,400
Fish and Game Expendable Trust Fund	222,200	50,400			272,600
Fish and Game Nonexpendable Trust Fund		32,700			32,700
Fish and Game Fund (Federal)	9,148,200	5,401,900	2,675,400		17,225,500
TOTAL	$13,718,300	$ 8,350,800	$3,579,900		$25,649,000
IV. WILDLIFE:					
FROM:					
Fish and Game Fund (Licenses)	$ 3,083,900	$ 3,418,400	$ 201,400		$ 6,703,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Fund (Other)	22,100	175,000			197,100
Fish and Game Set-aside Fund (Licenses)		7,200			7,200
Fish and Game Set-aside Fund (Other)	499,400	687,400			1,186,800
Fish and Game Expendable Trust Fund	392,400	471,300	23,900		887,600
Fish and Game Nonexpendable Trust Fund	9,500	2,300			11,800
Fish and Game Fund (Federal)	3,090,300	1,895,900	126,000		5,112,200
TOTAL	$ 7,097,600	$ 6,657,500	$ 351,300		$14,106,400
V. COMMUNICATIONS:					
FROM:					
Fish and Game Fund (Licenses)	$ 1,202,800	$ 495,100	$ 27,000		$ 1,724,900
Fish and Game Fund (Other)	79,600	34,900	60,000		174,500
Fish and Game Set-aside Fund (Other)	67,500	118,500			186,000
Fish and Game Expendable Trust Fund		25,000			25,000
Fish and Game Fund (Federal)	546,200	352,400	65,000		963,600
TOTAL	$ 1,896,100	$ 1,025,900	$ 152,000		$ 3,074,000
VI. ENGINEERING:					
FROM:					
Fish and Game Fund (Licenses)	$ 797,800	$ 67,100	$ 35,100		$ 900,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund (Licenses)	$ 538,700	$ 79,200	$ 23,700		$ 641,600
Fish and Game Fund (Other)	171,300	10,600			181,900
Fish and Game Set-aside Fund (Other)	52,900	6,600			59,500
Fish and Game Fund (Federal)	1,565,300	406,600	2,100		1,974,000
TOTAL	$ 2,328,200	$ 503,000	$ 25,800		$ 2,857,000
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund (Licenses)	$ 410,000	$ 647,100	$ 8,300		$ 1,065,400
Fish and Game Set-aside Fund (Licenses)	50,200	1,894,500	232,300		2,177,000
Fish and Game Primary Depredation Fund				$200,000	200,000
Fish and Game Secondary Depredation Fund				200,000	200,000
TOTAL	$ 460,200	$ 2,541,600	$ 240,600	$400,000	$ 3,642,400
GRAND TOTAL	$37,940,100	$26,778,700	$7,206,300	$764,500	$72,689,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred eighteen (518) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation provided in Section 1, Chapter 230, Laws of

2002 is hereby reduced by $300,000 from the Wildlife program for operating expenditures from the Fish and Game Fund (Licenses) for the period July 1, 2002, through June 30, 2003.

SECTION 4. That Section 3, Chapter 230, Laws of 2002, be, and the same is hereby repealed.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 3 and 4 of this act shall be in full force and effect on and after passage and approval.

Approved April 30, 2003.

CHAPTER 323
(S.B. No. 1184)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2004; GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HAZARDOUS MATERIALS' MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2003; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE 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 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:				
FROM:				
General Fund	$ 1,423,300	$ 736,300	$100,000	$ 2,259,600
Indirect Cost Recovery Fund	58,500			58,500
Federal Grant Fund		164,100		164,100
Miscellaneous Revenue Fund		38,800		38,800
Armory Revenue Fund		75,000		75,000
TOTAL	$ 1,481,800	$ 1,014,200	$100,000	$ 2,596,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. FEDERAL AND STATE CONTRACTS:				
FROM:				
General Fund	$ 656,000	$ 593,000		$ 1,249,000
Federal Grant Fund	6,678,900	6,764,300		13,443,200
TOTAL	$ 7,334,900	$ 7,357,300		$14,692,200
III. DISASTER SERVICES:				
FROM:				
General Fund	$ 795,100	$ 88,400		$ 883,500
Federal Grant Fund	618,100	644,100	$487,400	1,749,600
Indirect Cost Recovery Fund		44,800		44,800
TOTAL	$ 1,413,200	$ 777,300	$487,400	$ 2,677,900
IV. BUREAU OF HAZARDOUS MATERIALS:				
FROM:				
General Fund	$ 250,800	$ 86,500		$ 337,300
Federal Grant Fund	20,000	3,419,800		3,439,800
TOTAL	$ 270,800	$ 3,506,300		$ 3,777,100
GRAND TOTAL	$10,500,700	$12,655,100	$587,400	$23,743,200

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, 2003, through June 30, 2004.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred seventy-seven and eighty-hundredths (177.80) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 246, Laws of 2002, 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, 2002, through June 30, 2003:

BUREAU OF HAZARDOUS MATERIALS:
FOR:
Operating Expenditures $96,500
FROM:
Hazardous Substance Emergency Response Fund $96,500

SECTION 5. The State Controller shall make a cash transfer of $96,500 from the General Fund to the Hazardous Substance Emergency Response Fund for the period July 1, 2002, through June 30, 2003.

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 April 30, 2003.

CHAPTER 324
(S.B. No. 1185)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS TO THE WATER RESOURCES ADJUDICATION FUND.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 852,300	$ 496,400			$ 1,348,700
Indirect Cost Recovery Fund	268,300	133,000	$ 8,500		409,800
Water Administration Fund	27,100	21,400			48,500
TOTAL	$ 1,147,700	$ 650,800	$ 8,500		$ 1,807,000
II. PLANNING AND TECHNICAL SERVICES:					
FROM:					
General Fund	$ 1,804,000	$ 472,900		$ 894,800	$ 3,171,700
Indirect Cost Recovery Fund	104,000	14,200			118,200
Water Pollution Control Fund	34,200	300,000			334,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund		435,800			435,800
Federal Grant Fund	406,600	1,948,200			2,354,800
TOTAL	$ 2,348,800	$3,171,100		$ 894,800	$ 6,414,700
III. ENERGY RESOURCES:					
FROM:					
General Fund	$ 33,200	$ 2,900			$ 36,100
Indirect Cost Recovery Fund	46,400	127,200			173,600
Miscellaneous Revenue Fund	48,500	593,100			641,600
Petroleum Price Violation Fund	575,000	1,487,200			2,062,200
Federal Grant Fund	546,800	562,900	$ 6,000		1,115,700
TOTAL	$ 1,249,900	$2,773,300	$ 6,000		$ 4,029,200
IV. SNAKE RIVER BASIN ADJUDICATION:					
FROM:					
General Fund	$ 1,533,000	$ 929,600			$ 2,462,600
Water Pollution Control Fund	196,100				196,100
Water Resources Adjudication Fund		108,500		$ 500,000	608,500
TOTAL	$ 1,729,100	$1,038,100		$ 500,000	$ 3,267,200
V. WATER MANAGEMENT:					
FROM:					
General Fund	$ 2,434,600	$ 465,500			$ 2,900,100
Indirect Cost Recovery Fund	46,900	5,900			52,800
Water Pollution Control Fund	166,100	101,000			267,100
Water Administration Fund	703,600	104,400			808,000
Miscellaneous Revenue Fund	427,100	107,300			534,400
Federal Grant Fund	202,500	189,600			392,100
TOTAL	$ 3,980,800	$ 973,700			$ 4,954,500
GRAND TOTAL	$10,456,300	$8,607,000	$14,500	$1,394,800	$20,472,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred seventy-five (175) full-time equivalent positions at any point during

the period July 1, 2003, through June 30, 2004, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding the provisions of Section 39-3630, Idaho Code, the State Controller is hereby directed to transfer $608,500 from the Water Pollution Control Fund to the Water Resources Adjudication Fund for the period July 1, 2003, through June 30, 2004. The State Controller shall coordinate cash transfers with the Department of Environmental Quality and the Department of Water Resources to minimize potential cash flow problems.

Approved April 30, 2003.

CHAPTER 325
(S.B. No. 1186)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF 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; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRPORT DEVELOPMENT GRANTS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRCRAFT POOL PROGRAM COSTS; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE TOURISM AND PROMOTION FUND; AND DIRECTING THE IDAHO TRANSPORTATION DEPARTMENT TO ACCESS FEDERAL FUNDS IF AVAILABLE AND TO REPORT ANY NEED FOR SUPPLEMENTAL SPENDING AUTHORITY.

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 funds for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT:					
FROM:					
State Highway Fund (Dedicated)	$11,843,300	$ 7,177,700	$ 623,700		$ 19,644,700
State Highway Fund (Federal)	232,500	148,600			381,100
State Highway Fund (Billing)	19,200	59,400			78,600
TOTAL	$12,095,000	$ 7,385,700	$ 623,700		$ 20,104,400
II. PLANNING:					
FROM:					
State Highway Fund (Dedicated)	$ 465,700	$ 234,400	$ 86,800		$ 786,900
State Highway Fund (Federal)	1,803,500	993,000			2,796,500
State Highway Fund (Billing)		41,500			41,500
TOTAL	$ 2,269,200	$ 1,268,900	$ 86,800		$ 3,624,900
III. MOTOR VEHICLES:					
FROM:					
State Highway Fund (Dedicated)	$11,491,900	$ 6,072,100	$ 318,300		$ 17,882,300
IV. HIGHWAY OPERATIONS:					
FROM:					
State Highway Fund (Dedicated)	$60,651,600	$31,854,900	$ 12,485,100		$104,991,600
State Highway Fund (Federal)	10,941,300	6,534,100			17,475,400
Idaho Traffic Safety Fund (Federal)				$ 2,000,000	2,000,000
State Highway Fund (Billing)		384,100			384,100
State Highway Fund (Local)	227,100	69,900			297,000
TOTAL	$71,820,000	$38,843,000	$ 12,485,100	$ 2,000,000	$125,148,100
V. CAPITAL FACILITIES:					
FROM:					
State Highway Fund (Dedicated)			$ 2,150,000		$ 2,150,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway Fund (Dedicated)			$ 57,092,100		$ 57,092,100
State Highway Fund (Federal)			188,528,400	$ 4,033,600	192,562,000
State Highway Fund (Local)			3,706,400		3,706,400
TOTAL			$249,326,900	$ 4,033,600	$253,360,500
VII. AERONAUTICS:					
FROM:					
State Aeronautics Fund (Dedicated)	$ 684,600	$ 626,700	$ 132,200	$ 641,000	$ 2,084,500
State Aeronautics Fund (Federal)	18,000	244,100		790,800	1,052,900
State Aeronautics Fund (Billing)	102,300	93,400			195,700
TOTAL	$ 804,900	$ 964,200	$ 132,200	$ 1,431,800	$ 3,333,100
VIII. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Fund (Dedicated)	$ 154,900	$ 55,900	$ 4,700	$ 312,000	$ 527,500
State Highway Fund (Federal)	339,300	44,700		3,286,700	3,670,700
TOTAL	$ 494,200	$ 100,600	$ 4,700	$ 3,598,700	$ 4,198,200
GRAND TOTAL	$98,975,200	$54,634,500	$265,127,700	$11,064,100	$429,801,500

Idaho Transportation Department is authorized no more than one thousand eight hundred thirty-eight (1,838) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 2003, to be used for Contract Construction and Right-of-Way Acquisition only for the period July 1, 2003, through June 30, 2004.

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, 2003, through June 30, 2004.

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 2003, to be used for Airport Development Grants for the period July 1, 2003, through June 30, 2004.

SECTION 8. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances, not to exceed $168,500, of the State Aeronautics Fund stemming from insurance settlement received in fiscal year 2003, to be used for Aircraft Pool Program costs for the period July 1, 2003, through June 30, 2004.

SECTION 9. There is hereby appropriated and the State Controller is directed to transfer $25,000 from the State Highway Fund to the Tourism and Promotion Fund in the Department of Commerce during fiscal year 2004. This transfer will provide the matching fund support of the Gateway Visitor Centers.

SECTION 10. The Legislature herein restates its conviction that maximizing highway construction dollars has, and will continue to be, the most important aspect of the Idaho Transportation Department's budget. In the event federal funds in excess of those provided for in this bill become available to the Department during the period July 1, 2003, through June 30, 2004, the Legislature directs the Department to access those funds in a manner consistent with the receipt and expenditure of noncognizable funding. Further, in the event revenues to the Idaho Transportation Department's State Highway Fund exceed the spending authority provided for in this act, the Legislature directs the Department to report to the Joint Finance-Appropriations Committee on the need for any supplemental spending authority required for state funds necessary to match federal highway funds.

Approved April 30, 2003.

CHAPTER 326
(S.B. No. 1187)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2004; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO BOND PAYMENTS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SECURING BIDS FOR MEDICAL INSURANCE AND GENERAL OFFICE SUPPLIES; 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 198,200	$ 60,700		$ 258,900
Industrial Special Indemnity Fund	166,000	79,900		245,900
Indirect Cost Recovery Fund	491,300	281,700		773,000
Administration and Accounting Services Fund	24,300			24,300
TOTAL	$ 879,800	$ 422,300		$ 1,302,100
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 531,200	$ 257,800		$ 789,000
Indirect Cost Recovery Fund	364,200	87,000		451,200
Administration and Accounting Services Fund	1,577,500	974,900	$ 225,200	2,777,600
TOTAL	$2,472,900	$ 1,319,700	$ 225,200	$ 4,017,800
III. PUBLIC WORKS:				
FROM:				
General Fund		$ 332,000		$ 332,000
Permanent Building Fund	$1,372,900	684,600	$ 984,700	3,042,200
Administration and Accounting Services Fund	1,532,900	4,133,600	35,000	5,701,500
TOTAL	$2,905,800	$ 5,150,200	$1,019,700	$ 9,075,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. PURCHASING:				
FROM:				
General Fund	$ 750,000	$ 171,100		$ 921,100
Federal Surplus Property Revolving Fund	183,400	257,400	$ 56,800	497,600
Administration and Accounting Services Fund	731,800	1,241,400	33,500	2,006,700
TOTAL	$1,665,200	$ 1,669,900	$ 90,300	$ 3,425,400
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 196,600	$ 330,700		$ 527,300
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 59,900			$ 59,900
Administration and Accounting Services Fund	292,400	$ 312,500		604,900
TOTAL	$ 352,300	$ 312,500		$ 664,800
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 256,400	$ 447,600		$ 704,000
Retained Risk Fund	426,200	216,000		642,200
TOTAL	$ 682,600	$ 663,600		$ 1,346,200
VIII. BOND PAYMENT:				
FROM:				
General Fund		$ 3,418,400	$3,035,400	$ 6,453,800
Permanent Building Fund		1,564,800	2,426,800	3,991,600
Administration and Accounting Services Fund		422,200	220,000	642,200
TOTAL		$ 5,405,400	$5,682,200	$11,087,600
GRAND TOTAL	$9,155,200	$15,274,300	$7,017,400	$31,446,900

SECTION 2. It is legislative intent that if the amount appropriated for bond payments exceeds the actual expenditures for bond payments, the balance should be reverted to the fund from which it came.

SECTION 3. It is legislative intent that the Department of Administration is encouraged to secure bids on medical insurance and general office supplies.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-three and one-tenth (173.10) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 30, 2003.

CHAPTER 327
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS FROM THE IDAHO MILLENNIUM INCOME FUND TO THE STATE TREASURER FOR THE PURPOSES AND PROGRAMS SPECIFIED FOR FISCAL YEAR 2004; APPROPRIATING MONEYS AND DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS FOR THE PURPOSES AND PROGRAMS SPECIFIED FOR FISCAL YEAR 2004; PROVIDING LEGISLATIVE INTENT TO THE CATASTROPHIC HEALTH CARE COST PROGRAM BOARD REGARDING CERTAIN EXPENDITURES; AND PROVIDING THAT CERTAIN UNEXPENDED AND UNENCUMBERED MONEYS SHALL BE REVERTED.

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 $224,700 to be expended for trustee and benefit payments for the following programs for the period July 1, 2003, through June 30, 2004:

(a) $157,200 for the American Lung Association of Idaho/Nevada to expand the Not-on-Tobacco (N-O-T) smoking cessation/reduction program and the Teens Against Tobacco Use (T.A.T.U.) tobacco control intervention program to reach Idaho primary and secondary school students in each of the seven public health districts.

(b) $67,500 for the Blue Cross of Idaho Foundation for Health to expand and improve its current collaboration with Idaho health care providers and public health districts in incorporating a Centers for Disease Control and Prevention recommended tobacco control model.

SECTION 2. There is hereby appropriated and the State Controller is hereby directed to make cash transfers from the Idaho Millennium Income Fund to the following programs, at the request of the State Treasurer, not to exceed $2,214,000 for the period July 1, 2003, through June 30, 2004:

(a) $435,000 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.

(b) $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.

(c) $515,000 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 voluntary organizations. The tobacco use cessation programs should be available to any Idaho citizen, with primary emphasis on youth and pregnant women. The program shall include strong evaluation measures including, but not limited to, the number of programs funded, the number of participants and quit rates.

(d) $270,000 for the Idaho Supreme Court for its youth courts and status offender services programs as they relate to addressing tobacco and/or substance abuse issues.

(e) $94,000 for Law Enforcement Programs in the Idaho State Police to offset the cost of youth tobacco investigations.

(f) $400,000 for the Catastrophic Health Care Cost Program for expenses related to caring for indigent persons after the $10,000 deductible is paid by the counties.

SECTION 3. It is legislative intent that the Catastrophic Health Care Cost Program Board use the funds appropriated in Section 2(a) 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, 2003, through June 30, 2004, 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(a) of this act.

SECTION 4. Notwithstanding any other provision of law to the contrary, on June 30, 2004, any remaining unexpended and unencumbered moneys appropriated in Section 2 of this act shall be reverted to the Idaho Millennium Income Fund.

Approved April 30, 2003.

CHAPTER 328
(S.B. No. 1189)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT;

EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; REDUCING SPENDING AUTHORITY; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated 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:	$26,282,400
(1) Alterations and Repairs	
(2) Asbestos Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Building Demolition	
(6) Capitol Mall Maintenance	
B. DEPARTMENT OF CORRECTION:	$ 2,011,000
(1) Security Locking Systems	
C. DEPARTMENT OF ADMINISTRATION:	$ 700,000
(1) Statewide Microwave System	
GRAND TOTAL	$28,993,400

SECTION 2. 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.

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

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance

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

SECTION 5. Notwithstanding any other provision of law to the contrary, the reappropriations on file with the State Controller for the Division of Public Works from the Permanent Building Fund for the purpose of paying the cost of land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors are hereby reduced by $112,056,000. Such reductions shall be computed by the Department of Administration by budget unit and recorded in the Statewide Accounting and Reporting System on or before June 30, 2003.

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

Approved April 30, 2003.

CHAPTER 329
(S.B. No. 1190)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2003; 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 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:				
FROM:				
General Fund	$1,247,100	$ 424,300	$ 51,600	$1,723,000
Federal Grant Fund	850,300	143,900	69,500	1,063,700
Miscellaneous Revenue Fund	169,900	332,000	4,600	506,500
TOTAL	$2,267,300	$ 900,200	$125,700	$3,293,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:				
FROM:				
General Fund	$ 157,100	$ 43,600		$ 200,700
Miscellaneous Revenue Fund	159,900	127,500		287,400
TOTAL	$ 317,000	$ 171,100		$ 488,100
GRAND TOTAL	$2,584,300	$1,071,300	$125,700	$3,781,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than forty-eight and thirty-six hundredths (48.36) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 177, Laws of 2002, there is hereby appropriated to the State Board of Education for the Idaho State Historical Society 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, 2002, through June 30, 2003:

I. HISTORIC PRESERVATION AND EDUCATION:

FOR:	
Operating Expenditures	$50,000
FROM:	
Miscellaneous Revenue Fund	$50,000

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 30, 2003.

CHAPTER 330
(S.B. No. 1191)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2004; 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 State Library Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,717,200	$701,400			$2,418,600
Federal Grant Fund	221,600	234,700	$25,000	$595,700	1,077,000
Miscellaneous Revenue Fund		29,300	25,000	26,000	80,300
TOTAL	$1,938,800	$965,400	$50,000	$621,700	$3,575,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-one (41) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 30, 2003.

CHAPTER 331
(H.B. No. 410)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SHARING RESOURCES.

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, 2003, through June 30, 2004:

A. RENAL DISEASE:

FROM:	
General Fund	$ 535,900
FOR:	
Trustee and Benefit Payments	$ 535,900

B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 2,993,500
Federal Grants Fund	12,530,400
Rehabilitation Revenue and Refunds Fund	609,000
Miscellaneous Revenue Fund	408,100
TOTAL	$16,541,000
FOR:	
Personnel Costs	$ 7,262,900
Operating Expenditures	1,359,100
Trustee and Benefit Payments	7,919,000
TOTAL	$16,541,000
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 70,300
FOR:	
Trustee and Benefit Payments	$ 70,300
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 73,300
Federal Grants Fund	203,000
Miscellaneous Revenue Fund	21,800
TOTAL	$ 298,100
FOR:	
Personnel Costs	$ 106,700
Operating Expenditures	80,100
Trustee and Benefit Payments	111,300
TOTAL	$ 298,100
GRAND TOTAL	$17,445,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty (150) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 order to promote administrative efficiency among the Office of the State Board of Education, the Division of Professional-Technical Education, and the Division of Vocational Rehabilitation, it is the intent of the Legislature that the fiscal, human resources, information technology, and reception functions funded by this appropriation be shared with the Office of the State Board of Education and the Division of Professional-Technical Education.

Sharing these resources shall not change the mission or purpose of the Division of Vocational Rehabilitation and shall not negatively affect its ability to carry out its mission.

Approved April 30, 2003.

CHAPTER 332
(H.B. No. 411)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2004; 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 608,500	$ 95,000	$609,300	$1,312,800
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	1,361,800	412,600	212,000	1,986,400
Miscellaneous Revenue Fund		17,400	9,100	26,500
TOTAL	$2,012,100	$612,600	$961,100	$3,585,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine and fifty-hundredths (39.50) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 30, 2003.

CHAPTER 333
(H.B. No. 412)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND REVISING THE EFFECTIVE DATES OF THE APPROPRIATION FOR THE INSTITUTIONS PROGRAM MADE IN SECTION 1, CHAPTER 324, LAWS OF 2002.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,782,200	$ 721,200			$ 2,503,400
Miscellaneous Revenue Fund	86,400	68,000			154,400
TOTAL	$ 1,868,600	$ 789,200			$ 2,657,800
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 560,600	$ 117,400		$ 3,400,900	$ 4,078,900
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,550,000	4,550,000
Juvenile Corrections Fund	37,200	68,500			105,700
Federal Grant Fund	39,700	100,000			139,700
Miscellaneous Revenue Fund				30,000	30,000
TOTAL	$ 637,500	$ 285,900		$ 7,980,900	$ 8,904,300
III. INSTITUTIONS:					
FROM:					
General Fund	$13,006,400	$1,200,600		$10,706,000	$24,913,000
State Juvenile Corrections Center Fund		1,072,700			1,072,700
Federal Grant Fund	256,100	91,700		1,110,000	1,457,800
Miscellaneous Revenue Fund		412,000		570,000	982,000
TOTAL	$13,262,500	$2,777,000		$12,386,000	$28,425,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 85,400	$ 11,500		$ 56,000	$ 152,900
Federal Grant Fund	255,100	345,300	$4,000	3,460,600	4,065,000
TOTAL	$ 340,500	$ 356,800	$4,000	$ 3,516,600	$ 4,217,900
GRAND TOTAL	$16,109,100	$4,208,900	$4,000	$23,883,500	$44,205,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred forty-three and seventy-five hundredths (343.75) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 appropriation made in Section 1, Chapter 324, Laws of 2002, for the Institution's Program from the General Fund, in the designated expense class of Trustee and Benefit Payments, shall be for the period July 1, 2002, through June 30, 2004.

Approved April 30, 2003.

CHAPTER 334
(H.B. No. 413)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2004; AND APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND.

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, 2003, through June 30, 2004:

FROM:	
General Fund	$24,043,100
Guardian Ad Litem Fund	441,900
ISTARS Technology Fund	1,808,200
Liquor Control Fund	440,000
Federal Grant Fund	418,800
Miscellaneous Revenue Fund	312,500
Court Services Fund	1,330,500
TOTAL	$28,795,000

SECTION 2. There is hereby appropriated $430,900 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 2003, through June 30, 2004.

Approved April 30, 2003.

CHAPTER 335
(H.B. No. 414)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, HOUSE BILL NO. 377, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill No. 377, as enacted by the First Regular Session of the Fifty-Seventh Idaho Legislature, there is hereby appropriated to the Idaho State Police 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, 2003, through June 30, 2004:

PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:

FROM:	
Peace Officers Fund	$192,700
FOR:	
Operating Expenditures	$ 56,000
Capital Outlay	136,700
TOTAL	$192,700

Approved April 30, 2003.

CHAPTER 336
(H.B. No. 418)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING CONDITIONS FOR 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:				
FROM:				
General Fund	$ 477,400	$1,059,400		$1,536,800
II. WWAMI MEDICAL EDUCATION:				
FROM:				
General Fund	$ 662,100	$ 62,500	$2,407,300	$3,131,900
Unrestricted Current Fund	22,600	55,900	111,900	190,400
TOTAL	$ 684,700	$ 118,400	$2,519,200	$3,322,300
III. IDEP DENTAL EDUCATION:				
FROM:				
General Fund	$ 200,700	$ 13,600	$ 623,400	$ 837,700
Unrestricted Current Fund	100,900			100,900
TOTAL	$ 301,600	$ 13,600	$ 623,400	$ 938,600
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:				
FROM:				
General Fund			$ 812,700	$ 812,700
V. FAMILY PRACTICE RESIDENCIES:				
FROM:				
General Fund	$ 409,400	$ 103,900	$ 502,700	$1,016,000
VI. WICHE:				
FROM:				
General Fund			$ 190,600	$ 190,600
GRAND TOTAL	$1,873,100	$1,295,300	$4,648,600	$7,817,000

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, 2003, through June 30, 2004, 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 the State Board of Education for the WOI Veterinary Education Program, WWAMI Medical Education Program, IDEP Dental Education Program, University of Utah Medical Education Program, Family Practice Residencies Program, and the WICHE Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered

balance of any appropriation contained in Section 1, Chapter 370, Laws of 2002, to be used for nonrecurring expenditures, for the period July 1, 2003, through June 30, 2004.

SECTION 4. The reappropriation for the General Fund moneys 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, 2003, is zero, the reappropriation for the General Fund moneys in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2003, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that 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 30, 2003.

CHAPTER 337
(H.B. No. 419)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT REGARDING MONEYS APPROPRIATED FOR CATEGORY B OF THE IDAHO ROBERT R. LEE PROMISE SCHOLARSHIP PROGRAM.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:				
FROM:				
General Fund	$ 473,100	$ 93,400		$ 566,500
II. IDAHO GEOLOGICAL SURVEY:				
FROM:				
General Fund	$ 743,800	$ 25,700		$ 769,500
III. SCHOLARSHIPS AND GRANTS:				
FROM:				
General Fund			$7,310,000	$7,310,000
Federal Grant Fund			236,000	236,000
TOTAL			$7,546,000	$7,546,000
IV. IDAHO MUSEUM OF NATURAL HISTORY:				
FROM:				
General Fund	$ 473,500	$ 13,500		$ 487,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:				
FROM:				
General Fund			$ 281,400	$ 281,400
VI. IDAHO COUNCIL ON ECONOMIC EDUCATION:				
FROM:				
General Fund			$ 52,200	$ 52,200
VII. TECHNICAL HELP:				
FROM:				
General Fund			$ 161,700	$ 161,700
GRAND TOTAL	$1,690,400	$132,600	$8,041,300	$9,864,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, there is hereby authorized no more than twenty-four and eighty-hundredths (24.80) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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. It is the intent of the Legislature that the moneys appropriated for Category B of the Idaho Robert R. Lee Promise Scholarship Program may only be used for qualifying Category B students entering a postsecondary institution for the first time for the 2001-2002 academic year or subsequent academic years after completion of high school or its equivalent, pursuant to Sections 33-4303 through 33-4313, Idaho Code.

Approved April 30, 2003.

CHAPTER 338
(H.B. No. 422)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DIGITAL BROADCASTING UPGRADES.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 845,000	$683,200	$1,528,200
Miscellaneous Revenue Fund	820,200		820,200
TOTAL	$1,665,200	$683,200	$2,348,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-five (35) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 2003, through June 30, 2004, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Any unspent moneys appropriated for digital broadcasting upgrades during the period July 1, 2001, through June 30, 2003, shall be encumbered for the purposes of upgrading broadcast equipment and translators to digital broadcast standards, during the period July 1, 2003, through June 30, 2004. Highest priority shall be given to upgrading the broadcast translator station at Sandpoint, Idaho. This appropriation acknowledges that additional grant funds may become available to support digital broadcasting and equipment upgrades. It is legislative intent that Idaho Public Television seek such funds to supplement General Fund moneys encumbered for digital broadcasting and equipment upgrades by this act.

Approved April 30, 2003.

CHAPTER 339
(H.B. No. 403, As Amended)

AN ACT

RELATING TO THE CONSTITUTIONALLY BASED EDUCATIONAL CLAIMS ACT; PROVIDING LEGISLATIVE FINDINGS; AMENDING SECTION 6-2214, IDAHO CODE, TO PROVIDE THE IMPOSITION OF AN EDUCATIONAL NECESSITY LEVY TO ABATE UNSAFE OR UNHEALTHY CONDITIONS UPON CERTAIN CONDITIONS OCCURRING AND TO PROVIDE PROCEDURES; AMENDING SECTION 6-2215, IDAHO CODE, TO PROVIDE THAT THE CONSTITUTIONALLY BASED EDUCATIONAL CLAIMS ACT SHALL APPLY TO PENDING LAWSUITS PRESENTING CONSTITUTIONALLY BASED EDUCATIONAL CLAIMS THAT HAVE NOT PROCEEDED TO FINAL JUDGMENT, TO PROVIDE FOR SUSPENSION OF SUCH PROCEEDINGS AND REFILING OF COMPLAINTS, TO PROVIDE VENUE, TO PROVIDE FOR THE DISMISSAL OF PARTIES TO THE SUSPENDED LAWSUIT THAT ARE NOT PARTIES TO A REFILED LAWSUIT AND TO PROVIDE FOR DESIGNATION OF PORTIONS OF THE RECORD TO BE FORWARDED TO THE COURTS HEARING REFILED LAWSUITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that over twelve years of litigation regarding Idaho's system of school funding has not productively used the state's resources to ensure that there is a general, uniform and thorough system of public, free common schools. Trial was held in the spring of 2000, but no final judgment or appealable order has been issued and no findings of fact specifying which school districts are unable to provide safe and healthy school facilities under the current system of school financing have been issued. Current proceedings are likely to be even more protracted if a special master is appointed and there is further delay until final judgment, an appealable order, or findings of fact specifying which school districts are unable to provide safe and healthy school facilities under the current system of school financing have been issued. The Legislature therefore determines it can best exercise its constitutional duty to establish and maintain a general, uniform and thorough system of public, free common schools by altering the procedure of the existing lawsuit to bring it under the Constitutionally Based Educational Claims Act, which will allow the parties to focus on districts having the most serious health and safety problems, and to provide a remedy of an educational necessity levy as necessary to abate unsafe or unhealthy conditions.

SECTION 2. That Section 6-2214, Idaho Code, be, and the same is hereby amended to read as follows:

6-2214. EDUCATIONAL NECESSITY LEVY. (1) In general. There is hereby created an educational necessity levy that may be levied by a local school district as authorized in this chapter. The educational necessity levy shall expire upon order of the district court having jurisdiction over a suit brought under this chapter or five (5) years after it comes into existence, whichever comes first. An educational necessity levy authorized by this chapter may be imposed under the terms of this chapter, notwithstanding the provisions of section 63-802, Idaho Code.

(2) For safety and health. Notwithstanding any other provisions of this chapter, the district court may impose an educational necessity levy for the purpose of raising revenues to abate unsafe or unhealthy conditions that have been identified by findings of fact or a judgment of the district court, by a consent agreement that has been accepted (with or without modification) by the district court, or by a local school district plan to abate unsafe or unhealthy conditions that has been accepted (with or without modification) by the district court. The district court shall approve an educational necessity levy if it finds that the school district has no alternative source of revenue to use to abate unsafe or unhealthy conditions that have been identified by findings of fact or judgment of the district court, by a consent agreement that has been accepted (with or without modification) by the district court or by a local school district plan to abate unsafe or unhealthy conditions that has been accepted (with or without modification) by the district court. The limitations of sections 6-2209 and 6-2210, Idaho Code, regarding the calculation of and the maximum amount of the educational necessity levy do not apply to an educational necessity levy imposed to abate unsafe or unhealthy conditions that have been identified by findings of fact or a judgment of the district court, by a consent agreement that has been accepted (with or without modification) by the district court, or by a local school district plan to abate unsafe

or unhealthy conditions that has been accepted (with or without modification) by the district court.

SECTION 3. That Section 6-2215, Idaho Code, be, and the same is hereby amended to read as follows:

6-2215. EFFECT ON PENDING LAWSUITS. (1) Chapter to apply to pending lawsuits. This chapter shall ~~not~~ apply to any lawsuit pending on its effective date~~,--but~~ that has not proceeded to final judgment in the district court on the effective date of this amendment to this section if the lawsuit presents constitutionally based educational claims or counterclaims by any patrons or by the state of Idaho or state officers and shall apply to any lawsuit bringing a constitutionally based educational claim filed after its effective date~~;-provided,-however,-that-if-section 1,--article--IX,-of-the-constitution-of-the-state-of-Idaho-is-amended-to require--the--legislature--to--provide--procedures--and--immunities--for lawsuits-brought-under-that-section,-including--pending--lawsuits,--this chapter--shall--apply--to--all--suits-pending-when-such-a-constitutional amendment-is-approved.~~

(2) Procedure for pending lawsuits. If this chapter applies to a lawsuit pending on the effective date of this amendment to this section, all proceedings in the lawsuit shall be suspended for fifty-six (56) days from the effective date of this amendment to this section, except to notify the district court of the passage of this amendment and to allow refiling of complaints consistent with this subsection. Any patrons who are parties to such a lawsuit shall have the fifty-six (56) days of the suspension period to file parens patriae complaint(s) consistent with the requirements of this chapter. The legislature and superintendent of public instruction shall have the fifty-six (56) days of the suspension period to file parens patriae complaint(s) consistent with the requirements of this chapter. If a patron files a parens patriae complaint under this subsection, the legislature and the superintendent of public instruction may intervene as a matter of right pursuant to section 6-2206, Idaho Code, within the time period prescribed by section 6-2206, Idaho Code. If any complaints are filed under this subsection, separate complaints shall be filed for each school district that is a defendant, and venue for such a suit against a school district shall be in the county in which the school district maintains its principal business office. At the expiration of the fifty-six (56) day suspension period described in the first sentence of this subsection, any school districts that are defendants to patron suits or to parens patriae suits under this chapter shall be able to answer as provided by the Idaho rules of civil procedure. All further proceedings in such a suit shall be pursuant to this chapter.

(3) Dismissal of entities not parties and transfer of records in pending lawsuit. School districts that were parties to a lawsuit that presented constitutionally based educational claims or counterclaims on the effective date of this section and that are not defendants in any complaints filed pursuant to subsection (2) of this section shall no longer be parties and shall be dismissed from any proceedings that were suspended. Any defendant to a lawsuit that presented constitutionally based educational claims or counterclaims on the effective date of this section and who is not a defendant authorized by this chapter shall be dismissed from any proceeding that was suspended. Any plaintiff, defend-

ant or an intervenor as of right to a lawsuit filed under subsection (2) of this section in which there is a school district that was a party to a lawsuit that presented constitutionally based educational claims or counterclaims and which lawsuit was suspended under subsection (2) of this section may designate the portions of the records of the suspended lawsuit that pertain to the school district. Upon written request of the plaintiff, the defendant, or an intervenor as of right or the court in a lawsuit filed under subsection (2) of this section, those parts of the record designated by the plaintiff, defendant or an intervenor as of right or the court shall be copied by the clerk of the district court of the suspended lawsuit and forwarded to the clerk of the district court presiding over the complaint filed under subsection (2) of this section and shall be included in the record of that case.

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

Approved May 3, 2003.

CHAPTER 340
(S.B. No. 1176)

AN ACT

RELATING TO THE VOLUNTARY CONTRIBUTIONS ACT; AMENDING SECTION 44-2602, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 97, LAWS OF 2003, TO REVISE A DEFINITION; AND AMENDING SECTION 44-2603, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 97, LAWS OF 2003, TO REVISE APPLICATION OF THE LIMIT ON CERTAIN CONTRIBUTIONS.

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

SECTION 1. That Section 44-2602, Idaho Code, as added by Section 1, Chapter 97, Laws of 2003, be, and the same is hereby amended to read as follows:

44-2602. DEFINITIONS. (1) As used in this chapter the following terms have the following meanings:

(a) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other items submitted to the voters for their approval or rejection.

(b) "Filing entity" means a candidate, officeholder, political committee, political party, and each other entity required to report contributions under chapter 66, title 67, Idaho Code.

(c) "Fund" means the separate segregated fund established by a labor organization for political purposes according to the procedures and requirements of this chapter.

(d) (i) "Labor organization" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in

whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment or conditions of employment.

(ii) Except as provided in subsection (1)(d)(iii) of this section, "labor organization" includes each employee association and union for employees of public and private sector employers.

(iii) "Labor organization" does not include organizations governed by the national labor relations act, 29 U.S.C. section 151, et seq. or the railway labor act, 45 U.S.C. section 151, et seq.

(e) "Political activities" means electoral activities, independent expenditures, or expenditures made to any candidate, political party, political action committee~~,~~ or political issues committee~~, voter registration campaign, or any other political or legislative cause, including ballot measures or propositions~~ or in support of or against any ballot measure.

(f) "Union dues" means dues, fees or other moneys required as a condition of membership in a labor organization.

(2) Other terms defined in chapter 66, title 67, Idaho Code, apply to this chapter.

SECTION 2. That Section 44-2603, Idaho Code, as added by Section 1, Chapter 97, Laws of 2003, be, and the same is hereby amended to read as follows:

44-2603. LIMITS ON LABOR ORGANIZATION CONTRIBUTIONS.

(1) (a) A labor organization may only make expenditures for political activities if the labor organization establishes a separate segregated fund that meets the requirements of this chapter.

(b) The labor organization shall ensure that:

(i) In soliciting contributions for the fund, the solicitor discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the fund is a political fund and will be expended for political activities;

(ii) Union dues are not used for political activities, transferred to the fund, or intermingled in any way with fund moneys;

(iii) The cost of administering the fund is paid from fund contributions and not from union dues; and

(iv) Each contribution is voluntary and shall be made by the member and may not come from or be remitted by the employer of the member.

(2) At the time the labor organization is soliciting contributions for the fund from an employee, the labor organization shall:

(a) Affirmatively inform the employee, orally or in writing, of the fund's political purpose; and

(b) Affirmatively inform the employee, orally or in writing, of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the labor organization.

(3) The labor organization has the burden of proof to establish that the requirements of subsections (1)(b) and (2) of this section are met.

(4) Notwithstanding the requirements of subsection (1)(b)(ii) of this section, a labor organization may use union dues to lobby or communicate directly with its own members about political candidates, ballot ~~propositions~~ measures, and other political issues.

Approved May 5, 2003.

CHAPTER 341
(S.B. No. 1195)

AN ACT

RELATING TO A BALANCED STATE BUDGET FOR FISCAL YEAR 2003; STATING FINDINGS OF THE LEGISLATURE REGARDING THE FINANCIAL SITUATION FOR FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND TO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM INCOME FUND FOR CERTAIN EXPENDITURES IN FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM INCOME FUND FOR CERTAIN EXPENDITURES IN FISCAL YEAR 2004; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND; DIRECTING THE STATE TREASURER TO DEPOSIT THE NEXT TOBACCO SETTLEMENT PAYMENT INTO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE RETAINED RISK MANAGEMENT FUND TO THE GENERAL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature finds that the current economic situation facing the state of Idaho, and underscored by revenue collections thus far in the fiscal year, warrants certain prudent and necessary steps to ensure a balanced budget for fiscal year 2003.

SECTION 2. Notwithstanding the provisions of Section 57-1108, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of forty-eight million dollars ($48,000,000) from the Permanent Building Fund to the General Fund.

SECTION 3. Notwithstanding the provisions of Section 67-1801, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of seven hundred ninety-eight thousand two hundred dollars ($798,200) from the Idaho Millennium Fund to the Idaho Millennium Income Fund for the purpose of covering program expenditures for fiscal year 2003 as approved by the Legislature.

SECTION 4. Notwithstanding the provisions of Section 67-1801, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of two million four hundred thirty-eight thousand seven hundred dollars ($2,438,700) from the Idaho Millennium Fund to the Idaho Millennium Income Fund for the purpose of covering program expenditures for fiscal year 2004 as approved by the Legislature.

SECTION 5. After the moneys appropriated in Sections 3 and 4 of this act have been transferred out of the Idaho Millennium Fund, notwithstanding the provisions of Section 67-1801, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the balance of the Idaho Millennium Fund to the General Fund. Such balance is estimated to be forty million two hundred thousand dollars ($40,200,000).

SECTION 6. Notwithstanding the provisions of Section 57-814, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of twenty-six million three hundred ninety thousand dollars ($26,390,000) from the Budget Stabilization Fund to the General Fund.

SECTION 7. Notwithstanding the provisions of Section 67-1801, Idaho Code, the State Treasurer is hereby directed to deposit into the General Fund the next scheduled payment distributed to the state of Idaho pursuant to the Master Settlement Agreement. Such payment is estimated to be sixteen million three hundred fifty thousand dollars ($16,350,000).

SECTION 8. Notwithstanding the provisions of Section 67-5776, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of five million dollars ($5,000,000) from the Retained Risk Fund to the General Fund.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved May 5, 2003.

CHAPTER 342
(S.B. No. 1199)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2004; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE A TRANSFER FROM THE PLUMBING BOARD FUND FOR FISCAL YEAR 2004; AUTHORIZING THREE ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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. 1161, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, 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 program according to the designated expense classes from the listed fund for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BUILDING SAFETY:				
FROM:				
Heating, Ventilation and Air Conditioning Board Fund	$102,200	$147,500	$22,600	$272,300

SECTION 2. The State Controller is hereby directed to transfer on July 1, 2003, or as soon thereafter as is practicable, $272,300 from the Plumbing Board Fund to the Heating, Ventilation and Air Conditioning Board Fund.

SECTION 3. In addition to the full-time equivalent positions authorized in Section 2, Senate Bill No. 1161, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, there is hereby authorized an additional three (3) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 5, 2003.

CHAPTER 343
(S.B. No. 1201)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	$ 3,478,800	$2,886,000	$ 70,000	$ 6,434,800
Administration and Accounting Fund		17,600		17,600
Administration Services for Transportation Fund	390,300	272,200	33,900	696,400
Abandoned Property Trust-Unclaimed Property Fund		22,600	2,600	25,200
Seminars and Publications Fund		28,400		28,400
TOTAL	$ 3,869,100	$3,226,800	$106,500	$ 7,202,400
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 9,482,500	$1,528,200	$ 92,500	$11,103,200
Multistate Tax Compact Fund	1,129,300	429,600		1,558,900
Administration and Accounting Fund		22,800		22,800
Administration Services for Transportation Fund	1,174,100	278,000		1,452,100
Abandoned Property Trust-Unclaimed Property Fund	402,900	123,900		526,800
TOTAL	$12,188,800	$2,382,500	$ 92,500	$14,663,800
III. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,501,800	$1,335,400		$ 3,837,200
Administration and Accounting Fund	51,900	20,100		72,000
Administration Services for Transportation Fund	451,400	190,900		642,300
Seminars and Publications Fund		18,300		18,300
Abandoned Property Trust-Unclaimed Property Fund	62,300			62,300
TOTAL	$ 3,067,400	$1,564,700		$ 4,632,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. COUNTY SUPPORT:				
FROM:				
General Fund	$ 2,170,100	$ 603,200		$ 2,773,300
Seminars and Publications Fund		96,200		96,200
TOTAL	$ 2,170,100	$ 699,400		$ 2,869,500
GRAND TOTAL	$21,295,400	$7,873,400	$199,000	$29,367,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred six (406) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 5, 2003.

CHAPTER 344
(H.B. No. 451)

AN ACT

RELATING TO ACTS OR SECTIONS OF ACTS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE; PROVIDING CLARIFICATION FOR EFFECTIVE DATES FOR CERTAIN ACTS OR SECTIONS OF ACTS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. If the First Regular Session of the Fifty-seventh Idaho Legislature has not adjourned sine die on or before May 2, 2003, all acts or sections of acts enacted by the First Regular Session of the Fifty-seventh Idaho Legislature and signed into law or allowed to become law by the Governor without his signature in which the entire act or sections of those acts would have been effective on July 1, 2003, had the Legislature adjourned sine die on or before May 2, 2003, shall be amended to have the act or the section of the act become effective on July 1, 2003, and an emergency is declared to exist and shall be deemed incorporated in the title of the bill and the preamble or the body of

the law, as applicable. The provisions of this section shall not affect any act or section of an act signed into law or allowed to become law by the Governor without his signature, in which any effective date other than July 1, 2003, has been incorporated in the title of the bill and the preamble or the body of the law, as applicable.

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 May 5, 2003.

CHAPTER 345
(H.B. No. 453)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3029B, IDAHO CODE, TO PROVIDE THAT FOR QUALIFIED INVESTMENTS PLACED IN SERVICE IN TAXABLE YEARS BEGINNING IN 2003 AND THEREAFTER, THE TAXPAYER MAY ELECT, IN LIEU OF THE INCOME TAX CREDIT PROVIDED FOR CAPITAL INVESTMENT, A TWO YEAR EXEMPTION FROM ALL TAXES ON PERSONAL PROPERTY ON THE QUALIFIED INVESTMENT, TO PROVIDE PROCEDURES, TO PROVIDE FOR COOPERATION BETWEEN THE STATE TAX COMMISSION AND COUNTY ASSESSORS AND TO PROVIDE PENALTIES; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) 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) (a) For qualified investments placed in service in taxable years beginning in 2003 and thereafter, the taxpayer may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income in the second preceding taxable year in which the investment is placed in service is negative.

(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code, for the calendar year immediately following the taxable year in which the property was placed in service. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.

(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection.

(d) In the event that an investment in regard to which the election under this section was made is determined by the state tax commission to not be a qualified investment or ceases to qualify during the recapture period, the taxpayer shall be subject to a penalty equal to the amount of the claimed investment times the average urban property tax levy of the state as determined by the state tax commission times two (2).

(5) 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~~6) 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~~5) 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~~5) 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~~7) 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 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~~8) 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 ~~4~~9 of the Internal Revenue Code shall be disregarded.

(~~8~~9) 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~~10) 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~~1~~) Only for the purposes of subsections (3)(a) and (7~~8~~) 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 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

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, 2003.

Approved May 5, 2003.

CHAPTER 346
(H.B. No. 457)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AUTHORIZING FUND DEPOSITS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

FROM:	
General Fund	$7,183,600
Idaho School for the Deaf and the Blind Income Fund	196,500
Federal Grant Fund	127,100
Miscellaneous Revenue Fund	108,100
TOTAL	$7,615,300

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-one and fifty-two hundredths (121.52) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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, the unexpended and unencumbered balance of any funds, except the General Fund

moneys appropriated by Section 1, Chapter 339, Laws of 2002, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004.

SECTION 4. The Idaho School for the Deaf and the Blind may deposit any funds appropriated by Section 1, Chapter 339, Laws of 2002, in a contingency reserve fund created pursuant to Section 33-3409, Idaho Code.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 5, 2003.

CHAPTER 347
(H.B. No. 459)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE GENERAL BOARDS FOR FISCAL YEAR 2004; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2004; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. There is hereby appropriated to the Department of Self-Governing Agencies for the general boards, 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF EXAMINERS:				
FROM:				
General Fund			$ 5,800	$ 5,800
II. COMMISSION ON HISPANIC AFFAIRS:				
FROM:				
General Fund	$ 84,500	$ 17,600		$102,100
Federal Grant Fund	69,000	33,900	$15,400	118,300
Miscellaneous Revenue Fund	58,600	52,500		111,100
TOTAL	$212,100	$104,000	$15,400	$331,500
GRAND TOTAL	$212,100	$104,000	$21,200	$337,300

SECTION 2. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards, 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory Fund	$ 146,100	$ 134,800	$ 3,500	$ 284,400
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory Fund	$ 583,400	$ 629,200	$ 800	$1,213,400
III. BOARD OF NURSING:				
FROM:				
State Regulatory Fund	$ 385,100	$ 297,800	$ 6,500	$ 689,400
IV. BOARD OF OPTOMETRY:				
FROM:				
State Regulatory Fund	$ 2,500	$ 54,400		$ 56,900
V. BOARD OF PHARMACY:				
FROM:				
State Regulatory Fund	$ 505,100	$ 263,200	$21,500	$ 789,800
VI. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory Fund	$ 90,400	$ 78,700		$ 169,100
GRAND TOTAL	$1,712,600	$1,458,100	$32,300	$3,203,000

SECTION 3. There is hereby appropriated to the Department of Self-Governing Agencies for the regulatory boards, 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 7,500	$ 8,500			$ 16,000
II. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 213,600	$ 230,600			$ 444,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 203,700	$ 196,000	$ 6,000		$ 405,700
IV. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 29,200	$ 32,500			$ 61,700
V. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 783,000	$ 604,600		$52,500	$1,440,100
VI. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 11,900	$ 12,500			$ 24,400
VII. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 292,100	$ 172,800	$ 7,700		$ 472,600
VIII. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 667,600	$ 377,200	$ 6,000		$1,050,800
GRAND TOTAL	$2,208,600	$1,634,700	$19,700	$52,500	$3,915,500

SECTION 4. 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, 2003, through June 30, 2004, for the programs specified in Sections 1, 2 and 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Examiners ..... Zero (0)
Commission on Hispanic Affairs ..... Four (4)
Board of Dentistry ..... Two (2)
Board of Medicine ..... Twelve and one-half (12.5)
Board of Nursing ..... Eight (8)
Board of Optometry ..... Zero (0)
Board of Pharmacy ..... Ten and one-half (10.5)
Board of Veterinary Medicine ..... Two (2)
Athletic Commission ..... Zero (0)
Board of Accountancy ..... Four (4)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Professional Geologists Board ..... Sixty-two hundredths (.62)

Bureau of Occupational Licenses ..... Seventeen (17)
Certified Shorthand Reporters Board ..... Twenty-eight hundredths (.28)
Outfitters and Guides Licensing Board ..... Six (6)
Real Estate Commission ..... Thirteen (13)

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 5, 2003.

CHAPTER 348
(H.B. No. 460)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REDUCING THE APPROPRIATION FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS; REVISING THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION; REAPPROPRIATING CERTAIN MONEYS FOR THE DEPARTMENT OF PARKS AND RECREATION; APPROPRIATING ADDITIONAL MONEYS TO THE SECRETARY OF STATE; REAPPROPRIATING CERTAIN MONEYS TO THE STATE CONTROLLER; APPROPRIATING ADDITIONAL MONEYS TO THE TAX APPEALS BOARD; PROVIDING AN ADJUSTMENT FOR FULL-TIME POSITIONS FOR THE TAX APPEALS BOARD; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE ATTORNEY GENERAL; REAPPROPRIATING CERTAIN MONEYS FOR THE SPECIAL LITIGATION PROGRAM; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 216, Laws of 2003, 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 listed funds for the period July 1, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. AIR QUALITY:				
General Fund	$182,200	$117,800		$300,000
II. WATER QUALITY				
General Fund			$153,400	$153,400
TOTAL	$182,200	$117,800	$153,400	$453,400

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 216, Laws of 2003, to the Department of Environmental Quality, is hereby reduced by the following amounts from the listed program according to the designated expense classes from the listed fund for the period July 1, 2003, through June 30, 2004:

AIR QUALITY:

FOR:	
Personnel Costs	$182,200
Operating Expenditures	117,800
TOTAL	$300,000
FROM:	
Air Quality Permitting Fund	$300,000

SECTION 3. In addition to the appropriation made in Section 1, Chapter 227, Laws of 2003, there is hereby appropriated $171,000 to the Department of Lands for the Forest and Range Fire Protection Program from the General Fund for the period July 1, 2003, through June 30, 2004.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 180, Laws of 2003, there is hereby appropriated the sum of $250,000 from the General Fund to the Park Operations Division in the Idaho Department of Parks and Recreation for personnel costs for the period July 1, 2003, through June 30, 2004; and the appropriation from the Parks and Recreation Fund to the Park Operations Division is hereby reduced $250,000 for personnel costs for the period July 1, 2003, through June 30, 2004.

SECTION 5. All moneys previously appropriated to the Idaho Department of Parks and Recreation for the Bruneau Dunes Science Center challenge grant program are hereby reappropriated to the Idaho Department of Parks and Recreation for the period July 1, 2003, through June 30, 2004.

SECTION 6. There is hereby appropriated, and the State Controller is hereby directed to transfer at the request of the Secretary of State, $167,000 from the General Fund to the Democracy Fund.

SECTION 7. In addition to the appropriation made in Section 1, Chapter 194, Laws of 2003, there is hereby reappropriated to the State Controller, the unexpended and unencumbered cash balance of the data processing services fund appropriation made to the State Controller for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004.

SECTION 8. In addition to the appropriation made in Section 1, Chapter 275, Laws of 2003, 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, 2003, through June 30, 2004:

FOR:	
Personnel Costs	$13,200
Operating Expenditures	7,100
TOTAL	$20,300
FROM:	
General Fund	$20,300

SECTION 9. In addition to the full-time equivalent positions authorized in Section 2, Chapter 275, Laws of 2003, the Board of Tax Appeals is hereby authorized a two-tenths (0.2) full-time equivalent position.

SECTION 10. In addition to the appropriation made in Section 2, Chapter 191, Laws of 2003, there is hereby appropriated the sum of $625,000 from the General Fund to the Special Litigation Program in the Office of the Attorney General for the period July 1, 2003, through June 30, 2004.

SECTION 11. The appropriation made in Section 1, Chapter 229, Laws of 2002, for the Special Litigation Program within the Office of the Attorney General shall be for the period July 1, 2002, through June 30, 2004.

SECTION 12. In addition to the appropriation made in Section 1, Chapter 227, Laws of 2003, there is hereby appropriated $125,000 to the Department of Lands for the Support Services Program for operating expenditures from the General Fund for the period July 1, 2003, through June 30, 2004. Such moneys shall be used to support the implementation of pilot projects recommended by the federal lands working group regarding the management of federal lands in Idaho.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 5, 2003.

CHAPTER 349
(H.B. No. 396)

AN ACT

RELATING TO POWERS AND DUTIES OF THE STATE BUILDING AUTHORITY RELATING TO COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 67-6402, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6409, IDAHO CODE, TO PROVIDE AUTHORITY TO THE BUILDING AUTHORITY TO RECEIVE CONTRIBUTIONS FROM COMMUNITY COLLEGE DISTRICTS, TO PROVIDE AUTHORITY TO THE STATE BUILDING AUTHORITY TO SELL, LEASE, RENT OR SUBLEASE TO COMMUNITY COLLEGE DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6410, IDAHO CODE, TO REQUIRE APPROVAL BY THE LEGISLATURE PRIOR TO FINANCING FACILITIES FOR COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 67-6411, IDAHO CODE, TO REQUIRE COOPERATION BETWEEN THE AUTHORITY, MUNICIPALITIES, STATE BODIES OR COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 67-6423, IDAHO CODE, TO PROVIDE THAT CONTRACTS FOR FACILITIES BY THE AUTHORITY NEED NOT COMPLY WITH ANY OTHER STATE LAW APPLICABLE TO CONTRACTS FOR THE CONSTRUCTION AND ACQUISITION BY COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 33-2107, IDAHO CODE, TO PROVIDE THAT A COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES' GENERAL POWERS INCLUDE THE POWER TO LEASE PROPERTY TO THE AUTHORITY AND TO ENTER INTO AGREEMENTS WITH THE AUTHORITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6402, Idaho Code, be, and the same is hereby amended to read as follows:

67-6402. DEFINITIONS. As used in this chapter the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

(a) "Authority" means the Idaho state building authority created and established pursuant to section 67-6403, Idaho Code.

(b) "Bonds," "notes" or "bond anticipation notes" and "other obligations" mean any bonds, notes, debentures, interim certificates or other evidences of financial indebtedness, respectively, issued by the state building authority pursuant to this chapter.

(c) "Community college district" means any community college district organized and existing under chapter 21, title 33, Idaho Code.

(d) "Federal government" means the United States of America, or any agency or instrumentality, corporate or otherwise of the United States of America.

(~~d~~e) "Facility" means any work or undertaking, whether new construction or rehabilitation, which is designed and financed pursuant to the provisions of this act and designed for use as an office building, laboratory, library, dining room, instructional facility, motor vehicle parking, storage or service facility or for any other use by any state body or community college district and all other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such equipment which may be necessary to constitute a fully equipped and modern ~~office~~ building as the authority determines to be necessary or convenient to accomplish the purposes of this act.

(~~e~~f) "Municipality" means any city, municipal corporation, or other political subdivision of this state.

(~~f~~g) "Real property" means 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 of years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(~~g~~h) "State" means the state of Idaho.

(~~h~~i) "State body" means any department, board, commission, or agency of the state of Idaho.

SECTION 2. That Section 67-6409, Idaho Code, be, and the same is hereby amended to read as follows:

67-6409. GENERAL POWERS OF THE AUTHORITY. The authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

(a) sue and be sued in its own name;

(b) have an official seal and to alter the same at pleasure;

(c) have perpetual succession;

(d) maintain an office at such place or places within this state as it may designate;

(e) adopt and from time to time amend and repeal ~~by-laws~~ bylaws and rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business;

(f) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions;

(g) acquire real or personal property, or any interest therein, on either a temporary or long-term basis in the name of the authority by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public sale, with such public bidding as shall be required by the provisions of any other law;

(h) to lease or rent any lands, buildings, structures, facilities or equipment from private parties to effectuate the purposes of this act;

(i) to enter into agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or of the state of Idaho or any agency or governmental subdivision thereof in furtherance of the purposes of this act, including but not limited to the development, maintenance, operation and financing of any facility and to do any and all things necessary in order to avail itself of such aid and cooperation;

(j) to receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or this state <u>or any community college district</u> for any purpose consistent with this act;

(k) to employ architects, engineers, attorneys, accountants, building construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation;

(l) to procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable;

(m) to invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in:

(1) bonds, notes and other obligations of the United States or any agency or instrumentality thereof and other securities secured by such bonds, notes or other obligation;

(2) money market funds which are insured or the assets of which are limited to obligations of the United States or any agency or instrumentality thereof;

(3) time certificates of deposit and savings accounts;

(4) commercial paper which, at the time of its purchase, is rated in the highest category by a nationally recognized rating service; and

(5) property or securities in which the state treasurer may invest funds in the state treasury pursuant to section 67-1210, Idaho Code.

(n) to borrow money and issue bonds and notes or other evidences of indebtedness thereof as hereinafter provided;

(o) to the extent permitted under its contract with the holders of

bonds, notes and other obligations of the authority to consent to any modification of any contract, lease or agreement of any kind to which the authority is a party;

(p) to manage or operate real and personal property, in the state, take assignments of leases and rentals, proceed with foreclosure actions, or take any other action necessary or incidental to the performance of its corporate duties;

(q) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(r) to plan, carry out, acquire, lease and operate facilities and to provide for the construction, reconstruction, improvement, alteration or repair of any facility or part thereof;

(s) to sell, lease, rent or sublease to any state body or community college district, any facility or any space embraced in any facility constructed or leased under this act, to establish and revise the rents or charges therefor and to do any other acts necessary to the management and operation of its facilities;

(t) to do any act necessary or convenient to the exercise of the powers herein granted or reasonably implied therefrom.

SECTION 3. That Section 67-6410, Idaho Code, be, and the same is hereby amended to read as follows:

67-6410. PROCEDURE PRIOR TO FINANCING BUILDING DEVELOPMENTS OR BUILDING PROJECTS. Notwithstanding any other provision of this act, the authority is not empowered to finance any facility pursuant to section 67-6409, Idaho Code, unless:

(a) Prior approval by the legislature has been given by concurrent resolution authorizing a state body or community college district to have the authority provide a specific facility;

(b) A state body or community college district has entered into an agreement with the authority for the authority to provide a facility; and

(c) The authority finds that the building development or building project to be assisted pursuant to the provisions of this act, will be of public use and will provide a public benefit.

SECTION 4. That Section 67-6411, Idaho Code, be, and the same is hereby amended to read as follows:

67-6411. COOPERATION WITH MUNICIPALITIES, ~~OR~~ STATE BODIES OR COMMUNITY COLLEGE DISTRICTS. (a) The authority may obtain the aid and cooperation of the municipalities in which such facilities are to be located and shall have the power to enter into:

(1) such agreements and arrangements as it deems necessary or advisable to obtain such aid and cooperation; and

(2) agreements with municipalities~~,~~ or counties for the furnishing, installing, opening, or closing of streets, roads, alleys, sidewalks or other places, or for the furnishing of property, sewage, water, and other services in connection with facilities financed under this act or for the changing of the map of a political subdivision of the planning, replanning, zoning, or rezoning of any part of a political subdivision.

(b) The authority and any state body or community college district may join or cooperate with each other, either jointly or otherwise, in the exercise of any of their powers for the purpose of planning, undertaking, owning, constructing or contracting with respect to a facility.

SECTION 5. That Section 67-6423, Idaho Code, be, and the same is hereby amended to read as follows:

67-6423. ACT NOT A LIMITATION OF POWERS. Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized thereby 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 the provisions of this act 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 act need not comply with the provisions of any other state law applicable to contracts for the construction and acquisition of ~~state--owned~~ property by the state or a community college district. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this act.

SECTION 6. That Section 33-2107, Idaho Code, be, and the same is hereby amended to read as follows:

33-2107. GENERAL POWERS OF THE BOARD OF TRUSTEES. The board of trustees of each junior college district shall have the power:

1. To adopt rules and regulations for its own government and the government of the college;
2. To employ legal counsel and other professional, and nonprofessional persons, and to prescribe their qualifications;
3. To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings;
4. To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts;
5. To dispose of real and personal property in the manner prescribed for trustees of school districts;
6. To issue general obligation or revenue bonds in the manner now, or as may be, prescribed by law;
7. To convey and transfer real property of the district upon which no college buildings used for instruction are situated, to nonprofit corporations, school districts, junior college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the board of trustees; ~~and~~ to lease real property of the district not actually in use for college instructional purposes for such terms as may be determined by the board; and to lease real property and improvements to the Idaho state building authority, for a term not to exceed fifty (50) years, with or without

consideration, and to enter into agreements with the Idaho state building authority for the Idaho state building authority to provide a facility, pursuant to section 67-6410, Idaho Code;

8. To acquire, hold, and dispose of, water rights;

9. To accept grants or gifts of money, materials or property of any kind from any governmental agency, or from any person, firm or association, on such terms as may be determined by the granter;

10. To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program; and to conduct such program on, or off, campus;

11. To invest any funds of the district in such securities, and apply the interest or profits from such investment, as prescribed for the investment of the funds, and the application of the interest or profits, in the case of school district boards of trustees.

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 May 6, 2003.

CHAPTER 350
(H.B. No. 390)

AN ACT

RELATING TO INCOME TAXES AND THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-30220, IDAHO CODE, TO DISALLOW THE SPECIAL ALLOWANCE FOR DEPRECIATION PERMITTED BY SUBSECTION (k) OF SECTION 168 OF THE INTERNAL REVENUE CODE, AND TO DISALLOW DEDUCTION OF CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE EFFECTIVE DATES.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 200~~2~~3.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-30220, Idaho Code, and to read as follows:

63-3022O. ADJUSTMENT FOR PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001. For taxable years commencing on and after January 1, 2001, in computing Idaho taxable income:

(1) The adjusted basis of depreciable property, depreciation and capital gains and losses shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code, as amended by section 101 of the "Job Creation and Worker Assistance Act of 2002"; and

(2) No deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under section 62(a)(2)(D) of the Internal Revenue Code, as amended by section 406 of the "Job Creation and Worker Assistance Act of 2002."

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2003; and Section 2 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2001.

Approved May 7, 2003.

CHAPTER 351
(H.B. No. 458)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3611, IDAHO CODE, TO PROVIDE A PROCESS FOR THE PUBLICATION OF NOTICE OF TOTAL MAXIMUM DAILY LOADS BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, TO PROVIDE FOR A RECORD, TO CLARIFY THAT DESIGNATED RULEMAKING PROVISIONS DO NOT APPLY TO TOTAL MAXIMUM DAILY LOADS UNDER THIS SECTION, TO PROVIDE APPEALS AND TO PROVIDE A SPECIFIC APPLICATION AND A CLARIFICATION; AMENDING SECTION 39-3612, IDAHO CODE, TO STRIKE ADOPTION PROCESSES THROUGH THE ADMINISTRATIVE PROCEDURE ACT AND TO PROVIDE FOR INTEGRATION OF PROCESSES TO BE USED FOR ACHIEVING WATER QUALITY STANDARDS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 39-3611, Idaho Code, be, and the same is hereby amended to read as follows:

39-3611. DEVELOPMENT AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOAD OR EQUIVALENT PROCESSES. (1) For water bodies described in section 39-3609, Idaho Code, the director shall, in accordance with the priorities set forth in section 39-3610, Idaho Code, and in accordance with sections 39-3614 and 39-3616, Idaho Code, and as required by the federal clean water act, develop a total maximum daily load to control point source and nonpoint sources of pollution on the water body.

(2) Upon the completion of a total maximum daily load, the director shall publish notice of the final decision on the TMDL in the Idaho administrative bulletin and provide written notice to members of the applicable watershed advisory group. The director's final decision shall be based upon a record that provides the basis for the total maximum daily load. The rulemaking provisions in sections 67-5220 through

67-5231, Idaho Code, shall not apply to TMDLs. The director's final decision regarding a TMDL may be appealed to the board of environmental quality in accordance with section 39-107(5), Idaho Code, and the rules governing such appeals. The time for appeal to the board shall commence upon publication in the administrative bulletin. The board's final decision is subject to judicial review under section 39-107(6), Idaho Code. The provisions of this subsection shall apply to all total maximum daily loads developed by the director after January 1, 1995. Provided however, that the rulemaking provisions in sections 67-5220 through 67-5231, Idaho Code, shall apply to TMDLs for metals in the Coeur d'Alene River Basin, upstream from the head of the Spokane River. Provided further, that nothing herein shall modify the requirement that water quality standards be promulgated as rules of the department pursuant to title 67, chapter 52, Idaho Code.

(3) For water bodies where an applicable water quality standard has not been attained due to impacts that occurred prior to 1972, no further restrictions under a total maximum daily load process shall be placed on a point source discharge unless the point source contribution of a pollutant exceeds twenty-five percent (25%) of the total load for that pollutant. Existing uses shall be maintained on all such water bodies.

(4) Total maximum daily load processes developed pursuant to this section shall include, but not be limited to:

(~~1~~a) Identification of pollutant(s) impacting the water body;

(~~2~~b) An inventory of all point and nonpoint sources of the identified pollutant, if practical, or an analysis of the land types, land uses and geographical features within the watershed that may be contributing identified pollutants to the water body;

(~~3~~c) An analysis of why current control strategies are not effective in assuring full support of designated beneficial uses;

(~~4~~d) A plan to monitor and evaluate progress toward water quality progress and to ascertain when designated beneficial uses will be fully supported;

(~~5~~e) Pollution control strategies for both point sources and nonpoint sources for reducing those sources of pollution;

(~~6~~f) Identification of the period of time necessary to achieve full support of designated beneficial uses; and

(~~7~~g) An adequate margin of safety to account for uncertainty.

(5) Point source discharges for which a national pollutant discharge elimination system permit is approved after January 1, 1995, shall be deemed to have met the requirements of this section.

SECTION 2. That Section 39-3612, Idaho Code, be, and the same is hereby amended to read as follows:

39-3612. INTEGRATION OF TOTAL MAXIMUM DAILY LOAD PROCESSES WITH OTHER PROGRAMS. Upon completion of total maximum daily load processes as set forth in section 39-3611, Idaho Code, the director shall~~, subject to the provisions of chapter 52, title 67, Idaho Code, adopt~~ integrate such processes ~~as part of~~ into the state's water quality management plan developed pursuant to the federal clean water act. ~~Upon such adoption, the provisions of these~~ Total maximum daily load processes shall be ~~enforced through normal enforcement practices of~~ used by all designated agencies ~~as set forth in the state's~~ for achieving water quality ~~management plan~~ standards.

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 July 1, 2003.

Approved May 7, 2003.

CHAPTER 352
(H.B. No. 464)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AUTHORIZING THE USE OF FEDERAL FUNDS TO PURCHASE THE ST. ANTHONY WORK CAMP; AUTHORIZING THE USE OF FEDERAL FUNDS TO EXPAND THE SOUTH BOISE WOMEN'S CORRECTIONAL CENTER; DECLARING FINDINGS OF THE LEGISLATURE; PROVIDING CONTINGENCY FUNDING; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2003; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OPERATIONS DIVISION:					
A. OPERATIONS ADMINISTRATION:					
FROM:					
General Fund	$ 417,100	$ 3,482,800			$ 3,899,900
Miscellaneous Revenue Fund		36,200			36,200
Federal Grant Fund		342,800			342,800
TOTAL	$ 417,100	$ 3,861,800			$ 4,278,900
B. OFFENDER PROGRAMS:					
FROM:					
General Fund	$ 1,517,600	$ 1,311,900	$ 44,900		$ 2,874,400
Miscellaneous Revenue Fund		57,400			57,400
Federal Grant Fund	407,900	661,400			1,069,300
TOTAL	$ 1,925,500	$ 2,030,700	$ 44,900		$ 4,001,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. COMMUNITY SUPERVISION:					
FROM:					
General Fund	$ 9,779,500	$ 2,043,600	$ 391,200		$ 12,214,300
Parolee Supervision Fund	2,116,300	564,600	44,600		2,725,500
Federal Grant Fund	59,300	100,600			159,900
TOTAL	$11,955,100	$ 2,708,800	$ 435,800		$ 15,099,700
D. COMMUNITY WORK CENTERS:					
FROM:					
General Fund	$ 2,483,700	$ 53,800	$ 20,000		$ 2,557,500
Inmate Labor Fund	157,200	1,093,800			1,251,000
Miscellaneous Revenue Fund		27,200			27,200
TOTAL	$ 2,640,900	$ 1,174,800	$ 20,000		$ 3,835,700
E. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$14,189,100	$ 2,161,100			$ 16,350,200
Miscellaneous Revenue Fund	422,400	108,100			530,500
Penitentiary Endowment Fund		1,205,300	$ 45,800		1,251,100
Federal Grant Fund	51,300				51,300
TOTAL	$14,662,800	$ 3,474,500	$ 45,800		$ 18,183,100
F. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 5,430,200	$ 1,247,900	$ 226,200		$ 6,904,300
Inmate Labor Fund	754,300	630,500	78,600		1,463,400
Miscellaneous Revenue Fund	92,200	54,500	9,000		155,700
Federal Grant Fund	44,000	57,700			101,700
TOTAL	$ 6,320,700	$ 1,990,600	$ 313,800		$ 8,625,100
G. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,652,400	$ 913,500	$ 11,300		$ 3,577,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	41,200	144,100			185,300
TOTAL	$ 2,693,600	$ 1,057,600	$ 11,300		$ 3,762,500
H. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 4,444,600	$ 1,510,300	$ 24,000		$ 5,978,900
Inmate Labor Fund	786,700	403,800	117,400		1,307,900
Miscellaneous Revenue Fund	40,200	48,700			88,900
Federal Grant Fund	228,600	5,400			234,000
TOTAL	$ 5,500,100	$ 1,968,200	$ 141,400		$ 7,609,700
I. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,829,100	$ 1,649,400	$ 20,000		$ 8,498,500
Miscellaneous Revenue Fund	90,100	54,300			144,400
TOTAL	$ 6,919,200	$ 1,703,700	$ 20,000		$ 8,642,900
J. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,325,200	$ 274,900	$ 17,200		$ 1,617,300
Inmate Labor Fund	552,500	471,400	131,100		1,155,000
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,877,700	$ 752,500	$ 148,300		$ 2,778,500
K. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 3,486,000	$ 897,500	$ 68,200		$ 4,451,700
Inmate Labor Fund	219,900	27,300			247,200
Miscellaneous Revenue Fund	213,000	20,600			233,600
Federal Grant Fund		52,300			52,300
TOTAL	$ 3,918,900	$ 997,700	$ 68,200		$ 4,984,800
L. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 689,100	$ 378,800			$ 1,067,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund		7,100			7,100
TOTAL	$ 689,100	$ 385,900			$ 1,075,000
DIVISION TOTAL	$59,520,700	$22,106,800	$1,249,500		$ 82,877,000
II. SUPPORT DIVISION:					
A. SUPPORT SERVICES:					
FROM:					
General Fund	$ 4,392,500	$ 2,487,400			$ 6,879,900
Parolee Supervision Fund	114,300	25,600			139,900
Miscellaneous Revenue Fund	113,900	509,800	$ 47,600		671,300
Federal Grant Fund	75,700	296,800		$1,750,000	2,122,500
TOTAL	$ 4,696,400	$ 3,319,600	$ 47,600	$1,750,000	$ 9,813,600
B. MEDICAL SERVICES CONTRACT:					
FROM:					
General Fund		$11,974,900			$ 11,974,900
Miscellaneous Revenue Fund		77,500			77,500
TOTAL		$12,052,400			$ 12,052,400
DIVISION TOTAL	$ 4,696,400	$15,372,000	$ 47,600	$1,750,000	$ 21,866,000
III. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$17,564,700			$ 17,564,700
Inmate Labor Fund		324,000			324,000
TOTAL		$17,888,700			$17,888,700
IV. COMMISSION OF PARDONS AND PAROLE:					
FROM:					
General Fund	$ 1,273,400	$ 282,800	$ 32,200		$ 1,588,400
Miscellaneous Revenue Fund		20,300			20,300
TOTAL	$ 1,273,400	$ 303,100	$ 32,200		$ 1,608,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$65,490,500	$55,670,600	$1,329,300	$1,750,000	$124,240,400

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 three-tenths (1,417.3) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 Department of Correction is hereby authorized to use necessary federal funds to negotiate and purchase the St. Anthony Work Camp from the city of St. Anthony. The source of the federal funds is the Violent Offender Incarceration/Truth in Sentencing Grant. The Division of Financial Management authorized the transfer of state matching General Funds to the Department of Administration in fiscal year 2002.

SECTION 4. The Department of Correction is hereby authorized to use necessary federal funds to expand the South Boise Women's Correctional Center. The source of the federal funds is the Violent Offender Incarceration/Truth in Sentencing Grant. The Division of Financial Management authorized the transfer of state matching General Funds to the Department of Administration in fiscal year 2002.

SECTION 5. It is the finding of the Legislature that there is an appropriate segment of the offender population that can be safely managed in the community with adequate supervision and appropriate treatment services not now available throughout Idaho. The Legislature also supports the previous efforts to expand transitional services and the Governor's Substance Abuse Initiative which, in recent revenue shortfalls, have been curtailed. All offenders eligible for parole who are considered for placement in the community shall meet public safety standards set by the Commission of Pardons and Parole. The population targeted for these programs shall be offenders eligible for parole who would otherwise be granted parole if not for the lack of community services, and parolees and probationers who would otherwise be violated back to prison due to the lack of community services. The Commission of Pardons and Parole shall clearly remain the approving authority for parole eligibility under these circumstances, and shall be informed of actions to maintain parole violators in the community with services.

SECTION 6. There is hereby appropriated $1,000,000 from the General Fund to the Idaho Department of Correction for the period July 1, 2003, through June 30, 2004. These funds shall be available upon a request by the Board of Correction to the Governor of the State of Idaho, in the case that the offender population grows to an extent beyond the capacity of the Board of Correction to manage with the appropriation authorized in Section 1 of this act.

SECTION 7. In addition to the appropriation made in Section 1, Chapter 175, Laws of 2002, there is hereby appropriated to the Department of Correction, the following amounts to be expended for the designated programs according to the designated expense class from the listed funds for the period July 1, 2002, through June 30, 2003:

I. OPERATIONS DIVISION:	
E. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 34,200
FROM:	
Miscellaneous Revenue Fund	$ 34,200
H. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 34,200
FROM:	
Miscellaneous Revenue Fund	$ 34,200
II. SUPPORT DIVISION:	
B. MEDICAL SERVICES CONTRACT:	
FOR:	
Operating Expenditures	$108,100
FROM:	
General Fund	$ 31,700
Miscellaneous Revenue Fund	76,400
TOTAL	$108,100
III. PRIVATELY-OPERATED STATE PRISON:	
FOR:	
Operating Expenditures	$596,100
FROM:	
Miscellaneous Revenue Fund	$299,500
Inmate Labor Fund	296,600
TOTAL	$596,100
GRAND TOTAL	$772,600

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 3, 4 and 7 of this act shall be in full force and effect on and after passage and approval; the remaining sections of this act shall be in full force and effect on and after July 1, 2003.

Approved May 7, 2003.

CHAPTER 353
(S.B. No. 1171)

AN ACT

RELATING TO PORT DISTRICTS; AMENDING THE CHAPTER HEADING OF CHAPTER 11, TITLE 70, IDAHO CODE; AND AMENDING CHAPTER 11, TITLE 70, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 70-1114, IDAHO CODE, TO PROVIDE FOR DISINCORPORATION.

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

SECTION 1. That the Heading for Chapter 11, Title 70, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 11
PORT DISTRICTS -- FORMATION ~~AND~~ -- ANNEXATION --
DISINCORPORATION

SECTION 2. That Chapter 11, Title 70, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 70-1114, Idaho Code, and to read as follows:

70-1114. DISINCORPORATION. (1) A port district may disincorporate after proceedings as required by this section. The port commission shall, upon receiving a petition for disincorporation signed by not less than twenty-five percent (25%) of the number of qualified electors casting votes at the last election of the port commissioners held therein, submit the question of whether such port district shall disincorporate to the electors of the port district. Such election shall be held in accordance with title 34, Idaho Code.

(2) In submitting the said question to the voters for their approval or rejection, the proposition shall be expressed on said ballot substantially in the following terms:

"Disincorporation of Port of .... Yes."

"Disincorporation of Port of .... No."

(Giving the name of the port district.)

(3) The votes shall be canvassed in the same manner as in other elections. If the canvass of votes shows that less than two-thirds (2/3) of the votes cast were in favor of disincorporation, the port commission shall declare the petition for disincorporation denied, in which event no other election shall be held on the question of disincorporating the port district until the expiration of two (2) years from the date of the election so held. If it is found by the canvass of votes that two-thirds (2/3) of all the votes cast were in favor of disincorporation, the port commission shall certify such election results to the boards of commissioners of the county or counties in which the port district is located.

(4) The board or boards of commissioners of the county or counties shall thereupon enter an order that the port district be disincorporated, said order to take effect at the end of the calendar year in which the election was held, but in no event less than thirty (30) days from the date of the holding of the election.

(5) All proceedings following entry of the order of disincorporation shall be conducted to the extent practicable in the same manner as is provided for the disincorporation of municipal corporations under sections 50-2206 through 50-2214, Idaho Code; provided that in no event shall disincorporation be effective until all indebtedness of the port district has been paid or duly provided for; and provided further, that no port district may incur new or additional indebtedness after an order for disincorporation has been entered.

Approved May 7, 2003.

CHAPTER 354
(S.B. No. 1192)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2004; 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, 2003, through June 30, 2004:

FOR:	
Personnel Costs	$ 983,000
Operating Expenditures	245,800
TOTAL	$1,228,800
FROM:	
General Fund	$1,228,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than fifteen (15) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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 May 7, 2003.

CHAPTER 355
(S.B. No. 1200)

AN ACT

RELATING TO THE DEPARTMENT OF AGRICULTURE; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2004; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AMENDING CHAPTER 1, TITLE 71, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 71-121, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO PROMULGATE CERTAIN RULES, TO PROVIDE FOR COLLECTION OF FEES FOR THE LICENSING OF WEIGHING AND MEASURING DEVICES AND TO PROVIDE FOR THE WEIGHTS AND MEASURES INSPECTION FUND; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 448,300	$ 396,300		$ 17,900	$ 862,500
Administration and Accounting Services Fund	603,800	109,100	$ 24,200		737,100
Facilities Maintenance Fund	92,400	64,400			156,800
Agriculture in the Classroom Fund		20,900			20,900
TOTAL	$ 1,144,500	$ 590,700	$ 24,200	$ 17,900	$ 1,777,300
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 1,098,900	$ 215,400		$ 336,000	$ 1,650,300
Agricultural Fees - Livestock Disease Control Fund	488,100	256,700	$114,500		859,300
Agricultural Fees - Dairy Inspection Fund	745,200	252,700	33,000		1,030,900
Agricultural Fees - Egg Inspection Fund	82,600	25,000			107,600
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200
Seminars and Publications Fund		96,500			96,500
Federal Grant Fund	239,800	400,000		1,275,000	1,914,800
TOTAL	$ 2,660,600	$1,250,500	$147,500	$1,611,000	$ 5,669,600
III. AGRICULTURAL RESOURCES:					
FROM:					
General Fund	$ 425,600	$ 440,300			$ 865,900
Agricultural Fees - Pesticides Fund	1,165,600	498,700	$129,400		1,793,700
Federal Grant Fund	406,300	166,200			572,500
TOTAL	$ 1,997,500	$1,105,200	$129,400		$ 3,232,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 592,100	$ 93,200		$ 92,000	$ 777,300
Agricultural Smoke Management Fund	50,000	40,000			90,000
Agricultural Inspection Fund	1,101,100	252,900	$ 42,200	60,000	1,456,200
Agricultural Fees - Commercial Feed and Fertilizer Fund	566,200	164,200	58,500		788,900
Agricultural Fees - Honey Advertising Fund	400	16,000			16,400
Agricultural Fees - Organic Food Products Fund	84,200	30,600			114,800
Federal Grant Fund	233,500	80,300	41,000		354,800
TOTAL	$ 2,627,500	$ 677,200	$141,700	$ 152,000	$ 3,598,400
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 543,400	$ 197,500			$ 740,900
Agricultural Inspection Fund	121,700	48,800		$ 3,700	174,200
Weights and Measures Inspection Fund	200,000	20,000			220,000
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	7,812,500	718,900	$186,000	413,200	9,130,600
TOTAL	$ 8,677,600	$ 985,200	$186,000	$ 416,900	$10,265,700
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 309,000	$ 201,600			$ 510,600
Agricultural Inspection Fund	35,000	100			35,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Seminars and Publications Fund		234,600			234,600
USDA Publications Fund		63,700			63,700
Agricultural Loans Fund	12,800	15,000		$ 5,200	33,000
Federal Grant Fund	49,800	25,000		41,700	116,500
TOTAL	$ 406,600	$ 540,000		$ 46,900	$ 993,500
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$ 143,000	$ 143,000
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		184,100	184,300
TOTAL		$ 200		$ 427,100	$ 427,300
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 52,100	$ 400			$ 52,500
Agricultural Fees - Sheep Industry Regulation Fund	68,500	29,300			97,800
Sheep and Goat Disease Indemnity Fund		20,300			20,300
TOTAL	$ 120,600	$ 50,000			$ 170,600
GRAND TOTAL	$17,634,900	$5,199,000	$628,800	$2,671,800	$26,134,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred eighty-one and sixty hundredths (181.60) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, 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. That Chapter 1, Title 71, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 71-121, Idaho Code, and to read as follows:

71-121. RULES -- FEES -- WEIGHTS AND MEASURES INSPECTION FUND. The director shall have the authority to promulgate rules to establish fees for the licensing of weighing and measuring devices to compensate the state for the expense of administering weights and measures laws. The director shall collect a reasonable fee not to exceed the actual cost to the state of administering such laws. Fees shall be deposited with the state treasurer and shall be credited to the weights and measures inspection fund, which is hereby created and established. Moneys in the weights and measures inspection fund shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the fund shall be paid to the fund. Moneys in the fund shall be used solely for carrying out the provisions of title 71, Idaho Code, and may be expended only pursuant to legislative appropriation.

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 July 1, 2003.

Approved May 7, 2003.

CHAPTER 356
(S.B. No. 1202)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2004; 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 RELATING TO THE CATASTROPHIC HEALTH CARE COST PROGRAM; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$ 4,947,400	$ 6,127,800	$245,232,100	$256,307,300
Medical Assistance Fund			2,500	2,500
Liquor Control Fund			671,600	671,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	8,007,000	12,346,500	594,984,300	615,337,800
Cooperative Welfare Fund (Dedicated)			48,077,200	48,077,200
TOTAL	$12,954,400	$18,474,300	$888,967,700	$920,396,400

SECTION 2. GENERAL FUND TRANSFERS. 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. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2003, through June 30, 2004.

SECTION 5. CATASTROPHIC HEALTH CARE COST PROGRAM. The state of Idaho has an incident-based medically indigent health care program that is funded entirely with county and state funds. Counties pay the first $10,000 in medical bills incurred by a medically indigent person in any twelve (12) month period. The Catastrophic Health Care Cost Program is responsible for all medical bills in excess of $10,000. It is therefore the intent of the Idaho Legislature that the Department of Health and Welfare work with federal officials, the Idaho Association of Counties, and other various health care interests in exploring and evaluating ways in which the present county and state catastrophic fund could be used to draw federal match through the state's Medicaid Program. Any proposed legislation as a result of this effort, should originate with the Idaho Association of Counties.

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 July 1, 2003.

Approved May 7, 2003.

CHAPTER 357
(S.B. No. 1203)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2004; 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; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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 Welfare, 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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE PROGRAMS:				
FROM:				
General Fund	$10,041,200	$ 5,296,400	$ 8,746,800	$ 24,084,400
Cooperative Welfare Fund (Federal)	13,751,300	14,621,500	47,998,700	76,371,500
Cooperative Welfare Fund (Dedicated)	788,400	2,125,600		2,914,000
TOTAL	$24,580,900	$22,043,500	$56,745,500	$103,369,900
II. TAFI AND AABD BENEFIT PAYMENTS:				
FROM:				
General Fund			$ 8,387,500	$ 8,387,500
Cooperative Welfare Fund (Federal)			5,251,900	5,251,900
TOTAL			$13,639,400	$ 13,639,400
GRAND TOTAL	$24,580,900	$22,043,500	$70,384,900	$117,009,300

SECTION 2. GENERAL FUND TRANSFERS. 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. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. EXPENDITURE OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2003, through June 30, 2004.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 7, 2003.

CHAPTER 358
(S.B. No. 1204)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2004; 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; SUPERSEDING THE PROVISIONS OF SECTION 57-1702, IDAHO CODE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:				
FROM:				
General Fund	$ 1,228,700	$ 1,906,600	$ 1,127,400	$ 4,262,700
Cancer Control Fund	50,100	93,200	258,400	401,700
Central Tumor Registry Fund			182,700	182,700
Food Safety Fund			465,400	465,400
Cooperative Welfare Fund (Federal)	4,760,400	7,357,300	27,317,900	39,435,600
Cooperative Welfare Fund (Dedicated)	767,900	576,400	6,354,000	7,698,300
TOTAL	$ 6,807,100	$ 9,933,500	$35,705,800	$52,446,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. EMERGENCY MEDICAL SERVICES:				
FROM:				
General Fund	$ 176,000	$ 104,400	$ 63,100	$ 343,500
Emergency Medical Services Fund I & II	1,058,000	624,600	192,600	1,875,200
Emergency Medical Services Fund III			1,205,400	1,205,400
Cooperative Welfare Fund (Dedicated)	190,900	15,000	150,000	355,900
Cooperative Welfare Fund (Federal)	261,600	1,133,800		1,395,400
TOTAL	$ 1,686,500	$ 1,877,800	$ 1,611,100	$ 5,175,400
III. LABORATORY SERVICES:				
FROM:				
General Fund	$ 1,447,400	$ 568,200		$ 2,015,600
Cooperative Welfare Fund (Dedicated)	742,100	585,000		1,327,100
Cooperative Welfare Fund (Federal)	338,100	2,010,100		2,348,200
TOTAL	$ 2,527,600	$ 3,163,300		$ 5,690,900
GRAND TOTAL	$11,021,200	$14,974,600	$37,316,900	$63,312,700

SECTION 2. GENERAL FUND TRANSFERS. 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. COOPERATIVE WELFARE FUND REAPPROPRIATION. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. RECEIPTS AUTHORITY. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2003, through June 30, 2004.

SECTION 5. CANCER CONTROL FUND. 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. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 7, 2003.

CHAPTER 359
(S.B. No. 1205)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 2004; 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; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:				
FROM:				
General Fund	$10,116,700	$ 6,253,600		$16,370,300
Cooperative Welfare Fund (Federal)	6,789,300	15,891,700		22,681,000
Cooperative Welfare Fund (Dedicated)	566,500	599,900		1,166,400
TOTAL	$17,472,500	$22,745,200		$40,217,700
II. INDEPENDENT COMMISSIONS AND COUNCILS:				
A. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
General Fund	$ 12,500			$ 12,500
Domestic Violence Project Fund	127,600	$ 100,800	$ 168,600	397,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	33,600	74,500	2,668,200	2,776,300
Cooperative Welfare Fund (Dedicated)		21,000		21,000
TOTAL	$ 173,700	$ 196,300	$2,836,800	$ 3,206,800
B. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
General Fund	$ 72,800		$ 9,500	$ 82,300
Cooperative Welfare Fund (Federal)	207,700	$ 175,200	27,200	410,100
Cooperative Welfare Fund (Dedicated)		15,000		15,000
TOTAL	$ 280,500	$ 190,200	$ 36,700	$ 507,400
C. COUNCIL ON THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	$ 109,600	$ 21,400		$ 131,000
Cooperative Welfare Fund (Dedicated)		7,500		7,500
Cooperative Welfare Fund (Federal)		107,400		107,400
TOTAL	$ 109,600	$ 136,300		$ 245,900
DIVISION TOTAL	$ 563,800	$ 522,800	$2,873,500	$ 3,960,100
GRAND TOTAL	$18,036,300	$23,268,000	$2,873,500	$44,177,800

SECTION 2. GENERAL FUND TRANSFERS. 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. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2003, through June 30, 2004.

SECTION 5. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two thousand eight hundred five and forty-one hundredths (2,805.41) full-time equivalent positions at any point during the period July 1, 2003, through June 30, 2004, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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 July 1, 2003.

Approved May 7, 2003.

CHAPTER 360
(S.B. No. 1206)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 2004; 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 SUBSTANCE ABUSE PREVENTION; APPROPRIATING ADDITIONAL MONEYS FOR COMMUNITY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2003; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:				
FROM:				
General Fund	$ 9,570,400	$ 2,541,700	$ 9,002,600	$ 21,114,700
Cooperative Welfare Fund (Federal)	14,770,400	7,178,300	11,128,200	33,076,900
Cooperative Welfare Fund (Dedicated)	531,700	763,100		1,294,800
TOTAL	$24,872,500	$10,483,100	$20,130,800	$ 55,486,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. DEVELOPMENTAL DISABILITIES SERVICES:				
FROM:				
General Fund	$ 5,487,400	$ 1,687,500	$ 2,919,000	$ 10,093,900
Cooperative Welfare Fund (Federal)	2,774,200	2,415,700	1,415,700	6,605,600
Cooperative Welfare Fund (Dedicated)	913,900			913,900
TOTAL	$ 9,175,500	$ 4,103,200	$ 4,334,700	$ 17,613,400
III. COMMUNITY MENTAL HEALTH SERVICES:				
FROM:				
General Fund	$ 6,953,500	$ 2,415,500	$ 2,301,600	$ 11,670,600
Cooperative Welfare Fund (Federal)	2,388,400	1,227,300	350,800	3,966,500
Cooperative Welfare Fund (Dedicated)	2,659,000			2,659,000
TOTAL	$12,000,900	$ 3,642,800	$ 2,652,400	$ 18,296,100
IV. IDAHO STATE SCHOOL AND HOSPITAL (ISSH):				
FROM:				
General Fund	$ 3,580,900	$ 786,600	$ 100,200	$ 4,467,700
Medical Assistance Fund		3,500		3,500
Cooperative Welfare Fund (Dedicated)	667,500	122,400	10,200	800,100
Cooperative Welfare Fund (Federal)	12,600,100	1,930,000	199,200	14,729,300
TOTAL	$16,848,500	$ 2,842,500	$ 309,600	$ 20,000,600
V. STATE HOSPITAL NORTH:				
FROM:				
General Fund	$ 3,721,100	$ 203,800	$ 5,200	$ 3,930,100
Alcohol Intoxication Treatment Fund	699,800	28,100		727,900
Cooperative Welfare Fund (Dedicated)	143,100			143,100
State Hospital North Endowment Income Fund	463,700	408,900	43,200	915,800
TOTAL	$ 5,027,700	$ 640,800	$ 48,400	$ 5,716,900
VI. STATE HOSPITAL SOUTH:				
FROM:				
General Fund	$ 7,629,500	$ 1,558,500	$ 227,500	$ 9,415,500
Cooperative Welfare Fund (Dedicated)	344,000	131,400	800	476,200
Mental Hospital Endowment Fund	1,623,300	41,000		1,664,300
Cooperative Welfare Fund (Federal)	3,058,900	1,246,300	10,100	4,315,300
TOTAL	$12,655,700	$ 2,977,200	$ 238,400	$ 15,871,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. SUBSTANCE ABUSE SERVICES:				
FROM:				
General Fund	$ 34,600	$ 410,000	$ 2,676,600	$ 3,121,200
Prevention of Minors' Access to Tobacco Fund	24,700	46,800		71,500
Alcohol Intoxication Treatment Fund	228,200	520,400	829,800	1,578,400
Cooperative Welfare Fund (Dedicated)		355,900		355,900
Substance Abuse Treatment Fund			8,800	8,800
Cooperative Welfare Fund (Federal)	261,200	2,607,400	5,904,300	8,772,900
TOTAL	$ 548,700	$ 3,940,500	$ 9,419,500	$ 13,908,700
GRAND TOTAL	$81,129,500	$28,630,100	$37,133,800	$146,893,400

SECTION 2. GENERAL FUND TRANSFERS. 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. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund for fiscal year 2003, to be used for nonrecurring expenditures only for the period July 1, 2003, through June 30, 2004. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2003, through June 30, 2004.

SECTION 5. SUBSTANCE ABUSE PREVENTION SERVICES. 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. In addition to the appropriation made in Section 1, Chapter 319, Laws of 2002, there is hereby appropriated to the Department of Health and Welfare for the Division of Family and Community Services 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, 2002, through June 30, 2003:

COMMUNITY HEALTH SERVICES:
FOR:
Trustee and Benefit Payments $300,000
FROM:
General Fund $300,000

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after passage and approval; and the remaining sections of this act shall be in full force and effect on and after July 1, 2003.

Approved May 7, 2003.

CHAPTER 361
(S.B. No. 1194)

AN ACT

RELATING TO APPROPRIATIONS; PROVIDING LEGISLATIVE INTENT; TO PROVIDE A REDUCTION IN THE APPROPRIATIONS TO THE VARIOUS STATE AGENCIES, INSTITUTIONS AND ENTITIES FOR FISCAL YEAR 2003; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO REDUCE THE FUNDS TRANSFER TO THE LEGISLATIVE FUND; PROVIDING DIRECTION TO THE BOARD OF EXAMINERS IN THE EVENT OF A BUDGET SHORTFALL; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The January 2003 revised General Fund revenue estimates indicate that sufficient revenues will not be available to meet the fiscal year 2003 appropriations authorized by the Legislature. Section 11, Article VII, of the Constitution of the State of Idaho provides that: "No appropriation shall be made, nor any expenditure authorized by the legislature, whereby the expenditure of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure...". Therefore, the Legislature finds it necessary to reduce agency appropriations to balance General Fund expenditures with anticipated revenues for the current fiscal year.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in the following sections of the following chapters, Laws of 2002, is hereby reduced by the following amounts from the General Fund for the period July 1, 2002, through June 30, 2003. Agencies and institutions shall administer these reductions by program and by expense class so as to minimize the impacts on essential services:

(1) SECTION 1, CHAPTER 271
STATE BOARD OF EDUCATION
OFFICE OF THE STATE BOARD OF EDUCATION: $ 190,300

(2) SECTION 1, CHAPTER 177 STATE BOARD OF EDUCATION IDAHO STATE HISTORICAL SOCIETY:	$ 66,700
(3) SECTION 1, CHAPTER 206 STATE BOARD OF EDUCATION STATE LIBRARY BOARD:	$ 64,400
(4) SECTION 1, CHAPTER 209 STATE BOARD OF EDUCATION IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:	$ 67,500
(5) SECTION 1, CHAPTER 338 SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION:	$ 191,700
(6) SECTION 1, CHAPTER 195 STATE BOARD OF EDUCATION DIVISION OF VOCATIONAL REHABILITATION:	$ 133,700
(7) SECTION 1, CHAPTER 170 CATASTROPHIC HEALTH CARE COST FUND:	$ 306,200
(8) SECTION 1, CHAPTER 319 DEPARTMENT OF HEALTH AND WELFARE DIVISION OF FAMILY AND COMMUNITY SERVICES:	$ 2,162,000
(9) SECTION 1, CHAPTER 320 DEPARTMENT OF HEALTH AND WELFARE INDIRECT SUPPORT SERVICES AND THE INDEPENDENT COMMISSIONS AND COUNCILS:	$ 614,800
(10) SECTION 1, CHAPTER 321 DEPARTMENT OF HEALTH AND WELFARE MEDICAL ASSISTANCE SERVICES:	$ 2,680,800
(11) SECTION 1, CHAPTER 322 DEPARTMENT OF HEALTH AND WELFARE PUBLIC HEALTH SERVICES:	$ 106,900
(12) SECTION 1, CHAPTER 323 DEPARTMENT OF HEALTH AND WELFARE DIVISION OF WELFARE:	$ 1,173,600
(13) SECTION 1, CHAPTER 194 PUBLIC HEALTH TRUST FUND:	$ 342,300
(14) SECTION 1, CHAPTER 175 DEPARTMENT OF CORRECTION:	$ 3,928,300
(15) SECTION 1, CHAPTER 249 SUPREME COURT:	$ 899,100

(16) SECTION 1, CHAPTER 324 DEPARTMENT OF JUVENILE CORRECTIONS:	$ 1,147,800
(17) SECTION 1, CHAPTER 198 IDAHO STATE POLICE:	$ 635,300
(18) SECTION 1, CHAPTER 164 DEPARTMENT OF ENVIRONMENTAL QUALITY:	$ 548,400
(19) SECTION 1, CHAPTER 165 DEPARTMENT OF LANDS:	$ 166,800
(20) SECTION 1, CHAPTER 314 DEPARTMENT OF PARKS AND RECREATION:	$ 301,800
(21) SECTION 1, CHAPTER 168 DEPARTMENT OF WATER RESOURCES:	$ 352,100
(22) SECTION 1, CHAPTER 270 DEPARTMENT OF AGRICULTURE:	$ 205,500
(23) SECTION 1, CHAPTER 167 SOIL CONSERVATION COMMISSION:	$ 140,700
(24) SECTION 1, CHAPTER 243 DEPARTMENT OF COMMERCE:	$ 234,100
(25) SECTION 1, CHAPTER 66 DEPARTMENT OF LABOR:	$ 19,100
(26) SECTION 1, CHAPTER 203 SELF-GOVERNING AGENCIES	
(a) BOARD OF EXAMINERS:	$ 1,000
(b) COMMISSION ON HISPANIC AFFAIRS:	3,800
TOTAL	$ 4,800
(27) SECTION 1, CHAPTER 169 OFFICE OF STATE APPELLATE PUBLIC DEFENDER:	$ 44,200
(28) SECTION 1, CHAPTER 239 DIVISION OF VETERANS SERVICES:	$ 72,300
(29) SECTION 1, CHAPTER 199 DEPARTMENT OF ADMINISTRATION:	$ 108,800
(30) SECTION 1, CHAPTER 229 ATTORNEY GENERAL:	$ 493,900
(31) SECTION 1, CHAPTER 336 STATE CONTROLLER:	$ 193,900
(32) SECTION 1, CHAPTER 315 OFFICE OF THE GOVERNOR COMMISSION ON AGING:	$ 162,100

(33) SECTION 1, CHAPTER 193 OFFICE OF THE GOVERNOR COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:	$ 46,700
(34) SECTION 1, CHAPTER 248 OFFICE OF THE GOVERNOR DIVISION OF FINANCIAL MANAGEMENT:	$ 73,400
(35) SECTION 1, CHAPTER 65 EXECUTIVE OFFICE OF THE GOVERNOR GOVERNOR'S OFFICE ADMINISTRATION:	$ 52,500
(36) SECTION 1, CHAPTER 246 OFFICE OF THE GOVERNOR MILITARY DIVISION:	$ 169,900
(37) SECTION 1, CHAPTER 325 OFFICE OF THE GOVERNOR OFFICE OF SPECIES CONSERVATION:	$ 19,700
(38) SECTION 1, CHAPTER 251 OFFICE OF THE GOVERNOR IDAHO WOMEN'S COMMISSION:	$ 1,400
(39) SECTION 1, CHAPTER 316 LEGISLATIVE COUNCIL:	$ 155,900
(40) SECTION 1, CHAPTER 67 LIEUTENANT GOVERNOR:	$ 4,200
(41) SECTION 1, CHAPTER 210 DEPARTMENT OF REVENUE AND TAXATION BOARD OF TAX APPEALS:	$ 6,200
(42) SECTION 1, CHAPTER 211 DEPARTMENT OF REVENUE AND TAXATION STATE TAX COMMISSION:	$ 842,900
(43) SECTION 1, CHAPTER 241 SECRETARY OF STATE COMMISSION ON THE ARTS:	$ 31,000
(44) SECTION 1, CHAPTER 247 SECRETARY OF STATE:	$ 81,300
(45) SECTION 1, CHAPTER 196 STATE TREASURER:	$ 43,600
GRAND TOTAL	$19,288,600

SECTION 3. On or before June 1, 2003, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to reduce by $188,300 the amount transferred from

the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, for the period July 1, 2002, through June 30, 2003.

SECTION 4. The Legislature finds that the current economic situation facing the state of Idaho may require additional reductions to state expenditure levels beyond those reductions contained in this act. The likelihood of these budgetary actions requires that certain prudent and responsible steps be followed in order to ensure a balanced budget for the current fiscal year.

If, after the First Regular Session of the Fifty-seventh Idaho Legislature has adjourned sine die, and subsequently, state revenues do not appear adequate to support state expenditures through the balance of the fiscal year, the Board of Examiners shall, as provided by Section 67-3512, Idaho Code, reduce legislative appropriations to agencies and institutions for the current fiscal year by amounts necessary to balance the budget.

If, any payments or obligations from fiscal year 2003 are carried over into fiscal year 2004 beyond the normal encumbrance process authorized by Section 67-3521, Idaho Code, then the Board of Examiners shall reduce the fiscal year 2004 appropriations for those agencies and institutions in the same amount as their fiscal year 2003 payments or obligations carried into fiscal year 2004.

Any fiscal year 2003 or fiscal year 2004 reduction in the legislative appropriation that is authorized by the Board of Examiners for public schools, pursuant to the provisions of this section, shall be exempt from the provisions of Section 33-1009 4., Idaho Code.

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

Approved May 8, 2003.

CHAPTER 362

(H.B. No. 264, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO CIGARETTE TAXES; AMENDING SECTION 63-2506, IDAHO CODE, TO INCREASE THE RATE OF THE CIGARETTE TAX AND TO REVISE DISTRIBUTIONS FROM JUNE 1, 2003, THROUGH JUNE 30, 2005; AMENDING SECTION 63-2509, IDAHO CODE, TO REVISE THE PERCENTAGE THAT WHOLESALERS ARE COMPENSATED FOR AFFIXING STAMPS ON PACKAGES OF CIGARETTES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-2520, IDAHO CODE, TO REVISE THE DISTRIBUTION FORMULA FOR CERTAIN CIGARETTE TAX MONEYS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2531, IDAHO CODE, TO PROVIDE A FLOOR STOCKS TAX FOR PACKAGES OF CIGARETTES HELD IN STOCK BY A WHOLESALER ON JUNE 1, 2003, AND TO PROVIDE WHEN THE TAX IS DUE AND PAYABLE; AMENDING CHAPTER 35, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3520, IDAHO CODE, TO CREATE THE ECONOMIC RECOVERY RESERVE FUND IN THE STATE TREASURY, TO PROVIDE PURPOSES OF THE FUND, TO PROVIDE FOR MONEYS REMITTED TO THE FUND, TO PROVIDE FOR

INTEREST EARNINGS TO BE RETAINED IN THE FUND AND TO PROVIDE PROCEDURES FOR APPROPRIATION OR TRANSFER OF MONEYS FROM THE FUND; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY, PROVIDING A SUNSET DATE AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-2506, Idaho Code, be, and the same is hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. (1) From June 1, 2003, through June 30, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. 5.1746¢ of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system. 5.1746¢ of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.

(2) On and after July 1, 2005, a~~A~~ tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of ~~one-and--four-tenths--cent--(1.4¢)--for each--cigarette--or~~ twenty-eight cents (28¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Five cents (5¢) of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system. Five cents (5¢) of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.

(3) Appropriated 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.

(4) The remaining moneys collected and those moneys not appropriated under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 2. That Section 63-2509, Idaho Code, be, and the same is hereby amended to read as follows:

63-2509. COMPENSATION FOR AFFIXING STAMPS. From June 1, 2003, through June 30, 2005, wholesalers shall be allowed as compensation for affixing stamps, two and sixty-one one hundredths percent (2.61%) of the face value of the stamps purchased by them. On and after July 1, 2005, w~~W~~holesalers shall be allowed as compensation for affixing stamps, five ~~per-cent~~ percent (5%) of the face value of the stamps purchased by them.

SECTION 3. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) From July 1, 2003, through June 30, 2005, t~~T~~he balance remaining with the state treasurer after deducting the amount described in ~~paragraph~~ subsection (a) ~~above~~ of this section shall be distributed as follows:

(1) ~~43.3%~~ 17.3% of such balance shall be distributed to the permanent building account created by section 57-1108, Idaho Code.

(2) ~~1%~~ .4% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.

(3) ~~2.5%~~ 1% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.

(4) 21.25% of such balance shall be distributed to the general fund of the state of Idaho.

(5) All remaining moneys shall be distributed as follows: For the fiscal year commencing July 1, 2003, and ending June 30, 2004, $23,500,000 shall be distributed to the general fund of the state of Idaho and the remainder shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code. For the fiscal year commencing July 1, 2004, and ending June 30, 2005, all remaining moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code.

(c) On and after July 1, 2005, the balance remaining with the state treasurer after deducting the amount described in subsection (a) of this section shall be distributed as follows:

(1) 43.3% of such balance shall be distributed to the permanent building fund created by section 57-1108, Idaho Code.

(2) 1% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central tumor registry account during any fiscal year, all such

distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.

(3) 2.5% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.

(4) All remaining moneys shall be distributed to the general fund of the state of Idaho.

SECTION 4. That Chapter 25, 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 63-2531, Idaho Code, and to read as follows:

63-2531. FLOOR STOCKS TAX. (1) In addition to the tax imposed by section 63-2506, Idaho Code, there is hereby imposed a one (1) time tax at the rate of twenty-nine cents (29¢) per package of twenty (20) cigarettes on all cigarettes to which stamps have been affixed and which are held in stock by a wholesaler at 12:01 a.m. on June 1, 2003.

(2) The tax imposed by this section shall be due and payable to the state tax commission on the due date of the cigarette tax return due under this chapter and shall be reported on such return. The tax shall be subject to all the collection, enforcement and administrative provisions of this chapter.

SECTION 5. That Chapter 35, 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 67-3520, Idaho Code, and to read as follows:

67-3520. ECONOMIC RECOVERY RESERVE FUND. (1) There is hereby created in the state treasury the economic recovery reserve fund for the purpose of meeting general fund revenue shortfalls, meeting expenses incurred as the result of a major disaster declared by the governor, or for providing one (1) time tax relief payments to the citizens of the state of Idaho. Moneys in the economic recovery reserve fund shall consist of moneys remitted pursuant to section 63-2520, Idaho Code. Interest earnings from the investment of moneys in this fund by the state treasurer shall be retained in the economic recovery reserve fund.

(2) No appropriations from the economic recovery reserve fund nor any transfers out of the fund shall be made without the consent of the legislature by at least a majority of the members of each house concurring therein at an ordinary session or at an extraordinary session of the legislature called by the governor.

SECTION 6. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared

invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 5 and 6 of this act shall be in full force and effect on and after June 1, 2003; Section 4 of this act shall be in full force and effect on and after June 1, 2003, and shall be null, void and of no force and effect on and after July 1, 2005; Section 3 of this act shall be in full force and effect on and after July 1, 2003.

Approved May 8, 2003.

CHAPTER 363
(H.B. No. 428)

AN ACT

RELATING TO A COUNTY SALES TAX; REPEALING CHAPTER 26, TITLE 63, IDAHO CODE; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE 63, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE AUTHORITY FOR A COUNTY SALES OR USE TAX, TO CREATE THE COUNTY PROPERTY TAX RELIEF FUND, TO PROVIDE GENERAL PROVISIONS FOR AN ORDINANCE ASSESSING THE TAX, TO PROVIDE FOR COLLECTION AND ADMINISTRATION OF LOCAL OPTION SALES OR USE TAXES BY THE STATE TAX COMMISSION AND TO PROVIDE FOR DISTRIBUTION; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 26, Title 63, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 63, Idaho Code, and to read as follows:

CHAPTER 26
COUNTY SALES TAX

63-2601. LEGISLATIVE FINDINGS. The legislature hereby finds that the increase in growth of the population of certain counties and the influx of great numbers of people traveling to those counties for sport, recreation and business have created a drain on the county infrastructure that is borne to an inequitable degree by the property owners of those counties. The legislature finds that it is both equitable and desirable to shift this tax burden in part from the property owners of the county to those visitors partaking of the services of the county. The legislature also finds that this objective must be subject to the approval and supervision of the voters of the county both through their elected officials and through direct input at the ballot box.

63-2602. AUTHORITY FOR COUNTY SALES OR USE TAX. The voters of a county are given the authority to authorize their county government to

adopt, implement and collect a sales tax or use tax upon all sales, without exception, that are subject to taxation under chapter 36, title 63, Idaho Code. The county commissioners of any such county are hereby given the freedom and authority to adopt, implement and collect a sales or use tax as provided herein if approved by the required minimum of sixty-six and two-thirds percent (66 2/3%) of county voters voting in an election conducted on the fourth Tuesday in May or on the first Tuesday after the first Monday in November. No local option sales or use tax proposal may be presented to county voters for approval or modification for a period of fifty-one (51) weeks after an election to approve or disapprove such tax. The question presented to the voters of a county shall state the rate of the local sales or use tax, the duration of the tax, which shall not exceed ten (10) years, and the purposes of the tax which shall be county property tax relief and debt retirement for expansion of detention facilities.

63-2603. COUNTY PROPERTY TAX RELIEF FUND. (1) Any county which implements a sales or use tax pursuant to this chapter shall create and establish in the office of the county treasurer a county property tax relief fund into which shall be placed a minimum of fifty percent (50%) of any revenue received from the county sales or use tax. On or before the Tuesday following the first Monday in September of each year, the county treasurer shall submit to the board of county commissioners and the state tax commission a statement showing the balance in the county property tax relief fund as of September 1 of that year.

(2) No later than October 10, the balance in the county property tax relief fund, as of September 1, shall be distributed to the county and any cities within the county entitled to receive revenues from the county sales or use tax. Moneys distributed shall be in an amount proportional to the percentage that the previous year's property tax portion of the budget subject to the limitations of section 63-802, Idaho Code, for the county and each city bears to the previous year's total property tax portion of the budget subject to the limitations of section 63-802, Idaho Code, for the county and all cities in the county.

(3) The dollar amount subject to the limitations of section 63-802, Idaho Code, shall be the sum of the dollar amount of the portion of property taxes certified to the board of county commissioners under section 63-804, Idaho Code, and subject to the limitations of section 63-802, Idaho Code, as if no county property tax relief fund moneys were to be distributed, and the dollar amount to be received from the property tax relief fund. The division of the resulting sum by the value subject to taxation is a quotient that shall not exceed the levy limits prescribed by Idaho Code. If these limitations are exceeded, the board of county commissioners shall reduce any applicable budget request to comply with this section. The levy set to fund this portion of the budget shall be calculated based on the budget subject to the limitations of section 63-802, Idaho Code, less the money to be received from the county property tax relief fund.

63-2604. GENERAL PROVISIONS. Any ordinance assessing a tax pursuant to this chapter shall contain a finding by the board of county commissioners based upon evidence presented to it that the conditions set forth in section 63-2601, Idaho Code, exist and shall provide the methods for reporting and collecting taxes due. Taxes collected pursuant to

any such ordinance shall be remitted to the county official designated in such ordinance or other such official contracting, pursuant to this chapter, with the county to provide collection services, and shall constitute revenue of the county available for county property tax relief and debt retirement for expansion of detention facilities. In any election, the ordinance submitted to county voters shall: (1) state and define the sales or use tax to be approved; (2) state the exact rate of the tax to be assessed, which in no event shall exceed five-tenths of one percent (0.5%) of the sales price of an item subject to taxation; (3) state that the revenues derived from the sales or use tax shall be used for county property tax relief and debt retirement for expansion of detention facilities; (4) state the duration of the tax which shall not be in excess of ten (10) years or the date the obligation has been met for the project for which the sales and use tax was passed pursuant to this chapter, whichever occurs first. The county clerk of any county adopting an ordinance, or any amendment thereto, shall forward a copy of the ordinance or amendment to the state controller, the chairman of the state tax commission and the chairman of the state board of tax appeals.

63-2605. COLLECTION AND ADMINISTRATION OF LOCAL OPTION SALES OR USE TAXES BY THE STATE TAX COMMISSION — DISTRIBUTION. (1) Any county which has levied a tax pursuant to section 63-2602, Idaho Code, may contract with the state tax commission for the collection and administration of such taxes in like manner and under definitions and rules of the state tax commission for the collection and administration of the state sales or use tax under chapter 36, title 63, Idaho Code. A county which levies such tax shall have the right to review and audit the records of collection thereof maintained by the commission and the returns of taxpayers relating to such tax. Alternatively, such county shall have authority to administer and collect such tax.

(2) All revenues collected by the state tax commission pursuant to section 63-2602, Idaho Code, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund fund sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid through the state refund fund and those moneys are continuously appropriated.

(b) An amount of money equal to such fee as may be agreed upon between the state tax commission and such county for the actual cost of the collection and administration of the tax. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost at the end of each fiscal year shall be distributed as provided in subsection (2)(c) of this section.

(c) All remaining moneys received pursuant to this chapter shall be placed in a fund designated by the state controller and remitted monthly to the county levying such sales or use tax.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and shall be null, void and of no force and effect on and after December 31, 2009.

Approved May 8, 2003.

CHAPTER 364
(H.B. No. 454)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-317, IDAHO CODE, TO INCLUDE OCCUPANCY OF IMPROVEMENTS OR USE IN STORAGE OF VEHICLES, BOATS OR HOUSEHOLD GOODS, PROVIDED SUCH USE IS NOT SOLELY RELATED TO CONSTRUCTION OR SALE OF THE PROPERTY IN THE DEFINITION OF "OCCUPIED" FOR OCCUPANCY TAX PURPOSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-317, Idaho Code, be, and the same is hereby amended to read as follows:

63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to property taxation shall be valued and taxed based upon its status as of January 1 of each tax year. Improvements, other than additions to existing improvements, constructed upon real property shall not be subject to property taxation during the year of construction other than that portion actually in place as of January 1 of each calendar year.

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential and commercial structures, except additions to existing improvements, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements for that portion of the calendar year in which first occupancy occurs. For the purposes of this section, the term "occupied" means:

(a) Use of the property by any person as a residence <u>including occupancy of improvements or use in storage of vehicles, boats or household goods, provided such use is not solely related to construction or sale of the property;</u> or

(b) Use of the property for any business or commercial purpose unrelated to the construction and sale of the property; or

(c) Any possessory use of the property for which the owner received any compensation or consideration.

(3) The owner of any newly constructed improvement, as described in this section, upon which no occupancy tax has been charged shall report to the county assessor that the improvement has been occupied. As soon as practical after receiving such a report, the county assessor shall appraise and determine the market value for assessment purposes.

(a) At the time the county assessor determines the market value for assessment purposes of any improvement, he shall allow as an offset against the market value of the improvement, the market value of any

portion of that improvement which was existing on January 1 and placed upon the property roll.

(b) Upon completion of the appraisal, the county assessor shall notify the owner of the appraisal, and further shall notify the owner of their right to apply for the exemption provided in sections 63-602G and 63-602X, Idaho Code. If the owner applies for and meets the requirements for such exemption within thirty (30) days of the notification by the county assessor, the exemption shall be extended to the newly constructed and occupied residential structures in compliance with section 63-602G, Idaho Code, notwithstanding limitations requiring occupancy as of January 1 of the tax year.

(c) In the event that the owner fails to report to the county assessor that the property is ready for occupancy, the assessor shall notify the county board of equalization, who may impose as penalty an additional amount equal to five percent (5%) of the tax for each month following the date of first occupancy during which the report is not made, to a maximum of twenty-five percent (25%) of the tax.

(4) Appeals of the market value for assessment purposes shall be resolved in the same manner as all other appeals of valuation by the board of equalization.

(5) The occupancy tax calculated upon the values set by the county assessor, and any penalty imposed by the board of equalization shall be collected in the same manner as all other property taxes.

(6) An occupancy tax lien shall be imposed in the manner provided in section 63-206, Idaho Code.

(7) Occupancy taxes shall be billed, collected and distributed in the same manner as all other property taxes.

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, 2003.

Approved May 8, 2003.

CHAPTER 365
(H.B. No. 469)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2004; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR REAPPROPRIATION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

FROM:	
General Fund	$23,816,600
Equine Education Fund	136,100
Federal Grant Fund	4,599,500
Miscellaneous Revenue Fund	181,900
TOTAL	$28,734,100

SECTION 2. There is hereby reappropriated to the Board of Regents for 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 260, Laws of 2002, to be used for nonrecurring expenditures, for the period July 1, 2003, through June 30, 2004.

SECTION 3. The reappropriation for the General Fund moneys 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, 2003, is zero, the reappropriation for the General Fund moneys 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, 2003, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 8, 2003.

CHAPTER 366
(H.B. No. 470)

AN ACT
APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 2004; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

FOR:	
Trustee and Benefit Payments	$19,523,900
FROM:	
General Fund	$19,223,900
Community College Fund	300,000
TOTAL	$19,523,900

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 July 1, 2003.

Approved May 8, 2003.

CHAPTER 367
(H.B. No. 471)

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 2004; 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; SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

FOR:	
General Education Programs	$327,172,400
FROM:	
General Fund	$218,000,000
Agricultural College Endowment Fund	960,000
Charitable Institutions Endowment Earnings Fund	914,600
Normal School Endowment Earnings Fund	3,195,000
Science School Endowment Fund	3,785,000
University Endowment Fund	3,110,000
Unrestricted Current Fund	31,062,100
Restricted Current Fund	66,145,700
TOTAL	$327,172,400

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, an amount not to exceed $1,600,000 may be used for matching awards, research centers, and infrastructure, with commercial application as a goal. The expenditure of these funds shall conform to the mission and goals of the Higher Education Research Council.

SECTION 4. Of the amount appropriated from the General Fund in Section 1 of this act, an amount not to exceed $1,750,000 may be used for the competitive Idaho Technology Incentive Grant Program to foster innovative learning approaches using technology. These moneys shall also be used 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, an amount not to exceed $500,000 may 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, an amount not to exceed $1,300,000 may 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, 2003, through June 30, 2004, 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 of 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 318, Laws of 2002, to be used for nonrecurring expenditures, for the period July 1, 2003, through June 30, 2004.

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, 2003, is zero, the reappropriation for the General Fund in

Section 9 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, 2003, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that 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.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 8, 2003.

CHAPTER 368
(H.B. No. 472)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2004; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION; EXPRESSING LEGISLATIVE INTENT REGARDING THE SHARING OF FISCAL, HUMAN RESOURCES, INFORMATION TECHNOLOGY AND RECEPTION RESOURCES WITH THE OFFICE OF THE STATE BOARD OF EDUCATION AND THE DIVISION OF VOCATIONAL REHABILITATION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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, 2003, through June 30, 2004:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:					
FROM:					
General Fund	$1,592,400	$177,400			$ 1,769,800
Federal Grant Fund	296,600	59,800			356,400
TOTAL	$1,889,000	$237,200			$ 2,126,200
II. GENERAL PROGRAMS:					
FROM:					
General Fund	$ 237,300	$ 34,600	$ 9,901,500		$10,173,400
Hazardous Materials/ Waste Enforcement Fund			67,800		67,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Federal Grant Fund	153,800	15,000	5,141,700		5,310,500
TOTAL	$ 391,100	$ 49,600	$15,111,000		$15,551,700
III. POSTSECONDARY PROGRAMS:					
FROM:					
General Fund				$32,041,900	$32,041,900
Unrestricted Current Fund				339,700	339,700
TOTAL				$32,381,600	$32,381,600
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
General Fund			$ 234,600		$ 234,600
Displaced Homemaker Fund			170,000		170,000
Federal Grant Fund			2,116,700		2,116,700
TOTAL			$ 2,521,300		$ 2,521,300
GRAND TOTAL	$2,280,100	$286,800	$17,632,300	$32,381,600	$52,580,800

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 appropriation contained in Section 1, Chapter 208, Laws of 2002, to be used for nonrecurring expenditures, for the period July 1, 2003, through June 30, 2004.

SECTION 3. The reappropriation for the General Fund moneys 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, 2003, is zero, the reappropriation for the General Fund moneys 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, 2003, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. In order to promote administrative efficiency among the Office of the State Board of Education, Division of Professional-Technical Education and the Division of Vocational Rehabilitation it is the intent of the Legislature that the fiscal, human resources, information technology and reception activities funded by this appropriation be shared with the Office of the State Board of Education and the Division of Vocational Rehabilitation. Sharing these resources shall not change

the mission or purpose of the Division of Professional-Technical Education and shall not negatively affect its ability to carry out its mission.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 8, 2003.

CHAPTER 369

(H.B. No. 415, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO IDAHO COMMEMORATIVE SILVER MEDALLIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622PP, IDAHO CODE, TO PROVIDE THAT SALES AND PURCHASES OF IDAHO COMMEMORATIVE SILVER MEDALLIONS ARE NOT SUBJECT TO SALES OR USE TAX; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1223, IDAHO CODE, TO PROVIDE FOR ISSUING A SERIES OF IDAHO COMMEMORATIVE SILVER MEDALLIONS COMMEMORATING IDAHO HISTORY, PEOPLE OR RESOURCES, TO AUTHORIZE THE STATE TREASURER TO PROVIDE FOR THE PRODUCTION, DISTRIBUTION AND SALE OF MEDALLIONS, TO DIRECT THAT MONEYS FROM THE SALE OF MEDALLIONS SHALL BE CREDITED TO THE STATE VETERANS CEMETERY MAINTENANCE FUND AFTER COSTS OF SHIPPING AND HANDLING HAVE BEEN REIMBURSED TO THE STATE TREASURER AND IF APPLICABLE, AFTER COSTS OF MINTING HAVE BEEN REIMBURSED, TO PROVIDE FOR COLLABORATION BETWEEN THE STATE TREASURER AND A COMMITTEE OF LEGISLATORS WHEN DETERMINING THE NUMBER OF MEDALLIONS TO BE ISSUED IN A SERIES, THE NUMBER OF SERIES TO BE ISSUED AND APPROVING MEDALLION DESIGN, TO DIRECT THE STATE TREASURER TO OBTAIN A FEDERAL TRADEMARK FOR EACH MEDALLION DESIGN AND TO PROVIDE FOR PROTECTION OF TRADEMARKS AND TO PROVIDE THAT THE FIRST SERIES OF MEDALLIONS SHALL COMMEMORATE "SUPPORT OF IDAHO'S HEROES"; AMENDING SECTION 65-107, IDAHO CODE, TO PROVIDE THAT REVENUES FROM THE SALE OF STATE COMMEMORATIVE SILVER MEDALLIONS SHALL BE DEPOSITED TO THE STATE VETERANS CEMETERY MAINTENANCE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 36, 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 63-3622PP, Idaho Code, and to read as follows:

63-3622PP. IDAHO COMMEMORATIVE SILVER MEDALLIONS. There is hereby exempted from the taxes imposed by this chapter the sale or purchase of Idaho commemorative silver medallions through the office of the treasurer of the state of Idaho or through agents designated by the state treasurer pursuant to the issuance of Idaho commemorative silver medallions authorized in section 67-1223, Idaho Code.

SECTION 2. That Chapter 12, 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 67-1223, Idaho Code, and to read as follows:

67-1223. IDAHO COMMEMORATIVE SILVER MEDALLIONS ISSUED BY THE STATE TREASURER. (1) The state treasurer is hereby authorized to issue a series of commemorative silver medallions for sale to the public. Each series shall commemorate Idaho history, people or resources and may bear the great seal of the state of Idaho. Medallions shall contain one (1) ounce of fine silver, shall be alloyed to at least ninety percent (90%) fineness, and shall not constitute legal tender. No sales or use tax shall be imposed on the sale or purchase of medallions from the state treasurer or any agent designated by the state treasurer. Only mints which have contracted with the state treasurer may produce Idaho commemorative silver medallions. Any other production of such medallions is a misdemeanor.

(2) The state treasurer shall make such arrangements as the state treasurer considers appropriate for the production, distribution and sale of medallions, and shall ensure that all moneys received from the sale of medallions are paid into the state treasury and credited to the state veterans cemetery maintenance fund created in section 65-107, Idaho Code. Provided however, the state treasurer is hereby authorized to retain such amounts from the sale of medallions as necessary to repay costs incurred by the state treasurer in shipping and handling medallions. Provided further, if the initial cost to mint a series of medallions is provided by moneys from another state fund, then such other fund shall first be reimbursed for such costs before the remaining revenues are credited to the state veterans cemetery maintenance fund. The revenues shall be used for the purposes designated in section 65-107, Idaho Code.

(3) The state treasurer, in collaboration with a committee of legislators comprised of representatives appointed by the speaker of the house of representatives and senators appointed by the president pro tempore of the senate, shall determine the number of medallions to be issued in a series, shall determine the number of series to be issued, and shall approve the design of medallions for each series.

(4) The state treasurer, as agent of the state of Idaho, is hereby directed to obtain a federal trademark on the design of each series of medallions issued, and is further authorized, after consultation with the attorney general, to register for a state trademark under chapter 5, title 48, Idaho Code. The design of each series of Idaho commemorative silver medallions is the property of the state of Idaho, and the state of Idaho and the taxpayers shall be deemed to have a trademark on each design. It is the duty of the state treasurer to protect each and every trademark.

(a) If a person reproduces a trademark medallion design and distributes any product using any such design for the purpose of direct or indirect commercial advantage, the person shall owe to the state treasurer, as the agent of the state of Idaho, a royalty fee in addition to the revenues derived from the sale of products using a medallion design. Any person who reproduces a trademark design and distributes any product with a medallion design in violation of the provisions of this subsection (4), shall be deemed to be an infringer of the state of Idaho's trademark. The state treasurer,

through the office of the attorney general, is entitled to institute an action for any infringement of that particular right committed while the state treasurer or his designated agent has custody of the trademark.

(b) A court having jurisdiction of a civil action arising under this subsection (4) may grant such relief as it deems appropriate. At any time while an action under this subsection (4) is pending, the court may order the impounding, on such terms as it deems reasonable, of all products in inventory of the infringer which are in violation of law.

(c) An infringer on the state of Idaho's trademark pursuant to this subsection (4) is liable for any profits the infringer has incurred reproducing a trademark design and distributing products using the design for commercial purposes or is liable for statutory damages as provided in paragraph (d) of this subsection (4).

(d) The state treasurer, as agent of the trademark owner, may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to a trademark medallion design for which any one (1) infringer is liable individually, or for which any two (2) or more infringers are liable jointly and severally, in a sum of not less than two hundred fifty dollars ($250) or more than ten thousand dollars ($10,000), as the court considers just.

(e) In any civil action under this subsection (4), the court may allow the recovery of full costs by or against any party and may also award reasonable attorney's fees to the prevailing party as part of the costs.

(5) Medallions in the first series issued shall commemorate "Support of Idaho's Heroes" to honor the courage and sacrifice of all Idaho servicemen and veterans of the United States armed forces and Idaho military branches of the armed services.

SECTION 3. That Section 65-107, Idaho Code, be, and the same is hereby amended to read as follows:

65-107. VETERANS CEMETERY MAINTENANCE FUND. (1) There is hereby created in the state treasury a fund to be known as the "veterans cemetery maintenance fund" to which shall be deposited the revenues derived from the program fees for special veterans motor vehicle license plates as provided in section 49-418, Idaho Code, gifts, grants, contributions and bequests to the fund, revenues derived from the sale of state commemorative silver medallions as authorized in section 67-1223, Idaho Code, and any other moneys as may be provided by law. Interest earned on idle moneys in the veterans cemetery maintenance fund shall be paid to such fund.

(2) Benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery shall be deposited by the administrator of the division of veterans services as authorized and directed in section 65-202, Idaho Code.

(3) Moneys in the fund shall be used exclusively for the purposes of operating, maintaining and acquiring services and personal property for a state veterans cemetery, and moneys shall be continuously appropriated for such purposes.

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

Approved May 8, 2003.

CHAPTER 370
(H.B. No. 461)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2003; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2003 AND 2004; DIRECTING THE STATE TREASURER TO REPAY THE GENERAL FUND; 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 196, Laws of 2002, there is hereby appropriated to the State Treasurer $80,000 for operating expenditures from the General Fund for the period July 1, 2002, through June 30, 2003. These moneys shall be used for expenses relating to the initial purchase of commemorative silver medallions and startup costs relating to sale of the medallions to the public, as authorized in Section 67-1223, Idaho Code.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 196, Laws of 2002, there is hereby appropriated to the State Treasurer $30,000 for operating expenditures from the Miscellaneous Revenue Fund for the period July 1, 2002, through June 30, 2004.

SECTION 3. The State Treasurer shall transfer to the General Fund moneys sufficient to repay the moneys appropriated in Section 1 of this act from revenues generated from the sale of medallions as provided in Section 67-1223(2), Idaho Code. Such repayment shall occur on or before June 30, 2004.

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

Approved May 8, 2003.

CHAPTER 371
(H.B. No. 456)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF TEACHERS FOR FISCAL YEAR 2004; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS DIVISION OF TEACHERS; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF TEACHERS FOR FISCAL YEAR 2004; AMENDING SECTION 33-1004A, IDAHO CODE, TO PLACE A CAP ON THE GROWTH OF EXPERIENCE AND EDUCATION MULTIPLIER FOR INSTRUCTIONAL STAFF; PROVIDING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; DIRECTING THAT UP TO $654,000 BE DISTRIBUTED FOR MASTER TEACHER AWARD PAYMENTS; PROVIDING MONEYS FOR THE IMPLEMENTATION OF THE FINAL PHASE OF ACHIEVEMENT STANDARDS; PROVIDING DIRECTION REGARDING THE EXPENDITURE AND DISTRIBUTION OF $1,000,000 FOR EMPLOYMENT AND TRAINING FOR WORKING WITH CHILDREN WITH DISABILITIES; DIRECTING THAT $500,000 BE ALLOCATED FOR TRAINING TO SERVE THE NEEDS OF GIFTED AND TALENTED STUDENTS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The following amounts shall be expended for the public schools Division of Teachers for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$614,436,700
Federal Grant Fund	50,630,000
TOTAL	$665,066,700

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$614,436,700

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Teachers, pursuant to law and the provisions of this act, the following amounts to be expended from the listed funds for the period July 1, 2003, through June 30, 2004:

FROM:

Public School Income Fund	$614,436,700
Federal Grant Fund	50,630,000
TOTAL	$665,066,700

SECTION 4. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

Years	BA	BA + 12	BA + 24	MA BA + 36	MA + 12 BA + 48	MA + 24 BA + 60	MA + 36 ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in an accredited public school or in an accredited private or parochial school shall be credited.

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor.

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.58513 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.58513, then each school district's instructional staff multiplier shall be multiplied by the result of 1.58513 divided by the actual statewide average multiplier for instructional staff.

SECTION 5. 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, 2003, through June 30, 2004.

SECTION 6. Of the moneys appropriated in Section 3 of this act, an amount up to $654,000 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 7. Of the moneys appropriated in Section 3 of this act, $828,000 in General Fund moneys and $2,484,000 in federal grant funds shall be for the third and final phase of 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. It is legislative intent that the State Department of Education and State Board of Education seek any waivers that may be necessary to utilize the $2,484,000 in federal grant funds.

SECTION 8. 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 first 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 (1) 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 9. Of the moneys appropriated in Section 3 of this act, $500,000 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 first 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 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 9, 2003.

CHAPTER 372
(H.B. No. 463)

AN ACT

RELATING TO PROVISIONS GOVERNING DISTRIBUTION AND APPROPRIATION FOR PUBLIC SCHOOLS DIVISION OF OPERATIONS; PROVIDING THE AMOUNT TO BE EXPENDED FROM STATE SOURCES FOR THE PUBLIC SCHOOLS DIVISION OF OPERATIONS; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2004; DIRECTING THAT $3,100,000 IN ONGOING EXPENDITURES AND $5,000,000 IN ONE-TIME EXPENDITURES BE EXPENDED FOR THE PUBLIC SCHOOL TECHNOLOGY GRANT PROGRAM, AND DIRECTING THAT $300,000 BE TRANSFERRED TO THE LIBRARY SERVICES IMPROVEMENT FUND; DIRECTING THAT NOT MORE THAN $173,000 BE EXPENDED FOR IDAHO COUNCIL FOR TECHNOLOGY IN LEARNING EXPENSES; APPROPRIATING THE AMOUNT OF GENERAL FUND MONEY NECESSARY AS DETERMINED BY SECTION 33-1002D, IDAHO CODE, FOR PROPERTY TAX REPLACEMENT; PROVIDING MONEYS FOR THE FINAL PHASE OF THE IMPLEMENTATION OF ACHIEVEMENT STANDARDS; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-907, IDAHO CODE, TO CREATE THE PUBLIC EDUCATION STABILIZATION FUND, TO PROVIDE MONEYS FOR THE FUND, TO PROVIDE FOR USES OF MONEYS IN THE FUND AND TO PROVIDE FOR TRANSFER OF CERTAIN ACCUMULATED BALANCES; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE THE LOCAL SCHOOL DISTRICTS' CONTRIBUTION CALCULATION; AMENDING SECTION 33-1002D, IDAHO CODE, TO PROVIDE FOR A MAXIMUM AMOUNT TO BE DISTRIBUTED FOR PROPERTY TAX RELIEF AND TO PROVIDE FOR A PRO RATA DISTRIBUTION TO SCHOOL DISTRICTS; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE THAT COSTS OF CERTAIN ADDITIONAL FEATURES NOT PART OF A BASIC VEHICLE SHALL NOT BE REIMBURSED, TO DEFINE A BASIC VEHICLE, TO MAKE TECHNICAL CORRECTIONS, TO LIMIT REIMBURSEMENT RATES, TO PROVIDE FOR TIME LIMITATIONS AND REVIEW AND TO ALLOW SCHOOL DISTRICTS TO APPLY FOR LOANS; AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE THAT THE JULY PAYMENT TO SCHOOL DISTRICTS SHALL TAKE INTO ACCOUNT THE ADJUSTMENT REQUIRED BY THE PROVISIONS OF SECTION 33-1018, IDAHO CODE, TO PROVIDE THAT TRANSFERS INVOLVING THE PUBLIC EDUCATION STABILIZATION FUND SHALL NOT BE CONSIDERED IN CALCULATING ADJUSTMENTS WHEN THE TOTAL AMOUNT APPROPRIATED TO THE PUBLIC SCHOOL INCOME FUND IS NOT TRANSFERRED AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1018, IDAHO CODE, TO PROVIDE FOR ADJUSTMENT OF THE DISTRIBUTION TO SCHOOL DISTRICTS FROM THE EDUCATIONAL SUPPORT PROGRAM BASED ON THE ACTUAL AMOUNT OF DISCRETIONARY FUNDS PER SUPPORT UNIT; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1018A, IDAHO CODE, TO PROVIDE THAT FUNDS MAY BE TRANSFERRED FROM THE PUBLIC EDUCATION STABILIZATION FUND BY THE BOARD OF EXAMINERS AND TO PROVIDE THAT FUNDS MAY BE APPROPRIATED TO

OFFSET DECLINING DISTRIBUTIONS FROM THE SCHOOL EARNINGS RESERVE FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ALLOCATION OF CERTAIN INVESTMENT GAINS AND LOSSES; TO PROVIDE AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT; TRANSFERRING MONEYS TO THE PUBLIC EDUCATION STABILIZATION FUND; PROVIDING FOR REIMBURSABLE TRANSPORTATION EXPENDITURES FOR FISCAL YEARS 2004 AND 2005; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. The following amount shall be expended from state sources for the Public Schools Division of Operations for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$242,891,300
Public School Endowment Earnings Reserve Fund Transfer	37,750,000
Federal Mineral Royalties	1,500,000
Liquor Control Fund	1,200,000
Miscellaneous Receipts/Balances	1,250,000
Federal Grant Fund	5,180,000
TOTAL	$289,771,300

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$242,891,300

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Operations, pursuant to law and the provisions of this act, the following amounts to be expended from the listed funds for the period July 1, 2003, through June 30, 2004:

FROM:

Public School Income Fund	$284,591,300
Federal Grant Fund	5,180,000
TOTAL	$289,771,300

SECTION 4. Of the moneys appropriated in Section 3 of this act, $8,400,000 shall be expended by the Superintendent of Public Instruction as follows: $3,100,000 for ongoing expenditures and $5,000,000 for one-time expenditures for the Public School Technology Grant Program upon direction of the Idaho Council for Technology in Learning, for software purchases, technology equipment repairs and maintenance, and equipment necessary to administer state-required assessments; and $300,000 to be transferred to the Library Services Improvement Fund for the State Library's "Libraries Linking Idaho" (LiLI) statewide database licensing project.

SECTION 5. Of the $8,400,000 referenced in Section 4 of this act, an amount not to exceed $173,000 may 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 6. Of the moneys appropriated in Section 3 of this act, there is hereby appropriated the amount necessary for property tax replacement, subject to the limitations of law, to be expended according to Section 33-1002D, Idaho Code, for the period July 1, 2003, through June 30, 2004.

SECTION 7. Of the moneys appropriated in Section 3 of this act, $33,700 in General Fund moneys and $101,000 in federal grant funds shall be for the third and final phase of 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. It is legislative intent that the State Department of Education and State Board of Education seek any waivers that may be necessary to utilize the $101,000 in federal grant funds.

SECTION 8. That Chapter 9, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-907, Idaho Code, and to read as follows:

33-907. PUBLIC EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the public education stabilization fund, which shall function as a fund detail of the public school income fund. The fund shall consist of moneys transferred to the fund according to the provisions of section 33-1018, Idaho Code, and any other moneys made available through legislative transfers or appropriations. Moneys in the fund are hereby continuously appropriated for the purposes stated in section 33-1018, Idaho Code, and shall only be expended for the purposes stated in sections 33-1018 and 33-1018A, Idaho Code. Any accumulated balances in the fund that are in excess of three percent (3%) of the current fiscal year's total general fund appropriation for public school support shall be transferred to the bond levy equalization fund. Interest earned from the investment of moneys in the fund shall be credited to the public school income fund.

SECTION 9. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

2. From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

a. Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

b. Transportation support program as provided in section 33-1006, Idaho Code;

c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintend-

ent of public instruction;

e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

g. Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

h. Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

i. For programs to provide basic curricula necessary to enable students to enter academic or professional-technical postsecondary education programs, an allocation of $300 per support unit for the 1994-95 school year only;

j. For provision of teacher supplies to facilitate classroom instruction, an allocation of $200 per support unit for the 1994-95 school year only;

k. For expenditure as provided by the public school technology program, $10,400,000 for the 1994-95 school year;

l. For additional school innovation pilot project grants based on recommendations of the Idaho school reform committee, $2,000,000 for the 1994-95 school year;

m. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit; and

n. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state educational support funds.

3. Local Districts' Contribution Calculation. Without including any allowance as a credit for prepaid taxes as provided by section 63-1607, Idaho Code, the local districts' contribution shall be ~~four-tenths~~ the amount appropriated pursuant to section 33-1002D, Idaho Code, plus three-tenths percent (.43%) during fiscal year ~~1994-95~~ 2003-04 and each year thereafter, of the total state adjusted market value for assessment purposes for the previous year with such value being determined by the provisions of section 63-315, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes for the previous year as provided in section 63-3502, Idaho Code.

4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state educational support program funds, subsection 1. of this section, together to secure the total educational support program distribution funds.

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

7. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

8. District Share of State Funds for Educational Support Program. Ascertain a district's share of state funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by

the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 8.b.(1) of this section, and the support units allowance for the approved exceptional child program, subsection 8.b.(2) of this section.

c. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section.

e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this section.

SECTION 10. That Section 33-1002D, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002D. PROPERTY TAX REPLACEMENT. The purpose of this section is to replace a portion of the authorized school maintenance and operation property tax levy with state sales tax receipts. As used in this section, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the previous calendar year.

(1) (a) In the case of a school district that had a property tax computation ratio of not less than four-tenths of one percent (.4%) in tax year 1994, that school district shall receive from the appropriations made for that purpose, an amount equal to the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by one-tenth of one percent (.1%).

(b) In the case of a school district that had a property tax computation ratio of less than four-tenths of one percent (.4%) in tax year 1994, the greater of the 1992, 1993 or 1994 property tax computation ratio less three-tenths of one percent (.3%) shall be designated the district's base multiplier. In no case shall the base multiplier be less than zero (0). Four-tenths of one percent (.4%) less the greater of the district's 1992, 1993 or 1994 property tax computation ratio shall be designated the district's adjustment factor. In no case shall the adjustment factor be greater than one-tenth of one percent (.1%) or less than zero (0). Each school

district's actual multiplier shall be the base multiplier plus one-fifth (1/5) of the adjustment factor in tax year 1995, the base multiplier plus two-fifths (2/5) of the adjustment factor in tax year 1996, the base multiplier plus three-fifths (3/5) of the adjustment factor in tax year 1997, the base multiplier plus four-fifths (4/5) of the adjustment factor in tax year 1998, and the base multiplier plus the adjustment factor in tax year 1999 and beyond. Each school district shall receive, from the appropriations made for that purpose, an amount equal to the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by the district's actual multiplier.

(c) The preceding provisions of this subsection notwithstanding, appropriations from the state for the value of one-tenth of one percent (.1%) of the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year shall not exceed seventy-five million dollars ($75,000,000) in any fiscal year. If the amount school districts would otherwise be entitled to receive pursuant to the preceding provisions of this subsection exceeds seventy-five million dollars ($75,000,000), then each school district shall receive its pro rata share of seventy-five million dollars ($75,000,000).

(2) (a) Participation in this property tax reduction program is voluntary for a charter district. If a charter district participates, in addition to the provisions of subsection (1) of this section it shall not have a property tax computation ratio that is above three-tenths of one percent (.3%) or the district's property tax computation ratio in tax year 1994, less one-tenth of one percent (.1%), whichever is greater.

(b) If in any year the charter district's property tax computation ratio used to calculate its maintenance and operation budget is increased above the limit specified in this subsection the district shall not be eligible for the distribution pursuant to subsection (1) of this section for that year.

(3) Limitations imposed upon a school district's property tax computation ratio under the provisions of this section do not apply to any levy approved by electors of the school district as provided by law.

(4) Distributions calculated as provided in this section shall be made to school districts of this state in two (2) equal installments on the due dates as specified in section 63-903(1), Idaho Code, for the property taxes being replaced.

(5) For purposes of section 33-1002, Idaho Code, moneys distributed pursuant to this section shall not be included in determining total state funds.

SECTION 11. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. (1) The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of basic vehicles, insurance, payments under contract with other public transportation providers whose vehicles used to transport pupils comply with federal transit adminis-

tration regulations, "bus testing," 49 C.F.R. part 665, and any revision thereto, as provided in subsection (4~~.~~)(d) of this section, or other state department of education approved private transportation providers, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts.

(2) Any costs associated with the addition of vehicle features that are not part of the basic vehicle shall not be allowable in computing the transportation support program of school districts. A basic vehicle is hereby defined as the cost of the vehicle without optional features, plus the addition of essential safety features and features necessary for the transportation of pupils with disabilities.

(3) Each school district shall maintain records and make reports as are required for the purposes of this section.

(4) The transportation support program of a school district shall be based upon the allowable costs of:

~~1.~~(a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

~~2.~~(b) Transporting pupils less than one and one-half (1 1/2) miles as provided in section 33-1501, Idaho Code, when approved by the state board of education;

~~3.~~(c) The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

~~4.~~(d) The transportation program for grades six (6) through twelve (12), upon the costs of payments pursuant to a contract with other public or private transportation providers entered into as pro~~vided~~ in section 33-1510, Idaho Code, if the school district establishes that the reimbursable costs of transportation under the contract are equal to or less than the costs for school buses~~.~~;

~~5.~~(e) The costs of providing transportation to and from approved school activities as may be approved by rules of the state board of education;

~~6.~~(f) The employer's share of contributions to the public employee retirement system and to social security.

(5) The state's share of the transportation support program shall be eighty-five percent (85%) of allowable transportation costs of the district ~~for~~ incurred during the ~~next~~ immediately preceding state fiscal year, provided the allowable costs do not exceed one hundred three percent (103%) of the state average reimbursable cost per mile or the state average reimbursable cost per student, whichever is more advantageous to the school district. If a school district's costs exceed the one hundred three percent (103%) limit when computed by the more advantageous of the two (2) methods, that school district shall be reimbursed at eighty-five percent (85%) of the maximum limit for whichever method is more favorable to the school district. A school district may appeal the application of the one hundred three percent (103%) limit on allowable costs to the state board of education, which may establish for that district a new percentile limit for allowable costs compared to the state average, which is higher than one hundred three percent (103%). In doing so, the state board of education may set a new limit that is greater than one hundred three percent (103%), but is less than the percentile limit requested by the school district. Any costs above the new level established by the state board of education shall not be reimbursed. Such a change shall only be granted by the state board of education if the application can be justified based on uniquely difficult geographic cir-

cumstances, or extraordinary one (1) time circumstances outside the district's foresight and control. An application granted based on extraordinary one (1) time circumstances shall be effective for one (1) year only. An application based on uniquely difficult geographic circumstances shall be reviewed by the state board of education for continued validity at least every five (5) years.

(6) School districts that are unable to absorb the impact of the limitation on reimbursable expenses, through either efficiencies or the utilization of fund balances, may apply to the state board of education to receive a loan of moneys, not to exceed the amount of state funds lost through the application of the limitation on reimbursable expenses, from the public education stabilization fund. Any school district receiving such a loan shall cause its reimbursement of state transportation moneys to be reduced by a like amount in the subsequent fiscal year, and the moneys so reduced shall be deposited in the public education stabilization fund.

SECTION 12. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. Each payment by the state board of education shall be approximately twenty percent (20%) of the total general account appropriation for the fiscal year. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to this limitation.

b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.

c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to the limitation imposed by paragraphs a. and b.

2. Payments made to the school districts in August, October and November are advance payments for the current year and will be based upon payments from the public school income fund for the preceding school year. Each school district shall receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.

3. No later than the fifteenth day of February in each year, the

state department of education shall compute the state distribution factor based on the total average daily attendance through the first Friday in November. The factor will be used in payments of state funds in February and May. Attendance shall be reported in a format and at a time specified by the state department of education.

As of the thirtieth day of June of each year the state department of education shall determine final payments to be made on July fifteenth next succeeding to the several school districts from the public school income fund for the school year ended June 30. The July payments shall take into consideration:

a. the average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June,

b. all funds available in the public school income fund for the fiscal year ending on the thirtieth of June,

c. all payments distributed for the current fiscal year to the several school districts,

d. the adjustment based on the actual amount of discretionary funds per support unit required by the provisions of section 33-1018, Idaho Code,

e. payments made or due for the transportation support program and the exceptional education support program. The state department of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2. of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars ($50.00).

4. If the full amount appropriated to the public school income fund from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty (60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state superintendent of public instruction to the board of county commissioners and added to the district's maintenance and operation levy. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year, and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The state department of education shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state department of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill. The provisions of this

subsection shall not apply to any transfers to or from the public education stabilization fund.

5. Any apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding additions to apportionments to any school district to which under-apportionments may have been made or received.

SECTION 13. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1018, Idaho Code, and to read as follows:

33-1018. PUBLIC SCHOOL DISCRETIONARY FUNDING VARIABILITY. The legislature shall annually state in the appropriation for the educational support program/division of operations the estimate of the total discretionary funding provided per support unit. The department of education shall, before the end of each fiscal year, calculate the actual discretionary funding available per support unit.

(1) If the total estimated discretionary funding per support unit stated in the appropriation for the educational support program/division of operations is lower than the actual discretionary funding available per support unit, then the state controller shall multiply the difference by the number of actual support units, and transfer the result from the public school income fund to the public education stabilization fund and the final distributions to school districts from the department of education shall be reduced by a like amount.

(2) If the total estimated discretionary funding per support unit stated in the appropriation for the educational support program/division of operations is greater than the actual discretionary funding available per support unit, then the state controller shall multiply the difference by the number of actual support units, and transfer the result from the public education stabilization fund to the public school income fund. This transfer shall be limited to moneys available in the public education stabilization fund. Moneys transferred from the public education stabilization fund to the public school income fund under the provisions of this section are hereby continuously appropriated for the educational support program/division of operations.

SECTION 14. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1018A, Idaho Code, and to read as follows:

33-1018A. OTHER USES OF PUBLIC EDUCATION STABILIZATION FUND. (1) If, in any fiscal year, general fund revenues are inadequate to sustain general fund appropriations made for that year by the legislature, then the board of examiners may transfer moneys from the public education stabilization fund to the general fund. The maximum amount that may be transferred by the board in any fiscal year shall be determined by dividing the total of all general fund appropriations for the educational support program by the total of all general fund appropriations, and multiplying the result by the amount of the shortfall in general fund revenues.

(2) The governor may recommend, and the legislature may authorize, the appropriation of moneys from the public education stabilization fund to offset declining distributions from the public school earnings reserve fund to the public school income fund.

SECTION 15. It was and remains the intent of the Legislature that the provisions of Chapter 254, Laws of 2001, be applied to the allocation of investment gains and losses between Earnings Reserve Funds and Permanent Endowment Funds during the period July 1, 2000, through June 30, 2001. Any reallocations made necessary by the application of these provisions shall be completed by no later than July 1, 2003.

SECTION 16. Pursuant to the provisions of Section 33-1018, Idaho Code, it is estimated that the appropriation of state funds to the Educational Support Program/Division of Operations will result in total discretionary funds of $24,447 per support unit.

SECTION 17. The State Controller shall transfer $9,785,000 from the Public School Income Fund to the Public Education Stabilization Fund.

SECTION 18. The provisions of Section 33-1006, Idaho Code, notwithstanding, for the period July 1, 2003, through June 30, 2004, only, the limitation on allowable school district transportation costs as compared to the statewide average cost per mile, or the statewide average cost per student, whichever is more beneficial to the school district, shall be one hundred ten percent (110%), rather than the one hundred three percent (103%) stated in Section 33-1006, Idaho Code. The provisions of Section 33-1006, Idaho Code, notwithstanding, for the period July 1, 2004, through June 30, 2005, only, the limitation on allowable school district transportation costs as compared to the statewide average cost per mile, or the statewide average cost per student, whichever is more beneficial to the school district, shall be one hundred five percent (105%), rather than the one hundred three percent (103%) stated in Section 33-1006, Idaho Code.

SECTION 19. An emergency existing therefor, which emergency is hereby declared to exist, Section 15 of this act shall be in full force and effect on and after passage and approval; the remaining provisions of this act shall be in full force and effect on and after July 1, 2003.

Approved May 9, 2003.

CHAPTER 373
(H.B. No. 467)

AN ACT

RELATING TO PROVISIONS GOVERNING DISTRIBUTION AND APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF OPERATIONS; AMENDING SECTION 33-1002D, IDAHO CODE, AS AMENDED BY SECTION 10, HOUSE BILL NO. 463, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO CLARIFY THE FORMULA FOR CERTAIN PROPERTY TAX REPLACEMENT DOLLARS; AMENDING SECTION 17, HOUSE BILL NO. 463, AS ENACTED BY THE

FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO REVISE THE AMOUNT OF THE TRANSFER FROM THE PUBLIC SCHOOL INCOME FUND TO THE PUBLIC EDUCATION STABILIZATION FUND; AMENDING SECTION 18, HOUSE BILL NO. 463, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO REVISE DATES; AMENDING SECTION 19, HOUSE BILL NO. 463, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO REVISE CERTAIN EFFECTIVE DATES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 33-1002D, Idaho Code, as amended by Section 10, House Bill No. 463, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

33-1002D. PROPERTY TAX REPLACEMENT. The purpose of this section is to replace a portion of the authorized school maintenance and operation property tax levy with state sales tax receipts. As used in this section, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the previous calendar year.

(1) (a) In the case of a school district that had a property tax computation ratio of not less than four-tenths of one percent (.4%) in tax year 1994, that school district shall receive from the appropriations made for that purpose, an amount equal to the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by one-tenth of one percent (.1%).

(b) In the case of a school district that had a property tax computation ratio of less than four-tenths of one percent (.4%) in tax year 1994, the greater of the 1992, 1993 or 1994 property tax computation ratio less three-tenths of one percent (.3%) shall be designated the district's base multiplier. In no case shall the base multiplier be less than zero (0). Four-tenths of one percent (.4%) less the greater of the district's 1992, 1993 or 1994 property tax computation ratio shall be designated the district's adjustment factor. In no case shall the adjustment factor be greater than one-tenth of one percent (.1%) or less than zero (0). Each school district's actual multiplier shall be the base multiplier plus one-fifth (1/5) of the adjustment factor in tax year 1995, the base multiplier plus two-fifths (2/5) of the adjustment factor in tax year 1996, the base multiplier plus three-fifths (3/5) of the adjustment factor in tax year 1997, the base multiplier plus four-fifths (4/5) of the adjustment factor in tax year 1998, and the base multiplier plus the adjustment factor in tax year 1999 and beyond. Each school district shall receive, from the appropriations made for that purpose, an amount equal to the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by the district's actual multiplier.

(c) The preceding provisions of this subsection notwithstanding,

appropriations from the state for the value of one-tenth of one percent (.1%) of the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year shall not exceed seventy-five million dollars ($75,000,000) in any fiscal year. If the amount school districts would otherwise be entitled to receive pursuant to the preceding provisions of this subsection exceeds seventy-five million dollars ($75,000,000), then each school district shall receive its ~~pro-rata~~ share of seventy-five million dollars ($75,000,000) based on the formulas contained in this section.

(2) (a) Participation in this property tax reduction program is voluntary for a charter district. If a charter district participates, in addition to the provisions of subsection (1) of this section it shall not have a property tax computation ratio that is above three-tenths of one percent (.3%) or the district's property tax computation ratio in tax year 1994, less one-tenth of one percent (.1%), whichever is greater.

(b) If in any year the charter district's property tax computation ratio used to calculate its maintenance and operation budget is increased above the limit specified in this subsection the district shall not be eligible for the distribution pursuant to subsection (1) of this section for that year.

(3) Limitations imposed upon a school district's property tax computation ratio under the provisions of this section do not apply to any levy approved by electors of the school district as provided by law.

(4) Distributions calculated as provided in this section shall be made to school districts of this state in two (2) equal installments on the due dates as specified in section 63-903(1), Idaho Code, for the property taxes being replaced.

(5) For purposes of section 33-1002, Idaho Code, moneys distributed pursuant to this section shall not be included in determining total state funds.

SECTION 2. That Section 17, House Bill No. 463, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 17. The State Controller shall transfer ~~$9,785,000~~ $7,135,000 from the Public School Income Fund to the Public Education Stabilization Fund.

SECTION 3. That Section 18, House Bill No. 463, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 18. The provisions of Section 33-1006, Idaho Code, notwithstanding, for the period July 1, 200~~3~~4, through June 30, 2004~~5~~, only, the limitation on allowable school district transportation costs as compared to the statewide average cost per mile, or the statewide average cost per student, whichever is more beneficial to the school district, shall be one hundred ten percent (110%), rather than the one hundred three percent (103%) stated in Section 33-1006, Idaho Code. The provisions of Section 33-1006, Idaho Code, notwithstanding, for the period July 1, 2004~~5~~, through June 30, 2005~~6~~, only, the limitation on allowable

school district transportation costs as compared to the statewide average cost per mile, or the statewide average cost per student, whichever is more beneficial to the school district, shall be one hundred five percent (105%), rather than the one hundred three percent (103%) stated in Section 33-1006, Idaho Code.

SECTION 4. That Section 19, House Bill No. 463, as enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 19. An emergency existing therefor, which emergency is hereby declared to exist, Section 15 of this act shall be in full force and effect on and after passage and approval; Sections 11 and 18 of this act shall be in full force and effect on and after July 1, 2004; and the remaining provisions of this act shall be in full force and effect on and after July 1, 2003.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 9, 2003.

CHAPTER 374
(S.B. No. 1196)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF FACILITIES; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF FACILITIES FOR FISCAL YEAR 2004; TRANSFERRING AND APPROPRIATING CERTAIN FUNDS TO BE EXPENDED PURSUANT TO SECTION 33-906, IDAHO CODE; DIRECTING THE DISTRIBUTION OF CERTAIN FUNDS PURSUANT TO SECTION 33-905, IDAHO CODE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. There is hereby appropriated to the Educational Support Program/Division of Facilities, pursuant to law and the provisions of this act, the following amount to be expended from the listed fund for the period July 1, 2003, through June 30, 2004:

FROM:

School District Building Account	$9,250,000

SECTION 2. The provisions of Section 33-905, Idaho Code, notwithstanding, of the moneys appropriated in Section 1 of this act, $825,000 shall be transferred from the School District Building Account to the Bond Levy Equalization Fund. There is hereby appropriated $825,000 from the Bond Levy Equalization Fund, to be expended pursuant to the provisions of Section 33-906, Idaho Code.

SECTION 3. Any moneys appropriated in Section 1 of this act that are not utilized to satisfy the provisions of Section 2 of this act, shall be distributed pursuant to the provisions of Section 33-905, Idaho Code.

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 July 1, 2003.

Approved May 9, 2003.

CHAPTER 375
(S.B. No. 1197)

AN ACT

RELATING TO PUBLIC SCHOOLS DIVISION OF ADMINISTRATORS; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS DIVISION OF ADMINISTRATORS; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2004; AMENDING SECTION 33-1004A, IDAHO CODE, TO PLACE CAPS ON THE GROWTH OF THE EXPERIENCE AND EDUCATION MULTIPLIER FOR ADMINISTRATIVE STAFF; AMENDING SECTION 33-1004, IDAHO CODE, TO DELETE THE PROVISIONS WHICH REQUIRE A DISTRICT TO DEMONSTRATE EMPLOYMENT OF THE NUMBER OF ADMINISTRATIVE STAFF ALLOWED OR, IF THE DISTRICT DOES NOT EMPLOY THAT NUMBER, TO REDUCE STAFF ALLOWANCE ACCORDINGLY AND TO DELETE THE LIMIT ON PERCENTAGE OF ADMINISTRATIVE STAFF WHICH MAY BE NONCERTIFICATED STAFF; AMENDING SECTION 33-1004G, IDAHO CODE, TO PROVIDE THAT ADMINISTRATIVE STAFF SHALL BE EXCLUDED FROM PARTICIPATING IN THE EARLY RETIREMENT INCENTIVE PROGRAM; PROVIDING MONEYS FOR THE FINAL PHASE OF THE IMPLEMENTATION OF ACHIEVEMENT STANDARDS; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. The following amounts shall be expended for the public schools Division of Administrators for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$72,347,800
Federal Grant Fund	1,540,000
TOTAL	$73,887,800

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$72,347,800

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Administrators, pursuant to law and the provisions of this act, the following amounts to be expended from the listed funds for the period July 1, 2003, through June 30, 2004:

FROM:

Public School Income Fund	$72,347,800
Federal Grant Fund	1,540,000
TOTAL	$73,887,800

SECTION 4. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

Years	BA	BA + 12	BA + 24	MA BA + 36	MA + 12 BA + 48	MA + 24 BA + 60	MA + 36 ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in an accredited public school or in an accredited private or parochial school shall be credited.

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 5. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

1. Using the daily attendance reports that have been submitted for computing the February 15th apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002 8.b., Idaho Code;

2. Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed;

3. Determine the administrative staff allowance by multiplying the support units by .075~~.--A--district-must-demonstrate-that-it-actually employs-the-number-of-certificated-administrative-staff-allowed.-If--the district--does--not-employ-the-number-allowed,-the-staff-allowance-shall be-reduced-to-the-actual-number-employed,--except--that--not--more--than twenty--percent--(20%)-of-the-administrative-staff-allowance-may-be-non-certificated-staff~~;

4. Determine the classified staff allowance by multiplying the support units by .375;

5. Additional conditions governing staff allowance:

a. In determining the number of staff in subsections 2., 3. and 4. of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

b. If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections 2. and 3. of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

c. For any district with less than forty (40) support units:

(1) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(2) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(3) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (1) and (2) of this subsection, and by an additional one-half (1/2)

instructional staff allowance.

d. Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

6. In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

SECTION 6. That Section 33-1004G, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004G. EARLY RETIREMENT INCENTIVE -- ADMINISTRATIVE STAFF EXCLUDED. (1) Except as provided in subsection (8) of this section, eEach certificated employee of an Idaho public school district as defined in section 33-1001 16., Idaho Code, is eligible for an early retirement incentive, provided they meet the following criteria:

(a) The employee has completed a minimum of ten (10) years of continuous full-time certified employment, which may include time spent on a sabbatical leave, in Idaho public school districts at the time of application.

(b) The employee is not eligible for unreduced service, early or disability retirement from the public employee retirement system of Idaho at the time of application.

(c) The employee is fifty-five (55) years old before September 1 of the year the application is made; provided that persons turning fifty-six (56) years old or greater between August 15 and 31, 2000, will be eligible to receive the retirement incentive option percentage provided in this section that reflects their age on August 15, 2000.

(d) The employee submits his/her application to the state superintendent of public instruction on or before April 1 of the year of application.

(e) The employee is contracted with an Idaho public school district for the entire school year during the year of application and has not been terminated or on a leave of absence for the current or upcoming school year.

(2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive the following amount of the employee's qualifying salary allocation as provided in section 33-1004E, Idaho Code:

at 55 years of age	55% of allocation
at 56 years of age	50% of allocation
at 57 years of age	45% of allocation
at 58 years of age	40% of allocation
at 59 years of age	30% of allocation
at 60 years of age	30% of allocation

at 61 years of age	20% of allocation
at 62 years of age	20% of allocation
at 63 years of age and over	0% of allocation

(b) Certified employees working less than full-time in the application year will have the incentive payment prorated according to their full-time equivalent (FTE) percentage.

(c) Incentive payments for certified employees not placed on the experience and education multiplier table as provided in section 33-1004A, Idaho Code, will be calculated using the BA column of the table.

(3) Incentives and the employer's share of FICA benefits shall be paid by the state department of education to the Idaho public school district with which the applicant was last contracted on or before July 31 of the year of application and acceptance.

(4) Incentives shall be considered additional compensation flowing from the employment relationship and subject to federal and state tax laws. Incentives shall not be considered salary for purposes of the public employee retirement system.

(5) Any employee receiving an early retirement incentive as provided in this section shall not be eligible for future employment with an Idaho school district where such employment would again qualify him/her for participation in the state retirement system.

(6) Any applicant choosing to withdraw their application must notify the state superintendent of public instruction in writing no later than June 20 in the year of application.

(7) A special application of the early retirement incentive shall supersede the limitations of this section to the extent necessary to comply with this subsection. An otherwise qualified certificated employee who becomes medically unable to work prior to July 1 of any year shall be eligible to apply for the early retirement incentive for which the employee would have been eligible retroactive to April 1.

(8) Administrative staff shall not be allowed to participate in the early retirement incentive program as provided in this section and such staff are hereby excluded from participation in the program.

SECTION 7. Of the moneys appropriated in Section 3 of this act, $138,300 in General Fund moneys and $415,000 in federal grant funds shall be for the third and final phase of 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. It is legislative intent that the State Department of Education and State Board of Education seek any waivers that may be necessary to utilize the $415,000 in federal grant funds.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5 and 7 of this act shall be in full force and effect on and after July 1, 2003. Section 6 of this act shall be in full force and effect on and after September 1, 2003.

Approved May 9, 2003.

CHAPTER 376
(S.B. No. 1198)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2004; PROVIDING A DESCRIPTION OF THE DIVISION OF CHILDREN'S PROGRAMS AND PROVIDING THE AMOUNTS TO BE EXPENDED; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2004; 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 63-7439, 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; DIRECTING THAT $3,300,000 BE USED FOR THE LITERACY PROGRAMS AND EXPRESSING LEGISLATIVE INTENT THAT THE STATE DEPARTMENT OF EDUCATION AND STATE BOARD OF EDUCATION COORDINATE CERTAIN PROGRAMS; DIRECTING THAT $4,475,000 BE ALLOCATED FOR PROGRAMS FOR STUDENTS WITH NON-ENGLISH OR LIMITED-ENGLISH PROFICIENCY; GRANTING AUTHORITY TO TRANSFER FUNDS BETWEEN THE FIVE DIVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM BUDGET; DIRECTING THAT $450,000 BE DISTRIBUTED TO THE IDAHO DIGITAL LEARNING ACADEMY; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The public schools Division of Children's Programs includes programs that provide direct educational or material benefits to children, where funding does not primarily go to paying certificated teachers and administrators. It also includes programs that primarily and specifically provide funding for the separate instruction of identified subgroups of children outside the normal classroom of an Idaho public school. The following amounts shall be expended from the listed sources for the public schools Division of Children's Programs for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$ 13,325,000
Cigarette/Tobacco and Lottery Income Taxes	4,700,000
Federal Grant Fund	96,630,000
TOTAL	$114,655,000

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2003, through June 30, 2004:

FROM:

General Fund	$13,325,000

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Children's Programs, pursuant to law and the provisions of this act, the following amounts to be expended from the listed funds for the period July 1, 2003, through June 30, 2004:

FROM:	
Public School Income Fund	$ 18,025,000
Federal Grant Fund	96,630,000
TOTAL	$114,655,000

SECTION 4. 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, 2003, through June 30, 2004.

SECTION 5. The funds allocated for the Idaho Safe and Drug-Free Schools Program in Section 4 of this act shall be distributed as follows: $250,000 shall be remitted to the Idaho State Police pursuant to Section 63-2552A(3), Idaho Code; $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 6. 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 7. Of the moneys appropriated in Section 3 of this act, $3,300,000 shall be used for literacy programs, as outlined in Sections 33-1614, 33-1615 and 33-1207A(2), Idaho Code. It is legislative intent that the State Board of Education and State Department of Education coordinate federally funded literacy programs, such as the Reading First program, with state literacy programs, resulting in well-coordinated, complementary literacy efforts.

SECTION 8. Of the moneys appropriated in Section 3 of this act, $4,475,000 shall be distributed for support of programs for students with non-English or limited-English proficiency, 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 9. The State Department of Education is hereby granted the authority to transfer funds between the five (5) divisions of the Educational Support Program budget, in any amount necessary, to comply with the public school funding provisions of appropriations and the Idaho Code.

SECTION 10. Of the moneys appropriated in Section 3 of this act, $450,000 shall be distributed to the Idaho Digital Learning Academy, created pursuant to Chapter 55, Title 33, Idaho Code.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2003.

Approved May 9, 2003.

CHAPTER 377
(S.B. No. 1148, As Amended)

AN ACT

RELATING TO THE LICENSING OF GOVERNMENT-OWNED OR CONTROLLED INSURERS; PROVIDING LEGISLATIVE INTENT; AND AMENDING SECTION 41-309, IDAHO CODE, TO CLARIFY THE DEFINITION OF CONTROL; REPEALING SECTION 41-309, IDAHO CODE; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-309, IDAHO CODE, TO PROVIDE THAT GOVERNMENT-OWNED INSURERS ARE NOT TO BE AUTHORIZED TO TRANSACT INSURANCE IN THIS STATE WITH EXCEPTIONS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature hereby declares its intent and understanding that the amendments of Section 41-309, Idaho Code, in Section 2 of this act clarify the original purpose and intent of Section 41-309, Idaho Code, and do not reflect a substantive change in the scope or application of that statute as it existed prior to the effective date of this act.

SECTION 2. That Section 41-309, Idaho Code, be, and the same is hereby amended to read as follows:

41-309. CERTAIN GOVERNMENT-OWNED INSURERS NOT TO BE AUTHORIZED. (1) No insurer the ~~voting~~ control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency, other than the Idaho state insurance fund, shall be authorized to transact insurance in this state. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an

insurer by public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of this subsection.

(2) For the purpose of this section, the existence or nonexistence of control shall be determined in accordance with the definition of "control" in section 41-3801(2), Idaho Code.

SECTION 3. That Section 41-309, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-309, Idaho Code, and to read as follows:

41-309. GOVERNMENT-OWNED INSURERS NOT TO BE AUTHORIZED. No insurer the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency, other than the Idaho state insurance fund, shall be authorized to transact insurance in this state. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of this section.

SECTION 5. Sections 1 and 2 of this act shall be in full force and effect on and after July 1, 2003. Sections 3 and 4 of this act shall be in full force and effect on and after November 1, 2003.

Approved May 12, 2003.

CHAPTER 378
(H.B. No. 383, As Amended in the Senate)

AN ACT

RELATING TO FRANCHISE AGREEMENTS; AMENDING SECTION 29-110, IDAHO CODE, TO PROVIDE THAT ANY CONDITION, STIPULATION OR PROVISION IN ANY FRANCHISE AGREEMENT IS VOID UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT ANY CONDITION, STIPULATION OR PROVISION IN A FRANCHISE AGREEMENT, TO THE EXTENT IT PURPORTS TO ASSERT, OR HAS THE EFFECT OF ASSERTING THE CHOICE OF LAW IS ENFORCEABLE, TO PROVIDE APPLICATION TO CERTAIN FRANCHISE AGREEMENTS AND TO DEFINE THE TERM "FRANCHISE AGREEMENT."

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

SECTION 1. That Section 29-110, Idaho Code, be, and the same is hereby amended to read as follows:

29-110. LIMITATIONS ON RIGHT TO SUE -- FRANCHISE AGREEMENT. (1) Every stipulation or condition in a contract, by which any party thereto is restricted from enforcing his rights under the contract by the usual

proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void.

(2) Any condition, stipulation or provision in a franchise agreement is void to the extent it purports to waive, or has the effect of waiving venue or jurisdiction of the state of Idaho's court system. Any condition, stipulation or provision in a franchise agreement, to the extent it purports to assert, or has the effect of asserting the choice of law is enforceable. This subsection shall apply to any franchise agreement entered into or renewed on or after July 1, 2003, by any person who at the time of entering into or renewing such franchise agreement was a resident of this state or incorporated or organized under the laws of this state.

(3) As used in this section "franchise agreement" means a written contract or agreement by which:

(a) A person ("franchisee") is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a third party ("franchisor");

(b) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor of such plan or system; and

(c) The franchisee is required to pay the franchisor one thousand dollars ($1,000) or more for the right to transact business pursuant to the plan or system. Such payments shall not include amounts paid:

(i) As a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring the credit card; or

(ii) For the purchase of goods at a bona fide wholesale price.

Approved May 12, 2003.

CHAPTER 379
(H.B. No. 468)

AN ACT

RELATING TO A BALANCED BUDGET; STATING FINDINGS OF THE LEGISLATURE REGARDING THE FINANCIAL SITUATION FOR FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE CAPITOL ENDOWMENT INCOME FUND TO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE MULTISTATE TAX COMPACT FUND TO THE GENERAL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature finds that the current economic situation facing the state of Idaho requires certain prudent and necessary steps to augment General Fund revenues for fiscal year 2003 and to enable the development of a balanced budget for the period July 1, 2003, through June 30, 2004.

SECTION 2. Notwithstanding the provisions of Section 67-1611, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of one million five hundred thousand dollars ($1,500,000) from the Capitol Endowment Income Fund to the General Fund.

SECTION 3. Pursuant to Section 63-3709, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of one million one hundred thousand dollars ($1,100,000) from the Multi-state Tax Compact Fund to the General Fund.

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

Approved May 12, 2003.

CHAPTER 380
(H.B. No. 462)

AN ACT

EXPRESSING LEGISLATIVE INTENT REGARDING EMPLOYEE BENEFITS; PROVIDING ADDITIONAL APPROPRIATIONS FOR VARIOUS DEPARTMENTS, AGENCIES AND INSTITUTIONS FOR FISCAL YEAR 2004; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The Legislature finds it in the best interest of the state to provide a quality benefits package to its employees. A quality benefits package is a critical component of employee compensation and employee retention. Therefore, the appropriations in Section 2 of this act are provided to pay the estimated increases in employer paid benefits and employee paid premiums related to health insurance for fiscal year 2004. Furthermore, should actual health insurance premium increases exceed those for which funding is provided, it is legislative intent that the funding provided through the employee group insurance fund for the Employee Assistance Program be applied to pay premium costs for group medical and dental insurance coverage.

SECTION 2. In addition to any other appropriation enacted by the First Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the designated departments, agencies and institutions the following amounts from the listed funds for the period July 1, 2003, through June 30, 2004. Such additions are to be made as closely to the executive budget recommendation by program as practicable.

(1) STATE BOARD OF EDUCATION

OFFICE OF THE STATE BOARD OF EDUCATION:

General Fund	$ 16,100
Federal Grant Fund	100
TOTAL	$ 16,200

(2) SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION:

General Fund	$ 43,300
Indirect Cost Recovery Fund	5,400
Driver's Education Fund	2,100
Public Instruction Fund	3,900
Data Processing Services Fund	800
Federal Grant Fund	39,900
TOTAL	$ 95,400

(3) PUBLIC HEALTH DISTRICTS:

Public Health Trust Fund (General)	$ 172,500

(4) IDAHO STATE POLICE
BRAND INSPECTION:

Brand Board - Operating Fund	$ 40,100

(5) IDAHO STATE POLICE
DIVISION OF IDAHO STATE POLICE:

General Fund	$ 214,500
Indirect Cost Recovery Fund	900
Idaho Law Enforcement Fund	203,000
Hazardous Materials/Waste Enforcement Fund	2,000
Idaho Law Enforcement Telecommunications Fund	5,200
Miscellaneous Revenue Fund	11,500
Federal Grant Fund	13,300
TOTAL	$ 450,400

(6) IDAHO STATE POLICE
POST ACADEMY:

Peace Officers Fund	$ 13,900

(7) IDAHO STATE POLICE
RACING COMMISSION:

Idaho State Racing Commission Fund	$ 3,600

(8) DEPARTMENT OF ENVIRONMENTAL QUALITY:

General Fund	$ 138,100
Air Quality Permitting Fund	23,700
Public Water System Supervision Fund	15,300
Environmental Remediation Fund	2,800
Department of Environmental Quality Fund (Receipts)	10,300
Department of Environmental Quality Fund (Federal)	130,200
TOTAL	$ 320,400

(9) ENDOWMENT FUND INVESTMENT BOARD:

Miscellaneous Revenue Fund	$ 1,400
Endowment Administrative Fund	3,400
TOTAL	$ 4,800

(10) DEPARTMENT OF LANDS:	
General Fund	$ 49,000
Department of Lands Fund	58,100
Endowment Administrative Fund	122,200
Federal Grant Fund	2,000
TOTAL	$ 231,300
(11) LAVA HOT SPRINGS:	
Public Recreation Enterprise - Lava Hot Springs Fund	$ 8,500
(12) DEPARTMENT OF PARKS & RECREATION:	
General Fund	$ 103,500
Indirect Cost Recovery Fund	3,100
Parks and Recreation Fund	19,700
Recreational Fuels Fund	7,900
Parks and Recreation Registration Fund	4,600
Public Recreation Enterprise Fund	100
Parks and Recreation Expendable Trust Fund	1,500
Federal Grant Fund	10,700
TOTAL	$ 151,100
(13) SOIL CONSERVATION COMMISSION:	
General Fund	$ 19,200
Federal Grant Fund	2,100
TOTAL	$ 21,300
(14) DEPARTMENT OF COMMERCE:	
General Fund	$ 30,000
Tourism and Promotion Fund	8,200
Miscellaneous Revenue Fund	800
Federal Grant Fund	7,800
TOTAL	$ 46,800
(15) DEPARTMENT OF FINANCE:	
State Regulatory Fund	$ 36,700
(16) INDUSTRIAL COMMISSION:	
Industrial Administration Fund	$ 110,800
Crime Victims Compensation Fund	7,600
TOTAL	$ 118,400
(17) DEPARTMENT OF INSURANCE:	
Self-Governing Operating Fund	$ 52,300
Self-Governing State Fire Marshal Fund	7,800
TOTAL	$ 60,100
(18) DEPARTMENT OF LABOR:	
General Fund	$ 6,100
(19) PUBLIC UTILITIES COMMISSION:	
Public Utilities Commission Fund	$ 42,200
Federal Grant Fund	500
TOTAL	$ 42,700

(20) DIVISION OF BUILDING SAFETY:	
Electrical Fund	$ 44,400
Building Fund	10,100
Plumbing Fund	29,500
Manufactured Housing Fund	1,000
Public Works Contractors Licensing Fund	2,200
Miscellaneous Revenue/Industrial Safety Fund	10,500
Miscellaneous Revenue/Logging Fund	3,900
Energy Program Fund	1,800
Federal Grant Fund	300
TOTAL	$ 103,700
(21) STATE LOTTERY:	
State Lottery Fund	$ 41,200
(22) CAPITOL COMMISSION:	
Capitol Endowment Income Fund	$ 900
(23) ATTORNEY GENERAL:	
General Fund	$ 157,400
Consumer Protection Fund	100
TOTAL	$ 157,500
(24) STATE CONTROLLER:	
General Fund	$ 43,300
Data Processing Services Fund	44,700
TOTAL	$ 88,000
(25) DIVISION OF FINANCIAL MANAGEMENT:	
General Fund	$ 20,600
Miscellaneous Revenue Fund	300
TOTAL	$ 20,900
(26) GOVERNOR'S OFFICE:	
General Fund	$ 18,700
Federal Grant Fund	2,700
TOTAL	$ 21,400
(27) DIVISION OF HUMAN RESOURCES:	
Division of Human Resources Fund	$ 31,100
(28) HUMAN RIGHTS COMMISSION:	
General Fund	$ 8,400
Federal Grant Fund	1,700
TOTAL	$ 10,100
29) STATE LIQUOR DISPENSARY:	
Liquor Control Fund	$ 131,600
30) PUBLIC EMPLOYEE RETIREMENT SYSTEM:	
PERSI Administrative Fund	$ 50,300
PERSI Special Fund	3,600
TOTAL	$ 53,900

(31) OFFICE OF SPECIES CONSERVATION:	
General Fund	$ 6,000
(32) WOMEN'S COMMISSION:	
General Fund	$ 900
(33) LEGISLATIVE SERVICES OFFICE:	
General Fund	$ 44,200
Professional Services Fund	11,600
TOTAL	$ 55,800
(34) OFFICE OF PERFORMANCE EVALUATIONS:	
General Fund	$ 7,700
(35) LIEUTENANT GOVERNOR:	
General Fund	$ 1,800
(36) BOARD OF TAX APPEALS:	
General Fund	$ 3,400
(37) COMMISSION ON THE ARTS:	
General Fund	$ 4,800
Federal Grant Fund	13,600
TOTAL	$ 18,400
(38) SECRETARY OF STATE:	
General Fund	$ 26,500
(39) STATE TREASURER:	
General Fund	$ 11,200
State Treasurer LGIP Fund	1,800
Treasurer's Office - Professional Services Fund	2,800
TOTAL	$ 15,800
GRAND TOTAL	$2,636,900

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 July 1, 2003.

Approved May 12, 2003.

CHAPTER 381
(H.B. No. 452)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3640, IDAHO CODE, TO PROVIDE FOR CONTRACTS ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THE INCREASED SALES AND USE TAX; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 36, 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 63-3640, Idaho Code, and to read as follows:

63-3640. CONTRACTS ENTERED INTO BEFORE EFFECTIVE DATE OF INCREASED TAX. (1) Commencing May 1, 2003, and ending June 30, 2005, the purchase, use, storage or other consumption of tangible personal property which is otherwise subject to the taxes imposed by this chapter by persons defined in section 63-3609(a), Idaho Code, shall be exempt from one cent (1¢) of the taxes imposed by sections 63-3619 and 63-3621, Idaho Code, if:

(a) The tangible personal property is purchased, used, stored or otherwise consumed for incorporation into real property; and

(b) The tangible personal property is purchased, used, stored or otherwise consumed in regard to a project performed by such person pursuant to a qualified contract; and

(c) The taxpayer claims the exemption in the manner provided by subsection (3) of this section.

(2) As used in this section, the term "qualified contract" means a contract which:

(a) Is a written contract; and

(b) Was in effect on April 15, 2003, or was submitted for bid or bid in written form on or before April 15, 2003, and subsequently became a written contract; and

(c) Was negotiated or bid based upon the sales or use tax being five percent (5%); and

(d) Requires the cost of the sales or use tax to be borne by the contractor.

(3) A person entitled to the exemption granted in subsection (1) of this section may submit a claim for refund to the state tax commission for the amount of one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, if it has actually been paid by him. The claim for refund shall include:

(a) A copy of a written contract which is a qualified contract; and

(b) A detailed invoice prepared by the seller showing all items of tangible personal property purchased by the claimant, the sale of which is subject to the exemption granted in subsection (1) of this section; and

(c) A document signed by the purchaser certifying that the tangible personal property shown on the invoice required by subsection (3)(b) of this section has in fact been used by him on the project to which the qualified contract relates.

(4) Upon receipt of the claim for refund, the state tax commission shall review the claim and, if it finds it to be proper, shall pay the refund together with interest from the date that the claim was filed at the rate established by section 63-3045, Idaho Code, within thirty (30) days from the date the claim was received by the commission.

(5) The use or incorporation into real property of any tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract other than a qualified contract shall be a misdemeanor.

(6) In addition to the criminal penalties provided by subsection

(5) of this section, the use or incorporation into real property of tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract which is not a qualified contract shall subject the user to a penalty of three (3) times the sales or use tax otherwise due under this chapter to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

(7) In the case of a retailer who makes sales of tangible personal property to any person entitled to the exemption granted in subsection (1) of this section who is for any reason unable to collect one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, from the purchaser, the retailer shall be entitled to claim the refund otherwise available to the purchaser. The claim for refund shall be filed in the manner prescribed by subsection (3) of this section. Nothing in this subsection shall excuse the retailer from reporting sales and use taxes at the full statutory rate on all taxable sales made during the period to which his sales or use tax return relates. If a refund claim is filed concurrently with the return, the refund claimed may be credited against the tax due on the return. Any retailer who claims a refund for any taxes actually collected from the purchaser shall be subject to a penalty of three (3) times the sales or use tax refund improperly claimed to be enforced and collected as provided by sections 63-3634 and 63-3635, 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 April 24, 2003.

Approved May 15, 2003.

SENATE JOINT MEMORIALS

(S.J.M. No. 101)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, for many years western states, including Idaho, have grappled with the challenge of providing the best education for their citizens and western states face unique challenges in achieving this goal; and

WHEREAS, from 1979 to 1998, the percent change in expenditures per pupil in 13 western states was 28%, compared to 57% in the remaining states; and

WHEREAS, in 2000-2001, the pupil per teacher ratio in 13 western states averaged 17.9 to one compared with 14.8 to one in the remaining states; and

WHEREAS, the conditions in western states are exacerbated by projections that enrollment will increase by an average of 7.1% compared to an average decrease of 2.6% in the rest of the nation; and

WHEREAS, despite the wide disparities in expenditures per pupil and pupil per teacher ratio, western states tax at a comparable rate and allocate as much of their budgets to public education as the rest of the nation; and

WHEREAS, the ability of western states to fund education is directly related to federal ownership of state lands and the federal government owns an average of 51.9% of the land in 13 western states compared to 4.1% in the remaining states; and

WHEREAS, the enabling acts of most western states promise that five percent of the proceeds from the sale of federal lands will go to the states for public education; and

WHEREAS, a federal policy change in 1977 ended these sales resulting in an estimated 14 billion dollars in lost public education funding for western states; and

WHEREAS, the ability of western states to fund public education is further impacted by the fact that state and local property taxes upon which public education relies heavily to fund education cannot be assessed on federal lands; and

WHEREAS, the estimated annual impact of this property tax prohibition on western lands is over 4 billion dollars; and

WHEREAS, the federal government shares only half of its royalty revenue with the states and royalties are further reduced because federal lands are less likely to be developed and federal laws often place stipulations on the use of state royalty payments; and

WHEREAS, the estimated annual impact of royalty payment policies on western states is over 1.86 billion dollars; and

WHEREAS, much of the land that the federal government transferred to states upon statehood as a trust for public education is difficult to administer and to make productive because it is surrounded by federal land; and

WHEREAS, federal land ownership greatly hinders the ability of western states, including Idaho, to fund public education; and

WHEREAS, the federal government should compensate western states for the significant impact federal land ownership has on the ability of western states to educate their citizens; and

WHEREAS, just compensation will allow western states to be on equal footing with the rest of the nation in their efforts to provide education for their citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support and endorse the "Action Plan for Public Lands and Education," we support and endorse an initiative urging the federal government to provide an expedited land exchange process for land not intended for wilderness designation, and we support and endorse an initiative seeking just compensation from the federal government for the impact its ownership of lands within western states has on the states' ability to fund public education.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the 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 5, 2003
Adopted by the House March 3, 2003

(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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, under tax relief legislation passed in 2001, the death tax was temporarily phased out but not permanently eliminated; and

WHEREAS, farmers and other small business owners will face losing their farms and businesses if the federal government resumes the heavy taxation of citizens at death; and

WHEREAS, this is a tax that is particularly damaging to families who are working their way up the ladder and trying to accumulate wealth for the first time; and

WHEREAS, employees suffer layoffs when small and medium businesses are liquidated to pay death taxes; and

WHEREAS, if the death tax had been repealed in 1996, the United States economy would have realized billions of dollars each year of extra output and an average of 145,000 additional new jobs would have been created; and

WHEREAS, having repeatedly passed in the United States House of Representatives and the Senate, repeal of the death tax holds wide bipartisan support.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully urge the Congress of the United States and our elected Senators and Representatives in the United States Congress to support, work to pass and vote for the immediate and permanent repeal of the death tax.

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 February 24, 2003
Adopted by the House March 28, 2003

(S.J.M. No. 103)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, in 1969, the United States Congress created the Alternative Minimum Tax to prevent wealthy Americans and corporations from using otherwise available deductions to reduce their income tax liability; and

WHEREAS, today the Alternative Minimum Tax has placed an onerous burden on working, middle-class families and productive companies; and

WHEREAS, any family with an annual income of more than $49,000 which deducts its state and local taxes, mortgage interest, children and college education will be subject to the Alternative Minimum Tax; and

WHEREAS, the corporate Alternative Minimum Tax targets capital-intensive industries that create jobs, raise the incomes of workers and increase the standard of living for all Americans; and

WHEREAS, corporations subject to the Alternative Minimum Tax during recessions are more likely to lay off their employees; and

WHEREAS, it is important to protect working families and productive companies from tax burdens that reduce the possibility of economic prosperity.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we hereby respectfully urge the Congress of the United States and our elected Senators and Representatives in the United States Congress to vote to repeal the individual and corporate Alternative Minimum Tax.

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 February 24, 2003
Adopted by the House March 28, 2003

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Americans everywhere pay equal premiums to support Medicare, the health insurance program primarily for people sixty-five years of age and older; and

WHEREAS, physician reimbursement for services provided to Medicare beneficiaries are set by the federal government according to a complex formula; and

WHEREAS, because of the way the Medicare formula is written, reimbursement for medical services is much higher in larger, more populous states than it is in small, rural states like Idaho; and

WHEREAS, this disparity can result in the physician or other provider in Idaho being reimbursed half as much as a colleague in another state for the same service; and

WHEREAS, this disparity is unjustified and unfair and has a negative impact on patient access to services in Idaho; and

WHEREAS, the Idaho Medical Association has joined its peers from seventeen other small states to form the Geographic Equity in Medicare (GEM) Coalition; and

WHEREAS, Iowa Senator Charles Grassley introduced S.2873 "Improving Our Well-Being Act" in the last Congress to remedy this geographic disparity but that legislation was not acted upon.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby respectfully urge the members of the Idaho Congressional delegation to support the passage of legislation similar to S.2873 as introduced by Senator Grassley that removes the geographic disparity in Medicare reimbursements that currently exists in the Medicare program.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Repre-

sentatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 3, 2003
Adopted by the Senate February 13, 2003

(H.J.M. No. 2)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, for the past decade the Pacific Northwest Power Planning Council, the Bonneville Power Administration and other hydroelectric utilities have put into place numerous measures intended to protect and enhance the survival of anadromous salmon and steelhead, particularly several species native to the state of Idaho; and

WHEREAS, the National Marine Fisheries Service, the Bureau of Reclamation, the Bonneville Power Administration and the U.S. Army Corps of Engineers have put into place measures for fish recovery that have been guided by both the federal Endangered Species Act and the Northwest Power Act; and

WHEREAS, considerable cost for fish recovery has been borne by the electrical ratepayers of the Northwest both in the form of higher costs and less power generated because of less storage capacity and water being put into the river for fish restoration purposes; and

WHEREAS, the programs and activities associated with the Endangered Species Act are causing unintended economic hardship in communities in the Pacific Northwest; and

WHEREAS, fish advocates who expressed doom for Northwest anadromous fish were surprised to see that the return migration of fish to the Northwest and Idaho was not as they had predicted, which would seem to indicate that the plans in place for fish restoration may not be as scientifically sound as once thought; and

WHEREAS, the Northwest Power Act instructs the Bonneville Administrator and other federal operating agencies to adequately protect, mitigate and enhance fish and wildlife and give them equitable treatment with other purposes of the hydro system; and

WHEREAS, the federal government should establish a mitigation fund; and

WHEREAS, amending the Northwest Power Act can provide necessary mitigation resources to Northwest communities that are impacted by fish recovery efforts; and

WHEREAS, the federal government and the nation's taxpayers and not the Bonneville Power Administration and Northwest ratepayers should establish a mitigation fund to assist with fish recovery because a vital Northwest fishery benefits the entire nation and is a public benefit; and

WHEREAS, the Pacific Northwest region is in an economic downturn and having cheaper power rates would allow economic recovery to occur more quickly; and

WHEREAS, Congress can enact legislation providing mitigation funding to communities that are economically impacted by Endangered Species Act efforts for fish restoration.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request Congress to amend the Northwest Power Act and other appropriate federal statutes so that Northwest communities can be eligible for economic grants to assist communities impacted by Endangered Species Act fish recovery programs.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 24, 2003
Adopted by the Senate March 5, 2003

(H.J.M. No. 3)

A JOINT MEMORIAL

TO THE INTERNATIONAL OLYMPIC ORGANIZING COMMITTEE, THE UNITED STATES OLYMPIC COMMITTEE, THE VANCOUVER 2010 BID CORPORATION, THE PRIME MINISTER OF CANADA AND THE PREMIER OF BRITISH COLUMBIA.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho has a close cultural, economic and intergovernmental relationship with the Canadian province of British Columbia; and

WHEREAS, this close relationship has developed as the result of a common border, similar economies, and complementary recreation and tourism industries; and

WHEREAS, British Columbia and the state of Idaho are both members of the Pacific Northwest economic region representing the tenth largest economy in the world; and

WHEREAS, the 2002 Winter Olympic Games in Salt Lake City, Utah, generated over one billion dollars in revenue and spending in the entire western region; and

WHEREAS, the state of Idaho's participation with other states in the 2002 Winter Olympic Games was extremely successful; and

WHEREAS, the region has legacy facilities from world class winter recreation which include the Sun Valley Resort and Whistler/Blackcomb, which are considered to be among the top ten ski resorts in North America; and

WHEREAS, the Pacific Northwest economic region as a whole, and particularly tourism and emerging industries and small businesses, will benefit from an estimated six billion dollars' worth of worldwide media attention; and

WHEREAS, such benefits accrue for over ten years on a continuing basis from increased tourism.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the state of Idaho respectfully communicates its support for backing the Vancouver 2010 Olympic bid.

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 International Olympic Organizing Committee, the United States Olympic Committee, the Vancouver 2010 Bid Corporation, the Prime Minister of Canada and the Premier of British Columbia.

Adopted by the House February 24, 2003
Adopted by the Senate March 5, 2003

(H.J.M. No. 4)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the government of the United States of America and of the several states were created and rest upon settled principles of the rule of law; and

WHEREAS, the proper, orderly and reliable administration of justice depends upon fairness, impartiality, absence of bias or prejudice, absence of political dogma, and respect for the Constitution of the United States of America, which all judges are bound by oath of office to support and enforce, and upon judicial restraint; and

WHEREAS, the United States Court of Appeals for the Ninth Circuit has a history of ignoring and violating these cornerstones of the administration of justice and of deciding cases in ways which place political dogma, social engineering, and personal doctrines of world view ahead of proper judicial neutrality; and

WHEREAS, the liberal, environmental tendencies of the Ninth Circuit do not reflect the political philosophies of the citizens of Idaho, thus weakening the traditional economic foundation of the state; and

WHEREAS, the said court has most recently misread, misinterpreted

and misapplied the Second Amendment to the Constitution of the United States, thereby imposing an unnatural, distorted meaning to that amendment which ignores its plain and clear meaning to protect the right of the people to keep and bear arms in such a way that the amendment is twisted into guaranteeing that right only to the National Guard, such ruling being at odds with logic and judicial reason; and

WHEREAS, decisions of the Ninth Circuit Court of Appeals are more frequently overturned by the United States Supreme Court than any other circuit in the country; and

WHEREAS, the Ninth Circuit Court decision that "God" in the Pledge of Allegiance violates the principle of the separation of church and state, and undermines the Judeo-Christian base upon which our country was founded; and

WHEREAS, the Ninth Circuit Court of Appeals is geographically the largest of the circuit courts in the nation, and is already overburdened with a large caseload; and

WHEREAS, the great state of Idaho and its citizens deserve to live and prosper under the Constitution of the United States of America as written, free from abuse and distortion.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Idaho delegation in the United States Congress to sponsor and support legislation to create a new Circuit of the United States Court of Appeals for better regional representation, wherein the judges thereof administer justice fairly, impartially and free from bias and distortion of the Constitution of the United States, and to place Idaho in this new circuit.

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 5, 2003
Adopted by the Senate March 17, 2003

(H.J.M. No. 8)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the dictatorship of Iraq has continued to develop weapons of mass destruction in violation of United Nations Security Council Resolution 1441; and

WHEREAS, the dictator, Saddam Hussein has demonstrated a willingness to use weapons of mass destruction against neighboring nations and the citizens of Iraq; and

WHEREAS, Saddam Hussein threatens the Middle East and the global economy with the threat to use weapons of mass destruction.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we express our support for President George W. Bush, the President's cabinet, and the men and women of the United States Armed Forces for their courage and the decision to remove Saddam Hussein from power.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 20, 2003
Adopted by the Senate March 26, 2003

(H.J.M. No. 10)

A JOINT MEMORIAL

TO THE UNITED STATES SECRETARY OF AGRICULTURE, THE UNITED STATES SECRETARY OF THE INTERIOR, 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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, ground and road access to the Idaho backcountry is very limited and the Idaho backcountry airstrip system provides remote access for tourism, recreation, mail and supply delivery, fire suppression, law enforcement, military training, search and rescue, medical evacuation, disaster response and in-flight emergencies; and

WHEREAS, backcountry aircraft landing strips enable people who are otherwise physically unable, to enjoy the remote outdoor opportunities Idaho has to offer; and

WHEREAS, the Idaho backcountry airstrip system is unique and is an important asset to the economy of Idaho because it draws tourism and recreation visitors from all fifty states and numerous foreign countries; and

WHEREAS, forty-five of the sixty-two Idaho backcountry airstrips for public use are located on lands managed by the federal government; and

WHEREAS, the federal Central Idaho Wilderness Act of 1980, Public Law 96-312, allows continued use of airstrips which were in use prior to the wilderness designation and does not allow the closure of such airstrips without the express written concurrence of the state of Idaho; and

WHEREAS, the federal government is acting in such a way as to establish a disturbing trend that is circumventing federal law and is effectively closing airstrips or is denying access to many airstrips for use by the general public; and

WHEREAS, one method being used by the federal government to deny access to backcountry airstrips located on federally-managed lands lying both within and outside of wilderness areas is to change designation of the airstrip from "public use" to "private use" or "emergency use only" thereby requiring express permission to be obtained from the federal government before the airstrip can be used; and

WHEREAS, another method being used by the federal government to effectively close airstrips is to publish official airport identification locator maps in which existing, usable airstrips have been intentionally omitted; and

WHEREAS, the federal government employs yet another method to actually close existing airstrips by purchasing land containing an airstrip and having the previous private owner remove airstrip designation from the description of the property prior to the sale so that when ownership of the land transfers to the federal government, no airstrip transfers with the title.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the Congress of the United States to preserve access to backcountry airstrips by introducing into the current 108th Congress Senate Bill No. 681, the Backcountry Landing Strip Access Act from the 107th Congress and its companion legislation House Resolution No. 1363; and

BE IT FURTHER RESOLVED that to ensure the greatest amount of public access to public recreation lands, the Congress of the United States is strongly urged to designate as "public use" all nonmilitary aircraft landing areas located on federally-managed lands.

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 United States Secretary of Agriculture and the United States 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 March 27, 2003
Adopted by the Senate April 3, 2003

(H.J.M. No. 11)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Idaho Legislature, on behalf of the citizens of Idaho, expresses its gratitude for the military service of our veterans; and

WHEREAS, there are 3,357 veterans waiting to see a primary care physician at the Boise VA Medical Center; and

WHEREAS, there are 4,350 veterans waiting for specialty care appointments at the Boise VA Medical Center; and

WHEREAS, there are 2,703 veterans on the waiting list at the Spokane VA Medical Center; and

WHEREAS, there are waits of as long as two to three years at the Spokane VA Medical Center; and

WHEREAS, prompt, high quality and compassionate medical care was promised to our servicemen and servicewomen and is currently an unmet promise.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we find the failure to provide prompt medical care is a failure to provide care, that it is not acceptable, and we urgently request that the members of the Idaho congressional delegation address the appropriations necessary to provide timely access to health care for our valued veterans.

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 28, 2003
Adopted by the Senate April 4, 2003

(H.J.M. No. 12)

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-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Departments of Agriculture and Interior estimate that nationwide, 190,000,000 acres of federally owned forest land face a forest health and wildfire risk crisis situation; and

WHEREAS, in the summer of 2000, 1,400,000 acres of forest lands were burned by wildfire with another 8,600,000 acres at risk due to insects, disease and fire in Idaho's National Forests; and

WHEREAS, in a June 2002 report entitled "The Process Predicament," the United States Department of Agriculture's U.S. Forest Service cited itself as "...so busy meeting procedural requirements...that (the agency) has trouble fulfilling its historic mission: to sustain the

health, diversity and productivity of the nation's forests and grasslands to meet the needs of present and future generations."; and

WHEREAS, the inability to promptly and efficiently implement forest management projects due to environmental activists' lawsuits has contributed to wildfire risks and the spread of insect and disease epidemics in Idaho's National Forests; and

WHEREAS, the United States Departments of Agriculture and Interior have proposed the Healthy Forests Initiative, which includes several proposals to streamline and improve analysis, decision making and implementation of federal land management projects and programs; and

WHEREAS, these initiatives include categorical exclusions to accelerate unexpected and imperative fuels, fire rehabilitation and small timber sale projects; reforming the administrative appeals process; and revising the regulations for forest planning; and

WHEREAS, the citizens of Idaho would benefit from increased levels of forest management that would help reduce the risks of wildfires and insect epidemics in the National Forests in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature supports the Healthy Forests Initiative and its individual proposals and that we respectfully request the entire United States Congress to fully support the Healthy Forests Initiative and its individual proposals.

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 April 21, 2003
Adopted by the Senate April 25, 2003

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

A CONCURRENT RESOLUTION

COMMENDING ADELIA GARRO SIMPLOT FOR HER INDUSTRIOUSNESS AND HARD WORK IN MAKING THE DREAM OF THE BASQUE MUSEUM AND CULTURAL CENTER BECOME A REALITY AND FOR HER APPOINTMENT BY THE GOVERNMENT OF SPAIN AS HONORARY VICE CONSUL OF SPAIN TO IDAHO.

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

WHEREAS, in 1983, Adelia Garro Simplot purchased the Cyrus Jacobs-Uberuaga Boarding House at 607 Grove Street in Boise with the idea of preserving the building and its historical importance to the Basque population; and

WHEREAS, Adelia Garro Simplot made the mortgage payments for the boarding house property from November 1983 to December 1986 and, with her husband Richard R. Simplot, made a Deed of Gift, "For and in consideration of our love and affection for the Basque heritage and history in the State of Idaho..." donating it to the Basque Cultural Center of Idaho, Inc. with the official dedication ceremony being held on June 19, 1987; and

WHEREAS, the purchase of the next building at 611 Grove Street in Boise, which is today the actual Basque Museum and Cultural Center exhibition buildings and offices, was completed on December 1, 1988, with Adelia Garro Simplot and Patty Miller assisting; and

WHEREAS, the old Cub Tavern at 202 South Capitol Boulevard was established in 1948 and, with the foresight of Adelia Garro Simplot and Romaine Gailey Hon and under the legal counsel of Willis E. Sullivan III, was saved by the Basque Cultural Center of Idaho, Inc., and Oppenheimer Development Corporation and became the Gernika Basque Pub and Eatery; and

WHEREAS, in June 1993, Adelia Garro Simplot and Richard Hormaechea purchased the Briggs Engineering Building at 619 Grove Street in Boise, and the vision of a Basque block for the citizens of Idaho was completed; and

WHEREAS, the foresight, initiative and dedication of hundreds of volunteers have made the dream envisioned by Adelia Garro Simplot in 1983 a reality; and

WHEREAS, the Basque Museum and Cultural Center is the only Basque museum in the entire United States; and

WHEREAS, Adelia Garro Simplot has been appointed by the Spanish Ambassador to the United States, Javier Ruperez, as Honorary Vice Consul of Spain to Idaho to assist persons traveling to Spain.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we take this opportunity to congratulate and commend Adelia Garro Simplot for her meritorious appointment by the Government of Spain and for her foresight, initiative, leadership and philanthropy in mobilizing hundreds of volunteers to help create the Basque Museum and Cultural Center, a treasure to the citizens of Idaho.

BE IT FURTHER RESOLVED that the Secretary of the Senate shall forward a copy of this resolution to Adelia Garro Simplot.

Adopted by the Senate January 15, 2003
Adopted by the House February 3, 2003

(S.C.R. No. 103)

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, numerous 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 limited and conditional authorization for the use of 427,000 acre feet of Idaho water for salmon recovery, evolving water rights issues connected to electric utility restructuring, and issues related to the impact of drought conditions in Idaho; and

WHEREAS, these issues will all have a major impact upon the future of Idaho and the quality of life our citizens enjoy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of 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 limited and conditional authorization for the use of 427,000 acre feet of Idaho water for salmon recovery, evolving water rights issues connected to electric utility restructuring, and issues related to the impact of drought conditions in Idaho. 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.

BE IT FURTHER RESOLVED that the cochairmen of this committee shall consult and coordinate with cochairmen of the committee on Electric Utility Restructuring, if appointed.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairmen of the committee who are appointed by the Legislative Council. Nonlegislative members of the 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-seventh Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the Senate February 12, 2003
Adopted by the House March 28, 2003

(S.C.R. No. 106)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE STATE BOARD OF EDUCATION RELATING TO RULES GOVERNING ADMINISTRATION AND FEDERALLY FUNDED PROGRAMS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the State Board of Education relating to rules governing administration and federally funded programs is 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-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 08.02.01, Section 100, a final rule of the State Board of Education relating to rules governing administration and federally funded programs, previously adopted as a pending rule under Docket Number 08-0201-9602, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 7, 2003
Adopted by the House March 17, 2003

(S.C.R. No. 109)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Medicine relating to the licensure of physician assistants are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Pharmacy relating to prescription drugs 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-seventh 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 2003 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and

IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket, be, and the same are hereby rejected and not approved and thereby pursuant to Sections 67-5291 and 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-seventh 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 6, 2003
Adopted by the House March 28, 2003

(S.C.R. No. 110)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE, WITH AN EXCEPTION.

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-seventh 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 2003 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved, with the exception of the following enumerated temporary rule section:

IDAPA 16.03.09, the entire rulemaking docket, related to governing the medical assistance program and concerning dental services, denturist policy guidelines, denturist procedure codes, PWC codes, covered emergency dental codes for adults, and dental prior authorization, rules of the Department of Health and Welfare, adopted as temporary rules under Docket Number 16-0309-0216.

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-seventh Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which are excepted from approval hereunder or which were not submitted to the Legislature for review during the 2003 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-seventh Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 6, 2003
Adopted by the House March 28, 2003

(S.C.R. No. 116)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF JUDICIAL ELECTIONS, INCLUDING METHODS OF FINANCING ELECTIONS AND METHODS OF SELECTION.

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

WHEREAS, the judicial system in the state of Idaho, as in many other states, has recently been the subject of intense interest resulting from a variety of pressures upon the system; and

WHEREAS, preservation of the independence and integrity of an independent judicial system is essential to the preservation of the critical role of the judiciary in the system of American government; and

WHEREAS, judicial electioneering undermines judicial independence. The financing of judicial campaigns is thus limited to those wealthy enough to independently fund their campaigns, a limitation unrelated to judicial competence. Additionally, fundraising undertaken by candidates to achieve election may create a perception of judges feeling indebted to certain parties or interest groups; and

WHEREAS, when judges are subject to elections, there may be an impression that a judge develops a personal stake in the outcome of major cases. Elected judges cannot help but be aware that if the public is not satisfied with the outcome of a particular case, it could hurt their reelection prospects; and

WHEREAS, recent court decisions subject regulations of campaign financing to strict application of First Amendment protections which, while an essential guarantee, may minimize significant needs of citizens and voters to know the sources of funding and campaign support and to place limits on the amounts of money which can be spent in a given campaign; and

WHEREAS, in addition to considerations of campaign finance reporting and limits, there is also value in consideration of alternative judicial plans including the "Missouri Plan" and others which may offer appropriate options.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is

authorized to appoint a committee to undertake and complete a study of judicial elections, including methods of financing elections and methods of selection. 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. Membership may include representation from the Idaho Bar Association, the League of Women Voters, public interest groups, the Idaho Judicial Council, the court system, and others appropriate to the study.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, as may be appropriate due to the level of committee activity, to either the Second Regular Session of the Fifty-seventh Idaho Legislature or the First Regular Session of the Fifty-eighth Idaho Legislature, or to both such Sessions.

Adopted by the Senate March 27, 2003
Adopted by the House May 3, 2003

(S.C.R. No. 117)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE REGARDING THE BUDGET STABILIZATION FUND AND DIRECTING THE STATE CONTROLLER NOT TO TRANSFER GENERAL FUNDS TO THE BUDGET STABILIZATION FUND IN FISCAL YEAR 2004.

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

WHEREAS, the Economic Outlook and Revenue Assessment Committee has determined that the revenue growth for fiscal year 2003 is estimated to be only three and seven-tenths percent (3.7%) higher than the previous fiscal year's revenues; and

WHEREAS, Section 57-814(2)(a), Idaho Code, directs the State Controller to transfer certain funds to the Budget Stabilization Fund if revenues are in excess of four percent (4%) over the previous fiscal year; and

WHEREAS, all available revenues will be needed to support critical on-going programs and services of the state of Idaho; and

WHEREAS, Section 57-814(3), Idaho Code, authorizes the Legislature through Concurrent Resolution to reduce the transfers made by the State Controller to the Budget Stabilization Fund.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State Controller is hereby directed not to transfer general funds to the Budget Stabilization Fund pursuant to Section 57-814, Idaho Code, during fiscal year 2004.

Adopted by the Senate May 3, 2003
Adopted by the House May 3, 2003

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 2)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-SEVENTH 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-seventh Idaho Legislature in the Chamber of the House of Representatives at 7 p.m. on Tuesday, January 7, 2003.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Tuesday, January 7, 2003, at 7 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 6, 2003
Adopted by the Senate January 7, 2003

(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-SEVENTH 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-seventh Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Thursday, January 9, 2003.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Thursday, January 9, 2003, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 8, 2003
Adopted by the Senate January 10, 2003

(H.C.R. No. 4)

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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and the Bureau of Copy and Records Services, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 2003, 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-seventh 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 October 24, 2002, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-seventh 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 twenty (420) 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/ Debbie Field
DEBBIE FIELD, 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 January 15, 2003
Adopted by the Senate January 24, 2003

(H.C.R. No. 5)

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-seventh 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 Records 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 13th day of January, 2003, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COM-

MITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-seventh Idaho Legislature, hereinafter mentioned as party of the first part, and BUREAU OF COPY AND RECORDS 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 Records Services, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST AND SECOND REGULAR SESSIONS
AND ANY EXTRAORDINARY SESSIONS

200 copies of House Journal
200 copies of Senate Journal
400 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/ Debbie Field
DEBBIE FIELD, 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 RECORDS SERVICES

By /s/ Mona R. Whittington
MONA R. WHITTINGTON, Supervisor

Adopted by the House January 15, 2003
Adopted by the Senate January 24, 2003

(H.C.R. No. 6)

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-seventh 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 13th day of January, 2003, 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-seventh 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

160 copies of House Permanent Journal, including 6 hard-bound gold lettered volumes
160 copies of Senate Permanent Journal, including 6 hard-bound gold lettered volumes
320 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/ Debbie Field
DEBBIE FIELD, 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 January 15, 2003
Adopted by the Senate January 24, 2003

(H.C.R. No. 7)

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-seventh 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-seventh Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-seventh 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 13th day of January, 2003, 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-seventh Idaho Legislature and for printing and binding eight hundred (800) copies of the Session Laws of the Second Regular Session of the Fifty-seventh Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-seventh 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, 2003, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 2004, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated October 27, 2002, 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/ Debbie Field
DEBBIE FIELD, 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 January 15, 2003
Adopted by the Senate January 24, 2003

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE IMPACTS OF OBESITY ON THE CITIZENS OF IDAHO AND DECLARING JANUARY THROUGH MARCH AS OBESITY AWARENESS MONTHS.

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

WHEREAS, Idaho's leaders have a responsibility to encourage and promote healthy lifestyles for the citizens of this state including communicating information about healthy diet and the importance of physical activity; and

WHEREAS, poor health in the form of obesity and inactivity has increased dramatically in recent years as evidenced by the following:

(A) More than one-half of all American adults are overweight, representing approximately 69 million people;

(B) According to the Centers for Disease Control, in the year 2000, prevalence of obesity among U.S. adults was approximately 19.8%, up 61% since 1991;

(C) Only 22% of American adults get recommended regular physical activity of any intensity during leisure time, and only 15% get the recommended amount of vigorous activity;

(D) Obesity leads to a 50-100% increase in risk of death from all causes, over 280,000 Americans die each year from obesity-related disease;

(E) An astounding 15% of all children and adolescents are now overweight, this number having nearly doubled in the last two decades;

(F) In 1990, fewer than 4% of childhood diabetes cases were type 2, but that number has risen to approximately 20%, and of the children diagnosed with type 2 diabetes, 85% are obese;

(G) Because the prevalence of type 2 diabetes has tripled in the last 30 years, more people will live with diabetes longer, with greater chances of developing disabling, life-threatening complications of diabetes;

(H) The direct costs of inactivity and obesity account for approximately 9.4% of national health care expenditures, costs reaching at the very least 39.3 billion dollars; and

WHEREAS, citizens will be made more aware of the growing problems related to obesity and inactivity if given pertinent information and if good examples are set by leaders of the community.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the months of January through March 2003 (the months of the legislative session) be declared as obesity awareness months. We urge communities, businesses and schools throughout the state of Idaho to develop awareness campaigns and voluntary programs appropriate to their settings which focus on the causes of

obesity, the symptoms and long-term consequences associated with obesity, and the healthy alternatives for food choices and appropriate programs of physical fitness which lead to control of weight and improved lifestyle.

Adopted by the House January 27, 2003
Adopted by the Senate February 13, 2003

(H.C.R. No. 9)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE ON ENERGY.

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

WHEREAS, there were numerous bills introduced in Congress from 1996 through 2002 which would have provided for the restructuring of the electric utility and energy industries in this country; and

WHEREAS, Idaho currently enjoys low electric rates compared to the rest of the nation, mainly because of our hydropower base; and

WHEREAS, while there may be some benefits to a competitive electric utility industry, there have been some large unintended consequences to the ratepayers and the citizens of the state given the California energy crisis and the Enron collapse; and

WHEREAS, on July 31, 2002, the Federal Energy Regulatory Commission announced a series of broad proposals to reform the wholesale power generation, trading and transmission markets known as Standard Market Design; and

WHEREAS, the Standard Market Design proposal has been repudiated and is opposed in most southern and western states and fails to recognize the distinct nature of the Northwest electricity grid, including the significant reliance on coordinated hydro operations that are subject to various nonpower obligations; and

WHEREAS, Idaho's water rights system is a complex system of management, and electric utility restructuring or the Standard Market Design rules 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-seventh 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 energy related issues from both the statewide perspective and the national perspective. The Committee is directed to involve representatives of industry, agricultural groups, small businesses, consumers of electricity and conservation interests. The Committee is also authorized to retain the services of a consultant, within appropriated moneys, who is familiar with the energy 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 the Committee shall make a progress report to the Second Regular Session of the Fifty-seventh Idaho Legisla-

ture and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the House January 27, 2003
Adopted by the Senate February 12, 2003

(H.C.R. No. 12)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD RELATING TO QUALIFICATIONS AND LICENSE REQUIREMENTS AND FIRST AID CARDS.

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 Outfitters and Guides Licensing Board relating to qualifications and license requirements and first aid cards 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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 25.01.01, Section 003, subsection 02, a rule of the Idaho Outfitters and Guides Licensing Board relating to qualifications and first aid cards, and IDAPA 25.01.01, Section 004, subsection 01, a rule of the Idaho Outfitters and Guides Licensing Board relating to license requirements and first aid cards, adopted as pending rules under Docket Number 25-0101-0202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House January 29, 2003
Adopted by the Senate March 5, 2003

(H.C.R. No. 16)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY RELATING TO INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to individual/subsurface sewage disposal 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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.03, pending rules of the Department of Environmental Quality relating to individual/subsurface sewage disposal, adopted as pending rules under Docket Number 58-0103-0201, the entire pending rules docket, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 19, 2003
Adopted by the Senate February 27, 2003

(H.C.R. No. 17)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING DESTRUCTION OF UNOPENED AND UNUSED DRUGS AND DIRECTING THE BOARD OF PHARMACY AND THE DEPARTMENT OF HEALTH AND WELFARE TO DEVELOP NECESSARY STATUTORY AND RULE CHANGES TO ALLOW RETURN AND USE.

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

WHEREAS, the American Society of Consultant Pharmacists, the American Medical Association and the American Medical Directors Association agree that under appropriate circumstances, health care costs would be reduced through the return and reuse of unused, unopened medications; and

WHEREAS, the American Society of Consultant Pharmacists and the American Medical Association agree that between 5% and 10% of all medications used in assisted living facilities are destroyed, 90% of which are not used because of discontinuation of medication, change of medication, resident death, and the resident being transferred, hospitalized or discharged; and

WHEREAS, those assisted living residents in Idaho using medical assistance through the Idaho Department of Health and Welfare use medications purchased with state and federal Medicaid funds; and

WHEREAS, self-supporting residents living in assisted living facilities spend down their assets faster and need state assistance sooner because they are unable to return unused, unopened medications; and

WHEREAS, certain hospitals in Idaho are facing shortages of certain drugs while some of the same unopened, unused medications are being destroyed; and

WHEREAS, traces of destroyed drugs end up in waterways, affecting the endocrine systems of fish; and

WHEREAS, hospitals and nursing homes in Idaho are already required to return for credit unopened, unused medications purchased with Medicaid funds to the pharmacy of distribution; and

WHEREAS, the adoption of this resolution will not conflict with present federal laws and regulations; and

WHEREAS, the rising cost of health care attributable to medication costs has precipitated annual increases in appropriations for the Idaho Department of Health and Welfare.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Board of Pharmacy and Department of Health and Welfare are directed to develop statutory and/or rule changes as necessary to allow licensed assisted living facilities to return unused, unopened medications to the dispensing pharmacy for credit of the medication returned, regardless of the payer source.

BE IT FURTHER RESOLVED, that, in concurrence with the recommendation from the policy statement of the American Society of Consultant Pharmacists, the return of such drugs to the dispensing pharmacy for credit shall be allowed when:

(1) The returned medications are not controlled substances.

(2) The medications are dispensed in tamper-evident packaging and returned with the medications unopened.

(3) The medications meet all federal and state standards for product integrity.

(4) Policies and procedures are followed for the appropriate storage and handling of medications at the assisted living facility and for the transfer, receipt, and security of medications returned to the dispensing pharmacy.

(5) A system is in place to track restocking and reuse to allow medications to be recalled if required.

(6) A mechanism (reasonable for both the payer and the dispensing pharmacy) is in place for billing only the number of doses used or crediting the number of doses returned regardless of payer source.

Adopted by the House February 24, 2003
Adopted by the Senate March 26, 2003

(H.C.R. No. 18)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF PARKS AND RECREATION RELATING TO THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Parks and Recreation relating to the administration of park and recreation areas and facilities 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-seventh Idaho Legislature, the House of Representa-

tives and the Senate concurring therein, that IDAPA 26.01.20, Section 010, subsection 04, a rule of the Department of Parks and Recreation relating to the definition of a camping unit, and IDAPA 26.01.20, Section 200, subsection 01, a rule of the Department of Parks and Recreation relating to camping occupancy, adopted as pending rules under Docket Number 26-0120-0202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 13, 2003
Adopted by the Senate March 4, 2003

(H.C.R. No. 19)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING CERTAIN ADMINISTRATIVE RULES OF THE DEPARTMENT OF PARKS AND RECREATION THAT IMPOSE A FEE OR CHARGE, CONCERNING CAMPSITE AND RESERVATION FEES.

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, certain pending rules of the Department of Parks and Recreation concerning campsite and reservation fees inadvertently were submitted as nonfee rules, 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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that certain administrative rules of the Department of Parks and Recreation that impose a fee or charge concerning campsite and reservation fees, IDAPA 26.01.20, Section 250, subsection 01, relating to campsite fees, and IDAPA 26.01.20, Section 250, subsection 02, relating to reservation fees, adopted as pending rules under Docket Number 26-0120-0202, 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 2003 Legislative Session, be, and the same are approved.

Adopted by the House February 13, 2003
Adopted by the Senate March 4, 2003

(H.C.R. No. 22)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY RELATING TO UNDERGROUND STORAGE TANKS AND LEAKING PETROLEUM STORAGE TANKS, AND WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to underground storage tanks and leaking petroleum storage tanks, and water quality standards and wastewater treatment requirements 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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.07, pending rules of the Department of Environmental Quality relating to underground storage tanks and leaking petroleum storage tanks, adopted as pending rules under Docket Number 58-0107-0201, the entire pending rules docket, and IDAPA 58.01.02, pending rules of the Department of Environmental Quality relating to water quality standards and wastewater treatment requirements, adopted as pending rules under Docket Number 58-0102-0202, the entire pending rules docket, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 27, 2003
Adopted by the Senate April 16, 2003

(H.C.R. No. 23)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND URGING COMMUNITIES, BUSINESSES AND SCHOOLS THROUGHOUT THE STATE OF IDAHO TO CONTRIBUTE TOWARDS THE EFFORT TO PROVIDE THE CAPITOL CHRISTMAS TREE.

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

WHEREAS, the custom of placing the nation's Christmas tree on the front lawn of the U.S. Capitol dates back to 1964 and since 1970, the "people's tree" has come from a national forest; and

WHEREAS, Idaho has been given the unique honor to provide the Capitol Christmas Tree in 2003 for Washington, D.C. and a 70-foot tall tree will be harvested from the Boise, Payette or Sawtooth National Forests in November 2003 pending selection from the nation's Capitol Landscape Architect; and

WHEREAS, the 2003 tree will be the first national Christmas tree from Idaho and this project provides an excellent opportunity to highlight Idaho and the national forests located here; and

WHEREAS, in addition to the main Capitol Christmas Tree, there will be a need for 70 to 80 companion trees to be selected and sent to the nation's capitol for many offices, the U.S. Supreme Court and the National Arboretum; and

WHEREAS, Idahoans can become directly involved in helping make between 4,000 and 6,000 handcrafted ornaments to decorate the Capitol Christmas Tree; and

WHEREAS, community celebrations will occur in Idaho as the Capitol Christmas Tree travels a route throughout the state prior to its cross-country trip to our nation's capitol.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that Idahoans should participate in the activities surrounding the 2003 Capitol Christmas Tree. We urge communities, businesses and schools throughout the state of Idaho to contribute towards the effort to provide the Capitol Christmas Tree, including involving organizations and school children in the making of decorations for the tree. We further urge Idahoans to participate in any community celebrations that may occur in their community as the Capitol Christmas Tree travels its route within Idaho prior to its trip across the United States to Washington, D.C.

Adopted by the House February 21, 2003
Adopted by the Senate March 4, 2003

(H.C.R. No. 25)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY RELATING TO THE CONTROL OF AIR POLLUTION IN IDAHO.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to the control of air pollution in Idaho 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-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.01, Section 605, concerning reasonable control of open burning, IDAPA 58.01.01, Section 608, concerning weed control fires, IDAPA 58.01.01, Section 611, concerning domestic household solid waste disposal fires, and IDAPA 58.01.01, Section 614, concerning prescribed fire management burning,

pending rules of the Department of Environmental Quality relating to the control of air pollution in Idaho, adopted as pending rules under Docket Number 58-0101-0201, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 27, 2003
Adopted by the Senate March 17, 2003

(H.C.R. No. 26)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE CONCERNING RECYCLED OIL AND ENCOURAGING STATE AGENCIES TO PURCHASE AND USE RECYCLED OIL.

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

WHEREAS, using recycled oil makes good environmental sense because it prevents accidental spills, leaks and the deliberate dumping of oil that can contaminate water supplies; and

WHEREAS, using recycled oil makes good resource conservation sense because it takes one-third less energy to produce recycled oil than it takes to refine crude oil to lubricant quality; and

WHEREAS, the third goal stated by President Bush in his State of the Union speech was the promotion of energy independence for the United States, including conservation measures that would include the use of recycled oil; and

WHEREAS, there is no compromise in the quality of recycled oil because recycled oil is cleaned of impurities and undergoes the same comprehensive testing and meets the same quality standards as crude-based lubricants in order to receive certification by the American Petroleum Institute (API); and

WHEREAS, recycled oil can be purchased at a price equivalent to virgin oil; and

WHEREAS, a number of states, including Alaska, Maine, Oregon, Utah and Washington, already encourage their state agencies to purchase and use recycled oil; and

WHEREAS, large numbers of companies and organizations use recycled oil in their car and truck fleets, including Coca-Cola, United Parcel Service, the California Highway Patrol and the NASCAR race circuit.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that state agencies in Idaho are hereby encouraged to consider the purchase and use of recycled oil.

Adopted by the House March 7, 2003
Adopted by the Senate March 14, 2003

(H.C.R. No. 29)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE IDAHO COUNCIL ON DEVELOPMENTAL DISABILITIES, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND WELFARE AND OTHER STAKEHOLDERS, IN CONVENING A TASK FORCE TO DEVELOP A WAIVER FOR A SELF-DIRECTED SERVICE DELIVERY SYSTEM FOR IDAHOANS WITH DEVELOPMENTAL DISABILITIES AND REQUESTING A REPORT.

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

WHEREAS, Medicaid costs for services to people with developmental disabilities are increasing; and

WHEREAS, many Idahoans with developmental disabilities rely on Medicaid for their long-term service needs; and

WHEREAS, growth in the Medicaid budget requires all opportunities for savings to be explored, including strategies for people with developmental disabilities to become less dependent on the current service delivery system; and

WHEREAS, people with developmental disabilities should have authority over their life decisions and be responsible for their choices; and

WHEREAS, people with developmental disabilities should control a limited amount of dollars that can be used flexibly to acquire necessary supports; and

WHEREAS, although the state of Idaho has made some progress in designing a service delivery system for people with developmental disabilities that permits some choices, these choices are limited; and

WHEREAS, other states have developed and implemented self-determination models which have increased cost effectiveness and consumer control; and

WHEREAS, all individuals belong in and bring value to their communities; and

WHEREAS, all individuals with developmental disabilities are valued partners in policymaking pertaining to their services and supports.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature encourages the Idaho Council on Developmental Disabilities to collaborate with the Department of Health and Welfare and other stakeholders, in convening a task force for the purpose of developing a Medicaid self-determination waiver.

BE IT FURTHER RESOLVED that the Legislature supports including participation of people with developmental disabilities, family members, appropriate public agencies, service providers and advocates in the development of this waiver.

BE IT FURTHER RESOLVED that the Legislature encourages the Department of Health and Welfare to submit such a waiver to the federal Centers on Medicaid and Medicare for approval, following an opportunity for legislative review during the 2004 legislative session.

BE IT FURTHER RESOLVED that the Legislature recommends that this waiver would be available to no more than two hundred qualified individuals with developmental disabilities, would cost no more on average than services currently available through the HCBS waiver for people with

developmental disabilities, would include an individual budget driven by a person-centered plan, would allow people with developmental disabilities to negotiate for services and supports from traditional and nontraditional providers with the assistance of a broker and a fiscal agent, and would continue for a period of at least two years to permit adequate usage and data collection.

AND BE IT FURTHER RESOLVED that the Legislature requests that the Idaho Council on Developmental Disabilities report its progress on this effort, including cost analysis, to the Legislature by January 15, 2004.

Adopted by the House March 31, 2003
Adopted by the Senate April 4, 2003

(H.C.R. No. 30)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING APPROVAL FOR CERTAIN STATE BODIES AND COMMUNITY COLLEGE DISTRICTS TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND DEVELOP OR RENOVATE SPECIFIED FACILITIES LOCATED THROUGHOUT IDAHO.

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

WHEREAS, the Legislature of the State of Idaho has previously authorized some level of funding for eight facilities projects located throughout Idaho; and

WHEREAS, it was necessary to rescind the funding for these projects due to the shortfall in General Fund revenues; and

WHEREAS, the Legislature recognizes the significant immediate economic stimulus that would be provided by proceeding with construction on these projects; and

WHEREAS, the amounts of appropriated and available funds are not sufficient to cover all of the anticipated costs associated with these facilities in a timely manner; and

WHEREAS, North Idaho College in Coeur d'Alene is currently providing health and nursing classes in old donated wooden buildings that will be replaced by a new Allied Health, Nursing and Life Sciences Building; and

WHEREAS, the University of Idaho has been forced to close the classroom center on its Moscow campus that houses 40% of the university's classroom space and will renovate and convert it into a modern Teaching and Learning Center; and

WHEREAS, Lewis-Clark State College in Lewiston currently uses a physical education center that was constructed in 1937 for 368 students and will construct a new physical education center with conference and meeting facilities; and

WHEREAS, Boise State University now has 5,067 students enrolled at BSU Canyon County, with the center filled to capacity, and will construct a new academic building on the BSU West Campus in Nampa; and

WHEREAS, the Idaho State Police now provides training programs for the Department of Correction and Department of Juvenile Corrections and will build a training facility to house those programs in Meridian; and

WHEREAS, the College of Southern Idaho in Twin Falls requires class-

room and performance space for speech, music, forensics and the performing arts and will build a Fine Arts Addition to house those programs; and

WHEREAS, Idaho State University will meet its growing requirement in Pocatello for additional classroom space, student services and student housing by using student fees to construct the student services and housing portions of a multiuse facility and funds authorized under this resolution to build a new classroom facility; and

WHEREAS, Eastern Idaho Technical College wishes to help meet the need for trained health care professionals in the Idaho Falls area, and a new health care education building will be constructed in accordance with policies of the State Board of Education; and

WHEREAS, it is in the best interest of the state and its community college districts for the State Building Authority to finance and provide new facilities for the use of each of the described state bodies and community college districts;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Administration and each of the following state bodies and community college districts to enter into agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, to provide for the financing and development of the following described facilities for their respective use:

STATE BODY/DISTRICT	FACILITY	LOCATION
North Idaho College	Allied Health, Nursing & Life Science Bldg.	Coeur d'Alene
University of Idaho	Teaching & Learning Center	Moscow
Lewis-Clark State College	Campus Activity Center	Lewiston
Boise State University	West Campus Academic Building	Nampa
Idaho State Police	Training Facility	Meridian
College of Southern Idaho	Fine Arts Addition	Twin Falls
Idaho State University	Classroom & Multiuse Facility	Pocatello
Eastern Idaho Technical College	Health Care Education Building	Idaho Falls

BE IT FURTHER RESOLVED that this resolution constitutes authorization to enter into agreements required by the provisions of Section 67-6410, Idaho Code, and with respect to facilities provided to the State Board of Education and Board of Regents of the University of Idaho this resolution constitutes the approval required by the provisions of Section 33-3805A, Idaho Code.

Adopted by the House April 30, 2003
Adopted by the Senate May 3, 2003

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, BEN YSURSA, 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-seventh Legislature of the State of Idaho, First Regular Session thereof, which convened January 6, 2003, and which adjourned on May 3, 2003, 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 23 day of May, 2003.

Ben Ysursa

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.

INITIATIVES

PROPOSITION 1

AN INITIATIVE DEFINING TRIBAL VIDEO GAMING MACHINES AND PROVIDING FOR AMENDMENT OF STATE-TRIBAL GAMING COMPACT PROVIDING FOR THEIR USE.

An initiative relating to Indian gaming; providing findings and purposes; clarifying public policy regarding Indian gaming; adding Idaho Code section 67-429B defining tribal video gaming machines as gaming machines used by Indian tribes which are not activated by a handle or lever, do not dispense coins, currency, tokens or chips, and which perform only certain defined functions, and defining such machines as neither slot machines nor imitations or simulations of any form of casino gaming; adding section 67-429C allowing amendment of state-tribal compacts to allow use of tribal video gaming machines; limiting the number of machines to those in a tribe's possession on January 1, 2002, allowing an increase of 5% per year not to exceed 25% over 10 years; requiring renegotiations of compacts after 10 years; providing a tribal contribution of 5% of annual net gaming income for educational programs and schools on or near the reservations; limiting gaming to Indian lands; providing amendment to state-tribal compacts upon certification to the Idaho Secretary of State of a tribal resolution; providing for automatic approval by State without necessity of executive or legislative action; making initiative effective upon completion of canvass of votes by Idaho Secretary of State; and containing a severability clause.

Be it enacted by the People of the State of Idaho:

Section 1. Title. This act shall be known as the Indian Gaming and Self-Reliance Act.

Section 2. Findings and Purposes. The people of the State of Idaho recognize and declare the following:

(1) For most of the last century, Indians on reservations in Idaho suffered from disproportionately high unemployment, severe poverty, and a lack of the basic social services available to most Americans. In 1988, federal law confirmed the right of Indian tribes to have limited, regulated gaming on their own land to provide jobs and to generate vitally-needed revenues for education, health care, housing, clean water supplies, roads and other basic services for tribal members and communities on or near reservations.

(2) The Idaho Constitution provides that, except as authorized by the Congress of the United States, the State of Idaho has no jurisdiction or control over Indian lands. Congress has allowed states a limited role in Indian gaming by providing for the negotiation of gaming agreements, called compacts, between states and Indian tribes. Such compacts, which indicate how certain types of Indian gaming will be conducted in a state, were negotiated and agreed upon by the State of Idaho and various Indian tribes in Idaho beginning in 1992.

(3) Since 1992, the tribes in Idaho have proceeded in good faith to make major investments in Indian gaming facilities, and those facilities have finally enabled the tribes to reduce unemployment and welfare and improve living conditions on their reservations. Moreover, Indian gaming

has supported jobs for many Idahoans, benefitted the local economies of many Idaho communities, and saved taxpayers millions of dollars by reducing unemployment and welfare on and near reservations.

(4) Now, however, the economic and social progress made by the Indian tribes in Idaho as a result of gaming is in serious jeopardy. Due to differences in opinion over the interpretation of Idaho law, these tribes face legal uncertainties about the types of gaming machines they can operate on Indian lands. This uncertainty threatens the future of Indian gaming in Idaho and the ability of these tribes to continue their progress toward economic self-reliance.

(5) Attempts by the tribes and the governor to resolve these legal uncertainties have failed, jeopardizing the future of tribally-funded education, health care, and social service programs. Therefore, the citizens of Idaho desire to secure the future of tribal gaming on Indian lands in Idaho themselves through this ballot measure.

(6) This ballot measure clarifies that it is the public policy of the State of Idaho that Indian tribes can continue to operate the types of lottery-style gaming machines currently used at Indian gaming facilities on Idaho reservations under the terms of this act. It also sets reasonable limits on Indian gaming and gaming machines, and provides a mechanism for Indian tribes to share 5% of their net gaming income to support local educational programs and schools on or near reservations.

Section 3. Chapter 4, Title 67, Idaho Code, is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-429B, Idaho Code, and to read as follows:

67-429B. AUTHORIZED TRIBAL VIDEO GAMING MACHINES. (1) Indian tribes are authorized to conduct gaming using tribal video gaming machines pursuant to state-tribal gaming compacts which specifically permit their use. A tribal video gaming machine may be used to conduct gaming only by an Indian tribe, is not activated by a handle or lever, does not dispense coins, currency, tokens, or chips, and performs only the following functions:

(a) Accepts currency or other representative of value to qualify a player to participate in one or more games;

(b) Dispenses, at the player's request, a cash out ticket that has printed upon it the game identifier and the player's credit balance;

(c) Shows on a video screen or other electronic display, rather than on a paper ticket, the results of each game played;

(d) Shows on a video screen or other electronic display, in an area separate from the game results, the player's credit balance;

(e) Selects randomly, by computer, numbers or symbols to determine game results; and

(f) Maintains the integrity of the operations of the terminal.

(2) Notwithstanding any other provision of Idaho law, a tribal video gaming machine as described in subsection (1) above is not a slot machine or an electronic or electromechanical imitation or simulation of any form of casino gambling.

Section 4. Chapter 4, Title 67, Idaho Code, is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-429C, Idaho Code, and to read as follows:

67-429C. AMENDMENT OF STATE-TRIBAL GAMING COMPACTS. (1) Any tribe with an existing state-tribal gaming compact may amend its compact through the procedure set forth in subsection (2) below to incorporate all of the following terms:

(a) As clarified by this compact amendment, the tribe is permitted to conduct gaming using tribal video gaming machines as described in Section 67-429B, Idaho Code.

(b) In the 10 years following incorporation of this term into its compact, the number of tribal video gaming machines the tribe may possess is limited to the number of tribal video gaming machines possessed by the tribe as of January 1, 2002, plus 25% of that number; provided, however, that no increase in any single year shall exceed 5% of the number possessed as of January 1, 2002. Thereafter, the tribe may operate such additional tribal video gaming machines as are agreed to pursuant to good faith negotiations between the state and the tribe under a prudent business standard.

(c) To the extent such contributions are not already required under the tribe's existing compact, the tribe agrees to contribute 5% of its annual net gaming income for the support of local educational programs and schools on or near the reservation. The tribe may elect to contribute additional sums for these or other educational purposes. Disbursements of these funds shall be at the sole direction of the tribe.

(d) The tribe agrees not to conduct gaming outside of Indian lands.

(2) To amend its compact to incorporate the terms set forth in subsection (1) above, a tribe shall deliver to the Secretary of State a tribal resolution signifying the tribe's acceptance of the terms. Immediately upon delivery of such tribal resolution to the Secretary of State, (a) the tribe's state-tribal gaming compact shall be deemed amended to incorporate the terms; (b) the tribe's compact as so amended shall be deemed approved by the state in accordance with Section 67-429A, Idaho Code, without the need for further signature or action by the executive or legislative branches of state government, and (c) except to the extent federal government approval is required, the newly incorporated compact terms shall be deemed effective immediately.

(3) Nothing in this section shall be construed to (a) indicate that any gaming activity currently conducted by any tribe is unauthorized or otherwise inappropriate under Idaho law or the tribe's existing compact, or (b) prohibit a tribe from negotiating with the state for an initial compact or a compact amendment regarding tribal video gaming machines or any other matter through a procedure other than the procedure specified in subsection (2) above or which contains terms different than those specified in subsection (1) above.

Section 5. Effect. Notwithstanding any other provision of Idaho law, this act shall be in full force and effect after voter approval and immediately upon completion of the canvass of the votes by the Secretary of State. No further action by the executive or legislative branches of state government are required to implement the provisions of this act.

Section 6. Severability. The terms of this act are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remaining provisions of this act shall continue to be valid and enforceable. It is the intent

of the voters, that, to the extent any term or provision is declared to be illegal, void, or unenforceable, the legislature shall take all available steps to enact such term or provision in a legal, valid, and enforceable manner, whether through a statute or a proposed constitutional amendment.

State of Idaho

PROCLAMATION

WHEREAS, The Secretary of State, in the presence of the Governor, has canvassed the votes cast on November 5, 2002, concerning Proposition One (An initiative defining tribal video gaming machines and providing for amendment of state-tribal gaming compact providing for their use.), and,

WHEREAS, The results show that the said Proposition One has received 232,986 "Yes" votes, 170,097 "No" votes,

NOW, THEREFORE, I DIRK KEMPTHORNE, Governor of the State of Idaho, pursuant to Section 34-1813, Idaho Code, do hereby proclaim that Proposition One has been approved by the people of the State of Idaho and is in full force and effect as the law of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, The Capital, the Twentieth day of November, in the year of our Lord Two Thousand and Two, and of the Independence of the United States of America the Two Hundred Twenty-seventh.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2002-01

ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY

WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy, and efficient working environment for its employees, clients and the public; and

WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and

WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and

WHEREAS, the use of illegal drugs by state employees is inconsistent with the law-abiding behavior expected of all citizens, and with the special trust placed in such employees as servants of the public; and

WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and

WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and

WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the state; and

WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the following Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:

1. The consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;
2. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on state property or during an employee's hours of work, demands immediate corrective action;
3. Each state agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the state's Employee Assistance Plan;
4. Violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee

Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;

5. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy must be consistent with all due process requirements and other constitutional rights of state employees;

6. The privacy rights of employees are important. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's identity;

7. The director of each agency shall report quarterly, the first of January, April, July, and October, to the Division of Human Resources any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, April, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;

8. The Division of Human Resources shall annually compile information regarding violations of this policy and the corrective actions taken, and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Division of Human Resources, when it compiles this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;

9. Whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:

A. The duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and

B. Errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and

C. Employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection B. could be prevented by a supervisor or another employee;

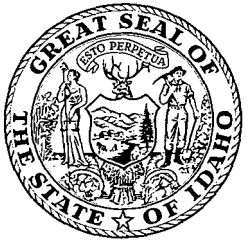
10. In the event the Division of Human Resources finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor, and the agency, working in conjunction with the Division of Human Resources and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;

11. All state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Division of Human Resources in discharging its responsibilities under this order;

12. Nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and

13. Where federal laws or regulations require the state to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this seventh day of November in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-sixth and of the Statehood of Idaho the one hundred twelfth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-02

DESIGNATION OF THE STATE ENTITY RESPONSIBLE FOR DEVELOPING AND DELIVERING COMPREHENSIVE COMPUTER-BASED CAREER INFORMATION

WHEREAS, D. Perkins Vocational and Applied Technology Education Amendments of 1998, P.L. 105-800 mandates that the Idaho Division of Vocational Education and the Governor of the State of Idaho shall jointly designate an entity in the state to:

1. Provide support for career guidance and academic counseling programs designed to promote improved career and educational decision-making by individuals, especially in areas of career information delivery;
2. Make information and planning resources available to students, parents, teachers, and administrators that relate educational preparation to career goals;
3. Provide information to assist students and parents with career exploration, educational opportunities, and educational financing;
4. Improve coordination and communication to ensure nonduplication of efforts and shared information;
5. Provide a means for customers to provide comments and feedback on products and services to better meet customer requirements; and

WHEREAS, the Idaho State Occupational Information Coordinating Committee has provided oversight and management of the Idaho Career Infor-

mation System in delivering current and accurate occupational, educational and related career information to the residents of Idaho; and

WHEREAS, career information is critical in helping people make successful career decisions, understand the link between educational preparation and work, explore education and career alternatives, and successfully seek work.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby designate the Idaho State Occupational Information Coordinating Committee consisting of representatives from the Idaho Division of Vocational Education, the Idaho Department of Commerce, the Idaho Department of Labor, the Office of the State Board of Education, the Idaho Division of Vocational Rehabilitation, and the Workforce Development Council as the entity responsible for oversight and management of Idaho's comprehensive, computer-based system of career information known as the Idaho Career Information System.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-second day of April in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-03

ESTABLISHMENT OF THE STATEWIDE REHABILITATION COUNCIL

WHEREAS, management of vocational rehabilitation services by Idaho state agencies could benefit from review by, and the advice of, a council of citizens with personal knowledge of the needs of persons with disabilities and interest in the manner in which those needs are addressed; and

WHEREAS, the 1992 amendments to the Rehabilitation Act of 1973 (Title I, Section 105, of PL 102-569) mandate review of the "state plan" and "strategic plan" drafted by the designated state unit (the Division of Vocational Rehabilitation) by a Statewide Rehabilitation Council; and

WHEREAS, it is in the best interest of the State of Idaho to establish the Rehabilitation Council to advise the Division of Vocational Rehabilitation on the state plan, the strategic plan, and other Division activities undertaken to benefit the citizens of Idaho.

NOW, THEREFORE, I, 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 establishment of the State Rehabilitation Council.

The Council shall review the activities of the Division of Vocational Rehabilitation and advise on the preparation of applications, the state plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by Title I of the 1992 amendments of The Rehabilitation Act of 1973.

Members of the Council shall be appointed by the Governor and shall be selected after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. The members shall include:

1. At least one representative of the Statewide Independent Living Council;
2. At least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Act (20 U.S.C. 1431(c)(9));
3. At least one representative of the client assistance program established under section 112 of the 1992 Amendments to the Rehabilitation Act of 1973;
4. At least one vocational rehabilitation counselor, with knowledge of, and experience with, vocational rehabilitation programs (who, if an employee of the Division of Vocational Rehabilitation, shall serve as a nonvoting member of the Council);
5. At least one representative of community rehabilitation program service providers;
6. Four representatives of business, industry, and labor;
7. Representatives of disability advocacy groups representing a cross section of:
   (a) Individuals with physical, cognitive, sensory, and mental disabilities;
   (b) Parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable, due to their disabilities, to represent themselves;
8. Current or former applicants for, or recipients of, vocational rehabilitation services;
9. The Director of the Division of Vocational Rehabilitation, who shall serve as an ex officio member of the Council;
10. A representative of the Department of Education;
11. A representative from Idaho's Native American Tribes; and
12. A representative from the Workforce Development Council.

A majority of the Council shall be comprised of persons who are individuals with disabilities and not employed by the Division of Vocational Rehabilitation. Members of the Council shall select a chair from among their number.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol

in Boise on this second day of April in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-04

CHILD MORTALITY REVIEW COMMITTEE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-10

WHEREAS, the health and safety of Idaho children are of primary importance; and

WHEREAS, the child death rate in Idaho exceeds that of the nation; and

WHEREAS, some child deaths are due to preventable causes; and

WHEREAS, records of children's deaths and circumstances leading to their deaths are kept by multiple agencies but no coordinated, ongoing effort is being made to evaluate these records; and

WHEREAS, expertise exists within the state to evaluate these records and identify circumstances leading to or contributing to the deaths of children; and

WHEREAS, the identification of risk-producing circumstances and recommendations to remediate them may reduce child death rates.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of the State of Idaho, do hereby establish the Child Mortality Review Committee.

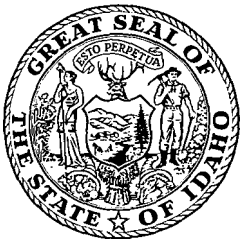
The duties of the Committee shall include reviewing data on selected cases of child death due to leading preventable causes. An annual report summarizing the data and with the Committee's finding shall be presented to the Governor's Coordinating Council for Families and Children.

The members of the Committee shall be appointed by the Director of the Department of Health and Welfare. The terms of appointment, chairmanship, and other operating guidelines shall be established by the Committee in bylaws. Membership shall include:

- a pediatrician,
- an emergency medicine physician,
- a pathologist,
- a coroner,
- a prosecutor,
- a law enforcement representative,
- a Children At Risk Task Force member,

- a representative from the Department of Health and Welfare, Children and Family Services,
- the state epidemiologist, and
- a representative of the public.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this second day of April in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-05

ESTABLISHMENT OF THE STATEWIDE INDEPENDENT LIVING COUNCIL

WHEREAS, the 1992 Amendments to the Rehabilitation Act of 1973 mandate the creation of a statewide Independent Living Council; and

WHEREAS, it is in the best interest of the citizens of the State of Idaho to engage in activities that will enhance the opportunities of people with disabilities to become independent, participating, and supporting members of society; and

WHEREAS, a statewide council is necessary to assist citizens with disabilities to have a greater voice in obtaining services that are cost-effective, consumer-responsive, and community-based.

NOW, THEREFORE, I, 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 Statewide Independent Living Council for the State of Idaho.

I. The Council shall:

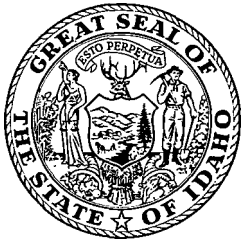
1. Develop and submit, in conjunction with the State Board of Education's Division of Vocational Rehabilitation and the Idaho Commission for the Blind and Visually Impaired, the Statewide Independent Living Plan mandated by section 704 of the 1992 Amendments to the Rehabilitation Act of 1973;
2. Monitor, review, and evaluate the implementation of the state plan;
3. Coordinate its activities with the State Rehabilitation Advisory Council and other councils that address the needs of specific disability populations and issues addressed pursuant to other federal laws;

4. Ensure that all regularly scheduled meetings of the Council are accessible and open to the public and that sufficient advance notice of said meetings is provided;
5. Submit periodic reports as required by law, keep such records, and afford access to such records as may be necessary to verify such reports; and
6. Follow the guidelines contained in the 1992 Amendments to the Rehabilitation Act of 1973, Section 705.

II. The Council shall be composed of members: who provide statewide representation; who represent a broad range of individuals with disabilities; who are knowledgeable about centers for independent living and independent living services; and a majority of whom are individuals with disabilities and not employed by any state agency or center for independent living. Each member of the Council shall serve for a term of three years, except that a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term. Members of the Council shall select a chair from among their number.

III. Membership of the Council shall include:
1. At least one director of a center for independent living chosen by the directors of centers for independent living within the state; and
2. As ex officio, nonvoting members: a representative from the Idaho Board of Education's Vocational Rehabilitation office and representatives from other state agencies (such as the Industrial Commission, the Commission for the Blind and Visually Impaired, etc.) that provide services for individuals with disabilities.
3. Additional members: the Council may also include other representatives from centers for independent living; parents and guardians of individuals with disabilities; advocates of and for individuals with disabilities; representatives from private businesses; representatives from organizations that provide services for individuals with disabilities; and other appropriate persons.

This Executive Order 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-third day of May in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-06

[RESERVED]

EXECUTIVE ORDER NO. 2002-07

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY (CLEARINGHOUSE) TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE SURFACE TRANSPORTATION BOARD'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969; AND DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE AGENCY TO REPRESENT THE STATE ON MATTERS PERTAINING TO RAILROADS BEFORE THE SURFACE TRANSPORTATION BOARD
REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-08

WHEREAS, the issues of railroad abandonments, acquisitions, consolidations, and sales are significant to the state of Idaho and particularly its more sparsely populated rural areas; and

WHEREAS, it is the policy of the state of Idaho to promote the development and viability of railroad transportation within the state; and

WHEREAS, the state of Idaho has a significant interest in maintaining and promoting rail access to Idaho communities for vital goods, services, and markets; and

WHEREAS, the Surface Transportation Board (STB), under: (1) the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4332; (2) 49 U.S.C. section 10502; (3) 49 U.S.C. sections 10903-06; and (4) 49 C.F.R. Parts 1105, 1121, 1150, 1152, and 1180, requires railroads operating within the state of Idaho to serve notice of certain required actions upon a designated state agency; and

WHEREAS, Idaho Code section 62-424 vests the Idaho Public Utilities Commission with the authority to make findings and represent the state of Idaho before the STB.

NOW, THEREFORE, I, 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:

To designate the Idaho Public Utilities Commission to represent the state on matters pertaining to railroads before the Surface Transportation Board and to receive notices of environmental and energy matters from railroads operating within the state of Idaho, as provided under the applicable federal statutes and regulations. I further direct all state agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate with the Public Utilities Commission on all matters pertaining to railroads. The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all state agency submissions to the STB prior to transmittal.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of August in

the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-sixth and of the Statehood of Idaho the one hundred twelfth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-08

REDUCTION OF GENERAL FUND SPENDING AUTHORITY

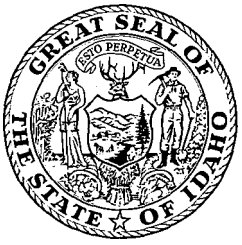
WHEREAS, Article 7, Section 11, of the Idaho Constitution provides that except in extraordinary or emergency circumstances, expenditures of state government shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue to meet those authorized expenditures for the current fiscal year.

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, and pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That the General Fund spending authority on file in the Office of the State Controller be reduced for all departments, offices and institutions of the state by three and a half percent (3.5%) of their Fiscal Year 2003 General Fund Appropriation with the exception of public schools support, colleges and universities, community colleges, School for the Deaf and Blind, Professional-Technical Education and Health Education Programs.
2. That each department, office and institution shall notify the Office of the State Controller and the Division of Financial Management of the Executive Office of the Governor of budget changes by September 23, 2002, according to the attachment of this Executive Order which is incorporated herein by reference.
3. That elected State Constitutional officials are requested to reduce General Fund expenditures for Fiscal Year 2003 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties.
4. That officers of the legislative and judicial branches are requested to assess and evaluate a reduction in General Fund expenditures for Fiscal Year 2003 to reflect similar revenue shortfalls in the executive branch of state government.

This order shall take effect immediately upon its execution and shall continue in effect until January 31, 2003, unless revoked or modified by the Governor, or until the Legislature or the Board of Examiners takes further action.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of August in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-sixth and of the Statehood of Idaho the one hundred twelfth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2002-09

REDUCTION OF GENERAL FUND SPENDING AUTHORITY

WHEREAS, Article 7, Section 11, of the Idaho Constitution provides that except in extraordinary or emergency circumstances, expenditures of state government shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue to meet those authorized expenditures for the current fiscal year.

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, and pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That Executive Order 2002-08 be revoked.
2. That the General Fund spending authority on file in the Office of the State Controller be reduced for all departments, offices and institutions of the state by three and a half percent (3.5%) of their Fiscal Year 2003 General Fund Appropriation with the exception of public schools support, colleges and universities, community colleges, School for the Deaf and Blind, Professional-Technical Education, Special Education Programs, Agriculture Research and Extension, Health Education Programs, and the Human Rights Commission.
3. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Department of Health and Welfare by $9,550,900 and for the Idaho State Library by $64,400.
4. That the holdbacks of each department, office and institution on file with the Office of the State Controller and the Division of Financial Management of the Executive Office of the Governor pursuant to Executive Order 2002-08 shall constitute material compliance with this Executive Order.
5. That elected State Constitutional officials are requested to reduce General Fund expenditures for Fiscal Year 2003 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties.

6. That officers of the legislative and judicial branches are requested to assess and evaluate a reduction in General Fund expenditures for Fiscal Year 2003 to reflect similar revenue shortfalls in the executive branch of state government.

This order shall take effect immediately upon its execution and shall continue in effect until January 31, 2003, unless revoked or modified by the Governor, or until the Legislature or the Board of Examiners takes further action.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-fourth day of September in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-sixth and of the Statehood of Idaho the one hundred twelfth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ PETE T. CENARRUSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-01

CONTINUATION OF THE IDAHO RURAL PARTNERSHIP REPEALING AND REPLACING EXECUTIVE ORDER 2001-01

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, there are critical areas of need in rural Idaho including increased leadership and governance, connectivity to telecommunication and broad bandwidth, excellent and relevant education and workforce development at all levels, funding for the creation, maintenance, and improvement of infrastructure, 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 the Constitution and laws of this state, do hereby order that:

1. The Idaho Rural Partnership (IRP) shall be authorized as an organization with an open membership for institutions, including all local, tribal, state, and federal governments, as well as for-profit and not-for-profit private organizations, that have an interest in or some responsibility for Idaho's rural development.
2. The IRP's responsibilities will be to:
   a. Assess conditions of rural Idaho;
   b. Advise the Governor and the Legislature on public policy and strategies to improve the quality of life in rural Idaho;
   c. Act as a clearinghouse of information and as a referral center on rural programs and policies;
   d. Conduct outreach to rural communities and facilitate communication between rural residents and public and private organizations that provide services to rural communities;
   e. Identify organizations, authorities, and resources to address various aspects of rural development;
   f. Serve as a nonpartisan forum for identifying and understanding rural issues from all perspectives;
   g. Develop better intergovernmental and private/public coordination and to seek out opportunities for new partnerships to achieve rural development goals within the existing structure;
   h. 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.
   i. Seek solutions to unnecessary impediments to rural development, first within Idaho and then through the National Rural Development Partnership; and
   j. Work cooperatively with the National Rural Development Partnership and other state rural development councils.
3. The IRP shall be managed by a Board of Directors that shall include the following members:
   a. A representative from the Governor's office;
   b. The Directors of the Idaho Departments of Agriculture, Commerce, Environmental Quality, Labor, and Transportation;
   c. Representatives from the following federal agencies: USDA-Rural Development, Bureau of Land Management, Economic Development Administration, Environmental Protection Agency, Farm Services Agency, US Forest Service, and Housing & Urban Development;
   d. Four state legislators (Two Senators and Two Representatives) selected by their respective leadership;
   e. A Representative chosen by (each of the federally-recognized) Indian Tribes in the State of Idaho;
   f. Representatives from each of the following local government organizations: Association of Idaho Cities, Idaho Association of Counties, Economic Development Districts, and Resource Conservation & Development organizations; and
   g. Eight rural leaders chosen by the Governor representing private for-profit businesses (including agri-business), private non-profit organizations, Chambers of Commerce, and Community Based Organizations, who live and/or work in rural Idaho and represent a geographic balance across the state.

h. Non-voting, ad-hoc members may be included on the Board to assist with specific issues and projects as necessary.

4. Except for their initial appointment, which shall be from the time this Executive Order is enacted, those IRP Board members appointed by the Governor (see paragraphs 3 a, b, and g above) shall serve four-year terms concurrent with the Governor's term, though lagging behind by three months, the Governor's term. The difference of three months will allow the Governor time to make appointments to the Board after his or her inauguration, and to ease the transition for new members.

5. The IRP shall be led by two Co-Chairs, one of which shall be elected by the IRP Board of Directors from among their membership, and the other appointed by the Governor from among the State Agency Directors serving on the Board. The Co-Chairs shall serve for a four-year term synonymous with the Governor's term. The responsibilities of the Co-Chairs shall be to:
   a. Set operating policies; and
   b. Manage the IRP budget and staff, including the hiring of an IRP Executive Director.

6. The IRP Executive Director shall be:
   a. Manage the day-to-day operations of the IRP as directed by the IRP Co-Chairs;
   b. An exempt, full-time position of the Idaho Department of Commerce as set forth in Chapter 349, Sections 3-4, Idaho Laws of 2002;
   c. A person with the skills necessary to manage a diverse public organization effectively and with broad experience in building and sustaining networks and partnerships; and
   d. Hired through an open and competitive process when a vacancy occurs, after a broad, statewide advertising campaign without any pre-selection.

7. The IRP Board of Directors shall meet no less than once a quarter.

This Executive Order repeals and replaces Executive Order No. 01-01.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-third day of January in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-seventh and of the Statehood of Idaho the one hundred twelfth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

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FIRST REGULAR SESSION - FIFTY-SEVENTH LEGISLATURE

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ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Assn = Association
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
DEQ = Department of Environmental Quality
Dist = District
F&G = Fish and Game
H&W = Health and Welfare
PUC = Public Utilities Com
PERSI = Public Employee Retirement System of Idaho
UCC = Uniform Commercial Code

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41-1834	Amended	Ch.248 - 640
41-1835	Amended	Ch.248 - 640
41-1836	Amended	Ch.248 - 640
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41-2219	Repealed	Ch.304 - 834
41-2801	Amended	Ch.103 - 323
41-2804	Amended	Ch.163 - 461
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41-2806	Repealed	Ch.103 - 324
41-2807	Repealed	Ch.103 - 324
41-2808	Repealed	Ch.103 - 324
41-2809	Amended	Ch.103 - 324
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41-2811	Repealed	Ch.103 - 324
41-2812	Repealed	Ch.103 - 324
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54-5021	New Section Added	Ch.276 - 740
54-5022	New Section Added	Ch.276 - 740
54-5023	New Section Added	Ch.276 - 740
54-5024	New Section Added	Ch.276 - 740

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56-203D	Referred to	Ch.288 - 779
56-236	New Section Added	Ch.308 - 845
56-237	New Section Added	Ch.308 - 845
56-238	New Section Added	Ch.308 - 845
56-239	New Section Added	Ch.308 - 846
56-240	New Section Added	Ch.308 - 846
56-241	New Section Added	Ch.308 - 847
56-242	New Section Added	Ch.308 - 848
56-1001	Amended	Ch.240 - 620
56-1003	Amended	Ch.240 - 620

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56-1008 Referred to .....Ch.161 - 455
56-1009 Referred to .....Ch.161 - 455
56-1010 Referred to .....Ch.161 - 455
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57-127 Referred to .....Ch. 82 - 258
57-726 Repealed .....Ch. 32 - 117
57-728 Amended .....Ch.269 - 719
57-813 Referred to .....Ch.183 - 498
57-814 Referred to .....SCR117 -1038
57-814 Referred to .....Ch.341 - 919
57-1108 Referred to .....Ch.341 - 918
57-1108 Referred to .....Ch.362 - 967
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57-1702 Referred to .....Ch.358 - 956
57-1702 Referred to .....Ch.362 - 968
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58-133 Amended .....Ch.230 - 590
58-307 Amended .....Ch.295 - 789
58-307 Amended .....Ch.234 - 599
58-1408 Amended .....Ch. 32 - 133
58-1415 Amended .....Ch. 32 - 134
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59-509 Referred to .....Ch. 96 - 290
59-509 Referred to .....Ch.231 - 591
59-509 Referred to .....Ch.276 - 736
59-513 Amended .....Ch.305 - 840
59-1014 Referred to .....Ch.276 - 741
59-1105 Amended .....Ch. 32 - 135
59-1108 Amended .....Ch. 32 - 136
59-1302 Referred to .....Ch. 56 - 200
59-1311 Referred to .....Ch.174 - 483
59-1361A New Section Added .....Ch.238 - 614
59-1603 Amended .....Ch.168 - 477
TITLE 60
60-106 Referred to .....Ch. 31 - 115
TITLE 61
61-617A Amended .....Ch. 41 - 162
61-1008 Amended .....Ch. 32 - 136
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63-115 Amended .....Ch. 30 - 113
63-301A Amended .....Ch. 16 - 64
63-301A Amended .....Ch. 8 - 15
63-302 Referred to .....Ch.345 - 924
63-314 Amended .....Ch. 34 - 152
63-317 Amended .....Ch.364 - 972
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63-404 Referred to .....Ch.345 - 924
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63-502 Amended .....Ch.266 - 704
63-511 Amended .....Ch.266 - 704
63-602A Amended .....Ch. 8 - 16

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63-602E	Amended	Ch.222 - 574
63-602FF	Amended	Ch. 16 - 65
63-602FF	Redesignated 63-602GG	Ch. 16 - 65
63-602GG	Redesignated from 63-602FF	Ch. 16 - 65
63-802	Referred to	Ch.339 - 914
63-802	Referred to	Ch.363 - 970
63-804	Referred to	Ch.363 - 970
63-803	Amended	Ch. 8 - 17
63-2412	Referred to	Ch.325 - 895
63-2427A	Amended	Ch. 96 - 310
63-2427B	Amended	Ch. 96 - 311
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Ch.25	Referred to	Ch.273 - 730
63-2506	Amended	Ch.362 - 966
63-2506	Referred to	Ch.376 -1008
63-2509	Amended	Ch.362 - 966
63-2513	Referred to	Ch. 33 - 151
63-2520	Amended	Ch.362 - 967
63-2522A	Referred to	Ch.376 -1008
63-2531	New Section Added	Ch.362 - 967
63-2601	Repealed	Ch.363 - 969
63-2601	New Section Added	Ch.363 - 969
63-2602	Repealed	Ch.363 - 969
63-2602	New Section Added	Ch.363 - 969
63-2603	Repealed	Ch.363 - 969
63-2603	New Section Added	Ch.363 - 970
63-2604	Repealed	Ch.363 - 969
63-2604	New Section Added	Ch.363 - 970
63-2605	Repealed	Ch.363 - 969
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63-2608	Repealed	Ch.363 - 969
63-3004	Amended	Ch.350 - 937
63-3022	Amended	Ch. 6 - 11
63-3022	Amended	Ch. 10 - 22
63-3022O	New Section Added	Ch.350 - 938
63-3022P	Amended	Ch. 10 - 24
63-3024	Amended	Ch. 10 - 25
63-3029B	Amended	Ch.345 - 923
63-3029E	Amended	Ch. 10 - 26
63-3029F	Amended	Ch. 10 - 27
63-3029I	Amended	Ch. 89 - 270
63-3029J	Amended	Ch. 89 - 273
63-3035	Amended	Ch.296 - 802
63-3042	Amended	Ch. 10 - 27
63-3045	Referred to	Ch. 11 - 29
63-3045	Referred to	Ch.381 -1017
63-3057	Amended	Ch. 81 - 257
63-3077A	Referred to	Ch.288 - 779
63-3201	Referred to	Ch.328 - 902
63-3202	Amended	Ch. 32 - 137

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63-3203 Referred to .....Ch.328 - 902
63-3204 Referred to .....Ch.328 - 902
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63-3619 Repealed .....Ch.318 - 876
63-3619 Amended .....Ch.318 - 870
63-3619 New Section Added .....Ch.318 - 876
63-3619 Referred to .....Ch.381 -1017
63-3620 Amended .....Ch. 9 - 19
63-3621 Amended .....Ch.318 - 871
63-3621 Repealed .....Ch.318 - 876
63-3621 New Section Added .....Ch.318 - 877
63-3621 Referred to .....Ch.381 -1017
63-3622GG Amended .....Ch. 9 - 21
63-3622O Amended .....Ch. 16 - 67
63-3622PP New Section Added .....Ch.369 - 979
63-3622R Amended .....Ch. 9 - 20
63-3622R Amended .....Ch. 87 - 267
63-3627 Amended .....Ch. 7 - 14
63-3634 Referred to .....Ch.381 -1017
63-3635 Referred to .....Ch.381 -1017
63-3638 Repealed .....Ch.318 - 876
63-3638 New Section Added .....Ch.318 - 879
63-3638 Amended .....Ch.318 - 873
63-3640 New Section Added .....Ch.381 -1017
63-3709 Referred to .....Ch.379 -1012
63-3812 Amended .....Ch.266 - 705
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65-107 Amended .....Ch.369 - 981
65-202 Amended .....Ch. 42 - 164
65-202 Amended .....Ch. 53 - 195
65-301 Amended .....Ch. 26 - 95
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66-118 Amended .....Ch. 32 - 138
66-317 Amended .....Ch.249 - 643
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67-412 Amended .....Ch. 32 - 139
67-429B New Section Added .....Prop 1 -1065
67-429C New Section Added .....Prop 1 -1065
67-432 Amended .....Ch.252 - 652
67-451 Referred to .....Ch.172 - 481
67-451 Referred to .....Ch.361 - 965
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67-509 Referred to .....HCR 6 -1045
67-818 Amended .....Ch.129 - 382
67-818 Referred to .....Ch.302 - 831
67-904 Referred to .....HCR 7 -1047
67-916 Amended .....Ch. 48 - 188
67-1001 Amended .....Ch. 4 - 7
67-1001A New Section Added .....Ch. 4 - 9

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67-1024	Amended	Ch. 32 - 141
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67-1102	Amended	Ch. 32 - 141
67-1103	Amended	Ch. 32 - 142
67-1209	Amended	Ch. 32 - 142
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67-1223	New Section Added	Ch.369 - 980
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67-1610	Amended	Ch. 32 - 142
67-1611	Referred to	Ch.379 -1012
67-1801	Referred to	Ch.341 - 918
67-1803	Amended	Ch. 1 - 3
67-2024	Amended	Ch. 31 - 114
67-2024A	New Section Added	Ch. 31 - 114
67-2028	Amended	Ch.238 - 615
67-2028	Repealed	Ch.238 - 617
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67-2345	Amended	Ch.164 - 466
67-2351	Repealed	Ch.156 - 442
67-2352	Repealed	Ch.156 - 442
67-2353	Repealed	Ch.156 - 442
67-2354	Repealed	Ch.156 - 442
67-2355	Repealed	Ch.156 - 442
67-2356	Repealed	Ch.156 - 442
67-2357	Repealed	Ch.156 - 442
67-2358	New Section Added	Ch.245 - 636
67-2601	Amended	Ch.201 - 540
67-2602	Amended	Ch.201 - 542
67-2614	Amended	Ch. 21 - 91
67-2614	Referred to	Ch.201 - 537
67-2614	Referred to	Ch.225 - 581
67-3511	Referred to	Ch.180 - 489
67-3512	Referred to	Ch.361 - 965
67-3520	New Section Added	Ch.362 - 968
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67-3610	Amended	Ch. 32 - 142
67-4212	Amended	Ch.278 - 746
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67-5220	Referred to	Ch.351 - 938
67-5221	Referred to	Ch.351 - 938
67-5222	Referred to	Ch.290 - 788
67-5222	Referred to	Ch.351 - 938
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67-5224	Referred to	Ch.351 - 938
67-5225	Referred to	Ch.351 - 938
67-5226	Amended	Ch. 22 - 92
67-5226	Referred to	Ch.351 - 938
67-5227	Referred to	Ch.351 - 938
67-5228	Referred to	Ch.351 - 938
67-5229	Referred to	Ch.351 - 938
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67-5292	Referred to	Ch.309 - 850
67-5309C	Amended	Ch.168 - 476
67-5402	Amended	Ch.127 - 378
67-5602	Amended	Ch. 18 - 70
67-5732A	Amended	Ch. 31 - 115
67-5776	Referred to	Ch.341 - 919
67-6402	Amended	Ch.349 - 933
67-6409	Amended	Ch.349 - 933
67-6410	Amended	Ch.349 - 935
67-6410	Referred to	HCR 30 -1061
67-6411	Amended	Ch.349 - 935
67-6423	Amended	Ch.349 - 936
67-6504	Amended	Ch. 84 - 259
67-6511	Amended	Ch.142 - 411
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67-6513	Amended	Ch.142 - 414
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67-6535	Amended	Ch.142 - 416
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67-6605	Amended	Ch. 97 - 314
67-6611	Amended	Ch. 20 - 76
67-7439	Referred to	Ch.376 -1008
67-7077	Amended	Ch.232 - 592
67-7101	Amended	Ch. 87 - 268
67-7103	Amended	Ch.258 - 680
67-7104	Amended	Ch.258 - 681
67-7129	Amended	Ch. 92 - 278
67-7409	Amended	Ch. 32 - 143
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67-7709	Amended	Ch.301 - 828
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67-8002 Amended .....Ch.141 - 409
67-8003 Amended .....Ch.141 - 409
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67-8305 Amended .....Ch. 32 - 144
67-8705 Amended .....Ch. 93 - 278
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69-202 Referred to .....Ch.149 - 428
69-202 Referred to .....Ch.150 - 432
69-208 Amended .....Ch.150 - 430
69-208A Amended .....Ch.150 - 432
69-209 Amended .....Ch.150 - 433
69-230 Amended .....Ch.150 - 433
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69-511 Amended .....Ch.149 - 429
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72-1706 Amended .....Ch.233 - 595
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72-1710 Amended .....Ch.233 - 597
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72-1715 Amended .....Ch.233 - 598
72-1716 Amended .....Ch.233 - 598
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58.01.01.605	Referred to	HCR 25 -1057
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58.01.01.611	Referred to	HCR 25 -1057
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58.01.02	Referred to	HCR 22 -1056
58.01.03	Referred to	HCR 16 -1053
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16.03.09	Referred to	SCR110 -1036
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22.01.03	Referred to	SCR109 -1035
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25.01.01.003.02	Referred to	HCR 12 -1052
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26.01.20.101.04	Referred to	HCR 18 -1055
26.01.20.200.01	Referred to	HCR 18 -1055
26.01.20.250.01	Referred to	HCR 19 -1055
26.01.20.250.02	Referred to	HCR 19 -1055
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27.01.01	Referred to	SCR109 -1035

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