GENERAL LAWS

OF THE

STATE OF IDAHO

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

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

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BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 229
(S.B. No. 1426)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 2005; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:				
FROM:				
General Fund	$10,534,000	$ 5,952,900		$16,486,900
Cooperative Welfare Fund (Federal)	7,128,600	15,650,200		22,778,800
Cooperative Welfare Fund (Dedicated)	143,000	358,300		501,300
TOTAL	$17,805,600	$21,961,400		$39,767,000
II. INDEPENDENT COMMISSIONS AND COUNCILS:				
A. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
General Fund	$ 12,500			$ 12,500
Domestic Violence Project Fund	134,700	$ 100,800	$ 168,600	404,100
Cooperative Welfare Fund (Federal)	33,600	74,500	2,668,200	2,776,300
Cooperative Welfare Fund (Dedicated)		21,000		21,000
TOTAL	$ 180,800	$ 196,300	$2,836,800	$ 3,213,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
General Fund	$ 75,900	$ 1,100	$ 8,400	$ 85,400
Cooperative Welfare Fund (Federal)	221,300	194,500	31,600	447,400
Cooperative Welfare Fund (Dedicated)		15,000		15,000
TOTAL	$ 297,200	$ 210,600	$ 40,000	$ 547,800
C. COUNCIL ON THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	$ 115,100	$ 21,400		$ 136,500
Cooperative Welfare Fund (Dedicated)		7,500		7,500
Cooperative Welfare Fund (Federal)	19,500	43,500		63,000
TOTAL	$ 134,600	$ 72,400		$ 207,000
DIVISION TOTAL	$ 612,600	$ 479,300	$2,876,800	$ 3,968,700
GRAND TOTAL	$18,418,200	$22,440,700	$2,876,800	$43,735,700

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. 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 2004, to be used for nonrecurring expenditures only for the period July 1, 2004, through June 30, 2005. 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, 2004, through June 30, 2005.

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 ninety-three and sixty-six

hundredths (2,893.66) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2004.

CHAPTER 230
(S.B. No. 1427)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2005; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND SUPERSEDING THE PROVISIONS OF SECTION 57-1702, IDAHO CODE.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Public Health Services the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:				
FROM:				
General Fund	$ 1,512,900	$ 1,906,600	$ 1,127,400	$ 4,546,900
Cancer Control Fund	50,100	93,200	258,400	401,700
Central Tumor Registry Fund			182,700	182,700
Food Safety Fund			638,000	638,000
Cooperative Welfare Fund (Federal)	4,781,800	9,198,300	29,235,700	43,215,800
Cooperative Welfare Fund (Dedicated)	1,083,700	676,400	6,504,000	8,264,100
TOTAL	$ 7,428,500	$11,874,500	$37,946,200	$57,249,200
II. EMERGENCY MEDICAL SERVICES:				
FROM:				
General Fund	$ 185,600	$ 104,400	$ 63,100	$ 353,100
Emergency Medical Services Fund I & II	1,116,000	764,300	192,600	2,072,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Emergency Medical Services Fund III			1,205,400	1,205,400
Cooperative Welfare Fund (Dedicated)	172,400	33,500	150,000	355,900
Cooperative Welfare Fund (Federal)	336,600	858,800	400,000	1,595,400
TOTAL	$ 1,810,600	$ 1,761,000	$ 2,011,100	$ 5,582,700
III. LABORATORY SERVICES:				
FROM:				
General Fund	$ 1,529,200	$ 568,200		$ 2,097,400
Cooperative Welfare Fund (Dedicated)	575,800	299,300		875,100
Cooperative Welfare Fund (Federal)	638,100	1,693,300		2,331,400
TOTAL	$ 2,743,100	$ 2,560,800		$ 5,303,900
GRAND TOTAL	$11,982,200	$16,196,300	$39,957,300	$68,135,800

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from 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 2004, to be used for nonrecurring expenditures only for the period July 1, 2004, through June 30, 2005. 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, 2004, through June 30, 2005.

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.

Approved March 23, 2004.

CHAPTER 231
(S.B. No. 1438)

AN ACT

RELATING TO THE IDAHO COMMISSION ON THE ARTS; AMENDING SECTION 67-5601, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY; AMENDING SECTION 67-5602, IDAHO CODE, TO STRIKE RESTRICTIVE LANGUAGE; AMENDING SECTION 67-5604, IDAHO CODE, TO PROVIDE ADMINISTRATIVE AUTHORITY IN THE EXECUTIVE DIRECTOR; AMENDING SECTION 67-5605, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS AND TO PROVIDE FOR RULES; AMENDING SECTION 67-5606, IDAHO CODE, TO ADD SERVICES AUTHORIZED; AMENDING SECTION 67-5607, IDAHO CODE, TO CORRECT REFERENCE TO THE NATIONAL ENDOWMENT FOR THE ARTS AND TO PROVIDE THAT ALL FUNDS IN THE CUSTODY OR CONTROL OF THE COMMISSION ON THE ARTS, ALL GIFTS, CONTRIBUTIONS AND BEQUESTS OF FUNDS TO THE COMMISSION, AND ANY FUNDS RECEIVED FROM THE NATIONAL ENDOWMENT FOR THE ARTS BY THE COMMISSION, ARE HEREBY DECLARED EXEMPT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND REPEALING SECTION 67-5608, IDAHO CODE.

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

SECTION 1. That Section 67-5601, Idaho Code, be, and the same is hereby amended to read as follows:

67-5601. DECLARATION OF POLICY. It is hereby found that there is an increasing appreciation and interest in the practice and enjoyment of the arts, that our citizens are becoming aware, due to increasing leisure time, of a broader and richer life through artistic endeavors, that there is need to improve the cultural environment of our state, ~~for our young--people,~~ and that growth of our industry, commerce, ~~and~~ agriculture, and quality of life will be enhanced by cultural development.

It is hereby declared to be the policy of the state to encourage the development of our artistic and cultural life and to join with all persons and institutions concerned with the arts to insure that the role of the arts in our communities will grow and play an ever more significant part in the welfare and educational experience of our citizens.

SECTION 2. That Section 67-5602, Idaho Code, be, and the same is hereby amended to read as follows:

67-5602. COMMISSION ON THE ARTS -- CREATION -- MEMBERSHIP. There is hereby created and established within the office of the governor a state commission, to be known as the Idaho commission on the arts, to consist of thirteen (13) members, representative of the public, Idaho's ethnic and cultural diversity, the various fields of the ~~performing and fine~~ arts, and all geographic areas of our state. Each member shall be appointed by the governor from among citizens of the state who are widely known for their interest, competence, and experience in the ~~performing--and--fine~~ arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups concerned with or engaged in production or presentation of the ~~performing and fine~~ arts generally.

SECTION 3. That Section 67-5604, Idaho Code, be, and the same is hereby amended to read as follows:

67-5604. EMPLOYEES. The commission shall employ, and at pleasure remove an executive director. The executive director shall be the chief executive officer of the commission. The director may, subject to the approval of the commission, employ and remove any consultants, experts or other employees as may be needed. The ~~chairman~~ executive director shall~~, subject to the approval of the commission,~~ set the compensation for all ~~exempt~~ nonclassified employees~~,~~ within the amounts made available for such purposes.

SECTION 4. That Section 67-5605, Idaho Code, be, and the same is hereby amended to read as follows:

67-5605. DUTIES OF COMMISSION. The duties of the commission shall be:

(1) To stimulate and encourage throughout the state the study and presentation of the ~~performing--and-fine~~ arts and public interest and participation therein;

(2) To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, creative writing, painting, sculpture, architecture, and ~~allied~~ folk and traditional arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

(4) To encourage and assist freedom of artistic expression essential for the well-being of the arts;

(5) To ~~support-and-strengthen-the-interest-in-and-the-growth-of-the humanities~~ establish such rules in compliance with chapter 52, title 67, Idaho Code, as may be necessary to discharge the duties of the commission.

SECTION 5. That Section 67-5606, Idaho Code, be, and the same is hereby amended to read as follows:

67-5606. HEARINGS -- CONTRACTS -- ACCEPTANCE OF GIFTS AND BEQUESTS. The commission is hereby authorized and empowered to hold public and private hearings, to enter into contracts, within the limit of funds available therefor, with individuals, organizations and institutions for services furthering the educational and cultural objectives of the commission's programs; to enter into contracts, within the limit of funds available therefor, with local and regional associations for cooperative endeavors furthering the educational and cultural objectives of the commission's programs; to accept gifts, contributions, and bequests of funds from individuals, foundations, corporations, and other organizations or institutions, for the purpose of furthering the educational and cultural objectives of the commission's programs; to make and sign

any agreements and to do and perform any acts that may be necessary to carry out the purposes of the act.

SECTION 6. That Section 67-5607, Idaho Code, be, and the same is hereby amended to read as follows:

67-5607. AGENCY TO HANDLE FUNDS FROM NATIONAL ~~FOUNDATION~~ ENDOWMENT. The commission is the official agency of this state to receive and disburse any funds made available by the national ~~foundation--on~~ endowment for the arts. ~~and humanities.~~

All funds in the custody or control of the commission on the arts, all gifts, contributions and bequests of funds to the commission, and any funds received from the national endowment for the arts by the commission, are hereby declared exempt from the provisions of the standard appropriations act of 1945.

SECTION 7. That Section 67-5608, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 2004.

CHAPTER 232
(S.B. No. 1446)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO FURTHER DEFINE "MILITARY SERVICE"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more

for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city or county when the city or county has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or

credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninetv (90) davs after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, ~~however, for the purposes of this chapter, military service SHALL NOT~~ if a member fails to again become an employee due to being killed while in active duty service, the member shall be entitled to military service through the date of death. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) ~~Any period which commences more than ninety (90) days after the person--ceases--to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety--(90) day requirements are waived by the board due to circumstances beyond the employee's control; or~~

~~(c)~~ Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no

deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

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

Approved March 23, 2004.

CHAPTER 233
(H.B. No. 473, As Amended in the Senate)

AN ACT

RELATING TO BIDS ON THE STATE HIGHWAY SYSTEM; AMENDING SECTION 40-902, IDAHO CODE, TO PROVIDE AN ADMINISTRATIVE REMEDY FOR A LOSING BIDDER TO CONTEST A CONTRACT OFFER, TO PROVIDE FOR APPOINTMENT OF A HEARING OFFICER BY THE CHIEF ENGINEER UPON RECEIPT OF AN APPLICATION, TO PROVIDE A CONTESTED CASE HEARING, TO PROVIDE FOR ENTERING A FINAL ORDER, TO AUTHORIZE THE CHIEF ENGINEER TO AWARD THE CONTRACT TO THE BIDDER DETERMINED IN THE FINAL ORDER TO BE THE LOWEST RESPONSIBLE BIDDER AT A TIME AND IN A MANNER WHICH SHALL BE IN THE BEST INTEREST OF THE STATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 40-902, Idaho Code, be, and the same is hereby amended to read as follows:

40-902. BIDS -- STATE HIGHWAY SYSTEM. (1) Whenever work on the state highway system is let by contract, sealed bids must be called for by public advertisement in at least two (2) consecutive weekly issues in a weekly newspaper or five (5) issues in a daily newspaper, having a general circulation in the county or one (1) of the counties, where the work is to be done.

(2) Each bid must be accompanied by a cashier's check or a certified check in favor of the department on some bank in the state of Idaho, or by a bidder's bond, for the sum of five ~~per cent~~ percent (5%) of the amount of the bid, to be forfeited if the bidder, upon acceptance

of his bid, fails or refuses to enter into a contract within fifteen (15) days after the presentation of the contract by the department to him for execution and to furnish the required bond. Checks and bonds of unsuccessful bidders shall be returned immediately after the contract is awarded.

(3) Bids shall be opened ~~publically~~ publicly at the time and place specified in the advertisement and the contract let to the lowest ~~and best~~ responsible bidder, but the department has the right to reject any and all bids, or to let the contract for a part or all of the work.

(4) If no satisfactory bid is received, new bids may be called for, or the work may be performed by day labor, or as may be determined by the department.

(5) A bidder who did not submit the lowest responsible bid as determined by the department may within five (5) calendar days of bid opening file a written application to challenge the department's determination of the lowest responsible bidder and apply to the department's chief engineer for the appointment of a hearing officer to hold a contested case hearing. The application shall set forth in specific terms the reasons why the department's decision is thought to be erroneous. Upon receipt of an application, the chief engineer shall appoint a hearing officer with the authority to conduct a contested case hearing in accordance with the provisions of chapter 52, title 67, Idaho Code. Upon receipt from the hearing officer of findings of fact, conclusions of law and a recommended order, the chief engineer shall review the same and enter a final order sustaining or reversing the decision of the department on the selection of the lowest responsible bidder. Following entry of the final order, the chief engineer shall have the authority to award the contract to the bidder determined in the final order to be the lowest responsible bidder at a time and in a manner which shall be in the best interest of the state.

Approved March 23, 2004.

CHAPTER 234
(H.B. No. 474)

AN ACT

RELATING TO MOTOR CARRIER REGISTRATION AND AUDIT GUIDELINES; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-439, IDAHO CODE, TO TRANSFER MOTOR CARRIER AUDIT FUNCTIONS FROM THE IDAHO TRANSPORTATION DEPARTMENT TO THE STATE TAX COMMISSION, TO REMOVE RULEMAKING AUTHORITY OF THE IDAHO TRANSPORTATION DEPARTMENT WITH RESPECT TO AUDIT PROCEDURES, TO AUTHORIZE THE STATE TAX COMMISSION TO GENERATE A NOTICE OF DEFICIENCY AND TO DEVELOP A METHODOLOGY TO CALCULATE SUCH A NOTICE, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL PROVIDE THE CARRIER WITH NOTICE AND OPPORTUNITY TO USE THE APPEALS PROCESS PRIOR TO SUSPENSION OF REGISTRATION, TO PROVIDE THAT AN APPEAL OF A NOTICE OF DEFICIENCY SHALL BE IN ACCORDANCE WITH CERTAIN ESTABLISHED PROCEDURES OF THE STATE TAX COMMISSION, AND TO PROVIDE THAT THE DEPARTMENT SHALL NOT REREGISTER OR PERMIT A VEHICLE TO OPERATE ON A TRIP PERMIT UNTIL ALL AUDIT ASSESSMENTS, PENALTIES AND INTEREST HAVE BEEN PAID.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license ... $8.00

(b) For issuing every Idaho certificate of title $8.00

(c) For furnishing a duplicate copy of any Idaho certificate of title $8.00

(d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00

(e) For recording a transitional ownership document, in addition to any other fee required by this section $15.00

(f) For furnishing a replacement of any receipt of registration $3.00

(g) For furnishing copies of registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record $4.00

Additional contractor fee, not to exceed $4.00

(h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour $10.00

(i) Placing "stop" cards in vehicle registration or title files, each $12.00

(j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection $3.00

(l) For all replacement registration stickers, each $1.00

(m) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $10.00

(n) For all sample license plates, each $12.00

(o) For filing release of liability statements $2.00

(p) For safety and insurance programs for each vehicle operated by a motor carrier $2.00

A lesser amount may be set by rule of the board.

(3) The fees required in this section shall not apply when the ser-

vice is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (a) The department shall pay three dollars ($3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, and four dollars ($4.00) as provided in subsection (2)(g) of this section, to the county assessor or sheriff of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway fund.

(b) The fee collected under subsection (2)(k) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the Idaho state police if conducted by the Idaho state police or in the state highway fund if conducted by the department.

(c) The fee collected under subsection (2)(p) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway fund. The director and the director of the Idaho state police shall jointly determine the amount to be transferred from the state highway fund to the law enforcement fund for motor carrier safety programs conducted by the Idaho state police pursuant to the provisions of section 67-2901A, Idaho Code.

(6) The department as often as practicable may provide to law enforcement agencies the record of suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Ada county, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including insufficient fund checks.

(11) The department or its authorized agents have the authority to request any person~~,~~ to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier requests revocation, or whenever an interstate carrier's federal operating authority has been revoked;

(e) For failure of the owner or operator to file the reports required or nonpayment of audit assessments or fees assessed against the owner by the department or the state tax commission pursuant to audit under the provisions of section 49-439, Idaho Code;

(f) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 USC section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (f) unless:

(i) The city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and

(ii) The city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays.

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees are

due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills tests without compulsion except as provided by law.

(17) The department shall employ expert and special help as needed in the department.

(18) The department shall compile accident statistics and disseminate information relating to those statistics.

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission, except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs, except in cases where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic

approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

SECTION 2. That Section 49-439, Idaho Code, be, and the same is hereby amended to read as follows:

49-439. AUDIT GUIDELINES. (1) The state tax commission on behalf of the department may audit an owner of motor vehicles subject to fees pursuant to this chapter. ~~once every four (4) years unless probable cause, as defined by department rule, exists that the owner has not paid fees due pursuant to this chapter or has underreported or underpaid fees due pursuant to this chapter. An owner selected for audit more frequently than the four (4) years may have the audit selection reviewed for determination of the absence of probable cause by the district court of the county where the owner resides or where the owner's place of business is located or in Ada County, at the discretion of the owner. The department shall promulgate rules outlining its procedures for audit selection,~~

~~assignment and inventory. Any owner of motor vehicles who has been subjected to an audit by the department that has not been in compliance with the provisions of this section or rules promulgated pursuant thereto may recover attorney's fees and costs as may be determined by a court or may receive his attorney's fees and costs if granted, all or in part, by the director all in accordance with section 12-117, Idaho Code.~~

(2) Every owner whose fees are computed as specified in section 49-434 or 49-435, Idaho Code, except those registering under subsection (8)(c) of section 49-434, Idaho Code, for over fifty thousand (50,000) miles driven, shall maintain records and permit the ~~department~~ state tax commission to inspect the records upon request to substantiate that the actual miles traveled, if using a mileage schedule in subsection (8)(c) of section 49-434, Idaho Code, are less than the maximum mileage schedule.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the ~~department~~ state tax commission for reasonable expenses incurred by the ~~department~~ state tax commission in ~~making~~ conducting audits of those records and accounts at the out-of-state location. The owner or the ~~department~~ state tax commission may request that the records be presented at a place within the state designated by the ~~department~~ state tax commission. The records must be presented by a representative of the owner who is familiar with the records and who is responsible for the safekeeping of the records.

(4) Every owner is required to maintain records for the current year and the three (3) years immediately preceding. If an assessment has been made, such ~~fees~~ audit assessment may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (7) of this section.

(5) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under section 49-434 or 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the ~~department~~ state tax commission may ~~assess a fee~~ generate a notice of deficiency based on an estimate of the operation. The ~~department~~ state tax commission shall ~~promulgate rules specifying the~~ develop a methodology to be used to ~~assess a fee~~ calculate a notice of deficiency based on an estimate of the operation. That methodology shall be in accordance with the international registration plan and international fuel tax agreement guidelines.

(6) The state tax commission shall provide the carrier with notice of deficiency and the opportunity to use the appeals process prior to a suspension. An owner may contest a notice of deficiency made by the state tax commission within thirty (30) days from receipt of the notice by filing an appeal in accordance with sections 63-3045, 63-3045B, 63-3047, 63-3048 and 63-3049, Idaho Code.

(7) An owner, as identified by the state tax commission, who fails to pay any ~~fees~~ audit assessment due is subject to suspension of vehicle registrations. A reinstatement fee of forty dollars ($40.00) shall be imposed in addition to a penalty of ten percent (10%) of the amount of ~~fee~~ audit assessment determined to be due, plus interest of one percent (1%) of the amount of the ~~fee~~ audit assessment due for each month or fraction thereof after the original registration fee became due. An

order suspending the vehicle registration shall be mailed to the owner by the department. The suspension shall be canceled if the payment due is made, plus penalty and interest, along with ~~a~~ the reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. ~~The department may remit all or any part of the penalty and interest if satisfied that the delay was excusable. The department shall promulgate rules specifying when the penalty may be held in abeyance or be forgiven.~~ The reinstatement fees shall be deposited to the state highway account. ~~The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is subsequently canceled pursuant to the appeal, the reinstatement fee shall not be due~~ The department shall not reregister or permit a vehicle to operate on a trip permit until all audit assessments, penalties and interest have been paid.

~~(7) An owner may contest an assessment made by the department within thirty (30) days from receipt of the assessment by filing an appeal with the department. Upon receipt of an appeal, the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal by the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing and the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law, the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.~~

Approved March 23, 2004.

CHAPTER 235
(H.B. No. 475)

AN ACT

RELATING TO FUELS TAX AND REFUNDS; AMENDING SECTION 63-2401, IDAHO CODE, TO EXPAND THE DEFINITION OF "RECREATIONAL VEHICLE" TO INCLUDE ALL-TERRAIN VEHICLES; AND AMENDING SECTION 63-2410, IDAHO CODE, TO PROVIDE THAT GASOLINE USED TO PROPEL ALL-TERRAIN VEHICLES NOT REQUIRED TO BE REGISTERED UNDER MOTOR VEHICLE LAW OR UNDER RECREATIONAL ACTIVITIES LAW IS EXEMPT FROM FUEL TAX AND TO PROVIDE FOR REFUNDS PAYABLE ON FUEL USED IN ALL-TERRAIN VEHICLES NOT REQUIRED TO BE REGISTERED UNDER MOTOR VEHICLE LAW OR UNDER RECREATIONAL ACTIVITIES LAW.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel or mixture of fuels that is:

(a) Derived in whole or in part from agricultural products or animal fats or the wastes of such products; and

(b) Suitable for use as fuel in diesel engines.

(3) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(7) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(8) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(9) "Gasohol" means gasoline containing a mixture of no more than ten percent (10%) blend anhydrous ethanol.

(10) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(11) "Highways" means every place of whatever nature open to the use

of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(12) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(13) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(14) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(15) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(16) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(17) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(18) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(19) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; ~~and~~ any recreational vehicle as defined in section 49-119, Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho Code.

(20) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(21) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(22) "Special fuels dealer" means "distributor" under subsection (6) of this section.

(23) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(24) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who shall purchase fifty (50) gallons or more, and use the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, shall be entitled to refund when a claim is presented to the commission in the manner required in subsection (5)(c) of this section. Claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who shall purchase within any one (1) calendar year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

(a) Operating stationary gasoline engines;

(b) Propelling equipment or vehicles which are not licensed to be operated on a highway; ~~and~~

(c) Operating commercial motor boats; and

(d) Propelling an all-terrain vehicle that is not required to be registered pursuant to chapter 4, title 49, Idaho Code, or chapter 71, title 67, Idaho Code.

(3) No refund of gasoline tax shall be allowed for any gasoline which is:

(a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence; or

(b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section 63-2405, Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section 63-2408, Idaho Code; or

(c) ~~Gasoline u~~Used in recreational vehicles except all-terrain vehicles exempted as provided in subsection (2)(d) of this section; or

(d) ~~Gasoline u~~Used in noncommercial motor boats or in boats operated by a governmental entity.

(4) Any licensed distributor paying the gasoline tax and/or aircraft engine fuel tax to the state of Idaho erroneously shall be allowed a credit or refund of the amount of tax paid by him if a written claim

for refund is filed with the commission within three (3) years after the date those taxes were paid. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from the date taxes to be refunded or credited were paid to the commission.

(5) (a) All claims for refund of gasoline taxes arising under subsection (1), (2) or (3)(b) of this section shall be filed in conjunction with the claimant's income tax return due pursuant to chapter 30, title 63, Idaho Code. The gasoline tax refund claimed shall be tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due shall be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by rule, refund claims may be submitted and paid on a monthly basis and reconciled on the income tax return when it is filed.

(b) If a claimant is not required to file an income tax return, the refund claim shall be made on forms and in the manner as the commission may provide. The claim shall relate to taxes paid on gasoline actually purchased in the calendar year preceding the filing and the claim shall be due on or before April 15 following the close of the calendar year.

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed in the manner prescribed in section 63-3072, Idaho Code. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from sixty (60) days following the later of the due date of the claimed refund under subsection (5)(a) or (5)(b) of this section or the filing of the claim. No refund shall be paid under this section unless a written claim for such refund has been filed with the commission within three (3) years after the due date, including extensions, of the income tax return in regard to which the claim relates or the due date of the claim established in paragraph (b) of this subsection (5).

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-spaced carbon shall be used between the original and first duplicate.

(6) (a) Should the commission find that the claim contains errors, it may correct the claim and approve it as corrected, or the commission may require the claimant to file an amended claim. The commission may require any person who makes a claim for refund to furnish a statement under oath, giving his occupation, description of the machine or equipment in which the gasoline was used, the place where used and any other information as the commission may require. If the commission determines that any claim has been fraudulently presented, or is supported by an invoice or invoices fraudulently made or altered, or that any statement in the claim or affidavit is will-

fully false and made for the purpose of misleading, the commission may reject the claim in full. If the claim is rejected, the commission may suspend the claimant's right to any refund for purchases made during a period not to exceed one (1) year beginning with the date the rejected claim was filed, and it shall take all other action deemed appropriate.

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

(7) In the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit a duplicate copy of the invoice certified by the vendor, but payment based on the duplicate invoice shall not be made until one (1) year after the date on which the gasoline was purchased.

Approved March 23, 2004.

CHAPTER 236
(H.B. No. 482, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-416, IDAHO CODE, TO REVISE CERTAIN FEES.

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

SECTION 1. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	$ 29.00	$ 180.00
Hunting License	10.00	127.00
Fishing License	22.00	73.00
Sr. Combination License (65 and Older)	3.00	N/A
Sportsman's Pak License	99.50	N/A
Jr. Combination License	14.50	N/A
Jr. Hunting License	5.00	N/A
Jr. Mentored Hunting License	N/A	5.00
Youth Small Game License	5.00	5.00
Youth Hunter Education Graduate Hunting License	3.00	3.00
Jr. Fishing License	11.00	11.00
Disabled Combination License	3.00	N/A
Disabled Fishing License	3.00	N/A
Military Furlough Combination License	14.50	N/A
Military Furlough Fishing License	14.50	N/A
Small Game Hunting License	N/A	72.00
Daily Fishing (1st-day) License	9.00	9.00

License	Resident	Non-Resident
Consecutive Day Fishing License	4.00	4.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	27.00
Nongame Hunting License	N/A	25.00
(b) Sport Tags		
Deer Tag	$ 16.50	$ 233.50
Jr. or Sr. or Disabled American Veteran Deer Tag	8.25	N/A
Jr. Mentored Deer Tag	N/A	8.25
Elk Tag	27.00	337.00
Jr. or Sr. or Disabled American Veteran Elk Tag	13.50	N/A
Jr. Mentored Elk Tag	N/A	13.50
Bear Tag	9.00	233.50
Jr. or Sr. or Disabled American Veteran Bear Tag	4.50	N/A
Jr. Mentored Bear Tag	N/A	4.50
Turkey Tag	16.50	60.00
Jr. or Sr. or Disabled American Veteran Turkey Tag	8.25	N/A
Jr. Mentored Turkey Tag	N/A	8.25
Mountain Lion Tag	9.00	233.50
Antelope Tag	27.00	233.50
Moose Tag	150.00	1,500.00
Sheep Tag	150.00	1,500.00
Goat Tag	150.00	1,500.00
Sandhill Crane Tag	16.50	60.00
(c) Sport Permits		
Bear Baiting Permit	$ 10.00	$ 10.00
Hound Hunter Permit	10.00	127.00
WMA Pheasant Permit	20.00	20.00
Archery Permit	15.00	15.00
Muzzleloader Permit	15.00	15.00
Salmon Permit	10.00	10.00
Steelhead Permit	10.00	10.00
Federal Migratory Bird Harvest Info. Permit	0.00	0.00
Handicapped Archery Permit	0.00	0.00
2-Pole Fishing Permit	11.00	11.00
Controlled Hunt Permit	56.00	56.00
(d) Commercial		
Raptor Captive Breeding Permit	$ 60.00	$ 60.00
Falconry Permit	25.00	N/A
Falconry Capture Permit	N/A	127.00
Jr. Trapping License	5.00	N/A
Trapping License	25.00	250.00
Taxidermist-Fur Buyer License	35.00	125.00
Shooting Preserve Permit	300.00	N/A
Commercial Wildlife Farm License	125.00	N/A
Commercial Fishing License	100.00	200.00
Wholesale Steelhead License	150.00	150.00
Retail Steelhead Trout Buyer's License	30.00	30.00
(e) Commercial Tags		
Bobcat Tag (Not to exceed)	$ 7.50	$ 7.50
Lynx Tag (Not to exceed)	7.50	7.50

Beaver Tag (Not to exceed)	5.00	5.00
Net Tag	50.00	50.00
Crayfish/Minnow Tag	1.00	1.00
(f) Miscellaneous-Other Licenses		
Duplicate License	$ 5.00	$ 5.00
Shooting Preserve License	10.00	10.00
Captive Wolf License	20.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	$ 5.00	$ 5.00
Wild Bird Shooting Preserve Tag	5.00	5.00
(h) Miscellaneous-Other Permits		
Falconry In-State Transfer Permit	$ 5.00	$ N/A
Falconry Meet Permit	N/A	20.00
Private Park Permit	20.00	20.00
Wildlife Import Permit	20.00	20.00
Wildlife Export Permit	10.00	10.00
Wildlife Release Permit	10.00	10.00
Captive Wildlife Permit	20.00	20.00
Fishing Tournament Permit	20.00	20.00
Dog Field Trial Permit	30.00	30.00
Live Fish Transport Permit	20.00	20.00
Controlled Hunt Application Fee	~~5.00~~4.50	~~5.00~~4.50
Nursing Home Fishing Permit	30.00	N/A

Approved March 23, 2004.

CHAPTER 237
(H.B. No. 488)

AN ACT

RELATING TO THE STATE INSURANCE FUND; AMENDING SECTION 72-914, IDAHO CODE, TO PROVIDE THAT THE STATE INSURANCE FUND SHALL BE EXAMINED BY THE DEPARTMENT OF INSURANCE AT LEAST ONCE EVERY FIVE YEARS.

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

SECTION 1. That Section 72-914, Idaho Code, be, and the same is hereby amended to read as follows:

72-914. ACCOUNTS. The manager shall keep an account of the money paid in premiums by each of the several classes of employments, and the expense of administering the state insurance fund, and the disbursements on account of injuries and deaths of employees in each of said classes, including the setting up of reserves adequate to meet anticipated and unexpected losses and to carry the claims to maturity; and also an account of the money received from each individual employer; and of the amount disbursed from the state insurance fund for expenses, and on account of injuries and disablement and death of the employees of such employer, including the reserves so set up.

Examination of Fund: The state insurance fund shall be examined by the department of insurance at least once in ~~three~~ five (~~3~~5) years. For such purpose the director of the department of insurance shall appoint

as examiner one (1) or more competent persons not officers of or connected with any insurance corporation other than as policyholders. The examiner or examiners so appointed shall make a full and true report of such examination, verified under oath, and such report when completed shall be included in and made a part of any report required by law to be made by the fund to the governor of this state. At the direction of the director of the department of insurance, the costs of such examination shall be paid by the fund in accordance with section 41-228, Idaho Code.

The director of the department of insurance shall transmit to the governor a copy of the official examination of the state insurance fund immediately upon its completion by the examiner or examiners, and a copy of such examination report shall be filed in the department of insurance and be open to public inspection.

Approved March 23, 2004.

CHAPTER 238
(H.B. No. 495)

AN ACT

RELATING TO THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-210, IDAHO CODE, TO AUTHORIZE THE DIRECTOR TO SPECIFY THE PLACE AND MANNER OF FILING OF DOCUMENTS.

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

SECTION 1. That Section 41-210, Idaho Code, be, and the same is hereby amended to read as follows:

41-210. GENERAL POWERS, DUTIES. (1) The director shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.

(2) The director shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(3) The director may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(4) For any document required to be filed with the director or the department of insurance under the laws of this state, the director may specify the place and manner of filing of the document, including whether an electronic or paper filing is required or acceptable.

(5) The director shall have such additional powers and duties as may be provided by other laws of this state.

Approved March 23, 2004.

CHAPTER 239
(H.B. No. 499, As Amended)

AN ACT

RELATING TO DOMESTIC STOCK INSURERS; AMENDING SECTION 41-2826, IDAHO CODE, TO PROVIDE THAT DOMESTIC STOCK INSURERS MAY AMEND THEIR BYLAWS AS PROVIDED BY STATE LAW AND TO PROVIDE THAT NO SUCH AMENDMENT TO AN INSURER'S ARTICLES OF INCORPORATION SHALL BE EFFECTUATED UNTIL A FULLY EXECUTED COPY OF THE CERTIFICATE OF AMENDMENTS HAS BEEN FILED WITH AND APPROVED BY THE DIRECTOR.

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

SECTION 1. That Section 41-2826, Idaho Code, be, and the same is hereby amended to read as follows:

41-2826. AMENDMENT OF ARTICLES OF INCORPORATION -- STOCK INSURERS. (1) A domestic stock insurer may amend its articles of incorporation or bylaws for any lawful purpose through procedures prescribed by the statutes of this state as to business corporations in general, and by complying with the requirements of subsection (2) below.

(2) No such amendment to an insurer's articles of incorporation shall be effectuated until a fully executed copy of the certificate of amendments has been filed with the director, and has been approved by him. The director shall approve the amendment unless found by him not to be in compliance with law. At time of filing, the fee therefor shall be paid in the amount prescribed in section 41-401 (fee schedule).

Approved March 23, 2004.

CHAPTER 240
(H.B. No. 508, As Amended)

AN ACT

RELATING TO THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2008, IDAHO CODE, TO PROVIDE THAT THE ENDOWMENT FUND INVESTMENT BOARD AS ESTABLISHED IN CODE SHALL SELECT AND CONTRACT WITH INVESTMENT MANAGERS AT THE DIRECTION OF THE SUPREME COURT, TO REVISE THE INVESTMENT AUTHORITY RELATING TO THE JUDGES' RETIREMENT FUND, TO MAKE GRAMMATICAL CORRECTIONS AND TO PROVIDE THAT THE INVESTMENT BOARD MAY SELECT AND CONTRACT WITH BANKS AND TRUST COMPANIES AUTHORIZED TO DO BUSINESS IN IDAHO; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 1-2008, Idaho Code, be, and the same is hereby amended to read as follows:

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. (1) The endowment fund investment board established in section 57-718, Idaho Code, shall at the direction of the supreme court select and contract with ~~a minimum~~

~~of--one--(1)~~ investment managers to manage the investment of the judges' retirement fund. The investment manager~~(s)~~ shall, subject to the direction of the board, exert control over the funds as though the investment manager~~(s)~~ were the owner thereof~~,--subject-to-the-limitation~~ and are hereby authorized to invest the judges' retirement fund as hereinafter provided. ~~The--investment-manager(s)-is-hereby-authorized-to-invest-the judges'-retirement-fund-in-the-following-manner--and--in--the--following investments-or-securities-and-none-others:~~

~~(1)--Bonds,--notes--or-other-obligations-of-the-United-States-or-any agency-or-instrumentality-thereof.~~

~~(2)--Money-market-mutual-funds.~~

~~(3)--Bonds,-notes,-or-other-obligations-of-the-state--of--Idaho--and its--political--subdivisions,--or--bonds,-notes,-or-other-obligations-of other-states-and-their--political--subdivisions,--provided--such--bonds, notes,--or--other--obligations--or-the-issuing-agency-for-other-than-the state-of-Idaho-and-its-political-subdivisions-have,-at-the-time-of-their purchase,-an-AAA-rating-by-a-commonly-known-rating-service.~~

~~(4)--Bonds,-debentures-or-notes-of-any-corporation--organized,--controlled,--and-operating-within-the-United-States-which-have,-at-the-time of-their-purchase,-an-A-rating-or-higher-by-a-commonly-known-rating-service.~~

~~(5)--Corporate-obligations-designated-as-corporate-convertible--debt securities.~~

~~(6)--Obligations-secured-by-mortgages-constituting-a-first-lien-upon real--property--of-the-state-of-Idaho-which-are-fully-insured-or-guaranteed-as-to-the-payment-of-the-principal-by-the-government-of-the--United States-or-any-agency-thereof.~~

~~(7)--Time-certificates-of-deposit-and-savings-accounts.~~

~~(8)--Common-or-preferred-stocks-of-corporations.~~

~~(9)--Commercial-paper,-which-at-the-time-of-purchase,-is-rated-prime 1-by-moody's-investors-service-incorporated-or-is-rated-A-1-or-higher-by standard-and-poor's-corporation.~~

(a) Subject to the approval of the supreme court, the investment board shall formulate an investment policy governing the investment of judges' retirement funds. The policy shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such policy shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this chapter. Provided further, the supreme court may, in its sole discretion, limit any of the investments permitted by the investment policy.

(b) In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and securities of the fund, ~~the~~ investment manager~~(s)~~ shall also be governed by the prudent man investment act, sections 68-501 through 68-506, Idaho Code; provided, however, that the supreme court may in its sole discretion, limit the types, kinds and amounts of such investments.

(2) The investment board shall be responsible for assuring that the investment manager~~(s)~~ ~~complies~~ comply with this ~~act~~ section.

(3) The investment board, subject to the approval of the supreme court, is hereby authorized to select and contract with a bank or trust company ~~located~~ authorized to do business in the state of Idaho, to act

as custodian of the judges' retirement fund, who shall hold all securities and moneys of the judges' retirement fund and shall collect the principal, dividends and interest thereof when due and pay the same into the judges' retirement fund.

(4) The state treasurer shall pay all warrants drawn on the judges' retirement fund for making such investments when issued pursuant to vouchers signed by the chief justice of the supreme court.

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, 2004.

Approved March 23, 2004.

CHAPTER 241
(H.B. No. 512, As Amended)

AN ACT

RELATING TO THE IDAHO INSURANCE GUARANTY ASSOCIATION; AMENDING SECTION 41-3616, IDAHO CODE, TO PROVIDE THAT A MEMBER INSURER MAY OFFSET AGAINST ITS PREMIUM TAX LIABILITY UNDER SECTION 41-402, IDAHO CODE, THE ASSESSMENT IMPOSED FOR OBLIGATIONS OF THE INSURANCE GUARANTY ASSOCIATION, TO PROVIDE FOR INSURERS THAT ARE EXEMPT FROM THE PREMIUM TAX IMPOSED UNDER SECTION 41-402, IDAHO CODE, AND TO PROVIDE FOR DEPOSIT OF CERTAIN REFUNDS TO THE STATE GENERAL FUND; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 41-3616, Idaho Code, be, and the same is hereby amended to read as follows:

41-3616. ~~INSURANCE PREMIUMS TO INCLUDE CONTRIBUTIONS TO ASSOCIATION~~ CREDITS FOR ASSESSMENTS PAID. ~~The rates and premiums charged for insurance policies to which this act applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the~~ (1) A member insurer may offset against its premium tax liability to this state under section 41-402, Idaho Code, an assessment described in subsection (1)(d) of section 41-3608, Idaho Code. An insurer that is exempt from the premium tax imposed by section 41-402, Idaho Code, may offset its premium tax liability to the industrial administration fund. An offset is allowable to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid. An allowable offset, or portion thereof, not used in any calendar year cannot be carried over or back to any other year.

(2) Any sums acquired by refund, pursuant to subsection (2)(f) of section 41-3608, Idaho Code, from the association which have heretofore

been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and are not then needed for the purposes of this act, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the state general 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, and retroactively to January 1, 2004.

Approved March 23, 2004.

CHAPTER 242
(H.B. No. 519)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2732, IDAHO CODE, TO ALLOW FOR A COURT TO ORDER RESTITUTION FOR COSTS INCURRED BY LAW ENFORCEMENT AGENCIES IN INVESTIGATING MISDEMEANOR VIOLATIONS OF THE UNIFORM CONTROLLED SUBSTANCES ACT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, except as provided for in section 37-2732B(a)(3), Idaho Code, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than seven (7) years, or fined not more than fifteen thousand dollars ($15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000), or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains ~~tetrahydrocannabinal~~ tetrahydrocannabinol, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(z), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony or misdemeanor violation under this chapter or upon conviction of a felony pursuant to the "racketeering act," section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the Idaho state police, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or pros-

ecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the Idaho state police, those moneys shall be paid to the Idaho state police for deposit into the drug enforcement donation fund created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

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

Approved March 23, 2004.

CHAPTER 243
(H.B. No. 526)

AN ACT

RELATING TO MANUFACTURED HOME DEALER AND BROKER LICENSING; AMENDING SECTION 44-2102, IDAHO CODE, TO AUTHORIZE THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY TO PROMULGATE RULES TO ESTABLISH A DISPUTE RESOLUTION PROGRAM IN COMPLIANCE WITH THE FEDERAL MANUFACTURED HOUSING IMPROVEMENT ACT OF 2000.

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

SECTION 1. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules for the establishment of a mandatory statewide manufactured home "setup" code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed manufactured home dealer to represent the interests of the manufactured home dealer in this type of transaction.

(4) Promulgate rules establishing a program for the timely resolution of disputes between manufacturers, retailers and installers of manufactured homes. The rules shall be consistent with the United States department of housing and urban development's procedural and enforcement authority in 42 U.S.C. 5422(c)(12), and shall include identifying the respective responsibilities of manufacturers, retailers and installers; providing for the issuance of appropriate orders for the correction or repair of defects in manufactured homes that are reported during the one (1) year period following the date of installation; and may include an appropriate schedule of fees.

Approved March 23, 2004.

CHAPTER 244
(H.B. No. 528, As Amended in the Senate)

AN ACT

RELATING TO PLUMBING AND PLUMBERS; AMENDING CHAPTER 26, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2614A, IDAHO CODE, TO PROVIDE FOR APPRENTICE AND SPECIALTY APPRENTICE REGISTRATION AND ANNUAL RENEWAL OF THE REGISTRATION; AMENDING SECTION 54-2616, IDAHO CODE, TO ADJUST THE FEES FOR RENEWAL OF A CERTIFICATE OF COMPETENCY AND TO PROVIDE FOR PRORATING FEES; AMENDING SECTION 54-2617, IDAHO CODE, TO PROVIDE THAT CERTIFICATES OF COMPETENCY SHALL BE ISSUED FOR A PERIOD OF THREE YEARS, TO PROVIDE FOR EXPIRATION AND RENEWAL OF A CERTIFICATE, TO AUTHORIZE THE IDAHO PLUMBING BOARD TO PROVIDE BY RULE FOR A STAGGERED SCHEDULE OF ISSUING AND RENEWING CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE FOR SECTIONS 2 AND 3 OF THIS ACT.

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

SECTION 1. That Chapter 26, 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 54-2614A, Idaho Code, and to read as follows:

54-2614A. APPRENTICE AND SPECIALTY APPRENTICE REGISTRATION AND RENEWAL. Registration for an apprentice or a specialty apprentice shall expire twelve (12) months from the date of issue unless renewed. An apprentice registration or specialty apprentice registration may be renewed at any time during the month prior to its expiration. Failure of any apprentice to timely renew a registration shall cause a lapse of the registration, but it may be revived within one (1) year upon payment of the renewal fee.

SECTION 2. That Section 54-2616, Idaho Code, be, and the same is hereby amended to read as follows:

54-2616. FEES FOR CERTIFICATES — PRORATING. (1) Before a certificate is issued, and for the renewal thereof, the successful applicant shall pay to the division of building safety a fee in accordance with the following schedule:

	Initial Fee	Renewal
Plumbing Contractor	$75.00	$37~~.~~56.00
Plumbing Journeyman	15.00	7.520
Specialty Contractor	75.00	37~~.~~56.00
Specialty Journeyman	15.00	7.520

(2) The administrator of the division of building safety shall have the authority to prorate and assess the initial certificate fees as follows: the amount of the initial fee, plus the product of one-twelfth (1/12) of the amount of the renewal fee for that particular category of certificate multiplied by the number of months in excess of twelve (12) for which the certificate is issued. No certificate shall be issued for less than twelve (12) months.

(3) The administrator of the division of building safety shall have the authority to prorate and assess the renewal fees as follows: the number of months the certificate will be in effect, multiplied by one-twelfth (1/12) of the renewal fee for that particular category of certificate. No renewal shall be issued for less than twelve (12) months.

SECTION 3. That Section 54-2617, Idaho Code, be, and the same is hereby amended to read as follows:

54-2617. CERTIFICATE EXPIRATION -- RENEWAL — RULES FOR STAGGERED SCHEDULE. (1) Certificates of competency shall be issued for a period of three (3) years, and shall expire ~~on the 31st day of December each year~~ three (3) years from the date of issue, unless sooner revoked or suspended~~;--and--shall--be--renewed--at--any--time--during--the month of December~~.

(2) A certificate of competency may be renewed at any time during the month prior to its expiration. Failure of any holder to timely renew ~~said~~ a certificate ~~before the last day of December~~ of competency shall cause lapse of the certificate, but it may be revived within one (1) year without examination only upon payment of the full initial fee.

(3) The board shall promulgate rules to provide for a staggered schedule of issuing and renewing certificates of competency.

SECTION 4. Sections 2 and 3 of this act shall be in full force and effect on and after January 1, 2005.

Approved March 23, 2004.

CHAPTER 245
(H.B. No. 529)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1007, IDAHO CODE, TO REQUIRE NOT LESS THAN FOUR YEARS OF EXPERIENCE AS A LICENSED JOURNEYMAN TO QUALIFY FOR LICENSURE AS A MASTER ELECTRICIAN AND TO PROVIDE CODE REFERENCES.

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

SECTION 1. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, specialty electrician or master electrician as defined in section 54-1003A, Idaho Code, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting or specialty electrical contracting as defined in section 54-1003A, Idaho Code.

(2) An apprentice electrician, as ~~herein~~ defined in section 54-1003A, Idaho Code, may take the journeyman's examination if he has completed the required related instruction for electrical apprentices as approved by the Idaho state board for professional-technical education and has worked the number of hours as prescribed by the Idaho electrical board, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice shall have been registered with the division of building safety as an apprentice, paid an apprentice registration fee, and submitted with his annual application for apprentice registration verification of employment, the number of instructional hours completed and the number of hours worked. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this act, and may also by rule establish requirements relative to the manner of verification of employment, the number of instructional hours completed, continuation training and the number of hours worked.

(a) An apprentice who has completed the number of instructional hours and has not taken or passed the journeyman's examination within two (2) years of completion of the instructional training hours, shall provide proof of continuation training as set by rule of the electrical board.

(b) An apprentice who has not advanced in apprenticeship training for a period of two (2) years shall complete continuation training as set by rule of the electrical board.

(3) Any person who has worked ~~in this state~~ as a licensed journeyman for a period of not less than ~~two~~ four (~~2~~4) years and who has worked the number of hours as prescribed by rule of the board as a licensed journeyman electrician shall be considered as qualified to apply for a master electrician's license in this state. The Idaho electrical board, in establishing by rule the requirements for a master electrician's license, shall also take into account the applicant's performance as a journeyman electrician.

(4) Any person with out-of-state experience who has worked as a journeyman electrician or as an apprentice electrician~~,--as herein defined,~~ for a period of four (4) years, and who has met such other requirements as established by rule of the board, shall be considered as qualified to apply for a journeyman electrician's license in this state.

(5) To the extent that other states which provide for the licensing of electricians provide for similar action, the administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

Approved March 23, 2004.

CHAPTER 246
(H.B. No. 532)

AN ACT

RELATING TO COUNTY BOUNDARIES AND COUNTY SEATS; AMENDING SECTION 31-110, IDAHO CODE, TO ALIGN THE WESTERN BOUNDARY DESCRIPTION OF BOISE COUNTY WITH THE DESCRIPTION OF THAT BOUNDARY AS SHARED WITH ADA COUNTY.

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

SECTION 1. That Section 31-110, Idaho Code, be, and the same is hereby amended to read as follows:

31-110. BOISE COUNTY. Boise county is described as follows: beginning at the confluence of Mores creek with the Boise river, at the center of the channel of Boise river;

Western boundary. Thence north forty-four (44) degrees and thirty-eight (38) minutes west (R.C., section 23f), ~~to the southeast corner of township six (6) north, range one (1) east~~ until the said line intersects the north line of township five (5) north; thence east along the north boundary of township five (5) north to the northeast corner of township five (5) north, range one (1) east; thence north twenty-four (24) miles to the northeast corner of township nine (9) north, range one (1) east;

Northern boundary. Thence east (1915, ch. 165, section 2, p. 363) along the second (2) standard parallel north, to the center of the North

Fork of the Payette river; thence northerly along the river to the intersection with the line between townships ten (10) and eleven (11) north; thence east to the ridge dividing the waters of the Salmon and Payette rivers (1917, ch. 99, section 2, p. 361); thence in an easterly direction along the divide which separates the waters of the Payette river and its tributaries from the waters of Salmon river and its tributaries (Special and Local Laws, 120), to the head of the Middle Fork of Salmon river;

Eastern boundary. Thence southerly along the divide which separates the water flowing into the South Payette river and Bear Valley creek from that flowing into the main Salmon river and Cape Horn creek to the summit of the Sawtooth mountains; thence southerly along the summit of the Sawtooth mountains (15 Ter. Ses. 26) to the headwaters of the North Fork of Boise river;

Southern boundary. Thence down the center of the channel of the North Fork of Boise river and the main Boise river to the place of beginning (3 Ter. Ses. 214).

County seat—Idaho City.

Approved March 23, 2004.

CHAPTER 247
(H.B. No. 540)

AN ACT

RELATING TO MOTOR VEHICLE TITLES; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-512A, IDAHO CODE, TO PROVIDE THAT A TRANSACTION INVOLVING A MOTOR VEHICLE OR TRAILER DOES NOT CREATE A SALE OR SECURITY INTEREST MERELY BECAUSE THE TRANSACTION INCLUDES A TERMINAL RENTAL ADJUSTMENT CLAUSE.

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

SECTION 1. That Chapter 5, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-512A, Idaho Code, and to read as follows:

49-512A. EFFECT OF A TERMINAL RENTAL ADJUSTMENT CLAUSE. Notwithstanding any provision of law to the contrary, a transaction involving a motor vehicle or trailer does not create a sale or security interest merely because the transaction provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon the sale or other disposition of the motor vehicle or trailer.

Approved March 23, 2004.

CHAPTER 248
(H.B. No. 563)

AN ACT

RELATING TO ELECTION LAWS; AMENDING SECTION 34-1009, IDAHO CODE, TO STRIKE A PROVISION FOR FINDING AND DISCARDING THE ABSENTEE BALLOT OF AN ELECTOR WHO SUBSEQUENTLY HAS DIED AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1009, Idaho Code, be, and the same is hereby amended to read as follows:

34-1009. CHALLENGING ABSENTEE ELECTOR'S VOTE. The vote of any absent elector may be challenged in the same manner as other votes are challenged and the receiving judges shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the receiving judges determine, that the affidavit accompanying the absent elector's ballot is insufficient, or that the elector is not a qualified registered elector the envelope containing the ballot of such elector shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. ~~Whenever it shall be made to appear to the receiving judges by sufficient proof that any elector who has marked and forwarded his ballot has died, then the envelope containing the ballot of such deceased elector shall not be opened and the judges shall make proper notation on the back of such envelope.~~ If an absent elector's envelope contains more than one (1) marked ballot of any one (1) kind, none of such ballots shall be counted and the judges shall make notations on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent electors' ballots cast and counted and the number of such ballots rejected.

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

Approved March 23, 2004.

CHAPTER 249
(H.B. No. 571)

AN ACT

RELATING TO DRUG COURT FEES; AMENDING SECTION 31-3201E, IDAHO CODE, TO REVISE TERMINOLOGY, TO MAKE GRAMMATICAL CHANGES, TO PROVIDE THAT MONEYS IN THE COUNTY DRUG COURT FUND MAY BE EXPENDED FOR PRIVATE COUNSELING SERVICES, TO PROVIDE THAT THE FAILURE TO PAY THE DRUG COURT FEE MAY CONSTITUTE GROUNDS FOR TERMINATION FROM DRUG COURT, TO PROVIDE THAT TERMINATION SHALL NOT BE THE EXCLUSIVE REMEDY FOR FEE COLLECTION, TO PROVIDE THAT CERTAIN UNPAID DRUG COURT FEES SHALL BE ORDERED BY THE COURT IN THE JUDGMENT OF CONVICTION UNLESS WAIVED

BASED UPON A PERSON'S INABILITY TO PAY THE FEE, TO PROVIDE THAT THE DRUG COURT FEE SHALL BE IN ADDITION TO ALL OTHER FINES AND FEES LEVIED AND TO PROVIDE THAT PAYMENT OF THE FEE MAY BE ORDERED AS A TERM AND CONDITION OF PROBATION; AND AMENDING CHAPTER 56, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5608, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF A DRUG COURT FEE.

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

SECTION 1. That Section 31-3201E, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201E. ~~PARTICIPANT~~ DRUG COURT FEE~~S~~ -- DRUG COURT FUND. Each person admitted into a drug court shall pay a drug court fee in an amount not to exceed three hundred dollars ($300) per month or a lesser amount as set by the administrative district judge for participants in the drug court. For good cause, the judge presiding over a drug court may exempt a participant from paying all or a portion of the drug court fee. The fee imposed under this section shall be paid to the clerk of the district court for deposit into the county drug court fund which is hereby created in each county ~~which~~ that has a drug court. Moneys in this fund may be accumulated from year to year and shall be expended exclusively for expenses incurred in connection with the drug court including, but not limited to, substance abuse treatment, drug testing, ~~and~~ supervision and private counseling services utilized by the drug court. Any failure to pay the drug court fee may constitute grounds for termination from drug court by the court, provided this shall not be the exclusive remedy for collection of the fee. If a participant is terminated from the drug court prior to successful completion of the program and a judgment of conviction is entered against the defendant, any unpaid drug court fee shall be ordered by the court in the judgment of conviction, provided the court may order such fee to be waived if the court determines that the person is indigent and unable to pay the fee. Such fee shall be in addition to all other fines and fees levied, and the payment of such fee may also be ordered as a term and condition of probation.

SECTION 2. That Chapter 56, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-5608, Idaho Code, and to read as follows:

19-5608. DRUG COURT FEE. Each person admitted into a drug court shall pay the drug court fee as established in section 31-3201E, Idaho Code.

Approved March 23, 2004.

CHAPTER 250
(H.B. No. 585)

AN ACT

RELATING TO INSPECTIONS OF MODULAR BUILDINGS OR MANUFACTURED HOUSING; AMENDING SECTION 39-4103, IDAHO CODE, TO PROVIDE AN EXEMPTION TO MODULAR BUILDINGS IF CERTAIN CIRCUMSTANCES OCCUR; AMENDING SECTION

39-4105, IDAHO CODE, TO REVISE THE DEFINITION OF "MODULAR BUILDING"; AMENDING SECTION 39-4107, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE ADMINISTRATOR OF BUILDING SAFETY; AMENDING CHAPTER 10, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1001D, IDAHO CODE, TO PROVIDE FOR INSPECTIONS OF MODULAR BUILDINGS; AMENDING SECTION 54-1005, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY MAY MAKE ELECTRICAL INSPECTIONS FOR ANOTHER STATE OR LOCAL JURISDICTION UNDER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1016, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE AN EXEMPTION TO CERTAIN MODULAR BUILDINGS; AMENDING SECTION 54-2602, IDAHO CODE, TO PROVIDE AN EXCEPTION TO A MODULAR BUILDING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2607, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES TO THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING CHAPTER 26, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2622A, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY MAY INSPECT PLUMBING SYSTEMS OF ANY MODULAR BUILDING UPON WRITTEN REQUEST FROM THE MANUFACTURER; AND DECLARING AN EMERGENCY.

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, 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~~ <u>are</u> exempt from the provisions of this chapter:

<u>(a)</u> 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.

(b) Modular buildings as defined in subsection (12) of section 39-4105, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4121, Idaho Code.

SECTION 2. That Section 39-4105, Idaho Code, be, and the same is hereby amended to read as follows:

39-4105. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning. Where terms are not defined in this chapter and are defined in the currently adopted International Building Code published by the International Code Council, such terms shall have the meanings ascribed to them in that code:

(1) "Administrator" means the administrator of the division of building safety for the state of Idaho.

(2) "Board" means the Idaho building code board, herein created.

(3) "Building inspector" means a person who inspects buildings or structures for compliance with the provisions of this chapter.

(4) "Closed construction" means any manufactured building or building component which may enclose factory installed structural, mechanical, electrical or plumbing systems and is not open for visual inspection at the building site.

(5) "Commercial coach" means a modular building equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and originally designated to be used without a permanent foundation.

(6) "Construction" means the erection, fabrication, reconstruction, demolition, alteration, conversion, or repair of a building, or the installation of equipment therein normally a part of the structure.

(7) "Division" means the state of Idaho division of building safety.

(8) "International Fire Code" means the International Fire Code as published by the International Code Council.

(9) "Local government" means any city or county of this state.

(10) "Manufactured home" means a structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure

which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. section 5401 et seq.

(11) "Mobile home" means a factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

(12) "Modular building" means any building or building component, other than a manufactured or mobile home, which is ~~constructed according to codes and standards adopted by the division of building safety, which is~~ of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

(13) "Telecommunications facilities" means all wires, cables, equipment, apparatus or other installations necessary to furnish service, by which there is accomplished or may be accomplished, the sending or receiving of information, data, message writing signs, signals, pictures, and sounds of all kinds, by aid of such wires, cables, equipment, apparatus or other installations, but shall not include the habitable structure in which such telecommunications facilities are housed.

SECTION 3. That Section 39-4107, Idaho Code, be, and the same is hereby amended to read as follows:

39-4107. POWERS AND DUTIES. (1) The board shall continually study the operation of adopted codes, standards and rules relating to the construction of buildings or facilities under the jurisdiction of the division to ascertain their effect upon the public safety and shall support an ongoing effort to promote the uniform adoption, application and interpretation of safety, accessibility and building codes statewide. The board shall have the authority to adopt and enforce the codes specified in section 39-4109, Idaho Code, or later editions of such codes, and to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

(2) The board shall function as a board of appeals for the division as prescribed in the adopted building code. The board shall have no authority to waive any requirements of the codes enumerated in this chapter or in rules promulgated pursuant to this chapter. Provided further:

(a) The decisions of the board shall be final, and the board shall render all decisions and findings in writing to the appellant and the administrator within ten (10) working days of the conclusion of a hearing; and

(b) For each appeal brought before the board, the chairman shall appoint not less than three (3) members of the board to hear the appeal and render a decision and finding in the name of the board.

(3) The board shall utilize experts, consultants, and technical advisors for assistance and recommendations relative to codes, standards, and appeals.

(4) The administrator may make building code inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with

the applicable building codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in rules promulgated by the board pursuant to chapter 52, title 67, Idaho Code.

(5) Notwithstanding the exemptions provided in subsection (4)(b) of section 39-4103, Idaho Code, the administrator may make inspections of modular buildings constructed in Idaho upon written request from the manufacturer.

(a) Such inspections shall be made in accordance with the codes adopted in this chapter.

(b) Inspection fees shall be as promulgated in board rule and shall be paid prior to the inspection.

(c) The administrator of the division of building safety may issue an insignia of approval if the buildings are in compliance with the requirements set forth in section 39-4121, Idaho Code.

SECTION 4. That Chapter 10, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1001D, Idaho Code, and to read as follows:

54-1001D. INSPECTIONS OF MODULAR BUILDINGS -- WHEN AUTHORIZED -- APPROVAL AND CERTIFICATION. (1) Notwithstanding the exemption provided in subsection (1)(c) of section 54-1016, Idaho Code, the administrator of the division of building safety may make electrical inspections of any modular building upon written request from the manufacturer.

(a) Inspections shall be made in accordance with the codes adopted in this chapter.

(b) Inspection fees shall be as promulgated in board rule and shall be paid prior to the inspection.

(c) The administrator may issue inspection tags for inspections if the buildings are in compliance with the codes adopted in this chapter.

(2) The administrator of the division of building safety is hereby authorized to make inspections of electrical installations as set forth herein and to issue inspection tags covering such installations.

SECTION 5. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES -- INSPECTIONS -- INSPECTION TAGS AND FEES. (1) The administrator of the division of building safety is hereby authorized and directed to enforce rules consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice electricians, ~~s--all such~~ and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to collect the fees established therefor.

(2) The administrator of the division of building safety may make electrical inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable electrical codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in the rules promulgated by the board.

(3) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the administrator, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the administrator or his authorized agent, the inspection tag covering such installation.

(~~3~~4) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the administrator.

SECTION 6. That Section 54-1016, Idaho Code, be, and the same is hereby amended to read as follows:

54-1016. EXEMPTIONS. (1) Nothing in this ~~act~~ chapter shall be deemed to apply to:

(a) T~~t~~he installation or maintenance of communication circuits, wires and apparatus; ~~nor to~~

(b) A~~a~~ny electrical public utility, or its employees, in the installation and maintenance of electrical wiring, circuits, appara~~tus and equi~~pment by or for such public utility, or comprising a part of its plants, lines or system;

(c) Modular buildings as defined in section 39-4105, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4121, Idaho Code.

(2) The licensing provisions of this ~~act~~ chapter shall not apply to persons making electrical installations on their own property or to regularly employed maintenance electricians working on the premises of their employer.

SECTION 7. That Section 54-2602, Idaho Code, be, and the same is hereby amended to read as follows:

54-2602. EXCEPTIONS. Certificate of competency requirements of this ~~act~~ chapter shall not be deemed to apply to:

(a) Any person who does plumbing work 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 minimum standards and rules applicable to plumbing practices provided by this ~~act~~ chapter.

(b) Farm buildings located outside the incorporated limits of any city unless such buildings are connected to a public water or sewer system; 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.

(c) Logging, mining or construction camps when plumbing installations are made to conform with the recommendations of the department of health and welfare.

(d) Piping systems in industrial processing plants located outside the incorporated limits of any city unless such systems are connected to a public water or sewer system.

(e) Work on plumbing systems on premises owned or operated by an employer who regularly employs maintenance or construction plumbers, provided that alterations, extensions and new construction shall comply with the minimum standards and rules applicable to plumbing practices provided by this ~~act~~ chapter.

(f) Nothing contained in this section or any other provision of this code shall be construed or applied to require a sewer contractor, sewage disposal contractor, or any excavating or utility contractor who generally engages in the business of installing, altering or repairing sewers, private and public sewage disposal systems, and water distribution and/or drainage lines outside the foundation walls of any building or structure, to obtain a valid contractor's certificate of competency or to employ only journeymen plumbers possessing a valid journeyman plumber's certificate of competency or registration, or to in any way require that his employees be registered, licensed or declared competent by the board.

(g) Water treatment installations and repairs when installed in residential or business properties, provided the same when installed, repaired or completed, shall be inspected by a designated, qualified and properly identified agent of the division of building safety as to quality of workmanship and compliance with the applicable provisions of this ~~act~~ chapter.

(h) Plumbing work within modular buildings as defined in section 39-4105, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4121, Idaho Code.

Any person, firm, ~~co-partnership~~ copartnership, association or corporation making water treatment installations and/or repairs in accordance with the provisions of this act shall maintain a surety bond in the amount of two thousand dollars ($2,000).

SECTION 8. That Section 54-2607, Idaho Code, be, and the same is hereby amended to read as follows:

54-2607. ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY -- POWERS AND DUTIES. The administrator shall exercise such powers and duties as are reasonably necessary to enforce the minimum standards provided in this act, and he may among other things:

(a) Prescribe and establish procedures to effectuate the efficient enforcement of this act not herein prescribed.

(b) Serve as secretary to the Idaho plumbing board.

(c) Appoint licensed staff inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, plumbing and plumbing systems.

(d) Make plumbing inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable plumbing codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in the rules promulgated by the board.

(e) Summon witnesses to appear and testify before him on any matter within the provisions of this act. 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 the 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 the 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.

(ef) 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. It shall be the duty of the administrator to give notice to cities which supply sewer service to areas outside their city limits and who have requested in writing such notice from the administrator of all permits issued relative to sewer installations. The notice shall be given within ten (10) days from the date the permit was requested for such installation. The notice shall contain a map of the physical location of the installation and reference to the date of inspection if the city so requests.

SECTION 9. That Chapter 26, 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 54-2622A, Idaho Code, and to read as follows:

54-2622A. INSPECTIONS OF MODULAR BUILDINGS -- WHEN AUTHORIZED -- APPROVAL AND CERTIFICATION. Notwithstanding the exception provided in subsection (h) of section 54-2602, Idaho Code, the administrator of the division of building safety may make plumbing inspections of any modular building upon written request from the manufacturer.

(1) Inspections shall be made in accordance with the codes adopted in this chapter.

(2) Inspection fees shall be as promulgated in board rule and shall be paid prior to the inspection.

(3) The administrator may issue inspection tags for inspections if the buildings are in compliance with the codes adopted in this chapter.

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 its passage and approval.

Approved March 23, 2004.

CHAPTER 251
(H.B. No. 587, As Amended)

AN ACT

RELATING TO SURRENDER OF DEFENDANTS BY BAIL; AMENDING SECTION 19-2924, IDAHO CODE, TO PROVIDE THAT THE BAIL OR BAIL BONDSMAN SHALL, THE NEXT JUDICIAL DAY, FILE WITH THE COURT IN WHICH THE ACTION OR APPEAL IS PENDING THE CERTIFICATE OF SURRENDER, AND SHALL DELIVER A COPY OF THE SAME TO THE COUNTY PROSECUTING ATTORNEY.

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

SECTION 1. That Section 19-2924, Idaho Code, be, and the same is hereby amended to read as follows:

19-2924. SURRENDER OF DEFENDANT BY BAIL. At any time before the forfeiture of their undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the officer in whose custody he was committed at the time of giving bail, or to the county sheriff where the action is pending, in the following manner:

1. A certificate of surrender, executed by the bail, must be delivered to the officer, who must also attach thereto his signature, the month, day, year and time of day as evidence of surrender and detain the defendant in his custody thereon as upon a commitment. The certificate of surrender shall contain the legal caption of the action in which the undertaking was given, including the name of the defendant, case number, name and address of the bail, and shall clearly state that the bond is being revoked by the bail.

2. The ~~receiving--officer~~ bail or bail bondsman shall, the next judicial day, file with the court in which the action or appeal is pending the certificate of surrender, and shall deliver a copy of the same to the county prosecuting attorney. The court shall thereupon order that the bail be exonerated.

Approved March 23, 2004.

CHAPTER 252
(H.B. No. 596)

AN ACT

RELATING TO RECALL ELECTIONS IN SCHOOL DISTRICTS; AMENDING SECTION 33-432, IDAHO CODE, TO REQUIRE A RECALL PETITION FOR A TRUSTEE OF A SCHOOL DISTRICT TO BE CANVASSED NOT MORE THAN TEN DAYS FROM THE DATE OF ITS FILING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-432, Idaho Code, be, and the same is hereby amended to read as follows:

33-432. CANVASSING PETITION FOR SUFFICIENCY OF SIGNATURES -- NOTICE. Upon the filing of a recall petition in his office, the clerk of the school board with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the person filing them and the school trustee whose recall is demanded of the date when the petitions will be canvassed, which date shall be not ~~less than five (5) nor~~ more than ten (10) days from the date of its filing.

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

Approved March 23, 2004.

CHAPTER 253
(H.B. No. 602)

AN ACT
RELATING TO SCHOOL DISTRICT EMPLOYEES; AMENDING SECTION 33-1216, IDAHO CODE, TO AUTHORIZE THE USE OF ACCRUED SICK LEAVE TO SUPPLEMENT WORKER'S COMPENSATION PAYMENTS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 33-1216, Idaho Code, be, and the same is hereby amended to read as follows:

33-1216. SICK AND OTHER LEAVE. (a) At the beginning of each new employment year and thereafter as necessary during the employment year, each certificated and noncertificated employee of any school district, including charter districts, shall be entitled to sick leave with full pay of one (1) day for each month of service, or major portion thereof as projected for the employment year, subject to the limitations provided by this chapter. The local board of trustees shall not provide compensation for unused sick leave. This shall not prohibit the local board of trustees from establishing a policy providing retirement severance pay.

(b) The board of trustees may require proof of illness adequate to protect the district against malingering and false claims of illness. Any accumulated sick leave earned prior to July 1, 1976, shall be used before the use of any accumulated sick leave earned subsequent to July 1, 1976.

Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of illness or death of members of the families of such employees, for professional conferences and workshops, and for such other purposes as the board may determine.

(c) Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of absence during a period for which the employee is paid by ~~workmen's~~ worker's compensation. In addition the board may supplement the ~~workmen's~~ worker's compensation payment by an amount not to exceed an amo~~unt which~~

when combined with the ~~workmen's~~ worker's compensation payment would be equal to the amount the employee would have been paid if he had not been injured. Supplementation may come from accrued vacation leave, compensatory time or sick leave time as may be provided in the policy of the district. Time for which a person is paid ~~workmen's~~ worker's compensation shall not be allowed as straight sick leave which would result in duplicate compensation.

(d) The board of trustees of any school district, including any specially chartered district, may also grant a leave of absence to any certificated employee of such district for service to a professional educational organization of which such certificated employee is a member and has been elected to hold the office of president therein, such leave to be for a period not exceeding one (1) year. During the period of any such leave of absence the said certificated employee shall receive the same compensation and receive or accrue such other rights and benefits that he would have been entitled to or have received or accrued had he been present and working for the school district, and he shall remain an active member of the public employee retirement system of Idaho; provided that such professional educational organization shall first pay to the said school district an amount equal to any and all compensation, contributions to the public employee retirement system of Idaho and any other amounts paid to or accrued in the name of said employee during such period.

Approved March 23, 2004.

CHAPTER 254
(H.B. No. 603, As Amended in the Senate)

AN ACT

RELATING TO CONTRACTS FOR SCHOOL TRANSPORTATION; AMENDING SECTION 33-1510, IDAHO CODE, TO AUTHORIZE RENEWAL OF AN EXISTING CONTRACT UNDER CONDITIONS SPECIFIED, TO PROVIDE FOR LENGTH OF THE RENEWAL AND TO REQUIRE THAT CERTAIN PROVISIONS BE INCLUDED IN THE BIDDING NOTICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1510, Idaho Code, be, and the same is hereby amended to read as follows:

33-1510. CONTRACTS FOR TRANSPORTATION SERVICE. All contracts entered into by boards of trustees for the transportation of pupils shall be in writing in a form approved by the state superintendent of public instruction. No contract shall be executed covering a period of time exceeding five (5) years. School districts shall advertise, bid and contract for all bus transportation service routes at a single time, and contract with the lowest responsible bidder or bidders meeting the specifications; provided that, one (1) time only, a school district may renew a contract with the current contractor if the board of trustees, after renegotiation with the contractor, determines that the terms are satisfactory to the district. The board of trustees may renew the con-

tract for a term not to exceed five (5) years. Renewal of any contract pursuant to this section shall not be granted unless the provisions of this section were included, in a substantially conforming summary, within the bidding notice, published pursuant to section 33-601, Idaho Code, of the contract.

Before entering into such contracts, the board of trustees shall invite bids by twice giving notice as provided in section 33-402 g., Idaho Code, and shall award the contract to the lowest responsible bidder.

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

Approved March 23, 2004.

CHAPTER 255
(H.B. No. 618)

AN ACT
RELATING TO THE REGULATION OF INSURANCE; AMENDING SECTION 41-5401, IDAHO CODE, TO FURTHER DEFINE THE TERM "PROPERTY AND CASUALTY INSURER."

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

SECTION 1. That Section 41-5401, Idaho Code, be, and the same is hereby amended to read as follows:

41-5401. DEFINITIONS. As used in this chapter, these terms shall have the following meanings:

(1) "Adjusted RBC report" means an RBC report which has been adjusted by the director in accordance with section 41-5402(5), Idaho Code.

(2) "Corrective order" means an order issued by the director specifying corrective actions which the director has determined are required.

(3) "Domestic insurer" means any insurance company domiciled in this state.

(4) "Foreign insurer" means any insurance company which is licensed to do business in this state under section 41-322, Idaho Code, but is not domiciled in this state.

(5) "Life and/or health insurer" means any insurance company licensed under chapter 3, title 41, Idaho Code, to transact life, accident and/or health insurance, or a licensed property and casualty insurer writing only accident and health insurance, but shall not include fraternal benefit societies, health service organizations, dental service organizations, health maintenance organizations, dental plan organizations or mutual benefit associations.

(6) "NAIC" means the national association of insurance commissioners.

(7) "Negative trend" means, with respect to a life and/or health insurer, a negative trend over a period of time, as determined in accordance with the "Trend Test Calculation" included in the RBC instructions.

(8) "Property and casualty insurer" means any insurance company licensed under chapter 3, title 41, Idaho Code, to transact property and casualty insurance, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers, title insurers, farm and county mutuals, health service organizations, dental service organizations, health maintenance organizations, ~~or~~ dental plan organizations or domestic reciprocal insurers with fewer than seven (7) subscribers which insure only worker's compensation risk and which only issue fully assessable policies.

(9) "RBC" means risk-based capital.

(10) "RBC instructions" means the RBC report, including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(11) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(a) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(c) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC;

(d) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

(12) "RBC plan" means a comprehensive financial plan containing the elements specified in section 41-5403(2), Idaho Code. If the director rejects the RBC plan, and it is revised by the insurer, with or without the director's recommendation, the plan shall be called the "revised RBC plan."

(13) "RBC report" means the report required in section 41-5402, Idaho Code.

(14) "Total adjusted capital" means the sum of:

(a) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under section 41-335, Idaho Code; and

(b) Such other items, if any, as the RBC instructions may provide.

Approved March 23, 2004.

CHAPTER 256
(H.B. No. 620)

AN ACT

RELATING TO GROUP LIFE INSURANCE; AMENDING SECTIONS 41-2003 AND 41-2004, IDAHO CODE, TO ELIMINATE THE RESTRICTION ON THE SALE OF VOLUNTARY GROUP LIFE INSURANCE POLICIES AND TO CORRECT CODIFIER ERRORS; AMENDING SECTIONS 41-2007 AND 41-2009, IDAHO CODE, TO ELIMINATE THE RESTRICTION ON THE SALE OF VOLUNTARY GROUP LIFE INSURANCE POLICIES, TO CORRECT CODIFIER ERRORS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-2003, Idaho Code, be, and the same is hereby amended to read as follows:

41-2003. EMPLOYEE GROUPS. The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the ~~policy--holder~~ policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one (1) or more subsidiary corporations, and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation, by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) The premium for the policy shall be paid ~~by the policy holder, either wholly~~ from the employer's funds or funds contributed by him, ~~or partly--from such funds and partly~~ from funds contributed by the insured employees, or from both. ~~No policy may be issued--on--which--the--entire premium--is--to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived--from--funds contributed--by--the insured employees may be placed in force only if at least seventy five per--cent--(75%)--of--the--then--eligible--employees, excluding any as to whom evidence of individual insurability is not satisfactory--to--the--insurer,--elect to make the required contribution.~~ A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, or who have rejected the coverage in writing.

~~(3)--The--policy--must--cover at least five (5) employees at date of issue.~~

~~(4)--The amounts of insurance under the policy must--be--based--upon some--plan precluding individual selection either by the employees or by the employer or trustees.~~

SECTION 2. That Section 41-2004, Idaho Code, be, and the same is hereby amended to read as follows:

41-2004. LABOR UNION GROUPS. The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the ~~policy-holder~~ policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(2) The premium for the policy shall be paid by the ~~policy-holder~~ policyholder, ~~either wholly~~ from the union's funds, ~~or partly from--such funds--and partly~~ from funds contributed by the insured members specifically for their insurance, or from both. ~~No--policy--may--be--issued--on which--the-entire-premium-is-to-be-derived-from-funds-contributed-by-the insured-members-specifically-for-their-insurance. A-policy-on-which-part of-the-premium-is-to-be-derived-from-funds-contributed--by--the--insured members--specifically-for-their-insurance-may-be-placed-in-force-only-if at-least-seventy-five-per--cent--(75%)--of--the--then--eligible--members excluding-any-as-to-whom-evidence-of-individual-insurability-is-not-satisfactory--to--the--insurer,-elect-to-make-the-required-contributions.~~ A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, or who have rejected the coverage in writing.

~~(3)--The-policy-must-cover-at-least-ten--(10)--members--at--date--of issue.~~

~~(4)--The--amounts--of--insurance-under-the-policy-must-be-based-upon some-plan-precluding-individual-selection-either-by-the--members--or--by the-union.~~

SECTION 3. That Section 41-2007, Idaho Code, be, and the same is hereby amended to read as follows:

41-2007. TRUSTEE GROUPS. The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established in this state by two (2) or more employers in the same industry or to the trustees of a fund established by one (1) or more labor unions, or by one (1) or more employers and one (1) or more labor unions, which trustees shall be deemed the ~~policy--holder~~ policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is other-

wise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees, or their employees, or both, if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid by the trustees ~~wholly~~ from funds contributed by the employer or employers of the insured persons, or by the union or unions, ~~or by both,~~ or ~~partly from funds and partly~~ from funds contributed by the insured persons, or from any combination of these. ~~No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy five per cent (75%) of the then eligible persons, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.~~ A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, or who have rejected the coverage in writing.

(3) ~~The policy must cover at date of issue at least twenty five (25) persons and not less than an average of four (4) persons, other than individual proprietors or partners, per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if~~

~~(a) Either (i) the participating employers constitute at date of issue at least sixty per cent (60%) of those employer members whose employees are not already covered for group life insurance or (ii) the total number of persons covered at date of issue exceed six hundred (600); and~~

~~(b)~~ The policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

~~(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policy holder, employers, or unions.~~

SECTION 4. That Section 41-2009, Idaho Code, be, and the same is hereby amended to read as follows:

41-2009. DEPENDENTS' COVERAGE. Any group life policy issued under sections 41-2003 (employee groups), or 41-2004 (labor union groups), or 41-2006 (public employee groups), or 41-2007 (trustee groups) may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(1) The premium for the insurance shall be paid by the ~~policy holder~~ policyholder, either from the employer's or union's funds or funds contributed by the employer or union, or from funds contributed by

the insured employees or members, or from both. ~~If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least seventy-five per cent (75%) of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elected to make the required contribution.~~ If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(2) ~~The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policy holder, employer or union.~~

~~(3)~~ Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance, without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, subject to the requirements of ~~subdivisions~~ subsections (1), (2) and (3) of section 41-2018, ~~of this chapter~~ Idaho Code. If any group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy, under section 41-2019, ~~of this chapter~~ Idaho Code, the spouse shall also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(~~4~~3) Notwithstanding section 41-2017, ~~of this chapter~~ Idaho Code, only one (1) certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

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

Approved March 23, 2004.

CHAPTER 257
(H.B. No. 627)

AN ACT

RELATING TO WELFARE; AMENDING SECTION 56-202, IDAHO CODE, TO STRIKE A SUNSET CLAUSE TO MAINTAIN AUTHORIZATION TO THE DIRECTOR OF THE

DEPARTMENT OF HEALTH AND WELFARE TO PROVIDE WELFARE ASSISTANCE TO DRUG DEPENDENT PERSONS UPON CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 56-202, Idaho Code, be, and the same is hereby amended to read as follows:

56-202. DUTIES OF DIRECTOR OF STATE DEPARTMENT OF HEALTH AND WELFARE. The director of the state department of health and welfare shall:

(a) Administer public assistance and social services to eligible people;

(b) Promulgate, adopt and enforce such rules and such methods of administration as may be necessary or proper to carry out the provisions of title 56, Idaho Code, except as provided in section 56-203A, Idaho Code;

(c) Conduct research and compile statistics relating to public welfare;

(d) Prepare for the governor and legislature an annual report of activities and expenditures; make such reports in such form and containing such information as the federal government may from time to time require; and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports;

(e) Cooperate with the federal government through its appropriate agency or instrumentality in establishing, extending, and strengthening services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent; and to undertake other services for children authorized by law;

(f) Cooperate with the federal government through its appropriate agency or instrumentality in establishing and maintaining a comprehensive system of in-home services as defined in section 67-5006, Idaho Code, designed to assist older persons, as defined in section 67-5006, Idaho Code, of Idaho to continue living in an independent and dignified home environment and to undertake other services for older persons as authorized by law;

(g) Exercise the opt out provision in section 115 of the personal responsibility and work opportunity reconciliation act of 1996, P. L. 104-193. Consistent with this, the department may provide food stamps and services funded under title 4A (including cash assistance, TANF supportive services and at risk payments) to a person who has been convicted of a felony involving a controlled substance as defined in chapter 27, title 37, Idaho Code, if they comply with the terms of a withheld judgment, probation or parole. ~~The provisions of this subsection (g) shall be null, void and of no force and effect on and after June 30, 2003.~~

Approved March 23, 2004.

CHAPTER 258
(H.B. No. 636, As Amended)

AN ACT
RELATING TO WATER RIGHTS; AMENDING SECTION 42-202B, IDAHO CODE, TO FURTHER DEFINE "CONSUMPTIVE USE."

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 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 is not an element of a water right. 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~~ Precipitation shall not be considered to reduce the consumptive use of a water right. "Authorized consumptive use" means the maximum consumptive use that may be made of a water right. If the use of a water right is for irrigation, for example, the authorized consumptive use reflects irrigation of the most consumptive vegetation that may be grown at the place of use. Changes in consumptive use do not require a transfer pursuant to section 42-222, Idaho Code.

(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.

(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.

(6) "Municipal purposes" refers to water for residential, commer-

cial, 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.

(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.

(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.

(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.

Approved March 23, 2004.

CHAPTER 259
(H.B. No. 645)

AN ACT

RELATING TO RETAIL SALE OF LIQUOR; AMENDING SECTION 23-955, IDAHO CODE, TO PROVIDE APPLICATION OF PROVISIONS GOVERNING SPLIT OWNERSHIP OF A FACILITY TO A GOLF COURSE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-955, Idaho Code, be, and the same is hereby amended to read as follows:

23-955. SPLIT OWNERSHIP FACILITY -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a premises that has been, because of a split in ownership of the original premises, separated from a ski resort facility <u>or golf course</u> already licensed under the provisions of section 23-903,

Idaho Code. The provisions of section 23-910, Idaho Code, shall be applicable to licenses issued pursuant to this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

Approved March 23, 2004.

CHAPTER 260
(H.B. No. 649)

AN ACT

RELATING TO THE OCCUPANCY TAX; AMENDING SECTION 63-317, IDAHO CODE, TO PROVIDE THAT NEW MANUFACTURED HOUSING SHALL NOT BE SUBJECT TO PROPERTY TAXATION DURING THE FIRST YEAR OF OCCUPANCY IF OCCUPIED AFTER JANUARY 1, TO DEFINE "NEW MANUFACTURED HOUSING," TO PROVIDE FOR THE OCCUPANCY TAX TO BE LEVIED ON NEW MANUFACTURED HOUSING AND TO PROVIDE A REQUIREMENT FOR THE OWNER OF NEW MANUFACTURED HOUSING TO REPORT TO THE COUNTY ASSESSOR THAT THE NEW MANUFACTURED HOUSING HAS BEEN OCCUPIED; 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; new manufactured housing shall not be subject to property taxation during the first year of occupancy if occupied after January 1. For the purposes of this section, "new manufactured housing" means manufactured housing, whether real or personal, never previously occupied.

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential and commercial structures, including new manufactured housing, except additions to existing improvements or manufactured housing, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements or new manufactured housing 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 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; 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 or new manufactured housing, as described in this section, upon which no occupancy tax has been charged shall report to the county assessor that the improvement or new manufactured housing 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, 2004.

Approved March 23, 2004.

CHAPTER 261
(H.B. No. 658)

AN ACT

RELATING TO MEDICAID ELIGIBILITY; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 56, IDAHO CODE, TO ADOPT THE LONG-TERM CARE PARTNERSHIP PROGRAM, TO PROVIDE A SHORT TITLE, TO

DEFINE TERMS, TO SPECIFY THE OPERATION OF THE PROGRAM AND ESTABLISH THE PROVISIONS OF ASSET DISREGARD, TO SPECIFY TERMS OF ELIGIBILITY, TO PROVIDE ADMINISTRATION, AND TO PROVIDE NOTICE REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 56, Idaho Code, and to read as follows:

CHAPTER 12
LONG-TERM CARE PARTNERSHIP PROGRAM

56-1201. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Long-term Care Partnership Program."

56-1202. DEFINITIONS. The following words and phrases when used in this chapter have the meanings given to them unless the context clearly indicates otherwise:

(1) "Asset disregard" means the total assets an individual owns and may retain under medicaid and still qualify for benefits at the time the individual applies for benefits:

(a) If the individual is a beneficiary of a long-term care partnership program approved policy; and

(b) Has exhausted the benefits of the policy.

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

(3) "Long-term care partnership program approved policy" means a long-term care insurance policy which is approved by the department of insurance and is provided through state approved long-term care insurers through the Idaho long-term care partnership program.

(4) "Medicaid" means the federal medical assistance program established under title XIX of the social security act.

56-1203. LONG-TERM CARE PARTNERSHIP PROGRAM. (1) Upon the repeal of restrictions to asset protection contained in the omnibus budget reconciliation act of 1993 (public law 103-66, 107 Stat. 312), there shall be established the Idaho long-term care partnership program, to be administered by the department with the assistance of the department of insurance to do the following:

(a) Provide incentives for individuals to insure against the costs of providing for their long-term care needs;

(b) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under medicaid without first being required to substantially exhaust their resources;

(c) Provide counseling services to individuals planning for their long-term care needs; and

(d) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

(2) Upon exhausting benefits under a long-term care partnership program policy, certain resources of an individual, as described in subsection (3) of this section, shall not be considered by the department as a determination of any of the following:

(a) Eligibility for medicaid;

(b) Amount of any medicaid payment; or

(c) Any subsequent recovery by the state of a payment for medical services.

(3) The department shall promulgate necessary rules and amendments to the state plan to allow for asset disregard. To provide asset disregard, for purchasers of a long-term care partnership program policy, the department shall count insurance benefits paid under the policy toward asset disregard to the extent the payments are for covered services under the long-term care partnership program policy.

56-1204. SPECIFIC ELIGIBILITY. (1) An individual who is a beneficiary of a long-term care partnership program policy is eligible for assistance under medicaid using the asset disregard under section 56-1203(3), Idaho Code.

(2) If the program is discontinued, an individual who purchased a long-term care partnership policy prior to the date the program is discontinued shall be eligible to receive asset disregard.

(3) The department may enter into reciprocal agreements with other states to extend the asset disregard to residents of the state who purchased long-term care policies in another state which has a substantially similar asset disregard program to the program under section 56-1203, Idaho Code.

56-1205. ADMINISTRATION. The department and the department of insurance are authorized to adopt rules to implement the provisions of this chapter and for its administration.

56-1206. NOTICE REQUIREMENT. (1) A long-term care insurance policy issued after the effective date of this chapter shall contain a notice provision to the consumer detailing in plain language the current law pertaining to asset disregard and asset tests.

(2) The notice to the consumer under subsection (1) of this section shall be developed by the director of the department of insurance.

SECTION 2. This act shall be in full force and effect sixty (60) days after the date of repeal of the restrictions to asset protection contained in the Omnibus Budget Reconciliation Act of 1993 (public law 103-66, 107 Stat. 312).

Approved March 23, 2004.

CHAPTER 262
(H.B. No. 659, As Amended)

AN ACT

RELATING TO THE IDAHO BOARD OF NURSING; AMENDING SECTION 54-1402, IDAHO CODE, TO REMOVE PHYSICIAN SUPERVISION REQUIREMENTS APPLICABLE TO CERTIFIED NURSE MIDWIVES, CLINICAL NURSE SPECIALISTS AND NURSE PRACTITIONERS AND TO PROVIDE FOR COLLABORATION WITH OTHER HEALTH PROFESSIONALS; AND AMENDING SECTION 54-1411, IDAHO CODE, TO REQUIRE PEER REVIEW FOR RENEWAL OF LICENSE.

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

SECTION 1. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act:

(1) "Advanced practice professional nurse" means a professional nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a nationally accredited program of study as defined herein and is authorized to perform advanced nursing practice, which may include the prescribing, administering and dispensing of therapeutic pharmacologic agents, as defined by board rules. An advanced practice professional nurse shall perform only those acts as provided herein and for which the individual is educationally prepared. Advanced practice professional nurses shall include certified nurse-midwives, clinical nurse specialists, nurse practitioners, and registered nurse anesthetists as defined in this subsection.

(a) "Certified nurse-midwife" means a licensed professional nurse who has graduated from a nationally accredited nurse-midwifery program, passed a qualifying examination recognized by the board, and has current initial certification or current recertification from a national organization recognized by the board. Certified nurse-midwives who meet these qualifying requirements and are licensed by the board, may manage women's health care, which may include pharmacologic and nonpharmacologic therapeutic and corrective measures which focus on pregnancy, childbirth, the postpartum period, care of the newborn, reproductive and gynecological needs of well women as defined by the rules of the board. ~~The--certified--nurse-midwife--shall-practice-with-physician-supervision,-consultation-and collaborative-management-and--appropriate--referral.--The--physician shall--be-licensed-pursuant-to-chapter-18,-title-54,-Idaho-Code.~~ The certified nurse midwife collaborates with other health professionals in providing health care.

(b) "Clinical nurse specialist" means a licensed professional nurse who has graduated from a nationally accredited graduate program in nursing with a clinical focus, passed a qualifying examination recognized by the board, and has current initial certification or current recertification from a national group recognized by the board. Clinical nurse specialists who meet these qualifying requirements and are licensed by the board may practice as expert clinicians in a particular specialty or subspecialty of nursing practice. The clinical nurse specialist provides direct client care, which may include assessing, diagnosing, planning, and prescribing pharmacologic and nonpharmacologic therapeutic and corrective measures, health promotion and preventive care within this specialized area of practice, as defined by rules of the board. ~~The-clinical-nurse-specialist shall-practice-with-physician-supervision,-consultation-and-collaborative-management-and-appropriate-referral.-The-physician--shall--be licensed--pursuant-to-chapter-18,-title-54,-Idaho-Code.~~ The clinical nurse specialist collaborates with other health professionals in providing health care.

(c) "Nurse practitioner" means a licensed professional nurse who has graduated from a nationally accredited nurse practitioner program, passed a qualifying examination recognized by the board, and

has current initial certification or current recertification from a national group recognized by the board. Any person authorized by the board to practice nursing as a nurse practitioner in this state as of July 1, 1998, shall be licensed as a nurse practitioner under the provisions of this act and shall be eligible for renewal of such license under the conditions and standards prescribed in this act. Nurse practitioners who meet these qualifying requirements and are licensed by the board may perform comprehensive health assessments, diagnosis, health promotion and the direct management of acute and chronic illness and disease which may include the prescribing of pharmacologic and nonpharmacologic treatments as defined by rules of the board. ~~The nurse practitioner shall practice with physician supervision, consultation and collaborative management and appropriate referral. The physician shall be licensed pursuant to chapter 18, title 54, Idaho Code.~~ The nurse practitioner collaborates with other health professionals in providing health care.

(d) "Registered nurse anesthetist" means a licensed professional nurse who has graduated from a nationally accredited nurse anesthesia program, passed a qualifying examination recognized by the board and, has current initial certification or current recertification from a national group recognized by the board. Registered nurse anesthetists who meet these qualifying requirements and are licensed by the board~~,~~ may, in collaboration with a physician, dentist or podiatrist authorized to practice in Idaho, provide anesthesia care services as defined by the rules of the board. The scope of practice for registered nurse anesthetists shall incorporate acts identified in board rules, including selecting, ordering and administering medications appropriate for rendering anesthesia care services.

(2) "Board" means the board of nursing.

(3) "Licensed practical nurse" means a person who practices nursing by:

(a) Functioning at the direction of a licensed professional nurse, licensed physician, or licensed dentist;

(b) Contributing to the assessment of the health status of individuals and groups of individuals;

(c) Participating in the development and modification of the strategy of care;

(d) Implementing the appropriate aspects of the strategy of care as defined by the board, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;

(e) Maintaining safe and effective nursing care rendered directly or indirectly;

(f) Participating in the evaluation of responses to interventions; and

(g) Delegating nursing interventions that may be performed by others and that do not conflict with this act.

(4) "Licensed professional nurse" means a person who practices nursing by:

(a) Assessing the health status of individuals and groups of individuals;

(b) Identifying health care problems that are amenable to nursing intervention;

(c) Establishing goals to meet identified health care needs;

(d) Planning a strategy of care;
(e) Prescribing nursing interventions to implement the strategy of care;
(f) Implementing the strategy of care, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;
(g) Authorizing nursing interventions that may be performed by others and that do not conflict with this act;
(h) Maintaining safe and effective nursing care rendered directly or indirectly;
(i) Evaluating responses to interventions;
(j) Teaching the theory and practice of nursing;
(k) Managing the practice of nursing; and
(l) Collaborating with other health professionals in the management of health care.

(5) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(6) "Practice of nursing" means assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment.

SECTION 2. That Section 54-1411, Idaho Code, be, and the same is hereby amended to read as follows:

54-1411. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Renewal. Each license issued pursuant to this chapter shall be valid from the date of its issue until the first renewal date thereafter.
(a) No license shall be valid unless renewed each and every two (2) years on the renewal dates fixed by the board.
(b) The board may impose a renewal fee in an amount not to exceed one hundred dollars ($100).
(c) A license that is not timely renewed is a lapsed license.

(2) Certified nurse midwives, clinical nurse specialists and nurse practitioners desiring license renewal must provide proof, satisfactory to the board, of the applicant's competence to practice by documenting completion of a peer review process.

(3) Reinstatement. A person whose license has lapsed, or who holds an emeritus status license in good standing, or whose license has been revoked, suspended, limited, conditioned or otherwise sanctioned by the board, may apply for reinstatement of the license to active and unrestricted status. A licensee's ability to apply for reinstatement may be subject to time constraints imposed by board rule or by the terms of a disciplinary order. An applicant for reinstatement must:
(a) Pay a reinstatement fee in an amount not to exceed one hundred dollars ($100).
(b) Submit a completed reinstatement application and provide proof, satisfactory to the board, of the applicant's competency to practice.

(c) Document compliance with the terms and conditions set forth in any order of the board as a condition of reinstatement.

Approved March 23, 2004.

CHAPTER 263
(H.B. No. 661)

AN ACT

RELATING TO DISSOLUTION OF HOSPITAL DISTRICTS; AMENDING SECTION 39-1325a, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A TECHNICAL CORRECTION AND TO PROVIDE FOR AN ORDER OF DISSOLUTION SUBJECT TO CERTAIN PROVISIONS; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-1325B AND 39-1325C, IDAHO CODE, TO PROVIDE FOR DISSOLUTION OF A NONFUNCTIONING DISTRICT, TO PROVIDE THE EFFECT OF DISSOLUTION OF A HOSPITAL DISTRICT AND TO PROVIDE FOR DISPOSAL OF PROPERTY AND DISTRIBUTION OF ASSETS AND NOTIFICATION OF THE STATE CONTROLLER.

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

SECTION 1. That Section 39-1325a, Idaho Code, be, and the same is hereby amended to read as follows:

39-1325~~a~~A. PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS. (1) Proceedings for the dissolution of a hospital district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to ten ~~per--cent~~ percent (10%) of the qualified electors and taxpayers of the district, the same percentage required for the organization of the district, but not earlier than four (4) years after the date of its establishment.

(2) The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county commissioners shall publish notice and hold a hearing on the matter. If necessary, they shall hold an election, subject to the provisions of section 34-106, Idaho Code, on the matter. The hearing and election shall be held in accordance with the terms and provisions of sections 40-1803 through 40-1809, Idaho Code. The disposition of hospital district assets on dissolution and the provision for payment of district indebtedness shall be made in accordance with the provisions of sections 63-4105 and 63-4106, Idaho Code.

(3) If the hospital district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it be determined that the proposition has been approved, the board of county commissioners of each county shall enter its order to that effect, subject to the provisions of section 39-1325C, Idaho Code, and the order shall by them be made a matter of record.

SECTION 2. That Chapter 13, 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 39-1325B and 39-1325C, Idaho Code, and to read as follows:

39-1325B. NONFUNCTIONING DISTRICT. Any hospital district which fails or has ceased to function for two (2) or more years may be dissolved by the board or boards of county commissioners of the county or counties in which it is located. The county commissioners may initiate such action by resolution subject to the provisions of section 39-1325C, Idaho Code.

39-1325C. EFFECT OF DISSOLUTION. (1) A dissolved hospital district continues its existence under the supervision of the board or boards of county commissioners of the county or counties in which the district is located, but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including the power to levy property taxes pursuant to the provisions of this chapter.

(2) The disposition of such property shall be governed by the provisions of section 63-4105, Idaho Code.

(3) Upon completion of winding up and liquidating the district's business and affairs, the commissioners shall enter a final order terminating the district and shall notify in writing the social security administrator at the Idaho state controller's office within ninety (90) days of the dissolution.

Approved March 23, 2004.

CHAPTER 264
(H.B. No. 670)

AN ACT

RELATING TO THE FOREST PRACTICES ADVISORY COMMITTEE; AMENDING SECTION 38-1305, IDAHO CODE, TO INCREASE MEMBERSHIP OF THE COMMITTEE FROM EIGHT MEMBERS TO NINE, TO CLARIFY MEMBERSHIP OF THE COMMITTEE, TO PROVIDE THAT ONE MEMBER SHALL BE A NONINDUSTRIAL FOREST LANDOWNER AND ONE MEMBER SHALL BE AN AT-LARGE MEMBER, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 38-1305, Idaho Code, be, and the same is hereby amended to read as follows:

38-1305. DUTIES, POWERS OF DEPARTMENT. The department:

(1) Shall administer and enforce this act;

(2) (a) Shall, through the director, appoint a forest practices advisory committee to the board for the purpose of providing technical advice to the board in carrying out the board's powers and duties as set forth in section 38-1304, Idaho Code. The forest practices advisory committee is composed of ~~eight~~ nine (~~8~~9) members, three (3) residing in the north forest region and three (3) residing

in the south forest region,~~. The remaining~~ and three (3) members shall be ~~residing in~~ Idaho residents. All m~~M~~embers of the committee shall be qualified by experience and/or training to provide technical advice related to forest practices. ~~One~~ Of the three (~~1~~3) members residing in each forest region, one (1) member shall be either a private landowner, a private timber owner, or authorized representative of the landowner or timber owner who regularly engages in forest practices;~~. O~~one (1) member ~~residing in each forest region~~ shall be an operator; and~~. O~~one (1) member ~~residing in each forest region~~ shall be a representative of the general public. Of the remaining three (3) members who are Idaho residents: o~~O~~ne (1) member shall be qualified by training and experience as a fisheries biologist; one (1) member shall be a nonindustrial forest landowner; and one (1) member shall be an at-large member. Members of the forest practices advisory committee shall be appointed by the director for three (3) year terms. Appointments under this subsection shall be made by the director within sixty (60) days after the effective date of this section. If there is a vacancy, for any cause, the director shall make an appointment to become immediately effective for the unexpired term. Said appointee shall possess the same qualifications under this ~~act~~ section as the person being replaced. The committee shall select a chairman from among its members. A member of the department of lands shall be designated by the director to serve as secretary, without voting power, for the committee.

(b) Notwithstanding the terms of the committee members specified by subsection (2)(a) of this section, of the members first appointed to each such committee:

(~~A~~i) Two (2) shall serve for a term of one (1) year;

(~~B~~ii) Two (2) shall serve for a term of two (2) years;

(~~C~~iii) Three (3) shall serve for a term of three (3) years.

(3) Shall advise and assist the board in the discharge of its duties as set forth in this act;

(4) Shall achieve coordination among state agencies which are concerned with the forest environment;

(5) Shall cooperate with and provide advice to landowners and timber owners in the management of forest lands;

(6) May enter into cooperative agreement or contracts which may be necessary in the administration of this act;

(7) All site-specific BMPs approved at the time of the effective date of this act shall remain in force and be enforced by the designated agency;

(8) Shall develop methods for controlling watershed impacts resulting from cumulative effects. The department shall form a cumulative effects watershed cooperative including, but not limited to, state and federal land managing agencies and owners of industrial private forest land, to serve as a clearinghouse for comparing and evaluating shared watershed information. The director shall select an interdisciplinary task force including appropriate technical specialists and affected landowners and shall, in consultation with the task force, formulate methods for controlling cumulative effects.

Approved March 23, 2004.

CHAPTER 265
(H.B. No. 684)

AN ACT

RELATING TO FUELS TAX CREDITS AND REFUNDS TO CONSUMERS; AMENDING SECTION 63-2401, IDAHO CODE, TO DEFINE "IDLING" AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-2423, IDAHO CODE, TO PROVIDE THAT NO REFUND OF SPECIAL FUELS TAX SHALL BE PAID ON SPECIAL FUELS USED WHILE IDLING A REGISTERED MOTOR VEHICLE.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel or mixture of fuels that is:

(a) Derived in whole or in part from agricultural products or animal fats or the wastes of such products; and

(b) Suitable for use as fuel in diesel engines.

(3) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(7) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(8) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(9) "Gasohol" means gasoline containing a mixture of no more than ten percent (10%) blend anhydrous ethanol.

(10) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(11) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels's tax liability or refund.

(12) "Idling" means the period of time greater than twenty-five hundredths (.25) of an hour when a motor vehicle is stationary with the engine operating at less than one thousand two hundred (1,200) revolutions per minute (RPM), without the power take-off (PTO) unit engaged, with the transmission in the neutral or park position, and with the parking brake set.

(13) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(13~~4~~) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(14~~5~~) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(15~~6~~) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(16~~7~~) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(17~~8~~) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(18~~9~~) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(~~19~~20) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any recreational vehicle as defined in section 49-119, Idaho Code.

(20~~1~~) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(21~~1~~2) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(22~~3~~3) "Special fuels dealer" means "distributor" under subsection (6) of this section.

(23~~4~~4) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(24~~5~~5) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2423, Idaho Code, be, and the same is hereby amended to read as follows:

63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid his special fuels tax directly to the vendor from whom it was purchased shall be refunded the amount of:

(a) Except as provided in subsection (2) of this section, a~~A~~ny special fuels tax paid on special fuels used for purposes other than operation or propulsion of motor vehicles upon the highways in the state of Idaho;

(b) Any tax paid on special fuels used in motor vehicles owned or leased and operated by an instrumentality of the federal government or of the state of Idaho, including the state and all of its political subdivisions;

(c) Any tax paid on special fuels used in motor vehicles to which gaseous special fuel is delivered and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code;

(d) Any special fuels tax paid on special fuels exported for use outside the state of Idaho. Special fuels carried from the state in the fuel tank of a motor vehicle will not be deemed to be exported from the state unless it is subject to a like or similar tax in the jurisdiction to which it is taken and that tax is actually paid to the other jurisdiction; and

(e) Any tax, penalty or interest erroneously or illegally paid or collected.

(2) No refund of special fuels tax shall be paid on:

(a) Special fuels used in a recreational vehicle; or

(b) Special fuels used in noncommercial motor boats or in motor boats operated by a governmental entity; or

(c) Special fuels used while idling a registered motor vehicle, pursuant to the definition of "idling" as provided in section 63-2401, Idaho Code.

(3) Refunds authorized in this section shall be claimed in the same manner as applies to refunds of gasoline tax under section 63-2410, Idaho Code, and shall be subject to interest computed pursuant to subsection (5) of that section.

Approved March 23, 2004.

CHAPTER 266
(H.B. No. 686)

AN ACT

RELATING TO ORDERS OF THE STATE FIRE MARSHAL FOR REMEDY OR REMOVAL; AMENDING SECTION 41-261, IDAHO CODE, TO INCREASE THE PENALTY FOR OWNERS OR OCCUPANTS FAILING TO COMPLY WITH ORDERS FOR REMEDY OR REMOVAL, TO DESIGNATE THE ENTITIES TO WHICH PENALTIES SHALL BE PAYABLE, TO PROVIDE THAT PENALTIES MAY BE RECOVERED IN CERTAIN CIVIL ENFORCEMENT ACTIONS UNDER THE DIRECTION OF ATTORNEYS FOR FIRE DISTRICTS AND TO PROVIDE FOR THE AWARD AND PAYMENT OF REASONABLE ATTORNEY'S FEES AND COSTS.

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

SECTION 1. That Section 41-261, Idaho Code, be, and the same is hereby amended to read as follows:

41-261. FAILURE TO COMPLY WITH ORDER OF REMEDY OR REMOVAL -- PENALTY -- CIVIL ACTION TO RECOVER PENALTY. Any owner or occupant failing to comply with such order within thirty (30) days after said appeal has been determined, or, if no appeal is taken, then within the time fixed in said order, shall be liable to a penalty of: ten dollars ($10.00) for each day's neglect beginning with the first day through the seventh day; fifty dollars ($50.00) per day on the eighth through the thirtieth day; and one hundred dollars ($100) per day on the thirty-first day and each day thereafter~~,~~. In the event such enforcement action is brought by the office of the state fire marshal, the penalty shall be payable to the state fire marshal, for deposit in the arson, fire and fraud prevention account. In the event such enforcement action is brought by a fire district under the authority of the state fire marshal, the penalty shall then be payable to the fire district which has prosecuted the enforcement action.

The penalty herein provided, if not then paid, may be recovered in an action brought in any court of competent jurisdiction of the county where such property is located, in the name of the state, under the direction of the state fire marshal and/or any of the assistants herein designated, where such property is located, or by an attorney specially designated therefor by the attorney general, or by the attorney for a fire district in the event such enforcement action is brought by the

district. The reasonable attorney's fees and costs incurred in bringing any such enforcement action, if any, shall be awarded to the state or the fire district bringing the enforcement action in addition to the assessment of any penalty, and shall be paid in the same manner as the penalty. If the court determines that the enforcement action has been brought frivolously or without reasonable cause, the court may award to the owner or occupant who is the subject of the enforcement action such reasonable attorney's fees and costs of the defense or appeal of the enforcement action as the court determines is fair and just.

Approved March 23, 2004.

CHAPTER 267
(H.B. No. 691)

AN ACT

RELATING TO WINE SAMPLE TASTING; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1325C, IDAHO CODE, TO PROVIDE THAT VINTNERS, WINERIES AND DISTRIBUTORS MAY CONDUCT OR ASSIST IN WINE SAMPLE TASTINGS, TO PROVIDE THAT HOLDERS OF RETAIL WINE LICENSES OR WINE BY THE DRINK LICENSES MAY CONDUCT WINE SAMPLE TASTING EVENTS, TO PROVIDE THAT A WINE BY THE DRINK LICENSE SHALL NOT BE REQUIRED UNDER CERTAIN CIRCUMSTANCES, TO SET FORTH REQUIREMENTS APPLICABLE TO SAMPLE TASTING EVENTS, TO SET FORTH ADDITIONAL REQUIREMENTS FOR VINTNER, WINERY OR DISTRIBUTOR CONDUCTED SAMPLE TASTINGS, TO PROVIDE FOR RETAILER CONDUCTED WINE SAMPLE TASTINGS AND TO PROVIDE THAT PARTICIPATION IN AN AUTHORIZED WINE SAMPLE TASTING EVENT SHALL NOT CONSTITUTE PROHIBITED CONDUCT OR UNLAWFUL AID TO A RETAILER.

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

SECTION 1. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1325C, Idaho Code, and to read as follows:

23-1325C. WINE SAMPLE TASTING REQUIREMENTS AND LIMITATIONS FOR EVENTS ON RETAIL WINE LICENSE PREMISES. (1) Vintners, wineries and distributors may conduct or assist a retail wine licensee at a wine sample tasting on premises not licensed for the sale of wine by the individual glass or opened bottle for consumption on the premises or on the premises of the holder of a wine by the drink license for the purpose of promoting their wine products to the public. The holder of a retail wine license or a wine by the drink license may also conduct wine sample tasting events, with or without the assistance of a vintner, winery or distributor in accordance with this section.

(2) A retail wine licensee shall not be required to hold a wine by the drink license for the purpose of conducting or permitting wine sample tasting events on the premises in accordance with this section unless a charge or other consideration is required of the customer by the retailer in exchange for such wine sample.

(3) Sample tasting events permitted pursuant to this section shall

be conducted subject to all of the following requirements:

(a) Sample sizes. The size of each sample of wine shall not exceed one and one-half (1 1/2) ounces.

(b) Identified tasting area. The retail wine licensee who conducts tastings or who allows a vintner, winery or distributor to conduct tastings on the retail wine premises shall identify a specific tasting area or areas. Such area or areas shall be of a size and design such that the retail wine licensee and the persons conducting the tasting can observe and control persons in the area to ensure that no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area or areas until they have finished consuming the sample. The retailer shall keep on file at the premises a floor plan identifying the tasting area or areas. If a retailer does not have an identified tasting area or areas, the director may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more tastings to be conducted by the vintner, winery or distributor on the premises.

(c) Number of in-store tastings. Although there is no limit on the number of tastings a retailer may conduct without the assistance of a vintner, winery or distributor, the retailer shall not permit a vintner, winery or distributor to conduct, or assist in conducting, tastings on the premises of the same licensee more than eight (8) times per calendar year.

(d) Vintner, winery or distributor conducted tastings. A vintner, winery or distributor may hold tastings on consecutive days on one (1) retail premises, provided the tastings shall not exceed two (2) consecutive days. Tastings shall be conducted at least four (4) weeks apart. If a vintner, winery or distributor holds tastings on two (2) consecutive days, they shall not hold another tasting on those retail premises for at least four (4) weeks.

(e) Server requirements. Persons serving or pouring wine at wine tastings on premises for which a wine by the drink license has not been issued must be at least twenty-one (21) years of age.

(4) Vintner, winery or distributor conducted sample tastings. A vintner, winery or distributor may conduct wine sample tastings on premises licensed for the sale of wine for products produced or sold by the vintner, winery or distributor. The vintner, winery or distributor conducting the wine sample tasting shall, in addition to compliance with other requirements of this section, comply with all of the following requirements:

(a) Provide the product to be tasted, and remove any remaining product at the end of the tasting.

(b) Provide or pay for a person to serve the wine. The server must be an employee or agent of the vintner, winery or distributor and shall not be an employee or agent of a retailer. The vintner, winery or distributor shall not compensate any employee or agent of the retail licensee to participate in the tasting.

(c) The vintner, winery or distributor shall keep a record of each tasting it conducts, including the date and location of each event and the products served.

(5) Retailer conducted wine sample tastings. Retail wine licensees and wine by the drink licensees may conduct wine sample tastings on their licensed premises and may:

(a) Accept assistance from a vintner, winery or distributor if:

(i) The only assistance provided is an employee to provide information or education relating to the product being sampled;
(ii) The retailer pays for the wine; and
(iii) The retailer is responsible for any advertising.

(b) Conduct an unlimited number of wine sample tastings on the premises if there is no vintner, winery or distributor providing assistance for the event. The retailer may advertise such events.

(6) Notwithstanding any other provision of law, participation by a vintner, winery or distributor in a wine sample tasting event, if expressly authorized by this section, shall not constitute prohibited conduct or unlawful aid to a retailer.

Approved March 23, 2004.

CHAPTER 268
(H.B. No. 694)

AN ACT

RELATING TO THE IDAHO BOARD OF NURSING; AMENDING SECTION 54-1401, IDAHO CODE, TO REQUIRE APPLICANTS FOR ORIGINAL LICENSURE AND FOR LICENSE REINSTATEMENT TO SUBMIT TO CRIMINAL BACKGROUND CHECKS.

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

SECTION 1. That Section 54-1401, Idaho Code, be, and the same is hereby amended to read as follows:

54-1401. PURPOSE -- LICENSE REQUIRED -- REPRESENTATION TO THE PUBLIC. In order to safeguard the public health, safety and welfare, it is in the public interest to regulate and control nursing in the state of Idaho, to promote quality health care services, to prohibit unqualified and dishonest persons from practicing nursing, and to protect against acts or conduct which may endanger the health and safety of the public.

(1) License required. It shall be unlawful for any person to practice nursing or offer to practice nursing unless that person is duly licensed pursuant to this act.

(2) Representation to the public. Only a person who holds a valid and current license to practice professional nursing in this state or a party state pursuant to sections 54-1409 and 54-1418, Idaho Code, may use the title "nurse," "registered nurse," "graduate nurse" or "professional nurse" or the abbreviation "R.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state. Only a person who holds a valid and current license to practice practical nursing in this state or a party state pursuant to sections 54-1407 and 54-1418, Idaho Code, may use the title "nurse," "licensed practical nurse," or the abbreviation "L.P.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state.

(3) On and after July 1, 2005, all applicants for original licensure and for license reinstatement will be required to submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history data-

base. Each applicant for original licensure and for license reinstatement must submit a full set of the applicant's fingerprints and any relevant fees directly to the Idaho state police and the federal bureau of investigation identification division for this purpose.

Approved March 23, 2004.

CHAPTER 269
(H.B. No. 696, As Amended)

AN ACT

RELATING TO MEDICAID; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209m, IDAHO CODE, TO DIRECT THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO APPLY FOR A WAIVER TO CONDUCT A PILOT PROJECT FOR SERVICES RELATED TO WEIGHT CONTROL BASED UPON AVAILABLE FUNDING AND TO PROVIDE LIMITATIONS.

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 56-209m, Idaho Code, and to read as follows:

56-209m. WEIGHT CONTROL PILOT PROJECT. Based upon available funding, the director of the department of health and welfare is directed to apply for the appropriate waiver or waivers from the centers for medicare and medicaid services for the state medicaid program to conduct a pilot project to determine the effectiveness of, and projected cost savings which may result from, providing reimbursement for weight control therapies, including anorexic drugs, and nutritional, diet and exercise counseling, in the state medicaid drug program, with the following limitations:

(1) Participation in the pilot program shall be limited to one hundred (100) clients;

(2) The length of the pilot program shall be limited to three (3) years;

(3) Participation shall be limited to clients with a body mass index (BMI) over twenty-five (25); and

(4) The department shall report annually to the senate and house health and welfare committees concerning the progress on all programs initiated under the waiver.

Approved March 23, 2004.

CHAPTER 270
(H.B. No. 727)

AN ACT

RELATING TO ADULT AND JUVENILE SEX OFFENDERS; AMENDING CHAPTER 83, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8327, IDAHO CODE, TO PROVIDE PROHIBITED EMPLOYMENT LOCATIONS AND PROHIBITED BEHAVIOR OF ADULT SEX OFFENDERS AND OWNERS AND OPERATORS OF DAY CARES AND TO PROVIDE PENALTIES; AMENDING CHAPTER 84, TITLE 18, IDAHO

CODE, BY THE ADDITION OF A NEW SECTION 18-8414, IDAHO CODE, TO PROVIDE PROHIBITED EMPLOYMENT LOCATIONS AND PROHIBITED BEHAVIOR OF A JUVENILE SEX OFFENDER AND OWNERS AND OPERATORS OF DAY CARES AND TO PROVIDE PENALTIES; AMENDING SECTION 20-505, IDAHO CODE, TO WAIVE JUVENILE CORRECTIONS ACT JURISDICTION OVER CERTAIN JUVENILE SEX OFFENDERS; AMENDING SECTION 18-8307, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO SEX OFFENDERS OF PROHIBITED CONDUCT; AMENDING SECTION 18-8407, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO JUVENILE SEX OFFENDERS OF PROHIBITED CONDUCT; AND AMENDING CHAPTER 83, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8328, IDAHO CODE, TO PROVIDE FOR JUDICIAL RELIEF FOR ADULT OR JUVENILE SEX OFFENDERS.

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

SECTION 1. That Chapter 83, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8327, Idaho Code, and to read as follows:

18-8327. ADULT CRIMINAL SEX OFFENDER -- PROHIBITED EMPLOYMENT. (1) Except as provided in section 18-8328, Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code.

(2) The owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code, to work in the day care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section 18-8328, Idaho Code.

SECTION 2. That Chapter 84, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8414, Idaho Code, and to read as follows:

18-8414. JUVENILE SEX OFFENDER -- PROHIBITED EMPLOYMENT. (1) Except as provided in section 18-8328, Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the juvenile sex offender registration act as provided in chapter 84, title 18, Idaho Code.

(2) The owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the juvenile sex

offender registration act as provided in chapter 84, title 18, Idaho Code, to work in the day care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section 18-8328, Idaho Code.

SECTION 3. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

(2) Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(5) This chapter shall not apply to the violent juvenile offender, as defined in this chapter;

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of fourteen (14) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter;

(7) This chapter shall not apply to juvenile sex offenders who violate the provisions of section 18-8414, Idaho Code.

SECTION 4. That Section 18-8307, Idaho Code, be, and the same is hereby amended to read as follows:

18-8307. LOCAL AND ANNUAL REGISTRATION.

(1) (a) Within ten (10) days of coming into any county to establish residence or temporary domicile, an offender shall register with the sheriff of the county. Individuals registered under the prior sex offender registration act, including those who registered within twelve (12) months of the effective date of this act, shall register with the sheriff of the county of residence within ten (10) days of the effective date of this act. The offender thereafter shall update the registration annually. If the offender intends to reside in another state, the offender shall register in the other state within ten (10) days of moving to that state.

(b) Nonresidents required to register pursuant to subsection (1)(d) of section 18-8304, Idaho Code, shall register with the sheriff of

the county where employed or enrolled as a student within ten (10) days of the commencement of employment or enrollment as a student in an educational institution; provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, must register prior to the commencement of such employment.

(2) Annual registration shall be conducted as follows:

(a) On or about the first day of the month containing the anniversary date of the initial registration, the department shall mail a non-forwardable notice of annual registration to the offender's last reported address;

(b) Within ten (10) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff with jurisdiction for the purpose of completing the registration process;

(c) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.

(3) Registration, whether initial or annual, shall consist of a form provided by the department and approved by the attorney general, which shall be signed by the offender and shall require the following information about the offender:

(a) Name and all aliases which the person has used or under which the person has been known;

(b) A complete description of the person including the date of birth and social security number;

(c) Name of each offense enumerated in section 18-8304, Idaho Code, of which the person was convicted, where each offense was committed, where the person was convicted of each offense, and the name under which the person was convicted of each offense;

(d) The name and location of each hospital, jail or penal institution to which the person was committed for each offense covered under this chapter;

(e) School or college enrollment; and

(f) Address or physical description of current residence and place of employment.

(4) At the time of registration, the sheriff shall obtain a photograph and fingerprints, in a manner approved by the department, and may require the offender to provide full palm print impressions of each hand. An offender shall pay a fee of ten dollars ($10.00) to the sheriff at the time of each registration. The sheriff may waive the registration fee if the offender demonstrates indigency. The fees collected under this section shall be used by the sheriff to defray the costs of sexual offender registration.

(5) The sheriff shall forward the completed and signed form, photograph and fingerprints to the department within three (3) working days of the registration.

(a) The official conducting the initial registration shall ensure that the notification form is complete and that the offender has read and signed the form.

(b) No person subject to registration shall furnish false or misleading information when complying with registration and notification requirements of this chapter.

(6) The sheriff, or appointed deputies, may visit the residence of a registered sexual offender within the county at any reasonable time to

verify the address provided at the time of registration.

(7) All written notifications of duty to register as provided herein shall include a warning that it is a felony as provided in section 18-8327, Idaho Code, for an offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children.

SECTION 5. That Section 18-8407, Idaho Code, be, and the same is hereby amended to read as follows:

18-8407. ANNUAL REGISTRATION. A juvenile sex offender, other than one serving a period of detention or committed to the department of juvenile corrections, shall be subject to annual registration and change of name or address notification pursuant to sections 18-8307 and 18-8309, Idaho Code.

All written notifications of duty to register as provided herein shall include a warning that it is a felony punishable as provided in section 18-8414, Idaho Code, for a juvenile sex offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the juvenile sex offender's child or children.

SECTION 6. That Chapter 83, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8328, Idaho Code, and to read as follows:

18-8328. ACTION FOR RELIEF BY OFFENDER OR JUVENILE OFFENDER. Any person who is required to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, may file a petition in a district court in the judicial district where the person resides, to have relief from the provisions of section 18-8327 or 18-8414, Idaho Code, pertaining to employment in or being upon or remaining on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the sex offender's or juvenile sex offender's child or children. To be granted relief pursuant to this section, the person shall show by clear and convincing evidence that the person required to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, does not pose a threat to children in a day care center, group day care facility or family day care home, it has been at least ten (10) years since the person's last conviction, finding of guilt or adjudication that required the person to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, and the petitioner presents testimony from a licensed physician or psychologist about the petitioner's chance of success of not committing an act against children.

Approved March 23, 2004.

CHAPTER 271
(H.B. No. 755, As Amended in the Senate)

AN ACT

RELATING TO STATE LANDS; AMENDING SECTION 47-711, IDAHO CODE, AS AMENDED BY SECTION 2, HOUSE BILL 510, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE, TO PERMIT THE SALE OF MINERAL INTERESTS RESERVED BY THE STATE AND TO PROVIDE RIGHTS AND LIABILITIES OF THE PURCHASER OF A MINERAL ESTATE WHO IS NOT THE OWNER OF THE SURFACE ESTATE.

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

SECTION 1. That Section 47-711, Idaho Code, as amended by Section 2, House Bill 510, enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

47-711. SALE OF STATE LANDS CONTAINING MINERAL DEPOSITS. (1) Lands in which minerals are contained and the surface of which has a value for other purposes may be sold as a single estate under the provisions of chapter 3, title 58, Idaho Code, relating to the sale of state lands, when the state land is identified as having the potential highest and best use for development purposes, such as residential, commercial or industrial purposes.

(2) For lands in which the surface estate previously has been sold with a reservation of the mineral estate, for which there is no lease of such mineral estate to any person other than the owner of the surface estate, and for which the potential highest and best use is for development purposes such as residential, commercial or industrial purposes, the mineral estate may be sold for its appraised value under the provisions of chapter 3, title 58, Idaho Code. The purchaser of a mineral estate who is not the owner of the surface estate shall have the same rights and liabilities with regard to the surface estate as identified in section 47-708, Idaho Code.

(3) In the sale of the surface estate of all other state land, there shall be reserved to the state all mineral deposits and the right of the purchaser shall be subject to the conditions and limitations prescribed by law providing for the state or persons authorized by it to prospect for, mine and remove such deposits and to occupy and use so much of the surface of such land as may be required for all purposes reasonably incident to the mining and removal of such deposits therefrom.

Approved March 23, 2004.

CHAPTER 272
(H.B. No. 756)

AN ACT

RELATING TO THE IDAHO BUILDING CODE ACT; AMENDING SECTION 39-4103, IDAHO CODE, TO EXPAND THE SCOPE OF THE CHAPTER TO INCLUDE CHAPTER 50, TITLE 54, IDAHO CODE; AMENDING SECTION 39-4104, IDAHO CODE, TO PRO-

VIDE THAT LOCAL GOVERNMENTS THAT ADOPT BUILDING CODES SHALL ENFORCE ALL OF THE PROVISIONS OF THIS CHAPTER THAT GOVERN APPLICATION BY LOCAL GOVERNMENTS; AMENDING SECTION 39-4109, IDAHO CODE, TO PROVIDE AN EFFECTIVE DATE FOR APPLICATION OF CODES, TO UPDATE THE APPLICABLE EDITION OF SPECIFIED CODES AND TO CLARIFY INCLUSIONS AND EXCLUSIONS FROM THE SPECIFIC CODES; AMENDING SECTION 39-4116, IDAHO CODE, TO RESPECIFY THE DATE BY WHICH PARTICIPATING LOCAL GOVERNMENTS SHALL BY ORDINANCE ADOPT CODES AS SPECIFIED, TO DELETE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5001, IDAHO CODE, TO SPECIFY APPLICABLE CODES AND EDITIONS OF THE CODES, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE THAT CERTAIN LOCAL GOVERNMENTS SHALL BY ORDINANCE ADOPT AND ENFORCE THE CODES AS PRESCRIBED; AND DECLARING AN EMERGENCY.

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, 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 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter ~~1~~50, 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. That Section 39-4104, Idaho Code, be, and the same is hereby amended to read as follows:

39-4104. ENFORCEMENT OF LAW. The administrator of the division of building safety shall enforce the provisions of this chapter that apply to the state. Local governments that adopt building codes~~, in their discretion,~~ shall enforce all ~~or a portion~~ of the provisions of this chapter that govern application by local governments.

SECTION 3. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. APPLICATION OF CODES. The following codes are hereby adopted effective January 1, 2005, for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

(1) The 2000~~2~~3 International Building Code: ~~and~~

(a) Including appendices thereto pertaining to building accessibility~~, not including the adoption of;~~

(b) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code;~~, but~~

(c) I~~i~~ncluding the incorporated International Residential Code, parts I, II, III, IV and IX; ~~International Mechanical Code; International Fuel Gas Code;~~ International Energy Conservation Code; ~~for the 2000 edition of the International Building Code, the requirements pertaining to accessibility for persons with disabilities published by the International Code Council in the 2001 supplement to the International Codes~~ and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included; and

(d) Replacing section 903.2.7 of the 2003 International Building Code with sections 903.2.7, 903.2.8 and 903.2.9 of the 2000 International Building Code, which pertain to fire sprinklers in group R occupancies.

(2) The 2000~~2~~3 International Residential Code as published by the International Code Council, except for parts V, VI, VII and VIII as they pertain to mechanical, fuel gas, plumbing and electrical requirements;

(3) The 2000~~2~~3 International Energy Conservation Code as published by the International Code Council except that in chapter 7, the reference to the ASHRAE/IESNA 90.1 standard shall be the 2001 edition of such standard, including addendum G; and

(4) The ~~latest edition of the Uniform Mechanical Code, published by the International Conference of Building Officials;~~

~~(5) The 1997 Uniform Code for Building Conservation as published by the International Conference of Building Officials; and~~

~~(6) The Safety Code for Elevators and Escalators (ASME/ANSI A17.1) as published by the American Society of Mechanical Engineers and the American National Standards Institute~~ existing 2003 International Building Code as published by the International Code Council.

SECTION 4. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. LOCAL GOVERNMENT ADOPTION AND ENFORCEMENT OF BUILDING CODES. (1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section. Local governments that have not previously instituted and implemented a code enforcement program prior to the effective date of this act may elect to implement a building code enforcement program by passing an ordinance evidencing the intent to do so. Local governments may contract with a public or private entity to administer their building code enforcement program.

(2) By January 1, 20~~03~~05, local governments that issue building permits and perform building code enforcement activities shall, by ordinance, adopt the following codes as published by the International Code Council ~~and as adopted by the state or by the Idaho building code board~~ together with any amendments or revisions set forth in section 39-4109, Idaho Code:

(a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the ~~a~~Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;

(b) International Residential Code, parts I-IV and IX; and

(c) International Energy Conservation Code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code.

(3) Local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code. A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code. ~~Previously adopted local amendments to a superseded version of a building code shall remain in full force and effect for a period not to exceed one (1) year after the effective date of adoption of a new version of the building code, provided that such amendments do not conflict with provisions of the newly adopted building code.~~

(4) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

(5) Permits shall be governed by the laws in effect at the time the permit application is received.

(6) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant inspections and enforcement of construction standards for modular buildings and commercial coaches.

SECTION 5. That Section 54-5001, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ 2003 International Mechanical Code as published by the International Code Council, the 2003 International Fuel Gas Code as published by the International Code Council, and parts V and VI of the 2003 International Residential Code as published by the International Code Council, applicable to the industry and amendments as adopted by ~~local-governments~~ the Idaho heating, ventilation and air conditioning board. 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~~ By January 1, 2005, local governments that issue mechanical permits and perform mechanical or fuel gas enforcement activities shall, by ordinance, adopt and enforce the codes as prescribed by this chapter.

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

Approved March 23, 2004.

CHAPTER 273
(H.B. No. 762)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE GENERAL BOARDS FOR FISCAL YEAR 2005; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2005; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2005; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE ATHLETIC COMMISSION.

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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF EXAMINERS:				
FROM:				
General Fund			$10,000	$ 10,000
II. COMMISSION ON HISPANIC AFFAIRS:				
FROM:				
General Fund	$ 88,500	$27,800		$116,300
Federal Grant Fund	47,800	10,300	$15,400	73,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	48,500	45,500		94,000
TOTAL	$184,800	$83,600	$15,400	$283,800
GRAND TOTAL	$184,800	$83,600	$25,400	$293,800

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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory Fund	$ 177,000	$ 137,700	$ 2,500	$ 317,200
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory Fund	$ 606,300	$ 706,800	$10,000	$1,323,100
III. BOARD OF NURSING:				
FROM:				
State Regulatory Fund	$ 372,700	$ 284,000	$12,600	$ 669,300
IV. BOARD OF OPTOMETRY:				
FROM:				
State Regulatory Fund	$ 2,500	$ 54,300		$ 56,800
V. BOARD OF PHARMACY:				
FROM:				
State Regulatory Fund	$ 586,500	$ 285,700	$33,400	$ 905,600
VI. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory Fund	$ 99,900	$ 74,900		$ 174,800
GRAND TOTAL	$1,844,900	$1,543,400	$58,500	$3,446,800

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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 7,500	$ 25,100			$ 32,600
II. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 221,600	$ 231,200	$ 6,100		$ 458,900
III. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 194,900	$ 224,100	$ 3,000		$ 422,000
IV. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 30,500	$ 34,600			$ 65,100
V. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 849,100	$ 618,800		$52,500	$1,520,400
VI. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 12,200	$ 12,400			$ 24,600
VII. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 302,700	$ 184,700			$ 487,400
VIII. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 692,100	$ 398,000	$ 4,500		$1,094,600
GRAND TOTAL	$2,310,600	$1,728,900	$13,600	$52,500	$4,105,600

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, 2004, through June 30, 2005, 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 and three-fourths (2.75)
Board of Medicine ..... Twelve and one-half (12.5)
Board of Nursing ..... Seven (7)
Board of Optometry ..... Zero (0)

Board of Pharmacy ..... Eleven and one-half (11.5)
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 ..... Eighteen (18)
Certified Shorthand Reporters Board ..... Twenty-eight hundredths (.28)
Outfitters and Guides Licensing Board ..... Six (6)
Real Estate Commission ..... Thirteen (13)

SECTION 5. It is legislative intent that the State Athletic Commission remit a minimum of $500 for the period July 1, 2004, through June 30, 2005, to the Department of Administration for past due interagency bills, specifically for costs associated with the printing and publication of the Athletic Commission's administrative rules.

Approved March 23, 2004.

CHAPTER 274
(H.B. No. 771)

AN ACT

RELATING TO PATERNITY FRAUD; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1009, IDAHO CODE, TO PROVIDE FOR THE VACATION OF A CHILD SUPPORT ORDER BASED UPON A FINDING OF PATERNITY FRAUD, TO REQUIRE MOTIONS TO BE FILED IN A SPECIFIED TIME PERIOD AND TO PROVIDE FOR ACTIONS FOR RESTITUTION.

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

SECTION 1. That Chapter 10, 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 32-1009, Idaho Code, and to read as follows:

32-1009. PATERNITY FRAUD -- CHILD SUPPORT RESTITUTION. Notwithstanding any other provision of law to the contrary, a court shall vacate a child support order if the court finds, by clear and convincing evidence, that the moving party is not the biological father of the child who is the subject of the support order, and that the obligee knowingly and intentionally misrepresented the paternity of the child to the obligor. The obligor shall file the motion to vacate the order within two (2) years of discovery of evidence that he is not the biological father of the child. If the order is vacated, the obligor may bring an action in court against the obligee or the true biological father of the child to obtain restitution for child support previously paid pursuant to the order.

Approved March 23, 2004.

CHAPTER 275
(H.B. No. 772)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2005; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-SEVENTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2005, 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, 2004, 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, 2005, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-seventh Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2005, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-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, 2005, 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 con-

stitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 23, 2004.

CHAPTER 276
(H.B. No. 773)

AN ACT

RELATING TO THE MOBILE HOME PARK LANDLORD TENANT ACT; AMENDING SECTION 55-2010, IDAHO CODE, TO PROVIDE CLARIFICATION, TO INCREASE THE NOTICE TIME WHICH MUST BE GIVEN BEFORE TERMINATION OF A TENANCY UPON CESSATION OF THE OPERATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 55-2010, Idaho Code, be, and the same is hereby amended to read as follows:

55-2010. TERMINATIONS. (1) Tenancy during the term of a rental agreement may be terminated by the landlord only for one (1) or more of the following reasons:

(a) Substantial or repeated violation of the written rules of the mobile home park. The tenant shall be given written notice to comply. If the tenant does not comply within three (3) days, the tenant may be given notice of a twenty (20) day period in which to vacate. In the case of periodic rather than continuous violation, said notice shall specify that the same violation repeated shall result in the termination.

(b) Nonpayment of rent or other charges specified in the rental agreement. The tenant shall be given written notice. If the tenant does not pay within three (3) days the tenant may be given notice of a twenty (20) day period in which to vacate.

(c) Cessation of the mobile home space rental operation, provided that the landlord gives the tenant not less than one hundred ~~twenty~~ eighty (1~~2~~80) days' notice in writing prior to the date designated in the notice of termination.

(2) ~~A~~ Except where there will be a cessation of the mobile home space rental operation, a landlord shall give the tenant no less than ninety (90) days' written notice of an intention not to renew the rental agreement. Where there will be a cessation of the mobile home space rental operation, the landlord must provide the tenant with the same notice as required in subsection (1)(c) of this section.

(3) A tenant shall notify the landlord in writing thirty (30) days prior to the expiration of a rental agreement of an intention not to renew the rental agreement.

(4) Any tenant who is a member of the armed forces may, without penalty, terminate a rental agreement with less than thirty (30) days' notice if he receives reassignment orders which do not allow greater notice.

(5) The tenant may terminate the rental agreement upon thirty (30) days' written notice whenever a change in the location of the tenant's employment requires a change in his residence.

Approved March 23, 2004.

CHAPTER 277
(H.B. No. 777, As Amended in the Senate)

AN ACT

RELATING TO POLITICAL CAMPAIGN FINANCE; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6610B, IDAHO CODE, TO PROVIDE PROCEDURES FOR POLITICAL COMMITTEES TO RETIRE UNPAID DEBT AND TO DEFINE THE TERM "UNPAID DEBT"; AMENDING SECTION 67-6610C, IDAHO CODE, TO REVISE WHAT AMOUNTS RECEIVED BY A CANDIDATE AS CONTRIBUTIONS THAT ARE IN EXCESS OF ANY AMOUNT NECESSARY TO DEFRAY THE CANDIDATE'S EXPENDITURES MAY BE USED FOR, TO PROHIBIT THE CONVERSION OF CONTRIBUTIONS TO ANY PERSONAL USE, TO PROVIDE WHEN A CONTRIBUTION SHALL BE CONSIDERED TO BE CONVERTED TO PERSONAL USE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6602, IDAHO CODE, TO FURTHER DEFINE THE TERM "CANDIDATE"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 66, 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 67-6610B, Idaho Code, and to read as follows:

67-6610B. RETIRING DEBT. If a political committee organized on behalf of a candidate has unpaid debt at the end of the reporting periods specified in section 67-6607(a)(2) or 67-6607(a)(6), Idaho Code, then the committee may accept additional contributions to retire such unpaid debt, provided the contributions do not exceed the applicable contribution limits prescribed.

For the purposes of this section "unpaid debt" means any unpaid monetary obligation incurred by the political committee as listed on the reports filed through the postelection report period minus any cash balance reported on the postelection report. Outstanding loans are considered a type of "unpaid debt."

SECTION 2. That Section 67-6610C, Idaho Code, be, and the same is hereby amended to read as follows:

67-6610C. USE OF CONTRIBUTIONS FOR CERTAIN PURPOSES BY CANDIDATE OR OFFICEHOLDER. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures~~,--and--any other-amounts-contributed-to-an-individual-for-the-purpose-of-supporting his--activities--as-a-holder-of-any-state,-county,-city,-school-district~~

~~or-other-public-office-in-this-state-other-than-a-federal-office,-may-be used-by-the-candidate-or-individual,-as-the-case-may-be,-to--defray--any ordinary--and--necessary-expenses-incurred-in-connection-with-his-duties as-such-officeholder,-or~~ may be used by the candidate as follows:

(1) ~~F~~for any ~~other~~ lawful purpose, including transfers without limitation to any national, state or local committee of any political party or to an organization 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 ~~i~~Internal ~~r~~Revenue ~~c~~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; ~~except-that-no-such-amounts-may~~

(2) For any ordinary and necessary expenses associated with any public office the candidate may hold. No funds other than contributions regulated under this chapter shall be used pursuant to this section. No contributions shall be converted ~~by-any--person~~ to any personal use~~, other--than--to--defray--any-ordinary-and-necessary-expenses-incurred-in connection-with-his-duties-as-such-officeholder~~. For the purpose of this section, a contribution shall be considered to be converted to personal use if the contribution is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or the individual's duties as a holder of public office.

SECTION 3. That Section 67-6602, Idaho Code, be, and the same is hereby amended to read as follows:

67-6602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(a) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(2) Announces publicly or files for office.

(3) For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office. Contributions received by an incumbent candidate shall not be in excess of the prescribed contribution limits for the subsequent election by which the incumbent candidate's name would first appear on the ballot. An incumbent shall no longer be a candidate for his or her office after the deadline for the filing of a declaration of candidacy to first appear on the ballot for that office has expired.

(b) "Compensation" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars ($25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

(d) "Election" means any general, special or primary election.

(e) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(f) "Expenditure" includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(g) "Independent expenditure" means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, "expressly advocating" means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(h) "Lobby" and "lobbying" each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the mem-

bers of that association or organization.

(i) "Lobbyist" includes any person who lobbies.

(j) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed, directly or indirectly, and all persons by whom he is compensated for acting as a lobbyist.

(k) "Measure" means any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general reviews it and gives it a ballot title.

(l) "Nonbusiness entity" means any group (of two (2) or more individuals), corporation, association, firm, partnership, committee, club or other organization which:

(1) Does not have as its principal purpose the conduct of business activities for profit; and

(2) Received during the preceding calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(m) "Person" means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(n) "Political committee" means:

(1) Any person specifically designated to support or oppose any candidate or measure; or

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars ($500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(3) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars ($5,000) in a calendar year.

(o) "Political treasurer" means an individual appointed by a candidate or political committee as provided in section 67-6603, Idaho Code.

(p) "Public office" means any state office or position, state senator, state representative, and judge of the district court that is filled by election.

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

Approved March 23, 2004.

CHAPTER 278
(H.B. No. 785)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

FOR:	
Personnel Costs	$1,018,200
Operating Expenditures	244,700
TOTAL	$1,262,900
FROM:	
General Fund	$1,262,900

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, 2004, through June 30, 2005, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2004.

CHAPTER 279
(H.B. No. 786)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2005; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE TRANSFER OF FUNDS ON JUNE 30, 2004; REVISING THE EFFECTIVE DATES OF CERTAIN FISCAL YEAR 2004 APPROPRIATIONS FOR THE SPECIAL LITIGATION PROGRAM; 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 Attorney General the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. STATE LEGAL SERVICES:			
FROM:			
General Fund	$13,439,000	$ 651,600	$14,090,600
Consumer Protection Fund	66,800	85,300	152,100
TOTAL	$13,505,800	$ 736,900	$14,242,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. SPECIAL LITIGATION:			
FROM:			
General Fund		$ 951,600	$ 951,600
GRAND TOTAL	$13,505,800	$1,688,500	$15,194,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred seventy-eight and sixty-five hundredths (178.65) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, 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. On or before June 30, 2004, the State Controller, at the request of the Attorney General, shall transfer $56,000 from the Self-Governing Operating Fund in the Department of Finance to the General Fund. The intent of this transfer is to mitigate the impact of adding staff for the Office of the Attorney General to provide additional legal services to the Idaho Department of Finance in fiscal year 2005.

SECTION 4. The appropriation made in Section 2, Chapter 191, Laws of 2003, and the appropriation made in Section 10, Chapter 348, Laws of 2003, for the Special Litigation Program within the Office of the Attorney General shall be for the period July 1, 2003, through June 30, 2005.

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 March 23, 2004.

CHAPTER 280
(H.B. No. 792)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2005; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO BOND PAYMENTS; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO HOUSE CONCURRENT RESOLUTION 44.

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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 204,900	$ 57,600		$ 262,500
Industrial Special Indemnity Fund	172,700	107,500	$ 2,600	282,800
Indirect Cost Recovery Fund	508,900	250,300		759,200
Administration and Accounting Services Fund	24,800			24,800
TOTAL	$ 911,300	$ 415,400	$ 2,600	$ 1,329,300
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 551,200	$ 257,800		$ 809,000
Indirect Cost Recovery Fund	379,200	76,100		455,300
Administration and Accounting Services Fund	1,639,000	970,400	$ 157,000	2,766,400
TOTAL	$2,569,400	$ 1,304,300	$ 157,000	$ 4,030,700
III. PUBLIC WORKS:				
FROM:				
General Fund		$ 332,000		$ 332,000
Permanent Building Fund	$1,425,600	623,200	$ 946,500	2,995,300
Administration and Accounting Services Fund	1,584,400	4,054,300	11,100	5,649,800
TOTAL	$3,010,000	$ 5,009,500	$ 957,600	$ 8,977,100
IV. PURCHASING:				
FROM:				
General Fund	$ 784,300	$ 156,400		$ 940,700
Federal Surplus Property Revolving Fund	191,100	252,200	$ 21,100	464,400
Administration and Accounting Services Fund	758,200	1,131,900	44,600	1,934,700
TOTAL	$1,733,600	$ 1,540,500	$ 65,700	$ 3,339,800
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 204,400	$ 321,900	$ 2,600	$ 528,900
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 61,900			$ 61,900
Administration and Accounting Services Fund	303,300	$ 381,000	$ 2,600	686,900
TOTAL	$ 365,200	$ 381,000	$ 2,600	$ 748,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 268,600	$ 437,500	$ 4,700	$ 710,800
Retained Risk Fund	442,300	191,700	7,100	641,100
TOTAL	$ 710,900	$ 629,200	$ 11,800	$ 1,351,900
VIII. BOND PAYMENT:				
FROM:				
General Fund		$ 3,446,400	$3,035,400	$ 6,481,800
Permanent Building Fund		4,442,600	4,406,800	8,849,400
Administration and Accounting Services Fund		422,200	220,000	642,200
TOTAL		$ 8,311,200	$7,662,200	$15,973,400
GRAND TOTAL	$9,504,800	$17,913,000	$8,862,100	$36,279,900

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. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-three and one-half (173.5) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. It is legislative intent in regard to the Borah Post Office, that the Legislature shall consider a trailer appropriation bill in the event that House Concurrent Resolution 44 of the Second Regular Session of the Fifty-seventh Idaho Legislature passes both houses of the Legislature.

Approved March 23, 2004.

CHAPTER 281
(H.B. No. 802)

AN ACT

RELATING TO SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION, THE STATE TAX COMMISSION AND THE INDUSTRIAL COMMISSION; AMENDING SECTION 61-215, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 63-102, IDAHO

CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE TAX COMMISSION; AND AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE INDUSTRIAL COMMISSION.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 200~~0~~4, the annual salary of members of the public utilities commission shall be ~~seventy-seven~~ eighty-two thousand ~~six~~ seven hundred ~~twenty-five~~ forty dollars ~~($77,625~~82,740~~), which amount shall be increased on July 1, 2001, by four and one-half percent (4-1/2%),~~ and shall be paid from sources set by the legislature.

SECTION 2. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties. Commencing on July 1, 200~~1~~4, the annual salary for members of the state tax commission shall be seventy-one thousand ~~three~~ seven hundred ~~two~~ eight dollars (~~$70,302~~71,708).

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, 200~~0~~4, the annual salary of each member of the industrial commission shall be ~~seventy-five~~ eighty thousand five hundred ~~fifty~~thirty-five dollars (~~$75,555~~80,535)~~, which amount shall be increased on July 1, 2001, by four and one-half percent (4 1/2%)~~. Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

Approved March 23, 2004.

CHAPTER 282
(H.B. No. 805)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2005 TO STATE AGENCIES AND INSTITUTIONS FOR A TEMPORARY SALARY INCREASE FOR STATE EMPLOYEES, CONTINGENT UPON THE ENDING BALANCE OF THE GENERAL FUND.

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

SECTION 1. Pursuant to House Concurrent Resolution 47, adopted by the Second Regular Session of the Fifty-seventh Idaho Legislature, a temporary salary increase for state employees shall be provided contingent upon the ending balance of the General Fund. If, at the close of the fiscal year, the State Controller certifies to the Secretary of State that the unexpended and unencumbered balance of the General Fund on June 30, 2004, exceeded $77,220,000, then, in addition to any other appropriation provided by law, there is hereby appropriated to the following agencies and institutions the following amounts to be expended for the designated programs for one-time personnel costs only from the listed funds for the period July 1, 2004, through June 30, 2005:

		TOTAL
(1) STATE BOARD OF EDUCATION		
AGRICULTURAL RESEARCH		
AND COOPERATIVE EXTENSION SERVICE:		
FROM:		
General Fund	$ 186,600	
Miscellaneous Revenue Fund	1,600	
Federal Grant Fund	39,500	
TOTAL		$ 227,700
(2) STATE BOARD OF EDUCATION		
COLLEGES AND UNIVERSITIES:		
FROM:		
General Fund	$1,689,800	
Unrestricted Current Fund	157,400	
Charitable Institutions Endowment Income Fund	8,500	
Restricted Current Fund	361,900	
University Endowment Income Fund	10,800	
Normal School Endowment Income Fund	25,900	
Scientific School Endowment Income Fund	22,400	
Agricultural College Endowment Income Fund	5,400	
TOTAL		$2,282,100

		TOTAL
(3) STATE BOARD OF EDUCATION		
COMMUNITY COLLEGE SUPPORT:		
FROM:		
General Fund	$ 130,100	
Community College Fund	2,100	
TOTAL		$ 132,200
(4) STATE BOARD OF EDUCATION		
IDAHO SCHOOL FOR THE DEAF AND THE BLIND:		
FROM:		
General Fund		$ 56,200
(5) STATE BOARD OF EDUCATION		
OFFICE OF THE STATE BOARD OF EDUCATION:		
FROM:		
General Fund	$ 10,100	
Miscellaneous Revenue Fund	1,000	
TOTAL		$ 11,100
(6) STATE BOARD OF EDUCATION		
HEALTH EDUCATION PROGRAMS		
I. WOI VETERINARY EDUCATION:		
FROM:		
General Fund	$ 4,400	
II. WWAMI MEDICAL EDUCATION:		
FROM:		
General Fund	$ 6,500	
III. IDEP DENTAL EDUCATION:		
FROM:		
General Fund	$ 1,900	
Unrestricted Current Fund	1,000	
SUBTOTAL	$ 2,900	
IV. FAMILY PRACTICE RESIDENCIES:		
FROM:		
General Fund	$ 3,900	
TOTAL		$ 17,700
(7) STATE BOARD OF EDUCATION		
IDAHO STATE HISTORICAL SOCIETY		
I. HISTORIC PRESERVATION AND EDUCATION:		
FROM:		
General Fund	$ 11,200	
Miscellaneous Revenue Fund	1,700	
Federal Grant Fund	7,600	
SUBTOTAL	$ 20,500	
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:		
FROM:		
General Fund	$ 1,000	
Miscellaneous Revenue Fund	1,500	
SUBTOTAL	$ 2,500	
TOTAL		$ 23,000
(8) STATE BOARD OF EDUCATION		
STATE LIBRARY BOARD:		
FROM:		
General Fund	$ 15,100	
Federal Grant Fund	2,000	
TOTAL		$ 17,100

		TOTAL
(9) STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION		
DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION		
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:		
FROM:		
General Fund	$ 14,200	
II. GENERAL PROGRAMS:		
FROM:		
General Fund	$ 1,900	
III. POSTSECONDARY PROGRAMS:		
FROM:		
General Fund	$ 259,100	
TOTAL		$ 275,200
(10) STATE BOARD OF EDUCATION		
IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:		
FROM:		
General Fund	$ 8,300	
Miscellaneous Revenue Fund	7,200	
TOTAL		$ 15,500
(11) STATE BOARD OF EDUCATION		
SPECIAL PROGRAMS		
I. FOREST UTILIZATION RESEARCH:		
FROM:		
General Fund	$ 4,400	
II. GEOLOGICAL SURVEY:		
FROM:		
General Fund	$ 6,900	
III. MUSEUM OF NATURAL HISTORY:		
FROM:		
General Fund	$ 4,300	
IV. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:		
FROM:		
General Fund	$ 5,300	
V. IDAHO COUNCIL ON ECONOMIC EDUCATION:		
FROM:		
General Fund	$ 1,000	
VI. TECH HELP:		
FROM:		
General Fund	$ 3,100	
TOTAL		$ 25,000
(12) SUPERINTENDENT OF PUBLIC INSTRUCTION/		
STATE DEPARTMENT OF EDUCATION:		
FROM:		
General Fund	$ 21,400	
Driver's Education Fund	1,000	
Data Processing Services Fund	400	
Indirect Cost Recovery Fund	2,300	
Public Instruction Fund	2,700	
Federal Grant Fund	22,800	
TOTAL		$ 50,600

		TOTAL
(13) STATE BOARD OF EDUCATION		
VOCATIONAL REHABILITATION		
I. INDEPENDENT LIVING COUNCIL:		
FROM:		
General Fund	$ 100	
Federal Grant Fund	800	
SUBTOTAL	$ 900	
II. VOCATIONAL REHABILITATION:		
FROM:		
General Fund	$ 12,900	
Federal Grant Fund	47,600	
SUBTOTAL	$ 60,500	
TOTAL		$ 61,400
(14) DEPARTMENT OF HEALTH AND WELFARE		
FAMILY AND COMMUNITY SERVICES		
I. CHILDREN'S SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 194,300	
Cooperative Welfare Fund (Federal)	33,100	
SUBTOTAL	$ 227,400	
II. DEVELOPMENTAL DISABILITIES SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 47,500	
Cooperative Welfare Fund (Federal)	34,400	
SUBTOTAL	$ 81,900	
III. COMMUNITY MENTAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 81,900	
Cooperative Welfare Fund (Federal)	22,800	
SUBTOTAL	$ 104,700	
IV. ISSH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 45,500	
Cooperative Welfare Fund (Federal)	106,300	
SUBTOTAL	$ 151,800	
V. STATE HOSPITAL NORTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 46,200	
VI. STATE HOSPITAL SOUTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 116,000	

		TOTAL
VII. SUBSTANCE ABUSE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 5,000	
TOTAL		$ 733,000
(15) DEPARTMENT OF HEALTH AND WELFARE		
INDEPENDENT COMMISSIONS AND COUNCILS		
I. DEAF & HARD OF HEARING:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 1,400	
II. DEVELOPMENTAL DISABILITIES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 700	
Cooperative Welfare Fund (Federal)	2,000	
SUBTOTAL	$ 2,700	
III. DOMESTIC VIOLENCE:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Domestic Violence Project Fund	$ 1,600	
TOTAL		$ 5,700
(16) DEPARTMENT OF HEALTH AND WELFARE		
INDIRECT SUPPORT SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 87,400	
Cooperative Welfare Fund (Federal)	71,400	
TOTAL		$ 158,800
(17) DEPARTMENT OF HEALTH AND WELFARE		
MEDICAL ASSISTANCE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 49,900	
Cooperative Welfare Fund (Federal)	84,900	
TOTAL		$ 134,800
(18) DEPARTMENT OF HEALTH AND WELFARE		
PUBLIC HEALTH SERVICES		
I. PHYSICAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 59,800	
Cooperative Welfare Fund (Federal)	4,500	
SUBTOTAL	$ 64,300	

		TOTAL
II. EMERGENCY MEDICAL SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 2,300	
Emergency Medical Services Fund	13,600	
SUBTOTAL	$ 15,900	
III. LABORATORY SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 23,700	
TOTAL		$ 103,900
(19) DEPARTMENT OF HEALTH AND WELFARE		
DIVISION OF WELFARE		
SELF-RELIANCE PROGRAMS:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
General Fund	$ 109,900	
Cooperative Welfare Fund (Federal)	134,200	
TOTAL		$ 244,100
(20) PUBLIC HEALTH DISTRICTS:		
To be deposited into the Public Health Trust Fund		
FROM:		
General Fund		$ 69,200
(21) DEPARTMENT OF CORRECTION		
SUPPORT DIVISION		
SUPPORT SERVICES:		
FROM:		
General Fund	$ 40,800	
Parolee Supervision Fund	1,000	
Miscellaneous Revenue Fund	1,100	
Federal Grant Fund	500	
TOTAL		$ 43,400
(22) DEPARTMENT OF CORRECTION		
OPERATIONS DIVISION		
I. OPERATIONS ADMINISTRATION:		
FROM:		
General Fund	$ 3,800	
II. OFFENDER PROGRAMS:		
FROM:		
General Fund	$ 4,800	
Federal Grant Fund	3,000	
SUBTOTAL	$ 7,800	
III. COMMUNITY SUPERVISION:		
FROM:		
General Fund	$ 86,500	
Parolee Supervision Fund	18,600	
Federal Grant Fund	500	
SUBTOTAL	$ 105,600	

		TOTAL
IV. COMMUNITY WORK CENTERS:		
FROM:		
General Fund	$ 21,000	
Inmate Labor Fund	1,400	
SUBTOTAL	$ 22,400	
V. IDAHO CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
General Fund	$ 126,800	
Miscellaneous Revenue Fund	2,800	
Federal Grant Fund	500	
SUBTOTAL	$ 130,100	
VI. IDAHO CORRECTIONAL INSTITUTION - OROFINO:		
FROM:		
General Fund	$ 49,000	
Miscellaneous Revenue Fund	900	
Inmate Labor Fund	5,000	
Federal Grant Fund	400	
SUBTOTAL	$ 55,300	
VII. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:		
FROM:		
General Fund	$ 25,600	
Miscellaneous Revenue Fund	200	
SUBTOTAL	$ 25,800	
VIII. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
General Fund	$ 42,400	
Inmate Labor Fund	7,100	
Miscellaneous Revenue Fund	100	
Federal Grant Fund	2,000	
SUBTOTAL	$ 51,600	
IX. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:		
FROM:		
General Fund	$ 59,900	
Miscellaneous Revenue Fund	700	
SUBTOTAL	$ 60,600	
X. ST. ANTHONY WORK CAMP:		
FROM:		
General Fund	$ 11,400	
Inmate Labor Fund	4,300	
SUBTOTAL	$ 15,700	
XI. POCATELLO WOMEN'S CORRECTIONAL CENTER:		
FROM:		
General Fund	$ 31,800	
Miscellaneous Revenue Fund	1,200	
Inmate Labor Fund	1,700	
SUBTOTAL	$ 34,700	
XII. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:		
FROM:		
General Fund	$ 6,800	
TOTAL		$ 520,200

		TOTAL
(23) DEPARTMENT OF CORRECTION		
COMMISSION FOR PARDONS AND PAROLE:		
FROM:		
General Fund		$ 10,700
(24) JUDICIAL BRANCH		
I. SUPREME COURT:		
FROM:		
General Fund	$ 23,400	
Federal Grant Fund	400	
SUBTOTAL	$ 23,800	
II. LAW LIBRARY:		
FROM:		
General Fund	$ 2,000	
III. DISTRICT COURTS:		
FROM:		
General Fund	$ 27,300	
ISTARS Technology Fund	600	
SUBTOTAL	$ 27,900	
IV. COURT OF APPEALS:		
FROM:		
General Fund	$ 5,500	
V. SNAKE RIVER BASIN ADJUDICATION:		
FROM:		
General Fund	$ 6,000	
TOTAL		$ 65,200
(25) DEPARTMENT OF JUVENILE CORRECTIONS		
I. ADMINISTRATION:		
FROM:		
General Fund	$ 15,900	
Miscellaneous Revenue Fund	500	
SUBTOTAL	$ 16,400	
II. COMMUNITY SERVICES:		
FROM:		
General Fund	$ 4,900	
Juvenile Corrections Fund	400	
Federal Grant Fund	400	
SUBTOTAL	$ 5,700	
III. INSTITUTIONS:		
FROM:		
General Fund	$ 111,300	
Federal Grant Fund	1,900	
SUBTOTAL	$ 113,200	
IV. JUVENILE JUSTICE COMMISSION:		
FROM:		
General Fund	$ 700	
Federal Grant Fund	1,900	
SUBTOTAL	$ 2,600	
TOTAL		$ 137,900
(26) IDAHO STATE POLICE		
BRAND INSPECTION:		
FROM:		
State Brand Board Fund		$ 16,500

		TOTAL
(27) IDAHO STATE POLICE		
DIVISION OF IDAHO STATE POLICE		
I. DIRECTOR'S OFFICE:		
FROM:		
General Fund	$ 15,500	
Indirect Cost Recovery Fund	600	
Idaho Law Enforcement Fund	700	
Federal Grant Fund	4,500	
SUBTOTAL	$ 21,300	
II. EXECUTIVE PROTECTION:		
FROM:		
General Fund	$ 2,100	
III. INVESTIGATIONS:		
FROM:		
General Fund	$ 40,300	
Federal Grant Fund	1,100	
SUBTOTAL	$ 41,400	
IV. PATROL:		
FROM:		
General Fund	$ 16,100	
Miscellaneous Revenue Fund	600	
Idaho Law Enforcement Fund	108,500	
Hazardous Materials/Waste Enforcement Fund	1,100	
Federal Grant Fund	11,000	
SUBTOTAL	$ 137,300	
V. LAW ENFORCEMENT PROGRAMS:		
FROM:		
General Fund	$ 7,500	
Miscellaneous Revenue Fund	600	
SUBTOTAL	$ 8,100	
VI. SUPPORT SERVICES:		
FROM:		
General Fund	$ 13,100	
Idaho Law Enforcement Telecommunications Fund	2,700	
Idaho Law Enforcement Fund	10,300	
Miscellaneous Revenue Fund	5,400	
Federal Grant Fund	500	
SUBTOTAL	$ 32,000	
VII. FORENSIC SERVICES:		
FROM:		
General Fund	$ 16,600	
Miscellaneous Revenue Fund	500	
SUBTOTAL	$ 17,100	
TOTAL		$ 259,300
(28) IDAHO STATE POLICE		
PEACE OFFICERS' STANDARDS AND TRAINING ACADEMY:		
FROM:		
Peace Officers Fund	$ 7,600	
Federal Grant Fund	500	
TOTAL		$ 8,100

		TOTAL
(29) IDAHO STATE POLICE		
RACING COMMISSION:		
FROM:		
Idaho State Racing Commission Fund		$ 3,300
(30) DEPARTMENT OF ENVIRONMENTAL QUALITY		
I. ADMINISTRATION AND SUPPORT SERVICES:		
FROM:		
General Fund	$ 13,600	
Public Water System Supervision Fund	2,700	
Department of Environmental Quality Fund (Receipts)	800	
Air Quality Permitting Fund	1,600	
Department of Environmental Quality Fund (Federal)	15,700	
SUBTOTAL	$ 34,400	
II. AIR QUALITY:		
FROM:		
General Fund	$ 15,400	
Department of Environmental Quality Fund (Receipts)	600	
Air Quality Permitting Fund	9,600	
Department of Environmental Quality Fund (Federal)	11,500	
SUBTOTAL	$ 37,100	
III. WATER QUALITY:		
FROM:		
General Fund	$ 40,500	
Department of Environmental Quality Fund (Receipts)	2,200	
Public Water System Supervision Fund	7,500	
Department of Environmental Quality Fund (Federal)	32,200	
SUBTOTAL	$ 82,400	
IV. WASTE MANAGEMENT AND REMEDIATION:		
FROM:		
General Fund	$ 17,000	
Environmental Remediation Fund	1,600	
Department of Environmental Quality Fund (Receipts)	3,300	
Department of Environmental Quality Fund (Federal)	22,700	
SUBTOTAL	$ 44,600	
V. INEEL OVERSIGHT:		
FROM:		
General Fund	$ 1,600	
Department of Environmental Quality Fund (Federal)	8,300	
SUBTOTAL	$ 9,900	
TOTAL		$ 208,400

	TOTAL
(31) DEPARTMENT OF FISH AND GAME	
I. ADMINISTRATION:	
FROM:	
Fish and Game Fund (Licenses)	$ 23,100
Fish and Game Fund (Federal)	23,600
SUBTOTAL	$ 46,700
II. ENFORCEMENT:	
FROM:	
Fish and Game Fund (Licenses)	$ 57,400
Fish and Game Fund (Other)	600
SUBTOTAL	$ 58,000
III. FISHERIES:	
FROM:	
Fish and Game Expendable Trust Fund	$ 1,700
Fish and Game Fund (Other)	11,200
Fish and Game Set-aside Fund (Licenses)	1,100
Fish and Game Set-aside Fund (Other)	500
Fish and Game Fund (Licenses)	29,400
Fish and Game Fund (Federal)	79,300
SUBTOTAL	$ 123,200
IV. WILDLIFE:	
FROM:	
Non-Expendable Trust Fund	$ 100
Fish and Game Expendable Trust Fund	3,200
Fish and Game Set-aside Fund (Other)	4,700
Fish and Game Fund (Other)	200
Fish and Game Fund (Licenses)	29,400
Fish and Game Fund (Federal)	28,000
SUBTOTAL	$ 65,600
V. COMMUNICATIONS:	
FROM:	
Fish and Game Fund (Other)	$ 600
Fish and Game Set-aside Fund (Other)	500
Fish and Game Fund (Licenses)	11,600
Fish and Game Fund (Federal)	4,800
SUBTOTAL	$ 17,500

		TOTAL
VI. ENGINEERING:		
FROM:		
Fish and Game Fund (Licenses)	$ 7,200	
VII. NATURAL RESOURCE POLICY:		
FROM:		
Fish and Game Fund (Other)	$ 1,500	
Fish and Game Set-aside Fund (Other)	500	
Fish and Game Fund (Licenses)	5,500	
Fish and Game Fund (Federal)	16,300	
SUBTOTAL	$ 23,800	
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:		
FROM:		
Fish and Game Set-aside Fund (Licenses)	$ 500	
Fish and Game Fund (Licenses)	3,900	
SUBTOTAL	$ 4,400	
TOTAL		$ 346,400
(32) STATE BOARD OF LAND COMMISSIONERS ENDOWMENT FUND INVESTMENT BOARD:		
FROM:		
Miscellaneous Revenue Fund	$ 700	
Endowment Administrative Fund	2,100	
TOTAL		$ 2,800
(33) DEPARTMENT OF LANDS		
I. SUPPORT SERVICES:		
FROM:		
General Fund	$ 3,600	
Endowment Administrative Fund	11,800	
Department of Lands Fund	3,600	
Federal Grant Fund	500	
SUBTOTAL	$ 19,500	
II. FOREST RESOURCES MANAGEMENT:		
FROM:		
General Fund	$ 9,000	
Department of Lands Fund	17,300	
Endowment Administrative Fund	49,200	
Federal Grant Fund	6,000	
SUBTOTAL	$ 81,500	
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:		
FROM:		
General Fund	$ 6,100	
Department of Lands Fund	200	
Endowment Administrative Fund	17,300	
SUBTOTAL	$ 23,600	

		TOTAL
IV. FOREST AND RANGE FIRE PROTECTION:		
FROM:		
General Fund	$ 7,100	
Fire Suppression Deficiency Fund	1,000	
Department of Lands Fund	20,800	
Federal Grant Fund	4,800	
SUBTOTAL	$ 33,700	
V. SCALING PRACTICES:		
FROM:		
Department of Lands Fund	$ 1,800	
TOTAL		$ 160,100
(34) DEPARTMENT OF PARKS AND RECREATION		
LAVA HOT SPRINGS FOUNDATION:		
FROM:		
Public Recreation Enterprise - Lava Hot Springs Fund		$ 3,500
(35) DEPARTMENT OF PARKS AND RECREATION		
I. MANAGEMENT SERVICES:		
FROM:		
General Fund	$ 13,600	
Parks and Recreation Fund	5,800	
Recreational Fuels Fund	2,400	
Indirect Cost Recovery Fund	1,900	
Parks and Recreation Registration Fund	500	
Federal Grant Fund	700	
SUBTOTAL	$ 24,900	
II. PARK OPERATIONS:		
FROM:		
General Fund	$ 36,000	
Parks and Recreation Expendable Trust Fund	2,400	
Public Recreation Enterprise Fund	2,900	
Parks and Recreation Registration Fund	2,800	
Parks and Recreation Fund	3,800	
Indirect Cost Recovery Fund	200	
Recreational Fuels Fund	2,200	
Federal Grant Fund	3,800	
SUBTOTAL	$ 54,100	
TOTAL		$ 79,000
(36) DEPARTMENT OF WATER RESOURCES		
I. MANAGEMENT AND SUPPORT SERVICES:		
FROM:		
General Fund	$ 7,800	
Indirect Cost Recovery Fund	2,300	
Water Administration Fund	200	
SUBTOTAL	$ 10,300	
II. PLANNING AND TECHNICAL SERVICES:		
FROM:		
General Fund	$ 16,700	
Indirect Cost Recovery Fund	1,000	
Federal Grant Fund	3,600	
SUBTOTAL	$ 21,300	

		TOTAL
III. ENERGY RESOURCES:		
FROM:		
General Fund	$ 200	
Petroleum Price Violation Fund	5,200	
Indirect Cost Recovery Fund	500	
Miscellaneous Revenue Fund	900	
Federal Grant Fund	4,100	
SUBTOTAL	$ 10,900	
IV. SNAKE RIVER BASIN ADJUDICATION:		
FROM:		
General Fund	$ 14,900	
V. WATER MANAGEMENT:		
FROM:		
General Fund	$ 22,000	
Indirect Cost Recovery Fund	500	
Water Administration Fund	6,000	
Miscellaneous Revenue Fund	3,900	
Federal Grant Fund	1,800	
SUBTOTAL	$ 34,200	
TOTAL		$ 91,600
(37) DEPARTMENT OF AGRICULTURE		
I. ADMINISTRATION:		
FROM:		
General Fund	$ 5,600	
Facilities Maintenance Fund	1,100	
Administration and Accounting Services Fund	7,500	
SUBTOTAL	$ 14,200	
II. ANIMAL INDUSTRIES:		
FROM:		
General Fund	$ 13,900	
Agricultural Fees - Dairy Inspection Fund	9,400	
Agricultural Fees - Livestock Disease Control Fund	6,000	
Agricultural Fees - Egg Inspection Fund	1,000	
Federal Grant Fund	2,600	
SUBTOTAL	$ 32,900	
III. AGRICULTURAL RESOURCES:		
FROM:		
General Fund	$ 5,400	
Agricultural Fees - Pesticides Fund	14,500	
Federal Grant Fund	5,100	
SUBTOTAL	$ 25,000	
IV. PLANT INDUSTRIES:		
FROM:		
General Fund	$ 7,400	
Agricultural Inspection Fund	13,700	
Agricultural Fees - Organic Food Products Fund	1,000	
Agricultural Fees - Commercial Feed and Fertilizer Fund	7,100	
Federal Grant Fund	2,800	
SUBTOTAL	$ 32,000	

		TOTAL
V. AGRICULTURAL INSPECTIONS:		
FROM:		
General Fund	$ 6,700	
Agricultural Fees -		
Fresh Fruit and Vegetable Inspection Fund	65,800	
Weights and Measures Inspection Fund	2,900	
Agricultural Inspection Fund	1,500	
SUBTOTAL	$ 76,900	
VI. MARKETING AND DEVELOPMENT:		
FROM:		
General Fund	$ 3,800	
Agricultural Loans Fund	200	
Federal Grant Fund	600	
SUBTOTAL	$ 4,600	
VII. SHEEP COMMISSION:		
FROM:		
General Fund	$ 600	
Agricultural Fees - Sheep Industry Regulation Fund	900	
SUBTOTAL	$ 1,500	
TOTAL		$ 187,100
(38) DEPARTMENT OF AGRICULTURE		
SOIL CONSERVATION COMMISSION:		
FROM:		
General Fund	$ 13,100	
Federal Grant Fund	1,600	
TOTAL		$ 14,700
(39) DEPARTMENT OF COMMERCE		
I. COMMERCE:		
FROM:		
General Fund	$ 17,900	
Tourism and Promotion Fund	4,500	
Miscellaneous Revenue Fund	1,000	
Federal Grant Fund	3,500	
SUBTOTAL	$ 26,900	
II. IDAHO RURAL PARTNERSHIP:		
FROM:		
Federal Grant Fund	$ 900	
TOTAL		$ 27,800
(40) DEPARTMENT OF FINANCE		
FROM:		
State Regulatory Fund		$ 23,800
(41) INDUSTRIAL COMMISSION		
I. COMPENSATION:		
FROM:		
Industrial Administration Fund	$ 20,500	
II. REHABILITATION:		
FROM:		
Industrial Administration Fund	$ 22,700	
III. CRIME VICTIMS COMPENSATION:		
FROM:		
Crime Victims Compensation Fund	$ 3,900	

		TOTAL
IV. ADJUDICATION:		
FROM:		
Industrial Administration Fund	$ 8,600	
TOTAL		$ 55,700
(42) DEPARTMENT OF INSURANCE		
I. INSURANCE REGULATION:		
FROM:		
Miscellaneous Revenue Fund	$ 500	
Self-Governing Operating Fund	26,800	
Federal Grant Fund	1,100	
SUBTOTAL	$ 28,400	
II. STATE FIRE MARSHAL:		
FROM:		
Self-Governing State Fire Marshal Fund	$ 4,800	
TOTAL		$ 33,200
(43) DEPARTMENT OF LABOR		
WAGE AND HOUR:		
FROM:		
General Fund		$ 3,400
(44) PUBLIC UTILITIES COMMISSION		
UTILITIES REGULATION:		
FROM:		
Public Utilities Commission Fund	$ 24,100	
Federal Grant Fund	400	
TOTAL		$ 24,500
(45) SELF-GOVERNING AGENCIES		
DIVISION OF BUILDING SAFETY		
I. ADMINISTRATION:		
FROM:		
Public Works Contractors Licensing Fund	$ 200	
Electrical Fund	1,800	
Miscellaneous Revenue/Logging Fund	100	
Miscellaneous Revenue/Industrial Safety Fund	500	
Building Fund	500	
Plumbing Fund	1,200	
Federal Grant Fund	100	
SUBTOTAL	$ 4,400	
II. BUILDING SAFETY:		
FROM:		
Miscellaneous Revenue/Industrial Safety Fund	$ 4,600	
Plumbing Fund	13,300	
Electrical Fund	21,000	
Manufactured Housing Fund	400	
Public Works Contractors Licensing Fund	1,100	
Building Fund	4,800	
Energy Program Fund	600	
Heating, Ventilation and Air Conditioning Board Fund	1,000	
Miscellaneous Revenue/Logging Fund	2,300	
Federal Grant Fund	500	
SUBTOTAL	$ 49,600	
TOTAL		$ 54,000

		TOTAL
(46) SELF-GOVERNING AGENCIES		
GENERAL BOARDS		
COMMISSION ON HISPANIC AFFAIRS:		
FROM:		
General Fund	$ 700	
Federal Grant Fund	200	
TOTAL		$ 900
(47) SELF-GOVERNING AGENCIES		
STATE LOTTERY:		
FROM:		
State Lottery Fund		$ 21,400
(48) SELF-GOVERNING AGENCIES		
MEDICAL BOARDS		
I. BOARD OF DENTISTRY:		
FROM:		
State Regulatory Fund	$ 1,300	
II. BOARD OF MEDICINE:		
FROM:		
State Regulatory Fund	$ 4,900	
III. BOARD OF NURSING:		
FROM:		
State Regulatory Fund	$ 2,700	
IV. BOARD OF PHARMACY:		
FROM:		
State Regulatory Fund	$ 4,500	
V. BOARD OF VETERINARY MEDICINE:		
FROM:		
State Regulatory Fund	$ 700	
TOTAL		$ 14,100
(49) SELF-GOVERNING AGENCIES		
REGULATORY BOARDS		
I. BOARD OF ACCOUNTANCY:		
FROM:		
State Regulatory Fund	$ 1,800	
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:		
FROM:		
State Regulatory Fund	$ 1,500	
III. BOARD OF PROFESSIONAL GEOLOGISTS:		
FROM:		
State Regulatory Fund	$ 200	
IV. BUREAU OF OCCUPATIONAL LICENSES:		
FROM:		
State Regulatory Fund	$ 6,500	
V. CERTIFIED SHORTHAND REPORTERS BOARD:		
FROM:		
State Regulatory Fund	$ 100	
VI. OUTFITTERS AND GUIDES BOARD:		
FROM:		
State Regulatory Fund	$ 2,100	
VII. REAL ESTATE COMMISSION:		
FROM:		
State Regulatory Fund	$ 5,200	
TOTAL		$ 17,400

		TOTAL
(50) SELF-GOVERNING AGENCIES		
OFFICE OF STATE APPELLATE PUBLIC DEFENDER:		
FROM:		
General Fund		$ 8,700
(51) SELF-GOVERNING AGENCIES		
DIVISION OF VETERANS SERVICES:		
FROM:		
General Fund	$ 17,100	
Miscellaneous Revenue Fund	49,400	
Federal Grant Fund	39,000	
TOTAL		$ 105,500
(52) IDAHO TRANSPORTATION DEPARTMENT		
I. MANAGEMENT AND ADMINISTRATIVE SERVICES:		
FROM:		
State Highway Fund (Dedicated)	$ 103,200	
State Highway Fund (Billing)	200	
State Highway Fund (Federal)	2,000	
SUBTOTAL	$ 105,400	
II. PLANNING:		
FROM:		
State Highway Fund (Dedicated)	$ 6,900	
State Highway Fund (Federal)	12,600	
SUBTOTAL	$ 19,500	
III. MOTOR VEHICLES:		
FROM:		
State Highway Fund (Dedicated)	$ 93,300	
IV. HIGHWAY OPERATIONS:		
FROM:		
State Highway Fund (Dedicated)	$ 507,900	
State Highway Fund (Local)	1,600	
State Highway Fund (Federal)	100,900	
SUBTOTAL	$ 610,400	
V. AERONAUTICS:		
FROM:		
State Aeronautics Fund (Dedicated)	$ 6,800	
State Aeronautics Fund (Billing)	500	
State Aeronautics Fund (Federal)	100	
SUBTOTAL	$ 7,400	

		TOTAL
VI. PUBLIC TRANSPORTATION:		
FROM:		
State Highway Fund (Dedicated)	$ 1,200	
State Highway Fund (Federal)	3,100	
SUBTOTAL	$ 4,300	
TOTAL		$ 840,300
(53) DEPARTMENT OF ADMINISTRATION		
I. ADMINISTRATIVE RULES:		
FROM:		
Administrative Code Fund	$ 1,700	
II. DIRECTOR'S OFFICE:		
FROM:		
General Fund	$ 1,700	
Administration and Accounting Services Fund	100	
Industrial Special Indemnity Fund	1,500	
Indirect Cost Recovery Fund	3,900	
SUBTOTAL	$ 7,200	
III. INFORMATION TECHNOLOGY & COMMUNICATIONS:		
FROM:		
General Fund	$ 4,900	
Administration and Accounting Services Fund	13,500	
Indirect Cost Recovery Fund	3,300	
SUBTOTAL	$ 21,700	
IV. INFORMATION TECHNOLOGY RESOURCE MGMT. COUNCIL:		
FROM:		
General Fund	$ 500	
Administration and Accounting Services Fund	2,600	
SUBTOTAL	$ 3,100	
V. OFFICE OF INSURANCE MANAGEMENT:		
FROM:		
Retained Risk Fund	$ 3,600	
Employee Group Insurance Fund	2,500	
SUBTOTAL	$ 6,100	
VI. PUBLIC WORKS:		
FROM:		
Administration and Accounting Services Fund	$ 10,700	
Permanent Building Fund	11,800	
SUBTOTAL	$ 22,500	
VII. PURCHASING:		
FROM:		
General Fund	$ 6,500	
Administration and Accounting Services Fund	5,200	
Federal Surplus Property Revolving Fund	1,500	
SUBTOTAL	$ 13,200	
TOTAL		$ 75,500
(54) DEPARTMENT OF ADMINISTRATION		
CAPITOL COMMISSION:		
FROM:		
Capitol Endowment Income Fund		$ 200

		TOTAL
(55) ATTORNEY GENERAL		
STATE LEGAL SERVICES:		
FROM:		
General Fund	$ 121,300	
Consumer Protection Fund	500	
TOTAL		$ 121,800
(56) CONTROLLER, STATE		
I. ADMINISTRATION:		
FROM:		
General Fund	$ 1,700	
II. STATEWIDE ACCOUNTING:		
FROM:		
General Fund	$ 12,100	
III. STATEWIDE PAYROLL:		
FROM:		
General Fund	$ 9,700	
IV. COMPUTER CENTER:		
FROM:		
Data Processing Services Fund	$ 31,500	
TOTAL		$ 55,000
(57) OFFICE OF THE GOVERNOR		
COMMISSION ON AGING:		
FROM:		
General Fund	$ 4,400	
Federal Grant Fund	3,500	
TOTAL		$ 7,900
(58) OFFICE OF THE GOVERNOR		
COMMISSION ON THE ARTS:		
FROM:		
General Fund	$ 2,700	
Federal Grant Fund	2,200	
TOTAL		$ 4,900
(59) OFFICE OF THE GOVERNOR		
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:		
FROM:		
General Fund	$ 6,100	
Federal Grant Fund	10,100	
TOTAL		$ 16,200
(60) OFFICE OF THE GOVERNOR		
FINANCIAL MANAGEMENT:		
FROM:		
General Fund	$ 16,000	
Miscellaneous Revenue Fund	200	
TOTAL		$ 16,200
(61) OFFICE OF THE GOVERNOR		
I. ADMINISTRATION - GOVERNOR'S OFFICE:		
FROM:		
General Fund	$ 9,100	
II. SOCIAL SERVICES:		
FROM:		
Federal Grant Fund	$ 1,200	
TOTAL		$ 10,300

		TOTAL
(62) OFFICE OF THE GOVERNOR		
DIVISION OF HUMAN RESOURCES:		
FROM:		
Division of Human Resources Fund		$ 18,200
(63) OFFICE OF THE GOVERNOR		
HUMAN RIGHTS COMMISSION:		
FROM:		
General Fund	$ 4,300	
Federal Grant Fund	900	
TOTAL		$ 5,200
(64) OFFICE OF THE GOVERNOR		
STATE LIQUOR DISPENSARY		
DISPENSARY OPERATIONS:		
FROM:		
Liquor Control Fund		$ 58,100
(65) OFFICE OF THE GOVERNOR		
MILITARY DIVISION		
I. MILITARY MANAGEMENT:		
FROM:		
General Fund	$ 13,100	
Indirect Cost Recovery Fund	400	
SUBTOTAL	$ 13,500	
II. FEDERAL/STATE AGREEMENTS:		
FROM:		
General Fund	$ 5,600	
Federal Grant Fund	60,700	
SUBTOTAL	$ 66,300	
III. BUREAU OF HOMELAND SECURITY:		
FROM:		
General Fund	$ 9,700	
Federal Grant Fund	5,900	
SUBTOTAL	$ 15,600	
TOTAL		$ 95,400
(66) OFFICE OF THE GOVERNOR		
PUBLIC EMPLOYEE RETIREMENT SYSTEM		
I. RETIREMENT ADMINISTRATION:		
FROM:		
PERSI Administrative Fund	$ 24,100	
II. PORTFOLIO INVESTMENT:		
PERSI Special Fund	$ 3,200	
TOTAL		$ 27,300
(67) OFFICE OF THE GOVERNOR		
OFFICE OF SPECIES CONSERVATION:		
FROM:		
General Fund		$ 4,100
(68) OFFICE OF THE GOVERNOR		
WOMEN'S COMMISSION:		
FROM:		
General Fund		$ 200

		TOTAL
(69) LEGISLATIVE COUNCIL		
LEGISLATIVE SERVICES OFFICE:		
FROM:		
General Fund	$ 29,300	
Professional Services Fund	7,700	
TOTAL		$ 37,000
(70) LEGISLATIVE COUNCIL		
OFFICE OF PERFORMANCE EVALUATIONS:		
FROM:		
General Fund		$ 5,100
(71) LIEUTENANT GOVERNOR		
ADMINISTRATION - LIEUTENANT GOVERNOR:		
FROM:		
General Fund		$ 500
(72) DEPARTMENT OF REVENUE AND TAXATION		
BOARD OF TAX APPEALS:		
FROM:		
General Fund		$ 2,100
(73) DEPARTMENT OF REVENUE AND TAXATION		
STATE TAX COMMISSION		
I. GENERAL SERVICES:		
FROM:		
General Fund	$ 30,300	
Administration Services for Transportation Fund	3,300	
SUBTOTAL	$ 33,600	
II. AUDIT AND COLLECTIONS:		
FROM:		
General Fund	$ 78,000	
Abandoned Property Trust - Unclaimed Property Fund	3,600	
Administration Services for Transportation Fund	8,900	
Multistate Tax Compact Fund	10,100	
SUBTOTAL	$ 100,600	
III. REVENUE OPERATIONS:		
FROM:		
General Fund	$ 22,900	
Administration Services for Transportation Fund	3,800	
Abandoned Property Trust - Unclaimed Property Fund	700	
Administration and Accounting Fund	500	
SUBTOTAL	$ 27,900	
IV. COUNTY SUPPORT:		
FROM:		
General Fund	$ 20,100	
TOTAL		$ 182,200
(74) SECRETARY OF STATE		
ADMINISTRATION:		
FROM:		
General Fund		$ 13,100

			TOTAL
(75) STATE TREASURER			
TREASURY - ADMINISTRATION:			
FROM:			
General Fund	$	6,600	
State Treasurer LGIP Fund		1,400	
Treasurer's Office - Professional Services Fund		2,100	
TOTAL			$ 10,100
GRAND TOTAL			$8,799,800

Approved March 23, 2004.

CHAPTER 283
(H.B. No. 808)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1846, IDAHO CODE, TO SET FORTH REQUIREMENTS AND LIMITATIONS FOR INSURERS OFFERING HEALTH CARE POLICIES THAT DO NOT MEET THE DEFINITION OF MANAGED CARE PLANS; AMENDING SECTION 41-3903, IDAHO CODE, TO REVISE THE DEFINITION FOR "MANAGED CARE PLAN"; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR APPLICATION.

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 41-1846, Idaho Code, and to read as follows:

41-1846. HEALTH CARE POLICIES -- APPLICABILITY -- REQUIREMENT. (1) An insurer offering a health care policy that does not meet the definition of a managed care plan as provided in section 41-3903(15), Idaho Code:

(a) Must have the intent to render and the capability for rendering or providing coverage for good quality health care services, which will be and are readily available and accessible to its insureds both within and outside the state of Idaho, and such services must be reasonably responsive to the needs of insureds;

(b) When "emergency services" are provided, they shall be provided as set forth in section 41-3903(7), Idaho Code, and shall not require prior authorization;

(c) Shall include on its website and/or send annually to its policyholders:

(i) A statement as to whether the plan includes a limited formulary of medications and a statement that the formulary will be made available to any member on request;

(ii) Notification of any change in benefits; and

(iii) A description of all prior authorization review procedures for health care services;

(d) Shall adopt procedures for a timely review by a licensed physician, peer provider or peer review panel when a claim has been denied as not medically necessary or as experimental. The procedure shall provide for a written statement of the reasons the service was

denied and transmittal of that information to the appropriate provider for inclusion in the insured's permanent medical record;

(e) When prior approval for a covered service is required of and obtained by or on behalf of an insured, the approval for the specific procedure shall be final and may not be rescinded after the covered service has been provided except in cases of fraud, misrepresentation, nonpayment of premium, exhaustion of benefits or if the insured for whom the prior approval was granted is not enrolled at the time the covered service was provided; and

(f) Shall not offer a provider any incentive that includes a specific payment made, in any type or form, to the provider as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services covered by the health care policy.

(2) No health care provider shall require an insured to make additional payments for covered services under a policy subject to subsection (1) of this section, other than specified deductibles, copayments or coinsurance once a provider has agreed in writing to accept the insurer's reimbursement rate to provide a covered service.

SECTION 2. That Section 41-3903, Idaho Code, be, and the same is hereby amended to read as follows:

41-3903. DEFINITIONS. (1) "Basic health care services" means the following services: preventive care, emergency care, inpatient and outpatient hospital and physician care, hospital-based rehabilitation treatment, diagnostic laboratory and diagnostic and therapeutic radiological services. It does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment.

(2) "Coinsurance" means a percentage amount a member is responsible to pay out-of-pocket for health care services after satisfaction of any applicable deductibles or copayments, or both.

(3) "Copayment" means an amount a member must pay to a provider in payment for a specific health care service which is not fully prepaid.

(4) "Deductible" means the amount of expense a member must first incur before the managed care organization begins payment for covered services.

(5) "Director" means the director of the department of insurance of the state of Idaho.

(6) "Emergency facility" means any hospital or other facility where emergency services are provided to a member including, but not limited to, a physician's office.

(7) "Emergency services" means those health care services that are provided in a hospital or other emergency facility after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity including, but not limited to, severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent person who possesses an average knowledge of health and medicine, to result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(8) "Employer" means any person, firm, corporation, partnership or association.

(9) "Enrollee" means a person who either individually or through a group has entered into a contract for services under a managed care plan.

(10) "General managed care plan" means a managed care plan which provides directly or arranges to provide, at a minimum, basic health care services. A general managed care plan shall include basic health care services.

(11) "Health care contract" means a contract entered into by a managed care organization and an enrollee.

(12) "Health care services" means those services offered or provided by health care facilities and health care providers relating to the prevention, cure or treatment of illness, injury or disease.

(13) "Limited managed care plan" means a managed care plan which provides dental care services, vision care services, mental health services, substance abuse services, pharmaceutical services, podiatric care services or such other services as the director may establish by rule to be limited health care services. Limited health care services shall not include hospital, medical, surgical or emergency services except as those services are provided incident to limited health care services.

(14) "Managed care organization" means a public or private person or organization which offers a managed care plan. Unless otherwise specifically stated, the provisions of this chapter shall apply to any person or organization offering a managed care plan, whether or not a certificate of authority to offer the plan is required under this chapter.

(15) "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. A person holding a license to transact disability insurance offering a health plan that creates financial incentives to use contracting providers may elect to file the plan as a nonmanaged care plan not subject to the provisions of this chapter if the health plan reimburses providers solely on a fee for service basis and does not require the selection of a primary care provider. The election to file a health plan as a nonmanaged care plan shall be made in writing at the time the plan is filed with the director pursuant to chapter 18, title 41, Idaho Code.

(16) "Member" means a policyholder, enrollee or other individual participating in a managed care plan.

(17) "Person" means any natural or artificial person including, but not limited to, individuals, partnerships, associations, corporations or other legally recognized entities.

(18) "Provider" means any physician, hospital, or other person licensed or otherwise authorized to furnish health care services.

(19) "Utilization management program" means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a managed care plan using specified guidelines. Such a system may include, but is not limited to, preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures and retrospective review.

SECTION 3. This act shall be in full force and effect on and after July 1, 2004, and shall apply to health care policies renewing or written after July 1, 2004.

Approved March 23, 2004.

CHAPTER 284
(H.B. No. 811)

AN ACT
RELATING TO DISPOSITION OF UNEXPENDED BALANCES OF POLITICAL TREASURERS; AMENDING SECTION 67-6608, IDAHO CODE, TO PROVIDE FOR SEMIANNUAL REPORTS BY CANDIDATES FOR STATEWIDE OFFICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6608, Idaho Code, be, and the same is hereby amended to read as follows:

67-6608. DISPOSITION OF UNEXPENDED BALANCES. (a) If a statement filed under paragraph (3) of subsection (a) of section 67-6607, Idaho Code, pertaining to post-general election reports or under paragraph (6) of subsection (a) of section 67-6607, Idaho Code, shows an unexpended balance of contributions or an expenditure deficit, the political treasurer for the candidate for nonstatewide office or political committee or measure shall continue to file annual reports on January 31, to cover the period since the end of the last report period, to and including the last day of the month preceding the month in which the report is filed. If a statement filed under paragraph (6) of subsection (a) of section 67-6607, Idaho Code, shows an unexpended balance of contributions or an expenditure deficit, the political treasurer for the candidate for statewide office shall continue to file semiannual reports on January 31 and July 31, to cover the period since the end of the last report period, to and including the last day of the month preceding the month in which the report is filed. Such reports shall be filed until the account shows no unexpended balance of contributions or expenditure deficit.

(b) If a candidate wins nomination, supplemental statements under subsection (a) of this section need not be filed with respect to the nomination campaign by the political treasurer of a political committee supporting the candidate or by the political treasurer for such candidate, if such political committee continues to function in support of such candidate in the campaign for the general or special election.

(c) A political committee which is organized after an election shall file reports required by subsection (a) of this section.

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

Approved March 23, 2004.

CHAPTER 285
(H.B. No. 812)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTION 41-5203, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-5208, IDAHO CODE, TO PROVIDE THAT HEALTH BENEFIT PLANS COVERING ELIGIBLE INDIVIDUALS SHALL COMPLY WITH CERTAIN PROVISIONS, TO REVISE LANGUAGE REGARDING WAIVING ANY TIME PERIOD APPLICABLE TO A PREEXISTING CONDITION EXCLUSION OR LIMITATION PERIOD AND TO INCORPORATE A PORTION OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996; AMENDING SECTION 41-5501, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 41-5510, IDAHO CODE, TO REVISE ELIGIBILITY CRITERIA FOR COVERAGE UNDER A POOL PLAN.

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

SECTION 1. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means a producer as defined in section 41-1003(9<u>8</u>), Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(7) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(8) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(9) "Director" means the director of the department of insurance of the state of Idaho.

(10) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident:

(a) Wwho 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; or

(b) Who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b)(HIPAA)).

An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code.

(11) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(12) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or 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.

(13) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(15) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(16) "Individual catastrophic B health benefit plan" means a health benefit plan with limits higher than an individual catastrophic A health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(17) "Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(18) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged

or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(19) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(20) "Qualifying previous coverage" and "qualifying existing coverage" 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.

(21) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(22) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance pool established in chapter 55, title 41, Idaho Code.

(23) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(24) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(25) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

SECTION 2. That Section 41-5208, Idaho Code, be, and the same is hereby amended to read as follows:

41-5208. AVAILABILITY OF COVERAGE -- PREEXISTING CONDITIONS -- PORTABILITY.

(1) (a) Every individual carrier shall, as a condition of offering health benefit plans in this state to individuals, actively offer health benefit plans to individuals, including the individual basic health benefit plan, the individual standard health benefit plan, the individual catastrophic A health benefit plan and the individual catastrophic B health benefit plan.

(b) An individual carrier shall issue an individual basic, standard, catastrophic A or catastrophic B health benefit plan to any eligible individual that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.

(2) (a) An individual carrier shall file with the director, in a format and manner prescribed by the director, the basic, standard and catastrophic health benefit plans to be used by the carrier. A

health benefit plan filed pursuant to the provisions of this paragraph may be used by an individual carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the individual carrier, disapprove the continued use by an individual carrier of a basic, standard, or catastrophic health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering eligible individuals shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period ~~with respect to particular services~~ for the period of time an individual was previously covered by qualifying previous coverage, ~~to the extent such previous coverage provided benefits with respect to such services,~~ provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. As provided in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)), with regard to federally eligible individuals under HIPAA, any limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the first day of coverage shall not apply, whether or not any medical advice, diagnosis, care or treatment was recommended or received before that day, and whether or not the condition would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment before that day.

(c) An individual carrier shall not modify a basic, standard, or catastrophic health benefit plan with respect to an individual or any dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) An individual carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To an individual, where the individual is not residing in the carrier's established geographic service area;

(ii) Within an area where the individual carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to indi-

viduals because of its obligations to existing groups or individuals.

(b) An individual carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(ii) of this section may not offer coverage in the applicable area to new employer groups with more than fifty (50) eligible employees or to any small employer groups or to any individuals until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to individuals and groups.

(5) An individual carrier shall not be required to provide coverage to individuals pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of individuals in accordance with the provisions of subsection (1) of this section would place the individual carrier in a financially impaired condition.

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~~8~~), 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:

(a) A~~a~~n 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; or

(b) An Idaho resident individual or a dependent of an Idaho resident who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance porta-

bility and accountability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).

Coverage under a basic, standard, catastrophic A or catastrophic B health benefit plan shall not be available to any individual who is covered under other health insurance coverage. For purposes of this chapter, to be eligible, an individual must also meet the requirements of section 41-5510, Idaho Code.

(7) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-5511, Idaho Code.

(9) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

(10) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-5511, Idaho Code.

(11) "Individual catastrophic B health benefit plan" means a health benefit plan offering limits higher than a catastrophic A health benefit plan developed pursuant to section 41-5511, Idaho Code.

(12) "Individual standard health benefit plan" means a health benefit plan developed pursuant to section 41-5511, Idaho Code.

(13) "Plan" or "pool plan" means the individual basic, standard, catastrophic A or catastrophic B plan established pursuant to section 41-5511, Idaho Code.

(14) "Plan of operation" means the plan of operation of the individual high risk reinsurance pool established pursuant to this chapter.

(15) "Pool" means the Idaho high risk reinsurance pool.

(16) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(17) "Qualifying previous coverage" and "qualifying existing coverage" 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 41-5510, Idaho Code, be, and the same is hereby amended to read as follows:

41-5510. ELIGIBILITY. (1) Any individual eligible person, who is and continues to be a resident shall be eligible for coverage under an individual basic, standard, catastrophic A or catastrophic B health benefit plan if evidence is provided that:

(a) Such person has been rejected by one (1) individual carrier on the basis of health status or claims experience; or

(b) An individual carrier refuses to issue a health benefit plan providing coverage substantially similar to coverage offered under an equivalent pool plan except at a rate exceeding the rate for the pool plan.

(2) A rejection or refusal by a carrier offering only stop loss, excess of loss or reinsurance coverage with respect to an applicant under subsection (1) of this section shall not constitute sufficient evidence for purposes of subsection (1) of this section.

(3) Each resident dependent of a person who is eligible for coverage under the pool shall also be eligible for coverage under the pool.

(4) A person shall not be eligible for coverage under a pool plan if:

(a) The person has or obtains health insurance coverage substantially similar to or more comprehensive than a pool plan, or would be eligible to have coverage if the person elected to obtain it;

(b) The person is determined to be eligible for health care benefits under medicaid;

(c) The person has previously terminated pool plan coverage unless twelve (12) months have lapsed since such termination; provided however, that this provision shall not apply with respect to an applicant who is a federally ~~defined~~ eligible individual;

(d) The person is an inmate or resident of a state or other public institution, or a state, local or private correctional facility; provided however, that this provision shall not apply with respect to an applicant who is a federally ~~defined~~ eligible individual.

(5) Coverage shall cease:

(a) On the first day of the month following the date a person is no longer a resident of this state;

(b) On the first day of the month following the date a person requests coverage to end;

(c) Upon the death of the covered person;

(d) At the option of the board, thirty (30) days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(6) A person who ceases to meet the eligibility requirements of this section may be terminated on the first day of the month following the date when the individual becomes ineligible.

Approved March 23, 2004.

CHAPTER 286
(H.B. No. 818)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2005; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 880,300	$706,400	$1,586,700
Miscellaneous Revenue Fund	854,600		854,600
TOTAL	$1,734,900	$706,400	$2,441,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-three (33) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 2004, through June 30, 2005, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2004.

CHAPTER 287
(H.B. No. 819)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2005; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:				
FROM:				
General Fund	$1,282,800	$ 421,500	$ 51,600	$1,755,900
Federal Grant Fund	794,000	143,900	69,500	1,007,400
Miscellaneous Revenue Fund	123,000	332,000	29,600	484,600
TOTAL	$2,199,800	$ 897,400	$150,700	$3,247,900
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:				
FROM:				
General Fund	$ 162,100	$ 43,600		$ 205,700
Miscellaneous Revenue Fund	165,200	127,500		292,700
TOTAL	$ 327,300	$ 171,100		$ 498,400
GRAND TOTAL	$2,527,100	$1,068,500	$150,700	$3,746,300

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, 2004, through June 30, 2005, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2004.

CHAPTER 288
(H.B. No. 820)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2005; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND AUTHORIZING FUND DEPOSITS.

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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$6,567,300	$ 882,000		$7,449,300
Idaho School for the Deaf and the Blind Income Fund		147,000		147,000
Federal Grant Fund	36,000	81,100	$10,000	127,100
Miscellaneous Revenue Fund	4,000	90,600		94,600
TOTAL	$6,607,300	$1,200,700	$10,000	$7,818,000

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, 2004, through June 30, 2005, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Idaho School for the Deaf and the Blind may deposit any funds appropriated by Section 1, Chapter 346, Laws of 2003, in a contingency reserve fund created pursuant to Section 33-3409, Idaho Code.

Approved March 23, 2004.

CHAPTER 289
(H.B. No. 821)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,788,600	$ 708,500	$ 40,000		$2,537,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	229,200	484,200	51,000	$595,700	1,360,100
Miscellaneous Revenue Fund		24,300	25,000	26,000	75,300
TOTAL	$2,017,800	$1,217,000	$116,000	$621,700	$3,972,500

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, 2004, through June 30, 2005, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2004.

CHAPTER 290
(H.B. No. 835)

AN ACT

RELATING TO PROMPT PAYMENT OF CLAIMS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 41, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE THE PROMPT PAYMENT OF CLAIMS, TO PROVIDE FOR INTEREST PAYMENTS, TO PROVIDE THAT INSURERS ARE NOT REQUIRED TO ACCEPT AN ASSIGNMENT OF PAYMENT, TO PROVIDE EXCEPTIONS AND TO PROVIDE PENALTIES; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR APPLICATION.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 56, Title 41, Idaho Code, and to read as follows:

CHAPTER 56
PROMPT PAYMENT OF CLAIMS

41-5601. DEFINITIONS. As used in this chapter:

(1) "Beneficiary" means a policyholder, subscriber, member, employer or other person who is eligible for benefits under a contract providing hospital, surgical, or medical expense coverage or a managed care organization policy or agreement under which a third party payer agrees to reimburse for covered health care services rendered to beneficiaries in accordance with the benefits contract.

(2) "Date of payment" means the date the payment is sent as indicated by the mail stamp on the envelope, by the insurer to the practitioner or facility or to the beneficiary in the event there is not a contract for direct payment by the insurer to the practitioner or facil-

ity, or, in the event of a wire or other electronic funds transfer, upon acceptance by the insurer's bank of a payment order.

(3) "Department" means the department of insurance.

(4) "Director" means the director of the department of insurance.

(5) "Electronic claim" means a claim that is transmitted through the use of electronic media, which includes the internet, extranet, leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one (1) location to another using magnetic tape, disk or compact disk media. The claim shall contain the proper format and code sets in accordance with the applicable implementation specifications under 45 CFR 160 et seq., and 45 CFR 162 et seq.

(6) "Insurer" means any insurer that sells hospital, medical, long-term care, or vision insurance policies or certificates and managed care organizations. For the purpose of this chapter only, "insurer" also includes a third party administrator who makes payments to beneficiaries, practitioners or facilities on behalf of an insurer and a hospital or professional service corporation that provides hospital, medical, long-term care or vision health care services.

(7) "Practitioner or facility" means any physician, hospital or other person or facility licensed or otherwise authorized to furnish health care services.

(8) "Receipt of claim" means the date the claim is actually received by the insurer from the practitioner or facility or the beneficiary.

(9) "Submission of claim" means the date the claim is sent as indicated by the mail stamp on the envelope, by the beneficiary, practitioner or facility, to the insurer or the date an electronic claim is transmitted to an insurer.

41-5602. PROMPT PAYMENT OF CLAIMS. (1) Except as otherwise specifically provided in this chapter, an insurer shall process a claim for payment for health care services rendered by a practitioner or facility to a beneficiary in accordance with this section.

(2) If a beneficiary, practitioner or facility submits an electronic claim to an insurer within thirty (30) days of the date on which service was delivered, an insurer shall pay or deny the claim not later than thirty (30) days after receipt of the claim.

(3) If a beneficiary, practitioner or facility submits a paper claim for payment to an insurer within forty-five (45) days of the date on which service was delivered, an insurer shall pay or deny the claim not later than forty-five (45) days after receipt of the claim.

(4) If an insurer denies the claim or needs additional information to process the claim, the insurer shall notify the practitioner or facility and the beneficiary in writing within thirty (30) days of receipt of the claim. The notice shall state why the insurer denied the claim.

(5) If the claim was denied because more information was required to process the claim, the notice shall specifically describe all information and supporting documentation needed to evaluate the claim for processing. If the practitioner or facility submits the information and documentation identified by the insurer within thirty (30) days of receipt of the written notice, the insurer shall process and pay the claim within thirty (30) days of receipt of the additional information or, if appropriate, deny the claim.

(6) Any claim submitted pursuant to this chapter shall use the current procedural terminology (CPT) code in effect, as published by the American medical association, the international classification of disease (ICD) code in effect, as published by the United States department of health and human services, or the healthcare common procedural coding system (HCPCS) code in effect, as published by the United States centers for medicaid and medicare services (CMS).

(7) This chapter shall not apply to claims submitted under policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, medicare supplement, 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.

41-5603. INTEREST PAYMENTS. An insurer that fails to pay, request additional information or documentation or deny a claim from a beneficiary, practitioner or facility within the time periods established in this chapter shall pay interest at the contract statutory rate pursuant to section 28-22-104, Idaho Code, on the unpaid amount of a claim that is determined to be due and owing. The interest shall accrue from the date payment was due, pursuant to the provisions of this chapter, until the claim is paid. Payment of any interest amount of less than four dollars ($4.00) shall not be required. Insurers may add any interest due to a future payment to the beneficiary, practitioner or facility.

41-5604. ASSIGNMENT. Nothing in this chapter requires an insurer to accept an assignment of payment by the beneficiary to the practitioner or facility.

41-5605. EXCEPTIONS. (1) The time periods set forth in section 41-5602, Idaho Code, shall not apply to claims that the insurer reasonably believes involve fraud or misrepresentation by the practitioner or facility or the beneficiary or to instances where the insurer has not been provided the information necessary to evaluate the claim after notice has been given requesting additional information by the insurer as required by section 41-5602(5), Idaho Code.

(2) The time periods set forth in section 41-5602, Idaho Code, shall not apply to claims that the insurer reasonably believes require medical records, including accident reports, for the purpose of investigating whether a claim is valid for subrogation, or the coordination of benefits payable by the insurer with benefits payable by another insurer or payable under federal or state law.

(3) An insurer is not required to comply with the time periods set forth in section 41-5602, Idaho Code, if the insurer is in compliance with a contract with the practitioner or facility which specifies different payment requirements. Payments made within the time periods set forth in section 41-5602, Idaho Code, for the purpose of this chapter, shall be deemed to be made in a reasonable and timely manner.

(4) An insurer is not required to comply with the periods set forth in section 41-5602, Idaho Code, if the fee or premium entitling a beneficiary to insurance benefits has not been paid in full.

(5) An insurer is not required to comply with the time periods set forth in section 41-5602, Idaho Code, if failure to comply is due to an

act of God, bankruptcy, an act of a governmental authority responding to an act of God or emergency or the result of a strike, walkout or other labor dispute, or act of terrorism.

41-5606. PENALTIES. (1) The director shall enforce the provisions of this chapter and shall review and, if appropriate, investigate complaints received by the department related to noncompliance with the provisions of this chapter.

(2) If the director determines an insurer has violated the provisions of this chapter, the director may impose an administrative fine not to exceed five thousand dollars ($5,000) based upon an enforcement action.

(3) The director shall not suspend or revoke an insurer's certificate of authority for violation of this chapter.

(4) No administrative penalty shall be imposed against an insurer under this chapter or any other provision of law for failure to comply with this chapter if, in the calendar year it has paid ninety-five percent (95%) or more of all claims subject to this chapter to or on behalf of beneficiaries within the time periods set forth in section 41-5602, Idaho Code.

(5) This section shall not create a private cause of action by or on behalf of a beneficiary or practitioner or facility against an insurer.

SECTION 2. This act shall be in full force and effect on and after January 1, 2005, and shall apply to those claims with a date of service on and after January 1, 2005.

Approved March 23, 2004.

CHAPTER 291
(H.B. No. 838)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2005.

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. 792, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Administration 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, 2004, through June 30, 2005:

I. PUBLIC WORKS:

FOR:	
Operating Expenditures	$650,000
FROM:	
Administration and Accounting Services Fund	$650,000

Approved March 23, 2004.

CHAPTER 292
(H.B. No. 845)

AN ACT

RELATING TO IDAHO COMMEMORATIVE SILVER MEDALLIONS; AMENDING SECTION 67-1223, IDAHO CODE, TO AUTHORIZE THE STATE TREASURER TO MAKE ARRANGEMENTS FOR THE PROMOTION OF MEDALLIONS AND TO RETAIN AMOUNTS FROM THE SALE OF MEDALLIONS AS NECESSARY TO REPAY THE STATE TREASURER FOR PROMOTION COSTS INCURRED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-1223, Idaho Code, be, and the same is hereby amended 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, promotion, 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 the promotion, shipping and handling of 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 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 2004.

CHAPTER 293
(H.B. No. 846)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2005 AND DIRECTING THE STATE TREASURER TO REPAY THE GENERAL FUND; AND APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2005.

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

SECTION 1. In addition to the appropriation made in Section 1 of House Bill No. 789, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the State Treasurer $30,000 for operating expenditures from the General Fund for the period July 1, 2004, through June 30, 2005. These moneys shall be used for expenses relating to the purchase and promotion of commemorative silver medallions for sale to the public as authorized in Section 67-1223, Idaho Code. The State Treasurer shall repay the General Fund moneys appropriated in this section from revenues generated from the sale of coins as provided in Section 67-1223(2), Idaho Code. Such repayment shall occur on or before June 30, 2005.

SECTION 2. In addition to the appropriation made in Section 1 of House Bill No. 789, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the State Treasurer $10,000 for operating expenditures from the Miscellaneous Revenue Fund for the period July 1, 2004, through June 30, 2005.

Approved March 23, 2004.

CHAPTER 294
(S.B. No. 1256)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REVISE THE DEFINITION OF "EMPLOYEE."

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit

under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which

relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city or county when the city or county has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions; or

(h) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities

that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code. Provided, however, for the purposes of this chapter, military service SHALL NOT include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted;

(b) Any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control; or

(c) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 24, 2004.

CHAPTER 295
(S.B. No. 1258)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 72-1431, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REMITTANCE OF CERTAIN FIREFIGHTER RETIREMENT CONTRIBUTIONS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM BOARD, TO PROVIDE FOR THE CALCULATION OF THE AVERAGE PAID SALARY OR WAGE OR THE INDIVIDUAL FIREFIGHTER'S SALARY OR WAGE BY THE DIRECTOR OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM, TO REVISE PROVISIONS RELATING TO THE DIRECTOR'S NOTIFICATION TO CITIES AND FIRE DISTRICTS REGARDING THE AMOUNT OF CONTRIBUTIONS TO BE COLLECTED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1432, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO THE REMITTANCE OF CERTAIN PENSION FUND CONTRIBUTIONS BY CITIES AND FIRE DISTRICTS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM BOARD, TO REVISE PROVISIONS RELATING TO THE MEASUREMENT AND DETERMINATION OF THE AVERAGE PAID SALARY OR WAGE OR INDIVIDUAL FIREFIGHTER'S SALARY OR WAGE, TO REVISE PROVISIONS RELATING TO THE REMITTANCE OF PENSION FUND CONTRIBUTIONS BY CITIES AND FIRE DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE FOR THE CALCULATION OF THE INITIAL AVERAGE PAID SALARY OR WAGE OR INDIVIDUAL FIREFIGHTER'S SALARY OR WAGE FOR A DESIGNATED TWELVE MONTH PERIOD OF TIME.

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

SECTION 1. That Section 72-1431, Idaho Code, be, and the same is hereby amended to read as follows:

72-1431. CONTRIBUTION FROM FIREFIGHTERS -- MANNER OF COLLECTION. Beginning October 1, 1978, there is hereby levied upon and shall be paid to the public employee retirement system board, in addition to other provisions of payment to the board, a contribution from each paid firefighter establishing the right to benefits under the provisions of chapter 14, title 72, Idaho Code, as follows:

(a) For a paid firefighter who selected Option I, as provided in section 72-1434, Idaho Code, the contribution shall be equal to eleven and forty-five one hundredths percent (11.45%) of the average paid firefighter's salary or wage in the state;

(b) For a paid firefighter who selected Option II, as provided in section 72-1434, Idaho Code, the contribution shall be equal to eleven and forty-five one hundredths percent (11.45%) of his individual salary or wage.

The contribution shall be collected by the employer by deducting the amount of the contribution from the ~~fireman's~~ firefighter's wages or salary as and when paid. The contribution shall be ~~payable to the board by the end of the succeeding payroll period, and shall be~~ remitted to the retirement board by the city or fire district employing the paid firefighter no later than five (5) days after each pay date. The average paid salary or wage or the individual firefighter's salary or wage, shall be ~~determined~~ calculated annually ~~on October 1~~ no later than the first day of September by the director, in the manner prescribed in section 72-1432, Idaho Code.~~, from the payroll period reports submitted to him on or before September 1 by the cities or fire districts; after determining the amount to be collected from each paid firefighter as herein set out, t~~The director shall notify each city and fire district of the amount of the contribution to be collected based on the average paid salary or wage or individual firefighter's salary or wage, as applicable, for ~~the ensuing fiscal year~~ all pay periods commencing on or after the first day of October. ~~1.~~

SECTION 2. That Section 72-1432, Idaho Code, be, and the same is hereby amended to read as follows:

72-1432. PENSION FUND CONTRIBUTIONS BY CITIES AND FIRE DISTRICTS -- REMITTANCES. Beginning October 1, 1978, it shall also be the duty of the cities and fire districts of this state employing paid firefighters who are establishing the right to benefits under the provisions of chapter 14, title 72, Idaho Code, and of the boards and officers having authority therein, to cause to be remitted to the public employee system board, as an incident to and part of the current expenses of cities and fire districts, a sum equivalent to the total rate and tax percentage paid into the Idaho public employee system and the ~~S~~social ~~S~~security ~~A~~act on other public employees plus percent (1%) thereafter of the ~~annual~~ average paid firefighter's or wage in the state of Idaho or the ~~monthly gross~~ salary or wage each individual firefighter, to be computed according to the classification of each firefighter under Option I or Option II as defined

section 72-1434, Idaho Code, for each paid firefighter employed by said cities or fire districts.~~; which said sum~~ The average paid salary or wage or individual firefighter's salary or wage shall be measured and determined by the actual ~~expenditures for such purpose~~ salary or wage earned during the twelve (12) month period beginning July 1 and ending June 30 immediately preceding ~~year from~~ September 1. ~~to August 31, and~~ Sums shall be remitted ~~by the end of the succeeding payroll period~~ no later than five (5) days after each pay date as ~~herein~~ provided for remittances for individual firefighters as set forth in section 72-1431, Idaho Code.

SECTION 3. When calculating the initial average paid salary or wage or individual firefighter's salary or wage after July 1, 2004, salaries or wages paid through August 31, 2003, shall not be included when determining salaries or wages earned for the twelve (12) month period beginning July 1, 2003, and ending June 30, 2004.

Approved March 24, 2004.

CHAPTER 296
(S.B. No. 1262, As Amended)

AN ACT

RELATING TO PAROLE; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-228A, IDAHO CODE, TO PROVIDE THAT FOR THE PURPOSE OF ASSISTING WITH APPREHENDING INDIVIDUALS WHO HAVE ABSCONDED AND FOR WHOM THE PAROLE COMMISSION HAS ISSUED A WARRANT OF ARREST, THE DIRECTOR OF THE DEPARTMENT OF CORRECTION SHALL HAVE THE POWER TO ISSUE A SUBPOENA DUCES TECUM TO COMPEL THE PRODUCTION OF CERTAIN RECORDS AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-228A, Idaho Code, and to read as follows:

20-228A. PAROLE SUBPOENA TO ASSIST IN APPREHENDING PAROLE ABSCONDERS. For the purpose of assisting with apprehending individuals on parole who have absconded and for whom the parole commission has issued a warrant of arrest, the director of the department of correction shall have power to issue a subpoena duces tecum to compel the production of writings, documents or records of any type or form, specifically including those stored or transmitted by any electronic or wireless means. If any person or entity to whom such subpoena is directed refuses to produce the documents, writings or records sought, as directed, within seven (7) days of receipt of the subpoena, the director may apply to the district court of the county where the records are located for an order compelling such person or entity to comply with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof.

Approved March 24, 2004.

CHAPTER 297
(S.B. No. 1275)

AN ACT

RELATING TO DRIVER'S LICENSES, INSTRUCTION PERMITS AND HAZARDOUS MATERIAL ENDORSEMENT; AMENDING SECTION 49-305, IDAHO CODE, TO PROHIBIT ISSUANCE OF A HAZARDOUS MATERIAL ENDORSEMENT ON ANY INSTRUCTION PERMIT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-315, IDAHO CODE, TO REQUIRE APPLICANTS FOR A HAZARDOUS MATERIAL ENDORSEMENT TO HAVE A SECURITY BACKGROUND RECORDS CHECK AND TO RECEIVE CLEARANCE FROM THE FEDERAL TRANSPORTATION SECURITY ADMINISTRATION BEFORE THE ENDORSEMENT CAN BE ISSUED, RENEWED OR TRANSFERRED, SUBJECT TO PROCEDURES ESTABLISHED BY THE ADMINISTRATION; AMENDING SECTION 49-319, IDAHO CODE, TO REQUIRE APPLICANTS FOR A HAZARDOUS MATERIAL ENDORSEMENT TO PROVIDE EITHER PROOF OF UNITED STATES CITIZENSHIP OR PROOF OF LAWFUL, PERMANENT UNITED STATES RESIDENCE AND A VALID BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES ALIEN REGISTRATION NUMBER, AND TO REQUIRE APPLICANTS TO HAVE A SECURITY BACKGROUND RECORDS CHECK AND TO RECEIVE CLEARANCE FROM THE FEDERAL TRANSPORTATION SECURITY ADMINISTRATION BEFORE THE ENDORSEMENT CAN BE ISSUED, RENEWED OR TRANSFERRED, SUBJECT TO PROCEDURES ESTABLISHED BY THE ADMINISTRATION.

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

SECTION 1. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue a class A, B or C instruction permit for the type of vehicle(s) the person will be operating, or a class D instruction permit for a class D motor vehicle, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days. That person must be accompanied by an adult driver eighteen (18) years of age or older who holds a driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of seventeen (17) years may apply for a class D instruction permit. Any person applying for any class D instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) Any person who has reached the age of eighteen (18) years, holds a valid Idaho class D driver's license and has at least one (1) year of driving experience, may apply for a class A, B or C instruction permit.

(c) The department shall not issue a hazardous material endorsement on any instruction permit.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the

applicant's right to receive a driver's license. The temporary license may be ~~cancelled~~ canceled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a class D driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course. The certified copy of his birth certificate shall be required before a class D driver's license or class D instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle rider's knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an infraction. The department shall cancel the permit whether or not such violation results in conviction of the infraction.

SECTION 2. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise

concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

(~~5~~6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 3. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.

(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.

(c) Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.

(d) Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.

(e) Except licenses issued to drivers under twenty-one (21) years of age, every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any Class A, B or

C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year Class A, B or C license.

(3) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(4) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(5) Applicants for a hazardous material endorsement shall provide either proof of United States citizenship or proof of lawful, permanent United States residence and a valid federal bureau of citizenship and immigration services alien registration number. A security background records check and federal transportation security administration clearance shall be required for issuance, renewal or transfer of a hazardous material endorsement in accordance with 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(6) Except for drivers under twenty-one (21) years of age, when a driver's license has been expired for fewer than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance.

(67) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to two (2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(~~7~~8) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(~~8~~9) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(~~9~~10) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(~~10~~11) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

Approved March 24, 2004.

CHAPTER 298
(S.B. No. 1276)

AN ACT

RELATING TO THE ENDOWMENT CARE CEMETERY ACT; AMENDING SECTION 27-408, IDAHO CODE, TO INCREASE THE PERMISSIBLE COMPENSATION TO FUND TRUSTEES TO ONE AND ONE-HALF PERCENT OF THE PRINCIPAL OF THE TRUST FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 27-411, IDAHO CODE, TO PROVIDE THAT ANNUAL REPORTS SHALL BE PREPARED BY A LICENSED INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR BY A MEMBER OF THE CANADIAN INSTITUTE OF CHARTERED ACCOUNTANTS, TO MAKE TECHNICAL CORRECTIONS AND TO CORRECT A CODIFIER'S ERROR; AND AMENDING CHAPTER 4, TITLE 27, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 27-413, IDAHO CODE, TO PROVIDE THAT ALL RECORDS OF A CEMETERY AUTHORITY ARE SUBJECT TO EXAMINATION.

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

SECTION 1. That Section 27-408, Idaho Code, be, and the same is hereby amended to read as follows:

27-408. INSTRUMENT IN WRITING. The trust fund so created shall be evidenced by an instrument in writing, and shall contain in addition to the requirements of section 27-407, Idaho Code, the following provisions:

(a) That there shall be designated a trustee under this act, which shall be any federally insured financial institution located within the state of Idaho, duly authorized to transact a trust business, or the board of directors of the cemetery authority. When the trust fund is in the care of such board of directors as a board of trustees, the secretary of the cemetery authority shall act as its secretary and keep a true record of all of its proceedings.

(b) Where the trust is vested in such board of directors as a board of trustees, each of said trustees shall file with the administrator a surety bond in the amount of five thousand dollars ($5,000), conditioned upon his full and faithful performance of his trust obligations.

(c) As compensation, the trustee, whether it be a financial institution acting in such capacity or the board of directors of a cemetery authority acting as the trustee, shall be entitled to compensation in an amount not exceeding twenty-five dollars ($25.00) quarterly, or a sum equal to one and one-half ~~of one~~ percent (1 1/2%) per annum of the principal of the trust fund, whichever is the greater.

(d) In connection with its investment of the trust fund, the trustee shall be governed by the terms of the ~~U~~uniform ~~P~~prudent ~~I~~investor ~~A~~act, chapter 5, title 68, Idaho Code, as presently enacted or as may be from time to time amended.

(e) The principal of the trust fund shall remain permanently intact and only the income therefrom shall be expended. The income shall be used exclusively for the care of those portions of the cemetery in which lots have been sold with the provision for perpetual or endowed care. It is the intent of this section that the income of said fund shall be used solely for the care of lots or other burial spaces sold to third persons with the provision for perpetual or endowed care, and the care and embellishment of such other portions of the cemetery as may be desirable to preserve the beauty and dignity of the lots sold.

(f) The initial endowment care fund established for any cemetery shall remain in an irrevocable trust fund until such time as this fund has reached the sum of one hundred thousand dollars ($100,000), when it may be withdrawn at the rate of two thousand dollars ($2,000) from the original fifty thousand dollars ($50,000) for each additional six thousand dollars ($6,000) added to the fund, this to continue until the entire original fifty thousand dollars ($50,000) has been withdrawn by the cemetery authority.

SECTION 2. That Section 27-411, Idaho Code, be, and the same is hereby amended to read as follows:

27-411. ANNUAL REGISTRATION STATEMENT WITH ADMINISTRATOR. Every cemetery authority owning, operating, controlling or managing an endowed care cemetery shall register with the administrator, by filing an annual registration statement on forms furnished by said administrator, which shall show, as of the end of the preceding calendar year or fiscal year, whichever is more convenient to the cemetery authority, the following:

(a) The amount of the principal of the care funds held by the trustee of said funds of such cemetery authority, at the beginning of

such year, and in addition thereto all moneys or property received during such year, from the following sources:

(1) Under and by virtue of the sale of a lot, grave, crypt or niche.

(2) Under and by virtue of any gift, grant, devise, bequest, payment or other contribution made subsequent to the effective date of the ~~E~~endowed ~~C~~care ~~C~~cemetery ~~A~~act of 1963.

(b) The income received from such care funds during the preceding calendar or fiscal year as the case may be. Where any of the care funds of a cemetery authority are held by a trustee, other than the board of directors of the cemetery authority, the annual registration statement filed by any cemetery authority shall also contain a certificate signed by the trustee of the care funds of such cemetery authority certifying to the truthfulness of the statements in the report as to:

(1) The total amount of principal of the care funds held by the trustee.

(2) The securities in which such care funds are invested and the cash on hand as of the day of the report; and

(3) The income received from such care funds during the preceding calendar year or fiscal year as the case may be.

Such statement shall be filed by the cemetery authority on or before December 31 of each calendar year with the ~~director~~ administrator. If the fiscal year of such cemetery authority is other than on a calendar year basis, then such statement shall be filed within thirty (30) days of the end of its fiscal year. A filing fee in an amount to be fixed by the administrator but not to exceed the sum of one hundred fifty dollars ($150) shall be payable at the time of the filing of the annual statement. All reports shall be prepared by an independent certified public accountant ~~licensed in the state of Idaho~~ or by a member of the Canadian institute of chartered accountants.

SECTION 3. That Chapter 4, Title 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 27-413, Idaho Code, and to read as follows:

27-413. RECORDS SUBJECT TO EXAMINATION. All records of a cemetery authority are subject at any time or from time to time to such reasonable periodic, special or other examinations, within or without this state, by representatives of the administrator, as the administrator deems necessary or appropriate in the public interest.

Approved March 24, 2004.

CHAPTER 299
(S.B. No. 1282)

AN ACT

RELATING TO THE PERSONNEL SYSTEM AND NONCLASSIFIED STATE OFFICERS AND EMPLOYEES; AMENDING SECTION 59-1607, IDAHO CODE, TO CLARIFY STATE EMPLOYMENT POLICY ON HOURS WORKED AND OVERTIME COMPENSATION FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS EXECUTIVE, FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES DESIGNATED AS

ADMINISTRATIVE OR PROFESSIONAL, AND FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES NOT DESIGNATED AS EXECUTIVE, ADMINISTRATIVE OR PROFESSIONAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5329, IDAHO CODE, TO CLARIFY ELIGIBILITY FOR CASH COMPENSATION OR COMPENSATORY TIME FOR OVERTIME WORK FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES, FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS EXECUTIVE, AND FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS ADMINISTRATIVE OR PROFESSIONAL, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5330, IDAHO CODE, TO DELETE A SUBSECTION REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 59-1607, Idaho Code, be, and the same is hereby amended to read as follows:

59-1607. HOURS OF WORK -- OVERTIME. (1) It is the policy of the legislature of the state of Idaho that all classified and nonclassified officers and employees of state government shall be treated equally with reference to hours of employment, holidays and vacation leave, ~~in the same manner as classified employees,~~ except as provided in this chapter. The policy of this state shall not restrict the extension of regular work hour schedules on an overtime basis, which shall be the same ~~as~~ for classified and nonclassified employees, in those activities and duties where such extension is necessary and authorized by the appointing authority.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified and nonclassified officers and employees.

(3) Classified and n~~N~~onclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(a) Elected officials; or

~~(b) Holders of an office or position for which confirmation by the senate is required;~~

~~(c) Departmental directors, or equivalent;~~

~~(d) Division administrators, or equivalent;~~

~~(e)~~ Those included in the definition of section 67-5303(j), Idaho Code.

(4) Classified and nonclassified employees who are designated as executive, as provided in section 67-5302, Idaho Code, who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) of this section, shall be ineligible for cash compensation for overtime work, but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis not to exceed two hundred forty (240) hours. Accrued compensatory time off earned under this section shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(5) Classified and n~~N~~onclassified officers and employees who are

designated as ~~executive,~~ administrative or professional as provided in section 67-5302, Idaho Code, or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) ~~above~~ of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified officers and employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(~~5~~6) Classified and ~~n~~Nonclassified officers and employees who are not designated as executive, administrative or professional as provided in section 67-5302, Idaho Code, who are not designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) ~~above~~ of this section, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

SECTION 2. That Section 67-5329, Idaho Code, be, and the same is hereby amended to read as follows:

67-5329. CASH FOR OVERTIME -- COMPENSATORY TIME. (1) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(a) Elected officials; or

(b) ~~Holders of an office or position for which confirmation by the senate is required;~~

~~(c) Departmental directors, or equivalent;~~

~~(d) Division administrators, or equivalent;~~

~~(e)~~ Those included in the definition of section 67-5303(~~i~~j), Idaho Code.

(2) Classified and nonclassified employees who are designated as executive, as provided in section 67-5302, Idaho Code, who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (1) of this section, shall be ineligible for cash compensation for overtime work, but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis not to exceed two hundred forty (240) hours. Accrued compensatory time off

earned under this section shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(3) Classified and nonclassified employees who are designated as ~~executive,~~ administrative or professional, as provided in section 67-5302, Idaho Code, or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (1) ~~above~~ of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(~~3~~4) Classified employees who are not designated as executive, administrative or professional as provided in section 67-5302, Idaho Code, who are not designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (1) ~~above~~ of this section, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

SECTION 3. That Section 67-5330, Idaho Code, be, and the same is hereby amended to read as follows:

67-5330. RATE OF OVERTIME COMPENSATION WHEN PAID IN CASH. Cash compensation for overtime, when paid, shall be at one and one-half (1 1/2) times the hourly rate of that officer's or employee's salary or wage, except for those employees whose positions fall within the definitions of executive, administrative or professional as stated in section 67-5302, Idaho Code, who will be paid at their regular hourly rate of pay as provided for in section 67-5329~~(2)~~, Idaho Code.

Approved March 24, 2004.

CHAPTER 300
(S.B. No. 1301, As Amended)

AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING SECTION 31-3502, IDAHO CODE, TO INCLUDE MEDICAID COPAYMENTS AND DEDUCTIBLES AS A NON-NECESSARY MEDICAL SERVICE; AMENDING SECTION 31-3505, IDAHO CODE, TO REVISE PROCEDURES REGARDING THE TIME AND MANNER OF FILING APPLICATION AND REQUESTS FOR MEDICAL SERVICES WITH THE CLERK OF A COUNTY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 31-A3504, IDAHO CODE, TO CHANGE THE REFERENCE TO THE DEFINITION OF RESOURCES.

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

SECTION 1. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. Nothing in this definition shall prevent the board of county commissioners and administrator from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care costs program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(2) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Applicant" means any person who is or may be requesting financial assistance under this chapter.

(5) "Reimbursement rates" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" means the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(6) "Board" means the board of county commissioners.

(7) "Obligated persons" means those persons who are legally responsible for an applicant.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.

(10) "Catastrophic health care costs" means all necessary medical expenses for services which are incurred by a recipient for which the

reimbursement rate exceeds in aggregate the sum of ten thousand dollars ($10,000) in any twelve (12) consecutive month period.

(11) "Recipient" means an individual determined eligible for necessary medical services under this chapter.

(12) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

(a) Correctional facilities;

(b) Nursing homes or residential or assisted living facilities;

(c) Other medical facility or institution.

(13) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care.

(14) "Provider" means any person, firm, or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services as it appears on an application for assistance pursuant to this chapter.

(15) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient.

(16) "Clerk" means the clerk of the board or his or her designee.

(17) "Resources" means all property, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, all forms of public assistance, crime victim's compensation, worker's compensation, veterans benefits, medicaid, medicare and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services over a period of up to three (3) years. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on the applicant or obligated persons' residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(18) A. "Necessary medical services" means a requested or provided medical service required in order to identify or treat a medically indigent person's health condition, illness or injury and is:

(a) Consistent with the symptoms, diagnosis or treatment of the medical indigent's condition, illness or injury;

(b) In accordance with generally accepted standards of medical or surgical practice then prevailing in the community where the services were provided;

(c) Furnished on an outpatient basis whenever it is safe, efficient and reasonable to do so;

(d) Not provided primarily for the convenience of the medically indigent person or the provider;

(e) The standard, most economical service or item that can safely, reasonably and ethically be provided.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles; ~~and~~

(g) Services provided by, or available to an applicant from state, federal and local health programs; and

(h) Medicaid copayments and deductibles.

Provided however, each board may determine, by ordinance or resolution duly adopted in its county, to include as necessary medical services additional services not covered in this section. Necessary medical services provided by this option shall not be paid by the catastrophic health care costs program, and shall remain the liability of the respective county.

SECTION 2. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. TIME AND MANNER OF FILING APPLICATIONS AND REQUESTS. Applications and requests for necessary medical services shall be filed with the clerk according to the following time limits. Filing is complete upon receipt by the clerk.

(1) An application for nonemergency necessary medical services shall be filed ten (10) days prior to receiving services from the provider.

(2) An application for emergency necessary medical services shall be made any time within thirty-one (31) days beginning with the first day of the provision of necessary medical services from the provider or in the case of hospitalization, thirty-one (31) days beginning with the date of admission.

(3) Requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services.

(4) ~~(a)~~ A delayed application for necessary medical services may be filed up to one hundred eighty (180) days beginning with the first day of the provision of necessary medical services ~~on condition~~ provided that:

(a) Written documentation is included with the application or no later than forty-five (45) days after an application has been filed showing ~~the provider and/or applicant demonstrates~~ that an bona fide application or claim has been filed for social security disability insurance, supplemental security income, third party insurance, medicaid, medicare, crime victim's compensation, and/or worker's compensation. A bona fide application means that:

(i) The application was timely filed within ~~ninety (90) days beginning with the first day of the provision of necessary medical services from the provider or, in the case of hospitalization, ninety (90) days beginning with the date of admission.~~

the appropriate agency's application or claim time period; and

(ii) Given the circumstances of the patient and/or obligated persons, the patient and/or obligated persons, and given the information available at the time the application or claim for other resources is filed, would reasonably be expected to meet the eligibility criteria for such resources; and

(iii) The application was filed with the appropriate agency in such a time and manner that, if approved, it would provide for payment coverage of the bills included in the county application; and

(iv) In the discretion of the board, bills on a delayed application which would not have been covered by a successful application or timely claim to the other resource(s) may be denied by the board as untimely; and

(v) In the event an application is filed for supplemental security income, an Idaho medicaid application must also have been filed within the department of health and welfare's application or claim time period to provide payment coverage of eligible bills included in the county application.

(b) Failure by the patient and/or obligated persons to complete the application process described in this section, up to and including any reasonable appeal of any denial of benefits, with the applicable program noted in paragraph (a) of this subsection, shall result in denial of the county assistance application.

(5) Any application or request which fails to meet the provisions of this section, and/or other provisions of this chapter, shall be denied.

(6) In the event that a county determines that a different county is the obligated county, an application may be filed in the other county within thirty (30) days of the date of the initial county denial.

SECTION 3. That Section 31-A3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-A3504. ADVISORY DECISIONS OF PANEL. The general responsibility of the advisory panel will be to consider the eligibility of applicants on claims referred to them and render written opinions regarding such eligibility of applicants as based upon review of analysis of the resources available to the applicant, as defined in ~~the--Uniform--County Guidelines--on--Indigent-Eligibility-referred-to-in-section-31-3503~~ section 31-3502(17), Idaho Code. Following proceedings on each claim, the advisory panel shall provide the affected parties with its comments and observations with respect to the claim. They shall indicate in such comments whether the applicant appears to have resources available to him or her sufficient to pay for necessary medical services; does not have adequate resources; or any comments or observations which may be relevant and appropriate. The findings of the advisory panel may be used by affected parties in resolving contested claims in a manner consistent with the findings presented. However, such findings will be advisory in nature only and not binding on any of the affected parties.

Approved March 24, 2004.

CHAPTER 301
(S.B. No. 1311)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 15, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1513, IDAHO CODE, TO CREATE THE PUPIL TRANSPORTATION SUPPORT PROGRAM FUND, TO PROVIDE MONEYS FOR THE FUND AND TO PROVIDE FOR USE OF THE MONEYS; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE TO PROGRAM FEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-402C, IDAHO CODE, TO PROVIDE AN EXCEPTION TO VEHICLE WEIGHT LIMITATIONS FOR SPECIAL LICENSE PLATE PROGRAMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-419D, IDAHO CODE, TO ESTABLISH THE IDAHO SCHOOL TRANSPORTATION SAFETY AWARENESS LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 15, 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 33-1513, Idaho Code, and to read as follows:

33-1513. PUPIL TRANSPORTATION SUPPORT PROGRAM FUND. (1) In order to promote school transportation safety and awareness in Idaho and to help defray costs associated with Idaho's oversight of the statewide pupil transportation support program, there is hereby created in the state treasury the "Pupil Transportation Support Program Fund" to which shall be credited:

(a) Moneys as provided by special license plate program fees pursuant to section 49-419D, Idaho Code; and

(b) All other moneys as may be provided by law; and

(c) Interest earned on the investment of idle moneys in the fund, which shall be paid to the pupil transportation support program fund.

(2) Moneys in the fund shall be continuously appropriated to the department of education, and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used for educational programs promoting school transportation safety and awareness; provided however, the department of education is authorized to retain a portion of the moneys not to exceed ten percent (10%) of annual revenues, to help defray costs associated with the implementation, administration and oversight of the statewide pupil transportation support program.

SECTION 2. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00

Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all 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, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, ~~and~~ 49-420E and 49-420G, 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 3. That Section 49-402C, Idaho Code, be, and the same is hereby amended to read as follows:

49-402C. SPECIAL LICENSE PLATE PROGRAMS -- STANDARDIZED PLATE COLOR AND DESIGN. (1) It is the intent of the legislature that special license plates issued by the department be readily recognizable as plates from the state of Idaho without losing the uniqueness for which the special plate was designed and purchased. In addition, the legislature finds that the department can operate in a more efficient, cost-effective manner by conforming special plates to a basic color and design.

(2) No special license plates and no special license plate programs in existence on or before June 30, 1998, shall be affected by the provisions of this section. On and after July 1, 1998, any new special license plate program authorized or any redesign of an existing special license plate, shall use the same red, white and blue background as the standard issue of license plates described in section 49-443, Idaho Code, except that:

(a) The identification of county shall be omitted;

(b) The word "Idaho" shall appear on every plate;

(c) The inscription "Scenic Idaho" may be omitted without legislative consideration and approval; and

(d) No slogan shall be used that infringes upon, dilutes or compromises, or could be perceived to infringe upon, dilute or compromise, the trademarks of the state of Idaho, including, but not limited to, "Idaho Potatoes®," "Grown in Idaho®," "Famous Idaho Potatoes™" or "Famous Potatoes™."

The provisions of this section shall not apply to the plate designs issued pursuant to the provisions of section 49-417, Idaho Code.

(3) Any redesign required for a special plate to conform with legislative intent and the provisions of this section may be done in a manner similar to that used to produce the original design.

(4) The special plates shall conform in all other respects with the provisions of section 49-443, Idaho Code, relating to visibility requirements, display of registration number, time period for validity of plates, and reservation of plate numbers.

(5) Unless otherwise specifically provided, n~~N~~o special license plates shall be issued to motor vehicles with a registered maximum gross weight in excess of twenty-six thousand (26,000) pounds, or any motor vehicle registered under section 49-434(5), Idaho Code, or section 49-435, Idaho Code.

(6) Following an introductory period of three (3) years during which the provisions of this subsection shall not apply, if, during both years of any following two (2) consecutive years, fewer than one thousand (1,000) plates are issued in each of those two (2) consecutive years, the department shall discontinue that special license plate program and no new plates shall be issued nor shall any existing plate be renewed upon its expiration. The provisions of this subsection shall apply to sections 49-416, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-420, 49-420B, Idaho Code, and any other special license plate programs created on and after July 1, 2002.

SECTION 4. 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 49-419D, Idaho Code, and to read as follows:

49-419D. IDAHO SCHOOL TRANSPORTATION SAFETY AWARENESS PLATES. (1) On and after January 1, 2005, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive Idaho school transportation safety awareness 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, with the exception of school buses registered in Idaho and operated exclusively intrastate. Availability of Idaho school transportation safety awareness 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 dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer to the pupil transportation support program fund created in section 33-1513, Idaho Code, and shall be used for educational programs promoting school transportation safety and awareness, and to help defray costs associated with the implementation, administration and oversight of the statewide pupil transportation support 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 school transportation safety awareness plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The distinguishing feature of the license plate shall include a representation of a yellow school bus. The design and any slogan on the plate shall be acceptable to the state department of education. Initial costs of the plate program, including costs of plate design, shall be paid by the state department of education.

(5) Sample Idaho school transportation safety awareness 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 pupil transportation support program fund created in section 33-1513, Idaho Code. No additional fee shall be charged for personalizing sample plates.

SECTION 5. This act shall be in full force and effect on and after January 1, 2005.

Approved March 24, 2004.

CHAPTER 302
(S.B. No. 1371)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2705, IDAHO CODE, TO INCLUDE SPORES OR MYCELIUM CAPABLE OF PRODUCING MUSHROOMS THAT CONTAIN PSILOCYBIN OR PSILOCIN IN SCHEDULE I CONTROLLED SUBSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl;

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;
(16) Clonitazene;
(17) Dextromoramide;
(18) Diampromide;
(19) Diethylthiambutene;
(20) Difenoxin;
(21) Dimenoxadol;
(22) Dimepheptanol;
(23) Dimethylthiambutene;
(24) Dioxaphetyl butyrate;
(25) Dipipanone;
(26) Ethylmethylthiambutene;
(27) Etonitazene;
(28) Etoxeridine;
(29) Furethidine;
(30) Hydroxypethidine;
(31) Ketobemidone;
(32) Levomoramide;
(33) Levophenacylmorphan;
(34) 3-Methylfentanyl;
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(36) Morpheridine;
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
(39) Norlevorphanol;
(40) Normethadone;
(41) Norpipanone;
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
(43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(44) Phenadoxone;
(45) Phenampromide;
(46) Phenomorphan;
(47) Phenoperidine;
(48) Piritramide;
(49) Proheptazine;
(50) Properidine;
(51) Propiram;
(52) Racemoramide;
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
(54) Tilidine;
(55) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;

(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 4-bromo-2,5-dimethoxy amphetamine;
(2) 2,5-dimethoxyamphetamine;
(3) 4-bromo-2,5-dimethoxyphenethylamine (some other names: alpha-desmethyl DOB, 2C-B);
(4) 2,5-dimethoxy-4-ethylamphetamine (another name: DOET);
(5) 4-methoxyamphetamine (PMA);
(6) 5-methoxy-3,4-methylenedioxy-amphetamine;
(7) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);
(8) 3,4-methylenedioxy amphetamine;
(9) 3,4-methylenedioxymethamphetamine (MDMA);
(10) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);
(11) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA);
(12) 3,4,5-trimethoxy amphetamine;
(13) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminobutyl) indole);
(14) Bufotenine;
(15) Diethyltryptamine (DET);
(16) Dimethyltryptamine (DMT);
(17) Ibogaine;
(18) Lysergic acid diethylamide;
(19) Marihuana;
(20) Mescaline;
(21) Parahexyl;
(22) Peyote;
(23) N-ethyl-3-piperidyl benzilate;
(24) N-methyl-3-piperidyl benzilate;

(25) Psilocybin;
(26) Psilocyn;
(27) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.
Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.
$\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)
(28) Ethylamine analog of phencyclidine (N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;
(29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -pyrrolidine, PCPy, PHP;
(30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;
(31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;
(32) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.
(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Gamma hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate, 4-hydroxybutyrate; 4-hyroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
(2) Flunitrazepam (also known as "R2", "Rohypnol");
(3) Mecloqualone;
(4) Methaqualone.
(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);
(2) Cathinone (some other names: alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);
(3) Fenethylline;
(4) Methcathinone (some other names: 2-(methyl-amino)-propiophenone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-464, AL-422, AL-463 and UR1423);

(5) (t)cis-4-methylaminorex ((+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
(6) N-ethylamphetamine;
(7) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethylbenzeneethanamine).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:
(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.
(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.
(3) 4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline).

Approved March 24, 2004.

CHAPTER 303
(S.B. No. 1379)

AN ACT
RELATING TO COMMUNICATIONS SECURITY; AMENDING SECTION 18-6702, IDAHO CODE, TO CLARIFY THE APPLICABILITY OF CERTAIN PENALTY PROVISIONS.

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

SECTION 1. That Section 18-6702, Idaho Code, be, and the same is hereby amended to read as follows:

18-6702. INTERCEPTION AND DISCLOSURE OF WIRE, ELECTRONIC OR ORAL COMMUNICATIONS PROHIBITED. (1) Except as otherwise specifically provided in this chapter, any person ~~who~~ shall be guilty of a felony and is punishable 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 if that person:
(a) Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, electronic or oral communication; or
(b) Willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
1. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or
2. Such device transmits communications by radio or interferes with the transmission of such communication; or
(c) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire, electronic or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic or oral communication in violation of this subsection; or
(d) Willfully uses, or endeavors to use, the contents of any wire,

electronic or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic or oral communication in violation of this subsection; or

(e) Intentionally discloses or endeavors to disclose to any other person the contents of any wire, electronic or oral communication, intercepted by means authorized by subsection (2)(b), (c), (f) or (g) of this section or by section 18-6708, Idaho Code, if that person:

(i) Knows or has reason to know that the information was obtained through the interception of such communication in connection with a criminal investigation; and

(ii) Has obtained or received the information in connection with a criminal investigation with the intent to improperly obstruct, impede or interfere with a duly authorized criminal investigation~~, shall be guilty of a felony and is punishable 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~~.

(2) (a) It is lawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service whose facilities are used in the transmission of a wire or electronic communication to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) It is lawful under this chapter for an officer, employee, or agent of the federal communications commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of 47 U.S.C. ch. 5, to intercept a wire, electronic or oral communication transmitted by radio or to disclose or use the information thereby obtained.

(c) It is lawful under this chapter for a law enforcement officer or a person acting under the direction of a law enforcement officer to intercept a wire, electronic or oral communication when such person is a party to the communication or one (1) of the parties to the communication has given prior consent to such interception.

(d) It is lawful under this chapter for a person to intercept a wire, electronic or oral communication when one (1) of the parties to the communication has given prior consent to such interception.

(e) It is unlawful to intercept any communication for the purpose of committing any criminal act.

(f) It is lawful under this chapter for an employee of a telephone company to intercept a wire communication for the sole purpose of tracing the origin of such communication when the interception is requested by an appropriate law enforcement agency or the recipient of the communication and the recipient alleges that the communication is obscene, harassing, or threatening in nature.

(g) It is lawful under this chapter for an employee of a law enforcement agency, fire department or ambulance service, while act-

ing in the scope of his employment, and while a party to the communication, to intercept and record incoming wire or electronic communications.

(h) It shall not be unlawful under this chapter for any person:

(i) To intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

(ii) To intercept any radio communication that is transmitted:

(A) By any station for the use of the general public, or that relates to ships, aircraft, vehicles or persons in distress;

(B) By any governmental, law enforcement, civil defense, private land mobile or public safety communications system, including police and fire, readily accessible to the public;

(C) By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band or general mobile radio services; or

(D) By any marine or aeronautical communication system;

(iii) To engage in any conduct that:

(A) Is prohibited by 47 U.S.C. section 553 (federal communications act of 1934); or

(B) Is excepted from the application of 47 U.S.C. section 605 (federal communications act of 1934);

(iv) To intercept any wire or electronic communication, the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment to the extent it is necessary to identify the source of such interference; or

(v) For other users of the same frequency to intercept any radio communication, if such communication is not scrambled or encrypted, made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system.

(i) It shall be lawful under this chapter for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication or a user of that service from the fraudulent, unlawful or abusive use of such service.

(3) (a) Except as provided in subsection (3)(b) of this section, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication other than to such person or entity or an agent thereof while in transmission on that service, to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication:

(i) As otherwise authorized in section 18-6707, Idaho Code, or subsection (2)(a) of this section;

(ii) With the lawful consent of the originator or any addressee or intended recipient of such communication;
(iii) To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or
(iv) If such contents were inadvertently obtained by the service provider and appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

Approved March 24, 2004.

CHAPTER 304
(S.B. No. 1382)

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-516, IDAHO CODE, TO REVISE CERTAIN CONDITIONS UNDER WHICH FILING IS DEEMED NOT TO HAVE OCCURRED; AND AMENDING SECTION 28-9-707, IDAHO CODE, TO PROVIDE FOR THE AMENDMENT, CONTINUATION AND TERMINATION OF CERTAIN PREEFFECTIVE-DATE FINANCING STATEMENTS AND TO PROVIDE EFFECTIVE DATE REFERENCES.

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

SECTION 1. That Section 28-9-516, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-516. WHAT CONSTITUTES FILING -- EFFECTIVENESS OF FILING. (a) Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by section 28-9-512 or 28-9-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 28-9-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) in the case of a record filed, or recorded, in the filing office described in section 28-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, except for financing statements covering farm products and amendments of such financing statements, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor;

(ii) a jurisdiction of organization for the debtor; or

(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) In the case of an assignment reflected in an initial financing statement under section 28-9-514(a) or an amendment filed under section 28-9-514(b), the record does not provide a name and mailing address for the assignee;

(7) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by section 28-9-515(d);

(8) In the case of a financing statement covering farm products, the financing statement does not contain all of the information specified in section 28-9-502(e) and does not conform to the official form for farm products financing statements published by the secretary of state; or

(9) In the case of an amendment or correction statement relating to a financing statement covering farm products, the amendment or correction statement does not conform to the official form for amendment or correction statements relating to financing statements covering farm products published by the secretary of state.

(10) The filing office is prohibited from accepting the filing pursuant to the provisions of section 28-9-516A.

(c) For purposes of subsection (b) of this section:

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 28-9-512, 28-9-514 or 28-9-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

SECTION 2. That Section 28-9-707, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-707. AMENDMENT OF PREEFFECTIVE-DATE FINANCING STATEMENT. A person may file an initial financing statement or a continuation statement under this part if:

(a) In this section, "preeffective-date financing statement" means a financing statement filed before ~~this act takes effect~~ July 1, 2001.

(b) After ~~this act takes effect~~ July 1, 2001, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a preeffective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of a preeffective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a preeffective-date financing statement may be amended only if:

(1) The preeffective-date financing statement and an amendment are filed in the office specified in section 28-9-501;

(2) An amendment is filed in the office specified in section 28-9-501, concurrently with, or after the filing in that office of, an initial financing statement that satisfies the provisions of subsection (c) of section 28-9-706; or

(3) An initial financing statement that provides the information as amended and satisfies the provisions of subsection (c) of section 28-9-706. is filed in the office specified in section 28-9-501.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a preeffective-date financing statement may be continued only pursuant to the provisions of subsections (d) and (f) of section 28-9-705, or section 28-9-706.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a preeffective-date financing statement filed in this state may be terminated by filing a termination statement in the office in which the preeffective-date financing statement is filed. unless an initial financing statement that satisfies the provisions of subsection (c) of section 28-9-706, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

Approved March 24, 2004.

CHAPTER 305
(S.B. No. 1394)

AN ACT

RELATING TO THE DISMISSAL OF CRIMINAL ACTIONS; AMENDING SECTION 19-3501, IDAHO CODE, TO REVISE THE ENUMERATION OF CASES IN WHICH A COURT MUST ORDER A PROSECUTION OR INDICTMENT TO BE DISMISSED.

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

SECTION 1. That Section 19-3501, Idaho Code, be, and the same is hereby amended to read as follows:

19-3501. WHEN ACTION MAY BE DISMISSED. The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed, in the following cases:

(1) When a person has been held to answer for a public offense, if an indictment or information is not found against him and filed with the court within six (6) months from the date of his arrest.

(2) If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the ~~indictment or~~ information is filed with the court.

(3) If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was arraigned before the court in which the indictment is found.

(4) If a defendant, charged with a misdemeanor offense, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant enters a plea of not guilty with the court.

(~~4~~5) If a defendant, charged with both a felony or multiple felonies and a misdemeanor or multiple misdemeanors together in the same action or charging document, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the ~~indictment or~~ information is filed with the court.

(6) If a defendant, charged with both a felony or multiple felonies and a misdemeanor or multiple misdemeanors together in the same action or charging document, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was arraigned before the court in which the indictment is found.

Approved March 24, 2004.

CHAPTER 306
(S.B. No. 1407)

AN ACT

RELATING TO SALARIES OF JUDGES; AMENDING SECTION 1-2222, IDAHO CODE, TO INCREASE THE BASE ANNUAL SALARY OF NONATTORNEY MAGISTRATES; AND AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE ANNUAL SALARIES OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE DISTRICT COURTS.

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

SECTION 1. That Section 1-2222, Idaho Code, be, and the same is hereby amended to read as follows:

1-2222. SALARY SCHEDULE -- ATTORNEY AND NONATTORNEY MAGISTRATES. The salaries of magistrates of the district court shall be as follows:

(1) Beginning on July 1, 1998, the annual salary of each magistrate who is an attorney shall be seven thousand eight hundred eight dollars ($7,808) less than the annual salary of a district judge. Beginning on July 1, 1999, the annual salary of each magistrate who is an attorney shall be seven thousand one hundred six dollars ($7,106) less than the salary of a district judge. Beginning on July 1, 2000, the annual salary of each magistrate who is an attorney shall be six thousand four hundred four dollars ($6,404) less than the salary of a district judge. Beginning on July 1, 2001, the annual salary of each magistrate who is an attorney shall be five thousand seven hundred two dollars ($5,702) less than the salary of a district judge. Beginning July 1, 2002, the annual salary of each magistrate who is an attorney shall be five thousand dollars ($5,000) less than the salary of a district judge.

(2) Beginning July 1, 1998, the following schedule is adopted as the base annual salary schedule for all nonattorney magistrates:

STATE OF IDAHO
BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$46,222
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	41,663
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	37,105
Nonattorney Magistrate Judge IV	under 1,750 cases	31,027

Commencing on July 1, 1999, the amount of the base annual salary for all nonattorney magistrates shall be increased by four percent (4%), and again commencing on July 1, 2000, the amount of the base annual salary for all nonattorney magistrates shall be increased by three and one-half percent (3 1/2%), and again commencing on July 1, 2001, the amount of the base annual salary for all nonattorney magistrates shall be increased by four and one-half percent (4 1/2%), and again commencing on July 1, 2004, the amount of the base annual salary for all nonattorney magistrates shall be increased by two percent (2%).

(3) The administrative director of the courts shall certify annually the case dispositions of each nonattorney magistrate judge and designate the salary classification for each nonattorney magistrate prior to the beginning of each fiscal year. Any increases or decreases in salary as a result of the provisions of this section shall become effective to coincide with the start of the fiscal year.

(4) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, receive an additional seven hundred fifty dollar ($750) longevity increment added to his base salary for each complete five (5) year period of service as a magistrate. No additional longevity increment shall be awarded after the twentieth year of service. For purposes of this subsection, magistrates who entered state service on January 11, 1971, shall receive credit for years of service as a police court judge, city court judge, justice of the peace, or probate judge.

(5) Each nonattorney magistrate shall, separate and apart from the

salary schedule established by subsection (2) of this section, and separate and apart from the longevity increment established by subsection (4) of this section, receive an additional jurisdiction credit of thirty percent (30%) of his base salary upon being granted full statutory jurisdiction by the supreme court.

(6) Regardless of any other provision of this section, beginning July 1, 1997, no nonattorney magistrate shall receive an annual salary of more than fifty-five thousand two hundred seventy-six dollars ($55,276), and beginning July 1, 1998, there shall be no maximum salary limitation on nonattorney magistrate salaries.

(7) All nonattorney magistrates are full-time state officers, are required to be available on a twenty-four (24) hour basis to perform duties incident to their office such as the issuance of search and arrest warrants, and are required to hold such office hours as may be necessary to conduct court business or as required by the supreme court.

SECTION 2. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. Commencing on July 1, 1998, the salary of the justices of the supreme court shall be ninety thousand seven hundred ninety-one dollars ($90,791) per annum, and the salary of the judges of the district courts shall be eighty-five thousand ninety-five dollars ($85,095) per annum. Commencing on July 1, 1999, the annual salaries of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four percent (4%), and again commencing on July 1, 2000, the annual salary of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by three and one-half percent (3 1/2%), and again commencing on July 1, 2001, the annual salary of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four and one-half percent (4 1/2%), and again commencing on July 1, 2004, the annual salary of the justices of the supreme court and the annual salaries of the judges of the district courts shall be increased by two percent (2%). Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved March 24, 2004.

CHAPTER 307
(S.B. No. 1424)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

FROM:

General Fund	$24,751,600
Guardian Ad Litem Fund	447,500
ISTARS Technology Fund	1,810,500
Federal Grant Fund	1,501,000
Miscellaneous Revenue Fund	312,500
Court Services Fund	1,533,200
TOTAL	$30,356,300

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, 2004, through June 30, 2005.

Approved March 24, 2004.

CHAPTER 308
(S.B. No. 1435)

AN ACT

RELATING TO INSTALLATION OF HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AMENDING SECTION 54-5003, IDAHO CODE, TO DEFINE "HEATING, VENTILATION AND AIR CONDITIONING SPECIALTY APPRENTICE" AND "HEATING, VENTILATION AND AIR CONDITIONING SPECIALTY JOURNEYMAN"; AMENDING SECTION 54-5005, IDAHO CODE, TO EXPAND THE POWERS AND DUTIES OF THE BOARD; AMENDING SECTION 54-5006, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY MAY APPOINT HEARING OFFICERS AND IMPOSE CIVIL PENALTIES AS PROVIDED BY LAW AND RULE OF THE BOARD AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-5007, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY WITH RESPECT TO REQUIREMENTS FOR CERTIFICATES OF COMPETENCY; AMENDING SECTION 54-5009, IDAHO CODE, TO INCLUDE SPECIALTY APPRENTICES IN THE CLASSIFICATION OF APPRENTICE, TO INCLUDE SPECIALTY JOURNEYMEN IN THE CLASSIFICATION OF JOURNEYMEN AND TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 54-5012, IDAHO CODE, TO PROVIDE APPLICATION AND CERTIFICATION FEES FOR SPECIALTY CONTRACTORS AND SPECIALTY JOURNEYMEN AND TO PROVIDE A REGISTRATION FEE FOR SPECIALTY APPRENTICES; AMENDING SECTION 54-5013, IDAHO CODE, TO REVISE REQUIREMENTS FOR RENEWAL OF A CERTIFICATE, TO PROVIDE FOR REINSTATEMENT OF A REVOKED CERTIFICATE AND TO PROVIDE PROPER TERMINOLOGY; AMENDING CHAPTER 50, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-5013A, IDAHO CODE, TO PROVIDE FOR REVOCATION OR SUSPENSION OF A CERTIFICATE, HEARINGS, TAKING TESTIMONY AND JUDICIAL REVIEW; AMENDING SECTION 54-5014, IDAHO CODE, TO PROVIDE THAT SPECIALTY JOURNEYMEN AND SPECIALTY APPRENTICES SHALL HAVE THEIR CERTIFICATE OF COMPETENCY OR ANNUAL REGISTRATION CARD AVAILABLE AT ALL TIMES WHILE ON THE JOB; AMENDING SECTION 54-5015, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 54-5016, IDAHO CODE, TO EXTEND THE DATE FROM JULY 1, 2004,

TO JANUARY 1, 2005, WHEN IT SHALL BE REQUIRED THAT PERMITS BE OBTAINED BEFORE PERFORMING NEW HEATING, VENTILATION OR AIR CONDITIONING WORK AND TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 54-5017, IDAHO CODE, TO EXTEND THE DATE FROM JULY 1, 2004, TO JANUARY 1, 2005, WHEN APPLICATION CAN BE MADE FOR A PERMIT, TO ESTABLISH FEES BY LAW UNTIL THE BOARD ESTABLISHES FEES BY RULE, TO PROVIDE FOR EXPIRATION OF PERMITS, TO PROVIDE FOR ASSESSMENT OF DOUBLE AND TRIPLE FEES AND TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 54-5022, IDAHO CODE, TO REVISE PENALTY PROVISIONS, TO INCREASE THE CIVIL PENALTY AND TO PROVIDE PROPER TERMINOLOGY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-5003, Idaho Code, be, and the same is hereby amended to read as follows:

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 apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in a specific aspect of installation, improvement, extension, alteration or repair of HVAC systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty apprentice shall perform HVAC work under the supervision of an HVAC journeyman, HVAC specialty journeyman, HVAC contractor or an HVAC specialty contractor.

(6) "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.

(7) "Heating, ventilation and air conditioning specialty journeyman" means any person who, as his principal occupation, is engaged in a specific aspect of installation, improvement, extension, alteration or repairing of HVAC systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty journeyman is familiar with the provisions of this chapter and works in the employ and under direction of an HVAC contractor or an HVAC specialty contractor.

(~~6~~8) "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~~9) "Local government" means any incorporated city or any county in the state.

SECTION 2. That Section 54-5005, Idaho Code, be, and the same is hereby amended to read as follows:

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 reviewing plans, investigations, permits and inspections of heating, ventilation and air conditioning systems under the jurisdiction of the state, and to establish such other fees as it deems necessary.

(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.

(3) Establish by administrative rule the fines to be paid for citations issued and shall hear appeals regarding the imposition of civil penalties for violations of this chapter and rules of the board. The board is authorized to affirm, reject, decrease or increase the penalty imposed by the administrator. However, in no case shall the penalty exceed one thousand dollars ($1,000) for each offense.

The powers and duties of the board within the jurisdictional boundaries of local governments that have chosen to adopt and enforce mechan-

ical 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.

SECTION 3. That Section 54-5006, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ mechanical 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 or a duly appointed hearing officer; and have the power to appoint competent persons to issue subpoenas, administer oaths and take testimony.

(5) Impose civil penalties as provided in this chapter and rules of the board.

SECTION 4. That Section 54-5007, Idaho Code, be, and the same is hereby amended to read as follows:

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, specialty contractors, specialty journeymen and specialty apprentices. HVAC contractors and specialty 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.

SECTION 5. That Section 54-5009, Idaho Code, be, and the same is hereby amended to read as follows:

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. This classification applies to a specialty apprentice as defined in section 54-5003, Idaho Code.

(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. This classification applies to a specialty journeyman as defined in section 54-5003. Idaho Code.

(3) A heating, ventilation and air conditioning contractor shall be any business, trade, copartnership, company, 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.

SECTION 6. That Section 54-5012, Idaho Code, be, and the same is hereby amended to read as follows:

54-5012. FEES FOR APPLICATION FOR EXAMINATION, CERTIFICATES OF COMPETENCY AND REGISTRATION OF APPRENTICES. (1) Application for examination.

(a) HVAC contractor or specialty contractor.....$35.00

(b) HVAC journeyman or specialty 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 or specialty contractor.....$75.00

(b) HVAC journeyman or specialty journeyman.....$50.00

(3) Renewal of certificate of competency, valid for one (1) year; or may be issued at the annual rate for up to three (3) years.

(a) HVAC contractor or specialty contractor.....$50.00

(b) HVAC journeyman or specialty journeyman.....$25.00

(4) Each apprentice and specialty apprentice is required to register annually. The annual registration fee is fifteen dollars ($15.00).

SECTION 7. That Section 54-5013, Idaho Code, be, and the same is hereby amended to read as follows:

54-5013. CERTIFICATE EXPIRATION -- RENEWAL -- REINSTATEMENT. (1) Certificates of competency shall expire twelve (12) calendar months from the date of issue, or on the last day of the month of the ~~licensing~~ certification 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~~ certification period, by payment of a thirty-five dollar ($35.00) revival fee in addition to the full annual renewal fee, and if any, all outstanding civil penalties, permits or other fees and penalties.

(3) Any person whose certificate has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new certificate. Successful application shall require satisfactory proof of payment of any and all outstanding civil penalties, permits or other fees and penalties.

SECTION 8. That Chapter 50, 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 54-5013A, Idaho Code, and to read as follows:

54-5013A. REVOCATION OR SUSPENSION OF CERTIFICATE -- HEARINGS -- TAKING TESTIMONY -- JUDICIAL REVIEW. The administrator shall have the power to revoke or suspend any certificate if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has willfully violated any of the rules prescribed by the board, or as prescribed in this chapter; or has, after due notice, failed or refused to correct, within the specified time, any HVAC installation not in compliance with the provisions of this chapter, or has failed to pay within the time provided, civil penalties which have become final by operation of law, provided, before any certificate shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said administrator, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any party aggrieved by the action of the administrator shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 9. That Section 54-5014, Idaho Code, be, and the same is hereby amended to read as follows:

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, specialty journeymen, ~~and~~ apprentices, and specialty apprentices shall have their certificate of competency or annual registration card available at all times while on the job.

SECTION 10. That Section 54-5015, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ certification or registration or to require payment of any fees in order for any HVAC contractor, specialty contractor, journeyman, specialty journeyman, ~~or~~ apprentice, or specialty apprentice to engage in the heating, ventilation and air conditioning trade within the local jurisdiction or to issue ~~licenses~~ certificates 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.

SECTION 11. That Section 54-5016, Idaho Code, be, and the same is hereby amended to read as follows:

54-5016. PERMITS REQUIRED -- EXCEPTION -- LOCAL GOVERNMENT FEES ALLOWED. (1) On and after ~~July~~ January 1, 200~~4~~5, it shall be unlawful for any person, firm, ~~co~~partnership, company, 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.

SECTION 12. That Section 54-5017, Idaho Code, be, and the same is hereby amended to read as follows:

54-5017. PERMITS -- APPLICATION -- FEES. (1) On and after ~~July~~ January 1, 200~~4~~5, any person, firm, ~~co~~partnership, company, 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~~ Until fees ~~as~~ are established by rule of the board, the following fees shall be paid: ~~for each permit issued and for each inspection required~~

(a) Residential single and duplex family dwelling, a fifty dollar ($50.00) base permit fee plus an inspection fee of:

(i) Thirty-five dollars ($35.00) for the first furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, and similar fixtures or appliances, plus

(ii) Fifteen dollars ($15.00) for any additional furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, and similar fixtures or appliances. Fee includes ducts, vents and flues attached thereto.

(iii) Fifteen dollars ($15.00) for the first exhaust or ventilation duct such as dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust and ventilation ducts, plus

(iv) Five dollars ($5.00) for any additional exhaust and ventilation ducts.

(v) Fifteen dollars ($15.00) for the first fixture or appliance outlet of the fuel gas piping system, plus

(vi) Five dollars ($5.00) for any additional outlets of the fuel gas piping system.

(b) Multifamily, commercial, institutional, industrial and all other installations, a fifty dollar ($50.00) base permit fee for each building, plus an inspection fee based on the selling price of the completed installation including equipment, appliances, piping systems, materials, and labor of:

(i) Three percent (3%) of the value of the installation through twenty thousand dollars ($20,000), plus

(ii) Two percent (2%) of the value of installation in excess of twenty thousand dollars ($20,000) through one hundred thousand dollars ($100,000), plus

(iii) One percent (1%) of the value of the installation in excess of one hundred thousand dollars ($100,000) through two hundred thousand dollars ($200,000), plus

(iv) One-half percent (1/2%) of the value of the installation in excess of two hundred thousand dollars ($200,000).

(c) Plan check and technical service, a fifty dollar ($50.00) minimum fee plus fifty dollars ($50.00) per hour.

(d) Additional and reinspections, a fifty dollar ($50.00) minimum fee plus an additional fifty dollars ($50.00) per hour before approval of the installation if the following services are necessary:

(i) Trips to inspect when the permittee had given notice to the inspector that the work was ready for inspection when it was not, or if the permittee has not clearly given the location of the installation either by directions or maps, or if the inspector cannot gain access to make the inspection;

(ii) Trips to inspect corrections required by the inspector as a result of the permittee improperly responding to a corrective notice;

(iii) Each trip necessary to remove a red tag from the job site;

(iv) When corrections have not been made in the prescribed time, unless an extension has been requested and granted.

(3) Expiration of permits. Every permit issued by the HVAC bureau or authority having jurisdiction, shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred eighty (180) days. A permit may be renewed for an additional year upon receiving approval from the bureau or authority having jurisdiction, and a fifty dollar ($50.00) renewal fee.

(4) No permit. Failure to acquire, post and send permit and to pay required fees in the prescribed time may result in the assessment of a double fee. Any additional offenses within a twelve (12) month period for failure to acquire, post and send permit and to pay required fees in the prescribed time shall result in the assessment of a triple fee.

SECTION 13. That Section 54-5022, Idaho Code, be, and the same is hereby amended to read as follows:

54-5022. VIOLATION -- MISDEMEANOR -- PENALTY. ~~(1)~~ It shall be a misdemeanor for any person, firm, ~~co~~partnership, company, association or corporation by and through a member, representative or agent to:

(~~a~~1) Engage in the business, trade, practice or work of HVAC without a certificate of competency or without registration;

(~~b~~2) Perform work without a permit as provided in this chapter;

(~~c~~3) 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~~4) Refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time; or

(~~e~~5) Fail, neglect or refuse to obey any lawful order given or made by the administrator.

~~(2)~~ Such person, firm, ~~co~~partnership, company, association or corporation shall be subject to ~~a fine of~~ the civil penalties established by administrative rule but not ~~less than ten~~ to exceed one thousand dollars ($~~10,~~1,000). ~~or more than three hundred dollars ($300), or to imprisonment in the county jail not to exceed thirty (30) days, or both.~~ Each day of such violation shall constitute a separate offense. A violation shall be considered a second or additional offense only if it occurs within one (1) year of the first violation.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 2004.

CHAPTER 309
(S.B. No. 1440)

AN ACT
RELATING TO THE UNIFORM COMMERCIAL CODE; REPEALING SECTION 28-1-201, IDAHO CODE, RELATING TO GENERAL DEFINITIONS; AND AMENDING PART 2, CHAPTER 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-1-201, IDAHO CODE, TO DEFINE TERMS.

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

SECTION 1. That Section 28-1-201, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Part 2, Chapter 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-1-201, Idaho Code, and to read as follows:

28-1-201. GENERAL DEFINITIONS. (a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other chapters of the uniform commercial code that apply to particular chapters or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of the uniform commercial code that apply to particular articles or parts thereof:

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(2) "Aggrieved party" means a party entitled to pursue a remedy.

(3) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing or usage of trade as provided in section 28-1-303, Idaho Code.

(4) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the

rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under chapter 2, title 28, Idaho Code, may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(11) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by the uniform commercial code as supplemented by any other applicable laws.

(13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(14) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) "Delivery," with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title, or chattel paper, means voluntary transfer of possession.

(16) "Document of title" means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identi-

fied mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(17) "Fault" means a default, breach, or wrongful act or omission.

(18) "Fungible goods" means:

(A) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) Goods that by agreement are treated as equivalent.

(19) "Genuine" means free of forgery or counterfeiting.

(20) "Good faith" means honesty in fact in the conduct or transaction concerned.

(21) "Holder" means:

(A) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) The person in control of a negotiable electronic document of title.

(22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) "Insolvent" means:

(A) Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) Being unable to pay debts as they become due; or

(C) Being insolvent within the meaning of federal bankruptcy law.

(24) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more countries.

(25) "Organization" means a person other than an individual.

(26) "Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to the uniform commercial code.

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

(28) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.
(30) "Purchaser" means a person that takes by purchase.
(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.
(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.
(34) "Rights" includes remedy.
(35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to chapter 9, title 28, Idaho Code. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under section 28-2-401, Idaho Code, but a buyer may also acquire a "security interest" by complying with chapter 9, title 28, Idaho Code. Except as otherwise provided in section 28-2-505, Idaho Code, the right of a seller or lessor of goods under chapter 2 or chapter 12, title 28, Idaho Code, to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with chapter 9, title 28, Idaho Code. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under section 28-2-401, Idaho Code, is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to section 28-1-203, Idaho Code.
(36) "Send" in connection with a writing, record, or notice means:
(A) To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or
(B) In any other way to cause to be received any record or notice within the time it would have arrived if properly sent.
(37) "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.
(38) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(39) "Surety" includes a guarantor or other secondary obligor.
(40) "Term" means a portion of an agreement that relates to a particular matter.
(41) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) "Warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire.
(43) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

Approved March 24, 2004.

CHAPTER 310
(H.B. No. 487)

AN ACT
RELATING TO INSURANCE; AMENDING SECTION 41-345, IDAHO CODE, TO DELETE THE REQUIREMENT THAT INSURERS FILE COPIES OF REPORTS WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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

SECTION 1. That Section 41-345, Idaho Code, be, and the same is hereby amended to read as follows:

41-345. REPORT. (1) Every insurer domiciled in this state shall file a report with the director disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements unless such acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the director for review, approval or information purposes pursuant to other provisions of the insurance code, laws, rules or other requirements.
(2) The report required in subsection (1) of this section is due within fifteen (15) days after the end of the calendar month in which any of the foregoing transactions occur.
(3) One (1) complete copy of the report, including any exhibits or other attachments filed as part thereof, shall be filed with~~:~~
~~(a) The~~ the Idaho department of insurance~~; and~~
~~(b) The national association of insurance commissioners.~~
(4) All reports obtained by or disclosed to the director pursuant to sections 41-345 through 41-347, Idaho Code, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the director, the national association of insurance commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the director, after giving the insurer who would be affected thereby, notice and an opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the director may publish all or any part thereof in such manner as he may deem appropriate.

Approved March 24, 2004.

CHAPTER 311
(H.B. No. 527)

AN ACT

RELATING TO PLUMBERS AND PLUMBING; AMENDING SECTION 54-2606, IDAHO CODE, TO AUTHORIZE THE IDAHO PLUMBING BOARD TO ESTABLISH BY RULE CIVIL PENALTIES AND AN APPEALS PROCESS, TO AUTHORIZE THE BOARD TO AFFIRM, REJECT, DECREASE, OR WITHIN A LIMIT, INCREASE THE PENALTY IMPOSED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2607, IDAHO CODE, TO AUTHORIZE THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY TO IMPOSE CIVIL PENALTIES AND TO FILE SUIT FOR INJUNCTIVE RELIEF AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2618, IDAHO CODE, TO PROVIDE THAT CERTIFICATES OF COMPETENCY AND APPRENTICE REGISTRATIONS MAY BE IN THE IMMEDIATE VICINITY OF THE WORK SITE DURING WORKING HOURS IF NOT CARRIED ON THE PERSON; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2606, Idaho Code, be, and the same is hereby amended to read as follows:

54-2606. POWERS AND DUTIES ~~---EXECUTIVE OFFICERS------EMPLOYEES----COMPENSATION-----TENURE~~ OF THE IDAHO PLUMBING BOARD. (1) The board shall have the general administration and supervision of the design, construction, installation, improvement, extension and alteration of plumbing and plumbing 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.

(2) The division of building safety shall enforce the minimum standards and requirements therefor as provided by this ~~act~~ chapter.

(3) The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this ~~act~~ chapter, and it may among other things:

(a) Establish the fees to be charged for permits and inspections of plumbing systems.

(b) Hold public meetings and attend or be represented at such meetings, within or without the state, prepare and publish rules pertaining to this ~~act~~ chapter, and such other information as may be necessary, and furnish copies thereof to those engaged in the business, trade, practice or work of plumbing and ~~pipe---fitting~~ pipefitting and to the public upon request.

(c) Furnish standards and procedures and prescribe reasonable rules for examinations, qualification and certification of plumbing contractors and journeymen and apprentice plumbers not herein prescribed, including the furnishing of a compliance bond in an amount not to exceed two thousand dollars ($2,000) for the contractor classification or evidence of such coverage by a corporate industry group bond acceptable to the board.

(d) Furnish standards and procedures and prescribe reasonable rules to provide for the certification of specialty contractors, specialty

journeymen, and specialty apprentices, including the furnishing of a compliance bond in an amount not to exceed two thousand dollars ($2,000) for the specialty contractor classification or evidence of coverage by a corporate industry group bond acceptable to the board.
(e) Establish by administrative rule civil penalties not to exceed one thousand dollars ($1,000) for each count or separate offense, to be paid for violations of this chapter and rules of the Idaho plumbing board; and to establish by administrative rule the process by which appeals from the imposition of civil penalties may be heard. The board is authorized to affirm, reject, decrease or increase the penalty imposed; however, the board shall not increase any penalty imposed to an amount exceeding one thousand dollars ($1,000) for each individual count or separate offense.

SECTION 2. That Section 54-2607, Idaho Code, be, and the same is hereby amended to read as follows:

54-2607. ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY -- POWERS AND DUTIES. (1) The administrator shall exercise such powers and duties as are reasonably necessary to enforce the minimum standards provided in this ~~act~~ chapter, and he may among other things:
(a) Prescribe and establish procedures to effectuate the efficient enforcement of this ~~act~~ chapter not herein prescribed.
(b) Serve as secretary to the Idaho plumbing board.
(c) Appoint licensed staff inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, plumbing and plumbing systems.
(d) Summon witnesses to appear and testify before him on any matter within the provisions of this ~~act~~ 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 the 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 the 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.
(e) 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.
(f) Impose civil penalties as provided in this chapter and the rules of the Idaho plumbing board.
(g) In addition to any other penalties specified in this chapter, whenever any person violates the provisions of this chapter and the rules of the Idaho plumbing board, the administrator may maintain an action in the name of the state of Idaho to enjoin that person from any further violations. Such action may be brought either in the county in which the acts are claimed to have been or are being committed, or in the county where the defendant resides, or in Ada county.

(i) Upon the filing of a certified complaint in the district court, the court, if satisfied that the acts complained of have been, or probably are being, or may be committed, may issue a temporary restraining order, or a preliminary injunction, or both, without bond, enjoining the defendant from the commission of anv such act or acts constituting the violation.

(ii) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions.

(iii) If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under the provisions of this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

(2) It shall be the duty of the administrator to give notice to cities which supply sewer service to areas outside their city limits and who have requested in writing such notice from the administrator of all permits issued relative to sewer installations. The notice shall be given within ten (10) days from the date the permit was requested for such installation. The notice shall contain a map of the physical location of the installation and reference to the date of inspection if the city so requests.

SECTION 3. That Section 54-2618, Idaho Code, be, and the same is hereby amended to read as follows:

54-2618. CERTIFICATE TO BE DISPLAYED AND CERTIFICATES OF COMPETENCY AND REGISTRATION CARRIED OR IN VICINITY OF WORK SITE. All holders of valid certificates in the contractor and specialty contractor classifications shall display a sign or card, upon a form prescribed and furnished by the division of building safety, for public view in their place of business. All journeymen and specialty journeymen shall have their certificate of competency on their persons or in the immediate vicinity of the work site during working hours. ~~their certificate of competency, and a~~Apprentices and specialty apprentices shall have evidence of registration on their persons ~~evidence of registration~~ or in the immediate vicinity of the work site during working hours.

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

Approved March 24, 2004.

CHAPTER 312
(H.B. No. 552, As Amended)

AN ACT

RELATING TO COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS; AMENDING SECTION 54-3404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO AUTHORIZE THE BOARD TO ADOPT RULES REQUIRING ANNUAL CONTINUING EDUCATION AS A CON-

DITION FOR THE RENEWAL OF LICENSES; AND AMENDING SECTION 54-3405C, IDAHO CODE, TO REVISE TERMINOLOGY AND TO DELETE CERTAIN CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS.

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

SECTION 1. That Section 54-3404, Idaho Code, be, and the same is hereby amended to read as follows:

54-3404. IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS -- POWERS. The board shall have the following powers:

(1) To regulate the practice of ~~licensed--counselors--and--licensed~~ professional counselors and ~~licensed~~ marriage and family therapists in the state of Idaho.

(2) To pass upon the qualifications and fitness of applicants for licenses and to adopt rules requiring annual continuing education as a condition for the renewal of licenses issued under this chapter.

(3) To adopt and from time to time revise such rules as may be necessary to carry into effect the provisions of this chapter. Such rules shall include, but not be limited to, a code of ethics for ~~licensed~~ professional counselors and a code of ethics for marriage and family therapists in the state, which shall be adopted in compliance with chapter 52, title 67, Idaho Code.

(4) To review the practice of professional counselors and marriage and family therapists licensed under this chapter and charged with a violation of the provisions of this chapter. This review may include the notes of the license holder and other materials related to the practice. The review will remain subject to disclosure according to chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board.

(5) To establish a peer review system whereby each license holder's practice may be reviewed to ensure continuing practice in an appropriate and ethical manner.

(6) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of applicants pursuant to this chapter, and to conduct hearings in connection therewith.

(7) To conduct hearings to suspend or revoke licenses for violations of the law and rules adopted pursuant to this chapter and cause the prosecution and enjoinder of all such violations.

(8) In any proceeding before the board authorized by this chapter, the board or its designee may administer oaths or affirmations to witnesses appearing before it.

(9) To authorize, by written agreement, the chief of the bureau of occupational licenses as agent to act in its interest.

(10) To provide, by rule, ~~licensed~~ professional counselor and ~~licensed~~ marriage and family therapist specialty standards.

SECTION 2. That Section 54-3405C, Idaho Code, be, and the same is hereby amended to read as follows:

54-3405C. QUALIFICATIONS FOR LICENSURE. Licensure as a "~~licensed~~ marriage and family therapist" shall be restricted to persons who have successfully completed each of the following requirements:

(1) A graduate degree which consists of at least sixty (60) semester hours or ninety (90) quarter credits in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education, or a marriage and family counseling or therapy program which is accredited by the council for accreditation of counseling and related educational programs, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the board. The course of study for any graduate degree shall include a minimum of thirty-nine (39) semester credits in the following areas:

(a) Marriage and family studies -- nine (9) semester credit minimum. Studies in this area shall include:

(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;

(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and

(iii) ~~Preventative~~ Preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems.

(b) Marriage and family therapy -- nine (9) semester credit minimum. Studies in this area shall include:

(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and

(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction.

(c) Human development -- nine (9) semester credit minimum. Studies in this area shall include:

(i) Individual development and transitions across the life span;

(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability;

(iii) Human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and

(iv) Issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution.

(d) Psychological and mental health competency -- six (6) semester credit minimum. Studies in this area shall include:

(i) Psychopathology, including etiology, assessment, evalua-

tion and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis;

(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and

(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples and families.

(e) Professional ethics and identity -- three (3) semester credit minimum. Studies in this area shall include:

(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines;

(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and

(iii) The interface between therapist responsibility and the professional, social and political context of treatment.

(f) Research -- three (3) semester credit minimum. Studies in this area shall include:

(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and

(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research.

(2) Completion of a one (1) year practicum of supervised marriage and family therapy experience, consisting of a minimum of three hundred (300) direct client contact hours, of which one hundred fifty (150) hours shall be with couples or families, as part of the graduate program.

(3) Supervised experience in marriage and family therapy of three thousand (3,000) hours, acceptable to the board as defined by rule. A minimum of two hundred (200) hours of supervision of the postgraduate experience. Supervision may be provided by a clinical member of the American association for marriage and family therapy, by a licensed marriage and family therapist, or another qualified licensed professional as determined by the board who has a minimum of five (5) years experience providing marriage and family therapy, including: a licensed professional counselor, private practice; psychologist; certified social worker, private and independent practice; or psychiatrist.

(4) Successful completion of a written examination as approved by the board and defined by rule.

(5) ~~Once licensed, a licensed marriage and family therapist shall obtain twenty (20) hours of continuing education per year as approved by the board.~~

~~(6)~~ From the effective date of this section until June 30, 2003, any person who meets the educational qualifications for an appropriate

graduate degree, as defined by the board, from an accredited educational institution so recognized at the time of granting such degree, and who demonstrates three thousand (3,000) hours of postgraduate experience providing marriage and family therapy may upon application, finding of fitness, and payment of fees, be issued a marriage and family therapist license. In determining if the education and experience qualifications have been met, the board may consider a current clinical membership in the American association of marriage and family therapy or the national association of certified family therapy, or membership in or certification by another appropriate professional organization, as defined by the board, to be sufficient demonstration of the qualifications, and may issue a marriage and family therapy license.

(~~7~~6) A license or conditional license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

Approved March 24, 2004.

CHAPTER 313
(H.B. No. 568)

AN ACT

RELATING TO MANUFACTURED AND MOBILE HOMES; AMENDING THE HEADING FOR CHAPTER 21, TITLE 44, IDAHO CODE; AMENDING SECTION 44-2101, IDAHO CODE, TO DELETE REFERENCE TO THE TERM MANUFACTURED HOME BROKER AND TO PROVIDE REFERENCE TO MANUFACTURED HOME INSTALLER; AMENDING SECTION 44-2101A, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 44-2102, IDAHO CODE, TO DELETE REFERENCE TO THE TERM BROKER; AMENDING SECTION 44-2103, IDAHO CODE, TO PROVIDE REFERENCE TO INSTALLERS AND RESPONSIBLE MANAGING EMPLOYEES, TO REVISE MAXIMUM FEES, TO DELETE REFERENCE TO MANUFACTURED HOME BROKER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 44-2106, IDAHO CODE, TO DELETE REFERENCE TO MANUFACTURED HOME BROKER AND TO PROVIDE APPLICATION TO MANUFACTURED HOME INSTALLER; AND AMENDING SECTION 67-2601, IDAHO CODE, TO DELETE REFERENCE TO MANUFACTURED HOME BROKER AND TO PROVIDE REFERENCE TO MANUFACTURED HOME INSTALLER.

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

SECTION 1. That the Heading for Chapter 21, Title 44, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 21
MANUFACTURED HOME DEALER AND ~~BROKER~~ INSTALLER LICENSING

SECTION 2. That Section 44-2101, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101. PURPOSE -- LICENSE REQUIRED. The legislature finds that the regulation and control of those persons engaged in the business of manufacturing, selling, installing or servicing of manufactured homes is necessary to protect the health and safety of the citizens of Idaho. To that end, it shall be unlawful for any person to engage in business as a manufacturer of manufactured homes, a manufactured home dealer, manufactured home ~~broker~~ installer, manufactured home service company or a manufactured home salesman without being duly licensed as provided in this chapter.

SECTION 3. That Section 44-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101A. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety of the state of Idaho.

(2) "Manufactured home" means a structure as defined in section 39-4105, Idaho Code.

(3) ~~"Manufactured--home--broker"--means--any--person-engaged-in-the business-of-selling-or-exchanging-used-units-only,-or-who--buys,--sells, lists--or-exchanges-three-(3)-or-more-used-units-in-any-one-(1)-calendar year,-except-as-otherwise-provided-in-this-chapter.~~

~~(4)~~ "Manufactured home dealer" means any person engaged in the business of selling or exchanging new and used units, or who buys, sells, lists or exchanges three (3) or more new and used units in any one (1) calendar year, except as otherwise provided in this chapter.

(4) "Manufactured home installer" means a person who owns a business which installs a manufactured home or mobile home at the site where it is to be used for occupancy. The term does not include the purchaser of a manufactured home or mobile home or a manufactured home dealer or mobile home dealer who does not install manufactured or mobile homes. A dealer who does install manufactured homes or mobile homes is an installer. The term also does not include concrete contractors or their employees.

(5) "Manufactured home salesman" means any person employed by a manufactured home dealer or broker for a salary, commission or compensation of any kind to sell, list, purchase or exchange or to negotiate for the sale, listing, purchase or exchange of units, except as otherwise provided in this chapter.

(6) "Manufactured home service company" ~~includes-"manufactured-home installer"-and~~ means any person other than a manufactured home dealer or manufactured home installer who provides service, ~~setup,-or-both,~~ repair or tear down of manufactured or mobile homes.

(7) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

(8) "Mobile home" means a structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(9) "Person" means a natural person, corporation, partnership, trust, society, club, association, or other organization.

(10) "Principal place of business" means an enclosed structure accessible and open to the public, at which the business is lawfully conducted in accordance with the terms of all applicable building codes,

zoning and other land use regulatory ordinances, in which building the public may contact the dealer~~, broker~~ or salesman, and at which place shall be kept and maintained the books, records and files necessary to conduct the business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic.

(11) "Responsible managing employee" means the person designated by the employer to supervise other employees, either personally or through others.

(12) "Unit" means a mobile or manufactured home.

SECTION 4. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules for the establishment of a mandatory statewide manufactured home "setup" code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer~~, broker,~~ or manufactured home salesman, but with respect to a licensed manufactured home dealer~~, broker~~ or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed manufactured home dealer to represent the interests of the manufactured home dealer in this type of transaction.

SECTION 5. That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of dealers, ~~brokers~~ installers, manufacturers, salesmen, responsible managing employees and service companies shall not exceed:

(a) Manufactured home dealer's ~~or broker's~~ license ..... ~~$250~~0.00

(b) Manufacturer's license ..... ~~$250~~0.00

(c) Manufactured home service company/installer's license ..... ~~$125~~300.00

(d) Manufactured home salesman's license ..... $ ~~250~~.00

(e) Responsible managing employees' license..... $ 50.00

(2) All license fees collected by the division of building safety under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(3) The following performance bonding requirements shall be met before the issuance of these licenses:

(a) Manufacturer ..... $20,000 bond

(b) Manufactured home dealer ..... $20,000 bond

~~(c) Manufactured home broker ..... $20,000 bond~~

~~(d)~~ Manufactured home service company/installer ..... $ 5,000 bond

(4) The administrator is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a money deposit in lieu of a bond in satisfaction of the bonding requirements of this section.

(5) Fees and bond requirements of this section shall be the exclusive fee and bond requirements for dealers, ~~brokers~~ installers, manufacturers, salesmen and service companies governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee or bond requirements for the same services.

SECTION 6. That Section 44-2106, Idaho Code, be, and the same is hereby amended to read as follows:

44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as a manufacturer, manufactured home dealer, manufactured home ~~broker~~ installer, manufactured home salesman or manufactured home service company without being duly licensed by the division of building safety pursuant to this chapter.

(2) It shall be unlawful for a manufacturer, manufactured home dealer, manufactured home ~~broker~~ installer, manufactured home salesman or manufactured home service company to:

(a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, manufactured home dealer, ~~broker~~ manufactured home installer, salesman or service company;

(b) Violate any of the provisions of this chapter or any rule adopted by the division of building safety pursuant to this chapter;

(c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;

(d) With respect only to a manufactured home dealer, ~~or broker,~~ to engage in the business for which such dealer ~~or broker~~ is licensed without at all times maintaining a principal place of business located within the state.

SECTION 7. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; and the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as

provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and ~~broker~~ installer licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

Approved March 24, 2004.

CHAPTER 314
(H.B. No. 570)

AN ACT

RELATING TO RESIDENTIAL MORTGAGE PRACTICES; AMENDING SECTION 26-3103, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR AGENTS WHO ACT UNDER AN EXCLUSIVE CONTRACT WITH NO MORE THAN ONE LICENSEE ON A FULL-TIME OR PART-TIME BASIS.

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

SECTION 1. That Section 26-3103, Idaho Code, be, and the same is hereby amended to read as follows:

26-3103. EXEMPTIONS. The provisions of this chapter do not apply to:

(1) Agencies of the United States and agencies of this state and its political subdivisions;

(2) An owner of real property who offers credit secured by a contract of sale, mortgage or deed of trust on the property sold;

(3) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs;

(4) Any person licensed or chartered under the laws of this state or the United States as a bank, regulated lender licensed under the Idaho credit code and regularly engaged in making regulated consumer loans other than those secured by a security interest in real property, savings and loan association, credit union, or trust company;

(5) Any person licensed or chartered under the laws of any other state as a bank, savings and loan association, or credit union;

(6) Attorneys, or persons licensed under chapter 2, title 54, Idaho Code, provided that the license held by such attorneys or persons is in an active status;

(7) Persons employed by licensees on a full-time basis or persons who are employed by no more than one (1) licensee on a part-time basis or agents who act under an exclusive contract with no more than one (1) licensee on a full-time or part-time basis;

(8) Any person or entity not making more than five (5) loans primarily for personal, family, or household use and primarily secured by a security interest on residential real property, with his own funds for his own investment, in any period of twelve (12) consecutive months; nor

(9) Any person who funds a residential mortgage loan which has been originated and processed by a licensee or by an exempt person, who does not directly or indirectly solicit borrowers in this state for the purpose of making residential mortgage loans, and who does not participate in the negotiation of residential mortgage loans with the borrower. For the purpose of this subsection, "negotiation of residential mortgage loans" does not include setting the terms under which a person may buy or fund a residential mortgage loan originated by a licensee or exempt person.

Approved March 24, 2004.

CHAPTER 315
(H.B. No. 579, As Amended)

AN ACT
RELATING TO PROTECTION OF THE MENTALLY ILL; AMENDING SECTION 66-317, IDAHO CODE, TO FURTHER DEFINE TERMS; AND AMENDING SECTION 66-346, IDAHO CODE, TO GOVERN COMMUNICATION AND VISITATION RIGHTS OF PATIENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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, 66-329 or 66-1201, Idaho Code, or committed pursuant 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. 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.

(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.

(o) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. section 15043 and 42 U.S.C. sections 10801 et seq.

SECTION 2. That Section 66-346, Idaho Code, be, and the same is hereby amended to read as follows:

66-346. RIGHT TO COMMUNICATION AND VISITATION -- EXERCISE OF CIVIL RIGHTS. (a) Every patient shall have the following rights:

(1) To communicate by sealed mail or otherwise, with persons, inside or outside the facility and to have access to reasonable amounts of letter writing material and postage;

(2) To receive visitors at all reasonable times;

(3) To wear his own clothes; to keep and use his own personal possessions including toilet articles; to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases; to have access to individual storage space for his private use;

(4) To refuse specific modes of treatment;

(5) To be visited by his attorney or any employee of his attorney's

firm, or a representative of the state protection and advocacy system at ~~all~~ any times;

(6) To exercise all civil rights, including the right to dispose of property except property described in subsection (3) above, execute instruments, make purchases, enter into contractual relationships, and vote unless limited by prior court order;

(7) To have reasonable access to all records concerning himself.

(b) Notwithstanding any limitations authorized under this section on the right of communication, every patient shall be entitled to communicate by sealed mail with the court, if any, which ordered his commitment.

(c) The director of a facility may deny a patient's rights under this section, except that the rights enumerated in subsections (a)(5) and (a)(6) of ~~section 66-346, Idaho Code~~ this section, shall not be denied by the director of the facility under any circumstances. Only in cases of emergency or when a court has determined that a patient lacks capacity to make informed decisions about treatment, may the director of a facility deny a patient's rights under subsection (a)(4) of this section. A statement explaining the reasons for any denial of a patient's rights shall be immediately entered in his treatment record and if the patient has been committed pursuant to court order, copies of such statement shall be submitted to the committing court and sent to the patient's spouse, guardian, adult next of kin or friend and attorney, if any.

(d) A list of the foregoing rights shall be prominently posted in all facilities and brought to the attention of the patient by such means as the board of health and welfare shall designate.

Approved March 24, 2004.

CHAPTER 316
(H.B. No. 586, As Amended in the Senate)

AN ACT

RELATING TO USING PUBLIC POSITION FOR PERSONAL GAIN; AMENDING SECTION 18-1359, IDAHO CODE, TO ALLOW MERIT INCREASES OR PROMOTIONS TO AN EMPLOYEE OF A GOVERNMENTAL ENTITY HOLDING A POSITION PRIOR TO THE ELECTION OF A LOCAL GOVERNMENT OFFICIAL WHO IS RELATED WITHIN THE SECOND DEGREE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-1359, Idaho Code, be, and the same is hereby amended to read as follows:

18-1359. USING PUBLIC POSITION FOR PERSONAL GAIN. (1) No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the

course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars ($50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.

(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.

(2) No person related to any member of the legislature by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty within the legislative branch of government or otherwise be employed by the legislative branch of government when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(3) No person related to a mayor or member of a city council by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the mayor's or city council's city when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(5) (a) An employee of a governmental entity holding a position prior to the election of a local government official, who is related within the second degree, shall be entitled to retain his or her position and receive general pay increases, step increases, cost of living increases, and/or other across the board increases in salary or merit increases, benefits and bonuses or promotions.

(b) Nothing in this section shall be construed as creating any property rights in the position held by an employee subject to this section, and all authority in regard to disciplinary action, trans-

fer, dismissal, demotion or termination shall continue to apply to the employee.

(6) The prohibitions contained within this section shall not include conduct defined by the provisions of section 59-703(4), Idaho Code.

(7) The prohibitions within this section and section 18-1356, Idaho Code, as it applies to part-time public servants, ~~does~~ do not include those actions or conduct involving the public servant's business, profession or occupation and unrelated to the public servant's official conduct, and ~~does~~ do not apply to a pecuniary benefit received in the normal course of a legislator's business, profession or occupation and unrelated to any bill, legislation, proceeding or official transaction.

Approved March 24, 2004.

CHAPTER 317
(H.B. No. 609, As Amended)

AN ACT

RELATING TO SENTENCING IN CAPITAL CASES; AMENDING SECTION 19-2515, IDAHO CODE, TO PROVIDE THAT CERTAIN INFORMATION CONCERNING THE VICTIM AND THE IMPACT OF THE DEATH OF THE VICTIM IS RELEVANT AND ADMISSIBLE AND TO PROVIDE THAT CHARACTERIZATIONS AND OPINIONS ABOUT THE CRIME, THE DEFENDANT AND THE APPROPRIATE SENTENCE SHALL NOT BE PERMITTED AS PART OF ANY VICTIM IMPACT INFORMATION; AND DECLARING AN EMERGENCY.

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

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

19-2515. SENTENCE IN CAPITAL CASES -- SPECIAL SENTENCING PROCEEDING -- STATUTORY AGGRAVATING CIRCUMSTANCES -- SPECIAL VERDICT OR WRITTEN FINDINGS. (1) Except as provided in section 19-2515A, Idaho Code, a person convicted of murder in the first degree shall be liable for the imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

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

(3) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless:

(a) A notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code; and

(b) The jury, or the court if a jury is waived, finds beyond a reasonable doubt at least one (1) statutory aggravating circumstance.

Where a statutory aggravating circumstance is found, the defendant shall be sentenced to death unless mitigating circumstances which may be presented are found to be sufficiently compelling that the death penalty would be unjust. The jury shall not direct imposition of a sentence of death unless it unanimously finds at least one (1) statutory aggravating circumstance and unanimously determines that the penalty of death should be imposed.

(4) Notwithstanding any court rule to the contrary, when a defendant is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, no presentence investigation shall be conducted; provided however, that if a special sentencing proceeding is not held or if a special sentencing proceeding is held but no statutory aggravating circumstance has been proven beyond a reasonable doubt, the court may order that a presentence investigation be conducted.

(5) (a) If a person is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, and a notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code, a special sentencing proceeding shall be held promptly for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. Information concerning the victim and the impact that the death of the victim has had on the victim's family is relevant and admissible. Such information shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community by the victim's death. Characterizations and opinions about the crime, the defendant and the appropriate sentence shall not be permitted as part of any victim impact information. The special sentencing proceeding shall be conducted before a jury unless a jury is waived by the defendant with the consent of the prosecuting attorney.

(b) If the defendant's guilt was determined by a jury verdict, the same jury shall hear the special sentencing proceeding; provided however, that if it is impracticable to reconvene the same jury to hear the special sentencing proceeding due to an insufficient number of jurors, the trial court may dismiss that jury and convene a new jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code.

(c) If the defendant's guilt was determined by a plea of guilty or by a decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including, but not limited to, a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code, unless such jury is waived.

(d) If a special sentencing proceeding is conducted before a newly impaneled jury pursuant to the provisions of subsection (5)(b) or (5)(c) of this section, the state and the defense may present evidence to inform the jury of the nature and circumstances of the murder for which the defendant was convicted. The newly impaneled jury shall be instructed that the defendant has previously been found

guilty of first-degree murder and that the jury's purpose is limited to making findings relevant for sentencing.

(6) At the special sentencing proceeding, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

(7) The jury shall be informed as follows:

(a) If the jury finds that a statutory aggravating circumstance exists and no mitigating circumstances exist which would make the imposition of the death penalty unjust, the defendant will be sentenced to death by the court.

(b) If the jury finds the existence of a statutory aggravating circumstance but finds that the existence of mitigating circumstances makes the imposition of the death penalty unjust or the jury cannot unanimously agree on whether the existence of mitigating circumstances makes the imposition of the death penalty unjust, the defendant will be sentenced to a term of life imprisonment without the possibility of parole; and

(c) If the jury does not find the existence of a statutory aggravating circumstance or if the jury cannot unanimously agree on the existence of a statutory aggravating circumstance, the defendant will be sentenced by the court to a term of life imprisonment with a fixed term of not less than ten (10) years.

(8) Upon the conclusion of the evidence and arguments in mitigation and aggravation:

(a) With regard to each statutory aggravating circumstance alleged by the state, the jury shall return a special verdict stating:

(i) Whether the statutory aggravating circumstance has been proven beyond a reasonable doubt; and

(ii) If the statutory aggravating circumstance has been proven beyond a reasonable doubt, whether all mitigating circumstances, when weighed against the aggravating circumstance, are sufficiently compelling that the death penalty would be unjust.

(b) If a jury has been waived, the court shall:

(i) Make written findings setting forth any statutory aggravating circumstance found beyond a reasonable doubt;

(ii) Set forth in writing any mitigating circumstances considered; and

(iii) Upon weighing all mitigating circumstances against each statutory aggravating circumstance separately, determine whether mitigating circumstances are found to be sufficiently compelling that the death penalty would be unjust and detail in writing its reasons for so finding.

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

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

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

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

(d) The murder was committed for remuneration or the promise of

remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.
(e) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.
(f) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.
(g) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.
(h) The defendant, by prior conduct or conduct in the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.
(i) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty or because of the victim's former or present official status.
(j) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

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

Approved March 24, 2004.

CHAPTER 318
(H.B. No. 629)

AN ACT

RELATING TO THE IDAHO CODE CODIFIER'S CORRECTIONS; AMENDING SECTION 1-1624, IDAHO CODE, AS ADDED BY SECTION 2, CHAPTER 291, LAWS OF 2003, TO REDESIGNATE THE SECTION; AMENDING SECTION 23-217, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 23-1303, IDAHO CODE, TO PROVIDE TECHNICAL CORRECTIONS; AMENDING SECTION 31-808, IDAHO CODE, TO PROVIDE TECHNICAL CORRECTIONS; AMENDING SECTION 39-5702, IDAHO CODE, TO PROVIDE TECHNICAL CORRECTIONS; AMENDING THE HEADING FOR CHAPTER 84, TITLE 39, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 231, LAWS OF 2003, TO REDESIGNATE THE CHAPTER; AMENDING SECTION 39-8401, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 231, LAWS OF 2003, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-8402, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 231, LAWS OF 2003, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-8403, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 231, LAWS OF 2003, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-8404, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 231, LAWS OF 2003, TO REDESIGNATE THE SECTION; AMENDING SECTION 41-1336, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2003, TO REDESIGNATE THE SECTION; AMENDING SECTION 63-3029E, IDAHO CODE, TO REVISE THE DEFINITION OF "NEW EMPLOYEE"; AMENDING SECTION 65-202, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 1-1624, Idaho Code, as added by Section 2, Chapter 291, Laws of 2003, be, and the same is hereby amended to read as follows:

1-1624<u>5</u>. 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.

SECTION 2. 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. (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 two percent (2%) of the current price per unit computed to the nearest multiple of five cents (5¢).

(2) After 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 percent (5%) from the price of each order of goods sold to any licensee, as defined in section 23-902(7), Idaho Code.

(3) The surcharge imposed pursuant to this section shall be collected and credited monthly to the drug court and family court services fund, as set forth in section 1-1624<u>5</u>, Idaho Code.

SECTION 3. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. The following terms as used in this chapter are hereby defined as follows:

(a) "Table wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(b) "Director" means the director of the Idaho state police.

(c) "Dessert wine" means only those beverages that are designated or labeled, pursuant to the federal alcohol administration act, as "sherry," "madeira" or "port," which contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-one percent (21%) alcohol by volume. Dessert wine as defined herein shall not be deemed to be a spirit based beverage for the purposes of subsection (p) of this section.

(d) "Retail wine license" means a license issued by the director, authorizing a person to sell table wine and/or dessert wine at retail

for consumption off the licensed premises.

(e) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute table wine or dessert wine to retailers within the state of Idaho.

(f) "Wine importer's license" means a license issued by the director to a person authorizing such person to import table wine or dessert wine into the state of Idaho and to sell and distribute such wines to a distributor.

(g) "Retailer" means a person to whom a retail wine license has been issued.

(h) "Distributor" means a person to whom a wine distributor's license has been issued.

(i) "Importer" means a person to whom a wine importer's license has been issued.

(j) "Winery" means a place, premises or establishment within the state of Idaho for the manufacture or bottling of table wine or dessert wine for sale.

(k) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(l) "Vintner" means a person who manufactures, bottles, or sells table wine or dessert wine to importers for resale within this state other than a licensed "winery" as herein defined.

(m) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(n) "Wine by the drink license" means a license to sell table wine or dessert wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(o) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(p) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the state liquor dispensary system.

(q) "Wine" includes table wine and dessert wine, unless the context requires otherwise.

(r) "Theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(qs) "Live performance" means a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.

(rt) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and accepted meanings.

SECTION 4. That Section 31-808, Idaho Code, be, and the same is hereby amended to read as follows:

31-808. SALE OF COUNTY PROPERTY -- GENERAL PROCEDURE -- SALE OF PROPERTY ACQUIRED THROUGH TAX DEED -- PROCEDURE AFTER ATTEMPTED AUCTION -- EXCHANGE OF COUNTY PROPERTY -- SALE OF CERTAIN ODD-LOT PROPERTY -- SALE, EXCHANGE OR DONATION OF PROPERTY TO OTHER UNITS OF GOVERNMENT. (1) A board of county commissioners shall have the power and authority to sell or offer for sale at public auction any real or personal property belonging to the county not necessary for its use. However, personal property not exceeding two hundred fifty dollars ($250) in value may be sold at private sale without notice or public auction. Prior to offering the property for sale, the board of county commissioners shall advertise notice of the auction in a newspaper, as defined in section 60-106, Idaho Code, either published in the county or having a general circulation in the county, not less than ten (10) calendar days prior to the auction. If the property to be sold is real property, the notice to be published shall contain the legal description as well as the street address of the property. If the property is outside the corporate limits of a city and does not have a street address, then the description shall also contain the distance and direction of the location of the real property from the closest city. If the property to be sold is acquired by tax deed, the notice required to be published shall include, next to the description of the property, the name of the taxpayer as it appears in the delinquent tax certificate upon which the tax deed was issued. The property shall be sold to the highest bidder. However, the board of county commissioners may reserve the right to reject any and all bids and shall have discretionary authority to reject or accept any bid which may be made for an amount less than the total amount of all delinquent taxes, late charges, costs and interest which may have accrued against any property so offered for sale, including the amount specified in the tax deed to the county.

(2) Proceeds from the sale of county property not acquired by tax deed shall be paid into the county treasury for the general use of the county. If the property to be sold has been acquired by tax deed, pursuant to the provisions of chapter 10, title 63, Idaho Code, the proceeds from the sale, after reimbursement to the county for the cost of advertising and sale, shall be apportioned to the taxing districts in which the property is situated according to the levy applied to the year of delinquency upon which the tax deed was issued to the county.

(3) Any property sold may be carried on a recorded contract with the county for a term not to exceed ten (10) years and at an interest rate not to exceed the rate of interest specified in section 28-22-104(1), Idaho Code. The board of county commissioners shall have the authority to cancel any contract if the purchaser fails to comply with any of the terms of the contract and the county shall retain all payments made on the contract. The title to all property sold on contract shall be retained in the name of the county until full payment has been made by the purchaser. However, the purchaser shall be responsible for payment of all property taxes during the period of the contract.

(4) Any sale of property by the county shall vest in the purchaser all of the right, title and interest of the county in the property, including all delinquent taxes which have become a lien on the property since the date of issue of the tax deed, if any.

(5) In addition to the purchase price, a purchaser of county property, including property acquired by tax deed, shall pay all fees required by law for the transfer of property. No deed for any real

estate purchased pursuant to the provisions of this section shall be delivered to a purchaser until such deed has been recorded in the county making the sale.

(6) Should the county be unable to sell at a public auction any real or personal property belonging to the county, including property acquired by tax deed, it may sell the property without further notice by public or private sale upon such terms and conditions as the county deems necessary. Distribution of the proceeds of sale shall be as set forth in subsection (2) of this section.

(7) The board of county commissioners may at its discretion, when in the county's best interest, exchange and do all things necessary to exchange any of the real property now or hereafter held and owned by the county for real property of equal value, public or private, to consolidate county real property or aid the county in the control and management or use of county real property.

(8) The board of county commissioners may, by resolution, declare certain parcels of real property as odd-lot property, all or portions of which are not needed for public purposes and are excess to the needs of the county. For purposes of this subsection, odd-lot property is defined as that property that has an irregular shape or is a remnant and has value primarily to an adjoining property owner. Odd-lot property may be sold to an adjacent property owner for fair market value that is estimated by a land appraiser licensed to appraise property in the state of Idaho. If, after thirty (30) days' written notice, an adjoining property owner or owners do not desire to purchase the odd-lot property, the board of county commissioners may sell the property to any other interested party for not less than the appraised value. When a sale of odd-lot property is agreed to, a public advertisement of the pending sale shall be published in one (1) edition of the newspaper as defined in subsection (1) of this section, and the public shall have fifteen (15) days to object to the sale in writing. The board of county commissioners shall make the final determination regarding the sale of odd-lot property in an open meeting.

(9) In addition to any other powers granted by law, the board of county commissioners may at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision or taxing district of the state of Idaho or any local historical society which is incorporated as an Idaho nonprofit corporation which operates primarily in the county or maintains a museum in the county, with or without compensation, any real or personal property or any interest in such property owned by the county or acquired by tax deed, after adoption of a resolution by the board of county commissioners that the grant or exchange of property is in the public interest. Notice of such grant or exchange shall be as provided in subsection (1) of this section and the decision may be made at any regularly or specially scheduled meeting of the board of county commissioners. The execution and delivery by the county of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the state, county or any other political subdivision or taxing district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance. However, if the property conveyed is subject to a lien for one (1) or more unsatisfied special assessments, the lien shall continue until all special assessments have been paid in full. At

no time shall a lien for a special assessment be extinguished prior to such special assessment having been paid in full. Any property conveyed to any local historical society by the county shall revert to the county when the property is no longer utilized for the purposes for which it was conveyed.

(10) When the county has title to mineral rights severed from the property to which they attach, and the mineral rights have value of less than twenty-five dollars ($25.00) per acre, the board of county commissioners may act to return the mineral rights to the land from which they were severed in the following manner: the proposed action must appear on the agenda of a regular meeting of the board of county commissioners; and the motion to make the return must be adopted unanimously by the board voting in open meeting. ~~(11)~~

SECTION 5. 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.

(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.

(6) "Minor" means a person under eighteen (18) years of age.

(7) "Minor exempt permit" means a permittee location whose revenues from the sale of alcoholic beverages for on-site consumption comprises at least fifty-five percent (55%) of total revenues, or whose products and services are primarily obscene, pornographic, profane or sexually oriented, is exempt from inspections assisted by a minor, if minors are not allowed in the location and such prohibition is posted clearly on all entrance doors.

~~(7)(6)~~(8) "Permit" means a permit issued by the department for the sale or distribution of tobacco products.

~~(8)(7)~~(9) "Permittee" means the holder of a valid permit for the sale or distribution of tobacco products.

~~(9)(8)~~(10) "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.

~~(10)(9)~~(11) "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.

~~(11)(10)~~(12) "Seller" means the person who physically sells or distributes tobacco products.

~~(12)(11)~~(13) "Tobacco product" means any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco.

~~(13)(12)~~(14) "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.

~~(14)(13)~~(15) "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.

~~(15)(14)~~(16) "Without a permit" means a business that has failed to obtain a permit or a business whose permit is suspended or revoked.

SECTION 6. That the Heading for Chapter 84, Title 39, Idaho Code, as added by Section 1, Chapter 231, Laws of 2003, be, and the same is hereby amended to read as follows:

CHAPTER 8~~4~~5
LAKE PEND OREILLE, PEND OREILLE RIVER,
PRIEST LAKE AND PRIEST RIVER COMMISSION

SECTION 7. That Section 39-8401, Idaho Code, as added by Section 1, Chapter 231, Laws of 2003, be, and the same is hereby amended to read as follows:

39-~~8401~~8501. 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.

SECTION 8. That Section 39-8402, Idaho Code, as added by Section 1, Chapter 231, Laws of 2003, be, and the same is hereby amended to read as follows:

39-~~8402~~8502. 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.

SECTION 9. That Section 39-8403, Idaho Code, as added by Section 1, Chapter 231, Laws of 2003, be, and the same is hereby amended to read as follows:

39-~~8403~~8503. 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~~8504, 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.

SECTION 10. That Section 39-8404, Idaho Code, as added by Section 1, Chapter 231, Laws of 2003, be, and the same is hereby amended to read as follows:

39-~~8404~~8504. 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.

SECTION 11. That Section 41-1336, Idaho Code, as added by Section 1, Chapter 85, Laws of 2003, be, and the same is hereby amended to read as follows:

41-133~~6~~7. LIFE INSURANCE -- PAYMENT OF INTEREST ON BENEFITS. (1) An insurer shall pay the proceeds of any benefits under a policy of life insurance not more than thirty (30) days after the insurer has received satisfactory proof of death of the insured. Except as provided in subsection (2) of this section, if the proceeds are not paid within the

thirty (30) day period, the insurer shall also pay interest on the proceeds from the date of death of the insured to the date when the proceeds are paid.

(2) If satisfactory proof of death is received more than one hundred eighty (180) days after the death of the insured and the death benefits are not paid within thirty (30) days after satisfactory proof of death has been received by the insurer, interest shall accrue from the date on which satisfactory proof was received by the insurer to the date when proceeds are paid.

(3) The rate of interest to be paid by the insurer under subsections (1) and (2) of this section shall be the current rate of interest on death proceeds on deposit with the insurer; provided however, that if the insurer holds its deposits in a noninterest-bearing account or in an account bearing less than two percent (2%) interest per annum, the rate of interest to be paid shall be the one (1) month United States government securities treasury constant maturity rate as disclosed in the federal reserve statistical release publication H.15, selected interest rates, as of the first of the month preceding the date of death, plus two (2) percentage points.

(4) A payment of interest shall not be required under this section in any case in which the beneficiary elects to receive the proceeds under the policy by any means other than a lump sum payment.

SECTION 12. That Section 63-3029E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029E. DEFINITIONS -- CONSTRUCTION OF TERMS. As used in this section and in section 63-3029F, Idaho Code:

(1) (a) "New employee" means a person ~~from whom~~ subject to Idaho income tax ~~has--been~~ withholding whether or not any amounts are required to be withheld, employed by the taxpayer in a revenue-producing enterprise creating value-added natural resource products, and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by section 63-3029F, Idaho Code, is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a revenue-producing enterprise from another taxpayer or who operates in a place of business the same or a substantially identical revenue-producing value-added natural resource products enterprise as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees

reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(2) "Revenue-producing enterprise" means the production, assembly, fabrication, manufacture or processing of any natural resource product.

(3) "Same or a substantially identical revenue-producing enterprise" means a revenue-producing enterprise in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another revenue-producing enterprise.

SECTION 13. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to:

(1) Oversee the management and operation of the veterans homes in the state and the state veterans cemetery, and provide care to veterans of the armed forces of the United States under such rules as the administrator may from time to time adopt.

(2) Extend financial relief and assistance to disabled or destitute wartime veterans and to those dependent upon such disabled or destitute wartime veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt.

(3) Collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery and the administrator is hereby directed to cause such benefits to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(4) Prescribe, with the approval of the commission, the qualifications of all personnel in accordance with the Idaho personnel system law. The administrators in charge of state veterans homes and the office of veterans advocacy shall be considered nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code, and shall serve at the pleasure of the administrator of the division of veterans services.

(5) Accept gifts, grants, contributions and bequests of funds, and personal property to the state of Idaho for the benefit of veterans of the armed forces of the United States.

(6) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of services to veterans of the armed forces of the United States.

(7) Administer, with the advice and approval of the commission, moneys in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(8) Establish by rule charges related to interment, disinterment and reinterment in the state veterans cemetery and the administrator is hereby directed to cause such charges to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(8~~9~~) In his discretion, assume control of the cremated remains of deceased persons qualified for interment in the state veterans cemetery, apply for burial and plot allowance benefits paid by the United States department of veterans affairs for such deceased persons and inter in the state veterans cemetery the cremated remains of deceased persons qualified for interment in the state veterans cemetery.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, Section 12 of this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2004, and the remaining sections of this act shall be in full force and effect on and after passage and approval.

Approved March 24, 2004.

CHAPTER 319
(H.B. No. 638)

AN ACT

RELATING TO SALARIES AND BENEFITS OF STATE EMPLOYEES; AMENDING SECTION 67-5309A, IDAHO CODE, TO PROVIDE THAT IT IS THE INTENT OF THE LEGISLATURE THAT A BENEFIT SURVEY SHALL BE CONDUCTED ANNUALLY FOR THE PURPOSE SPECIFIED; AND AMENDING SECTION 67-5309B, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL CONDUCT OR APPROVE BENEFIT SURVEYS, TO PROVIDE THAT THE ADMINISTRATOR SHALL SUBMIT REPORTS OF THE RESULTS OF SALARY AND BENEFIT SURVEYS TO THE GOVERNOR BY DECEMBER FIRST OF EACH YEAR, TO PROVIDE THAT THE GOVERNOR SHALL SUBMIT HIS RECOMMENDATIONS TO THE LEGISLATURE, TO PROVIDE FOR A LEGISLATIVE RESPONSE TO THE GOVERNOR'S RECOMMENDATIONS, AND TO PROVIDE THAT THE ADMINISTRATOR SHALL ALSO USE PAY SCHEDULES WHEN IMPLEMENTING THE RESULTS OF SALARY CHANGES BY RULE.

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

SECTION 1. That Section 67-5309A, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309A. PERSONNEL BENEFITS. It is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees of like classification and pay grade allocation shall be treated equally with reference to personnel benefits. It is the intent of the legislature that ~~from time to time it shall authorize~~ a benefit survey shall be conducted annually for the purpose of determining the relative level of personnel benefits provided to state employees by comparing the benefits provided to state employees with the benefits provided to employees of private employers within the state of Idaho.

SECTION 2. That Section 67-5309B, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309B. ESTABLISHING SALARIES. (a) The administrator of the division of human resources shall determine the relative worth of each job classification established pursuant to section 67-5309, Idaho Code, and, in making such determination, shall utilize the guide chart profile method and correlated factoring benchmark job classifications developed by Hay management consultants, to ensure internal equity within the classified service.

(b) Job classifications established or revised by the administrator shall be assigned by the administrator to a pay grade subject to the approval of the administrator of the division of financial management, based on funding considerations.

(c) The administrator shall conduct or approve salary and benefit surveys within relevant labor markets to determine salary ranges that represent competitive labor market average rates paid by private industry and other governmental units for jobs of like value, based upon the guide chart profile system described in subsection (a) of this section. The results of such surveys shall be based on statistical, historical, or other economic factors. The factors herein referred to shall include, but are not limited to, anticipated salary adjustments for the positions surveyed, changes in cost-of-living as measured by the consumer price index, and anticipated adjustments in the average weekly wage in the state of Idaho, as defined and determined pursuant to section 72-409, Idaho Code.

(d) A report of the results of salary and benefit surveys and recommendations for changes in salaries, together with their estimated costs of implementation based on the competitive labor market average rate of each pay grade, as approved by the administrator, shall be submitted to the governor not later than the first day of ~~October~~ December of each year. ~~If--the-governor-accepts-the-administrator's-report,-he shall-submit-it-to-the-legislature-prior-to-the-seventh-legislative--day of--each--session.--If--the--governor--does-not-accept-the-report-of-the administrator,-he~~ The governor shall submit his own ~~report~~ recommendations on proposed changes in salaries~~,~~ and ~~the-administrator's-report,~~ benefits to the legislature prior to the seventh legislative day of each session. The legislature may, by concurrent resolution, accept, modify or reject ~~either-report~~ the recommendations. The failure of the legislature to accept, modify or reject ~~either-report~~ the recommendations prior to adjournment sine die shall constitute approval of the governor's ~~report~~ recommendations. The administrator shall implement the results of such salary changes by rule, using the payline formulas and pay schedules approved by the legislature and the mid-point of each pay grade established in section 67-5309C, Idaho Code.

Approved March 24, 2004.

CHAPTER 320
(H.B. No. 642)

AN ACT

RELATING TO ADMINISTRATIVE JUDGES; AMENDING SECTION 1-703, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ELECTION OF ADMINISTRATIVE JUDGES, TO PROVIDE THAT THE TERM OF SERVICE OF ELECTED AND APPOINTED ADMINISTRATIVE JUDGES SHALL BE PROVIDED BY THE RULES OF THE IDAHO SUPREME COURT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 1-703, Idaho Code, be, and the same is hereby amended to read as follows:

1-703. JURISDICTION OF JUDGES WHERE MORE THAN ONE -- ADMINISTRATIVE JUDGE. Where there is more than one (1) judge in any district, the jurisdiction of the respective judges of said district shall be equal and coextensive with the boundaries of the district. In each judicial district there shall be an administrative judge elected by a majority of the ~~other~~ district judges within the district to serve for ~~such term as the other district judges delegate~~ a period of time as provided by rules of the Idaho supreme court. In the event a majority of the district judges cannot agree as to who shall be the administrative judge, then the appointment of the administrative judge shall be by a majority of the Idaho ~~S~~supreme ~~C~~court justices for a ~~term not to exceed two (2) years~~ period of time as provided by rules of the Idaho supreme court. The administrative judge is hereby granted all powers and duties heretofore or hereafter granted to the senior district judge, and the administrative judge shall apportion the business of such district among such judges as equally as may be, but any judge shall have full power to hold terms of court, transact judicial business, make orders, grant or refuse writs and generally exercise all the powers of a district judge without the concurrence of the other judge or judges. The administrative judge shall receive an annual salary in an amount of one thousand five hundred dollars ($1,500) greater than the annual salary of a district judge to compensate for the additional duties of the office.

Approved March 24, 2004.

CHAPTER 321
(H.B. No. 643)

AN ACT

RELATING TO LIMITATION OF ACTIONS; AMENDING CHAPTER 2, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-228A, IDAHO CODE, TO PROVIDE FOR A SPECIFIED EXTENSION OF TIME FOR COMMENCING ACTIONS OR FILING DOCUMENTS SUBJECT TO LIMITATIONS OF ACTIONS IN THE EVENT OF CLOSURE OF THE OFFICE OF THE CLERK OF THE DISTRICT COURT UPON CERTAIN CONDITIONS.

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

SECTION 1. That Chapter 2, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-228A, Idaho Code, and to read as follows:

5-228A. TIME LIMITATION -- CLOSURE OF THE OFFICE OF THE CLERK -- EXTENSION OF TIME. Whenever, pursuant to an Idaho statute, the final day to commence an action or file a document with a court falls on a day that the office of the clerk of the district court is usually open for the transaction of business with the public, but whose office has been closed for all or part of the day by the administrative judge or his designee due to severe weather conditions or a real or threatened emergency, the time for performing the act shall be extended to the end of business hours of the first full day the office of the clerk is reopened for the transaction of business with the public.

Approved March 24, 2004.

CHAPTER 322
(H.B. No. 644)

AN ACT

RELATING TO COURT ASSISTANCE OFFICES AND COORDINATED FAMILY SERVICES; AMENDING CHAPTER 14, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1406, IDAHO CODE, TO AUTHORIZE THE SUPREME COURT TO ESTABLISH CERTAIN FEES RELATING TO MATERIALS, TRAINING AND OTHER SERVICES PROVIDED BY COURT ASSISTANCE OFFICES AND COORDINATED FAMILY SERVICES, TO PROVIDE FOR WAIVERS OF THE FEES AND TO PROVIDE FOR THE COLLECTION, DEPOSIT AND DEDICATION OF THE FEES.

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

SECTION 1. That Chapter 14, 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 32-1406, Idaho Code, and to read as follows:

32-1406. COURT ASSISTANCE OFFICES AND COORDINATED FAMILY SERVICES -- COST RECOVERY FEE SCHEDULE. (1) The supreme court is hereby authorized to establish a statewide uniform schedule of fees to assist counties in defraying the costs of providing legal forms and other written materials, training on the use of forms and distributed materials, and other court services that are furnished in connection with court assistance offices and coordinated family services. The supreme court schedule of fees shall be reasonably related to and shall not exceed the actual costs involved in furnishing the materials, training or other services.

(2) The supreme court shall provide for a waiver or partial waiver of fees for those persons who are unable to pay the fees.

(3) The fees established in the supreme court schedule shall be collected through the clerk of the district court of the county in which the materials, training, or other services are furnished, and the clerk shall pay them over to the county treasurer for deposit into the county district court fund. Subject to the budgetary process of the county, the moneys so deposited into the district court fund shall be dedicated to the objects and purposes identified in this section.

Approved March 24, 2004.

CHAPTER 323
(H.B. No. 656)

AN ACT

RELATING TO LICENSED PASTORAL COUNSELORS; AMENDING SECTION 54-2303, IDAHO CODE, TO STRIKE REFERENCE TO PASTORAL COUNSELORS; AND REPEALING SECTION 54-3405A, IDAHO CODE, TO ELIMINATE LICENSED PASTORAL COUNSELORS.

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

SECTION 1. That Section 54-2303, Idaho Code, be, and the same is hereby amended to read as follows:

54-2303. LICENSE REQUIRED -- EXEMPTIONS. It shall be unlawful for any person to practice or to offer to practice psychology, or to represent himself to be a psychologist, unless he shall first obtain a license pursuant to this act, except as hereinafter provided.

(a) Nothing in this chapter shall be construed to limit the activities, and use of an official title on the part of a person in the employ of a federal, state, county, or municipal agency, or other political subdivision, insofar that such activities or services are a part of the duties in his salaried position, and insofar that such activities or services are performed solely on behalf of his employer.

(b) Nothing in this chapter shall be construed to limit the activities and services of a student, interne, or resident in psychology, pursuing a course of study approved by the board as qualifying training and experience for psychologists, provided that such activities and services constitute a part of his supervised course of study, and he is designated by such titles as "psychology interne," "psychology trainee," or other title clearly indicating such training status. Nothing in this chapter shall be construed to limit the activities of a person employed by a duly chartered educational institution solely as an administrator, teacher, or researcher or combination thereof in the discharge of those duties.

(c) Nothing in this chapter shall be construed to prevent unlicensed persons from providing certain services under the direct supervision and control of licensed psychologists, under such rules as may be established by the board.

(d) Nothing in this chapter shall be construed to prevent qualified members of other professions such as physicians, licensed counselors, or social workers~~, or pastoral counselors~~ from doing work of a psychological nature consistent with their training and consistent with the code of ethics of their respective professions.

SECTION 2. That Section 54-3405A, Idaho Code, be, and the same is hereby repealed.

Approved March 24, 2004.

CHAPTER 324
(H.B. No. 671)

AN ACT

RELATING TO CORPORATIONS; AMENDING SECTION 30-1-120, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO PROVIDE THAT CERTAIN PROVISIONS APPLY WHEN THE TERMS OF A PLAN OR FILED DOCUMENT ARE PERMITTED TO BE DEPENDENT UPON FACTS OBJECTIVELY ASCERTAINABLE OUTSIDE THE PLAN OR FILED DOCUMENT; AMENDING SECTION 30-1-140, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 30-1-202, IDAHO CODE, TO PROVIDE THAT PROVISIONS OF THE ARTICLES OF INCORPORATION MAY BE MADE DEPENDENT UPON FACTS OBJECTIVELY ASCERTAINABLE OUTSIDE THE ARTICLES OF INCORPORATION; AMENDING SECTION 30-1-601, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO AUTHORIZED SHARES; AMENDING SECTION 30-1-602, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS MAY TAKE CERTAIN ACTIONS RELATED TO THE CLASSIFICATION OR RECLASSIFICATION OF SHARES WITHOUT SHAREHOLDER APPROVAL IF PERMITTED BY THE ARTICLES OF INCORPORATION, TO REQUIRE THE BOARD TO DETERMINE THE TERMS AS PROVIDED BY STATUTE, TO REMOVE LANGUAGE REQUIRING EACH SERIES TO BE GIVEN A DISTINGUISHING DESIGNATION, TO REMOVE LANGUAGE PROVIDING THAT ALL SHARES OF A SERIES MUST HAVE CERTAIN TERMS IDENTICAL WITH THOSE OF OTHER SHARES AND OTHER SERIES AND TO REVISE REQUIREMENTS RELATING TO REQUIRED TERMS FOR FILING ARTICLES OF AMENDMENT; AMENDING SECTION 30-1-621, IDAHO CODE, TO PROVIDE THAT THE ISSUANCE OF SHARES AND CERTAIN OTHER SECURITIES REQUIRES SHAREHOLDER APPROVAL IN CERTAIN CIRCUMSTANCES, TO SET FORTH REQUIREMENTS FOR THE VOTING POWER OF SHARES AND TO PROVIDE THAT A SERIES OF TRANSACTIONS IS INTEGRATED UNDER CERTAIN CONDITIONS; AMENDING SECTION 30-1-624, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO SHARE OPTIONS; AMENDING SECTION 30-1-631, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REMOVE LANGUAGE STATING THAT THE BOARD MAY ADOPT ARTICLES OF AMENDMENT WITHOUT SHAREHOLDER APPROVAL AND TO REMOVE LANGUAGE SETTING FORTH REQUIREMENTS FOR ARTICLES; AMENDING SECTION 30-1-640, IDAHO CODE, TO PROVIDE THAT THE SECTION DOES NOT APPLY TO CERTAIN DISTRIBUTIONS IN LIQUIDATION; AMENDING SECTION 30-1-702, IDAHO CODE, TO PROVIDE THAT THE ARTICLES OF INCORPORATION MAY FIX A LOWER OR HIGHER PERCENTAGE OF VOTES RELATED TO SPECIAL MEETINGS OF SHAREHOLDERS AND TO PROVIDE THAT UNLESS OTHERWISE PROVIDED IN THE ARTICLES A WRITTEN DEMAND FOR A SPECIAL MEETING MAY BE REVOKED BY A WRITING; AMENDING SECTION 30-1-704, IDAHO CODE, TO REQUIRE THAT WRITTEN CONSENTS BEAR A DATED SIGNATURE, TO PROVIDE THAT A WRITTEN CONSENT SHALL NOT BE EFFECTIVE

UNLESS WRITTEN CONSENTS SIGNED BY ALL SHAREHOLDERS ENTITLED TO VOTE ARE RECEIVED BY THE CORPORATION WITHIN A STATED TIME PERIOD AND TO PROVIDE THAT A WRITTEN CONSENT MAY BE REVOKED BY A WRITING; AMENDING PART 7, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-708, IDAHO CODE, TO PROVIDE FOR THE CONDUCT OF MEETINGS; AMENDING SECTION 30-1-722, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PROXIES; AMENDING SECTION 30-1-724, IDAHO CODE, TO PROVIDE CODE REFERENCES; AMENDING PART 7, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-729, IDAHO CODE, TO PROVIDE FOR INSPECTORS OF ELECTIONS; AMENDING SECTION 30-1-801, IDAHO CODE, TO PROVIDE CLARIFYING LANGUAGE; AMENDING SECTION 30-1-803, IDAHO CODE, TO PROVIDE THAT THE NUMBER OF DIRECTORS MAY BE INCREASED OR DECREASED BY AMENDMENT TO OR AS PROVIDED IN THE ARTICLES OF INCORPORATION OR BYLAWS AND TO REMOVE OTHER LANGUAGE REFERRING TO THE NUMBER OF DIRECTORS; AMENDING SECTION 30-1-806, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING NINE OR MORE DIRECTORS AND TO PROVIDE THAT THE ARTICLES OF INCORPORATION MAY PROVIDE FOR STAGGERING THE TERMS OF DIRECTORS; AMENDING SECTION 30-1-809, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING; AMENDING SECTION 30-1-821, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO ACTIONS TAKEN WITHOUT A MEETING OF THE BOARD OF DIRECTORS; AMENDING SECTION 30-1-825, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO COMMITTEES CREATED BY THE BOARD OF DIRECTORS; AMENDING SECTION 30-1-830, IDAHO CODE, TO REVISE STANDARDS APPLICABLE TO MEMBERS OF THE BOARD OF DIRECTORS; AMENDING PART 8, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-831, IDAHO CODE, TO SET FORTH STANDARDS OF LIABILITY FOR DIRECTORS; AMENDING SECTION 30-1-833, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE LIABILITY OF DIRECTORS FOR UNLAWFUL DISTRIBUTIONS; AMENDING SECTION 30-1-840, IDAHO CODE, TO PROVIDE THAT A CORPORATION HAS THE OFFICES DESCRIBED IN THE BYLAWS OR DESIGNATED BY THE BOARD, TO PROVIDE THAT THE BOARD MAY ELECT INDIVIDUALS TO FILL OFFICES OF THE CORPORATION AND TO PROVIDE THAT THE BYLAWS OR BOARD SHALL ASSIGN TO AN OFFICER THE RESPONSIBILITY FOR PREPARING THE MINUTES OF MEETINGS AND MAINTAINING AND AUTHENTICATING THE RECORDS OF THE CORPORATION; AMENDING SECTION 30-1-842, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE STANDARDS OF CONDUCT FOR OFFICERS OF A CORPORATION; AMENDING SECTION 30-1-843, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE THAT THE BOARD OR APPOINTING OFFICER MAY FILL A PENDING VACANCY IN CERTAIN SITUATIONS AND SET FORTH WHO MAY REMOVE AN OFFICER WITH OR WITHOUT CAUSE; AMENDING SECTION 30-1-858, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW PART 9, CHAPTER 1, TITLE 30, IDAHO CODE, TO PROVIDE FOR EXCLUDED TRANSACTIONS, TO REQUIRE PRIOR APPROVAL FOR CERTAIN TRANSACTIONS, TO PROVIDE FOR DOMESTICATION, TO PROVIDE FOR ARTICLES OF DOMESTICATION AND TO PROVIDE FOR THE EFFECT OF DOMESTICATION; AMENDING SECTION 30-1-1001, IDAHO CODE, TO REVISE LANGUAGE APPLICABLE TO THE AUTHORITY OF A CORPORATION TO AMEND ITS ARTICLES OF INCORPORATION; AMENDING SECTION 30-1-1002, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE AMENDMENT OF ARTICLES OF INCORPORATION BY THE BOARD WITHOUT SHAREHOLDER APPROVAL; AMENDING SECTION 30-1-1003, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ADOPTION OF AN AMENDMENT TO THE ARTICLES OF INCORPORATION WHERE A CORPORATION HAS ISSUED SHARES;

AMENDING SECTION 30-1-1004, IDAHO CODE, TO PROVIDE THAT EXCEPT AS OTHERWISE PROVIDED IN THE ARTICLES OF INCORPORATION THE VOTING AND NONVOTING HOLDERS OF THE OUTSTANDING SHARES OF A CLASS ARE ENTITLED TO VOTE AS A SEPARATE VOTING GROUP ON A PROPOSED AMENDMENT TO THE ARTICLES OF INCORPORATION UNDER CERTAIN CONDITIONS, TO REVISE TERMINOLOGY, TO PROVIDE CLARIFYING LANGUAGE, TO PROVIDE THAT UNDER CERTAIN CONDITIONS THE HOLDERS OF SHARES MUST VOTE AS A SINGLE VOTING GROUP UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF INCORPORATION OR UNLESS OTHERWISE REQUIRED BY THE BOARD AND TO REMOVE LANGUAGE PROVIDING THAT A CLASS OR SERIES OF SHARES HAS CERTAIN VOTING RIGHTS; AMENDING SECTION 30-1-1005, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE BOARD OF DIRECTORS OF A CORPORATION OR ITS INCORPORATORS IF IT HAS NO BOARD MAY ADOPT AMENDMENTS TO THE ARTICLES OF INCORPORATION; AMENDING SECTION 30-1-1006, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO ARTICLES OF AMENDMENT; AMENDING SECTION 30-1-1007, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO RESTATED ARTICLES OF INCORPORATION; AMENDING SECTION 30-1-1008, IDAHO CODE, TO PROVIDE THAT ARTICLES OF INCORPORATION MAY BE AMENDED WITHOUT BOARD OR SHAREHOLDER ACTION TO CARRY OUT A PLAN OF REORGANIZATION ORDERED OR DECREED BY A COURT UNDER THE AUTHORITY OF FEDERAL LAW AND TO REMOVE LANGUAGE PROVIDING THAT SHAREHOLDERS OF A CORPORATION UNDERGOING REORGANIZATION DO NOT HAVE DISSENTERS' RIGHTS EXCEPT AS PROVIDED IN THE REORGANIZATION PLAN; AMENDING SECTION 30-1-1009, IDAHO CODE, TO MAKE A GRAMMATICAL CHANGE; AMENDING SECTION 30-1-1020, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO AMENDMENT OF BYLAWS BY THE BOARD OF DIRECTORS OR SHAREHOLDERS; REPEALING SECTION 30-1-1021, IDAHO CODE, RELATING TO BYLAWS THAT INCREASE QUORUM OR VOTING REQUIREMENTS; AMENDING SECTION 30-1-1022, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO BYLAWS THAT INCREASE QUORUM OR VOTING REQUIREMENTS FOR DIRECTORS; AMENDING PART 11, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1101, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 30-1-1101, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO MERGERS; AMENDING SECTION 30-1-1102, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO SHARE EXCHANGES; AMENDING SECTION 30-1-1103, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO ACTIONS ON A PLAN, MERGER OR SHARE EXCHANGE; AMENDING SECTION 30-1-1104, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO MERGERS BETWEEN PARENTS AND SUBSIDIARIES OR BETWEEN SUBSIDIARIES; AMENDING SECTION 30-1-1105, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO ARTICLES OF MERGER OR SHARE EXCHANGE; AMENDING SECTION 30-1-1106, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE EFFECT OF A MERGER OR SHARE EXCHANGE; REPEALING SECTION 30-1-1107, IDAHO CODE, RELATING TO MERGERS OR SHARE EXCHANGES WITH FOREIGN CORPORATIONS; AMENDING PART 11, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1108, IDAHO CODE, TO PROVIDE FOR THE ABANDONMENT OF A MERGER OR SHARE EXCHANGE; AMENDING THE HEADING FOR PART 12, CHAPTER 1, TITLE 30, IDAHO CODE; AMENDING SECTION 30-1-1201, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF ASSETS NOT REQUIRING SHAREHOLDER APPROVAL AND TO REMOVE LANGUAGE REFERENCING THE SALE IN THE REGULAR COURSE OF BUSINESS AND MORTGAGE OF ASSETS; AMENDING SECTION 30-1-1202, IDAHO CODE, TO REMOVE LAN-

GUAGE PROVIDING FOR THE SALE OF ASSETS OTHER THAN IN THE REGULAR COURSE OF BUSINESS AND TO PROVIDE FOR SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS; AMENDING THE HEADING FOR PART 13, CHAPTER 1, TITLE 30, IDAHO CODE; AMENDING SECTION 30-1-1301, IDAHO CODE, TO ADD, REVISE AND REMOVE DEFINITIONS; AMENDING SECTION 30-1-1302, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO A SHAREHOLDER'S RIGHT TO APPRAISAL; AMENDING SECTION 30-1-1303, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS; AMENDING SECTION 30-1-1320, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE NOTICE OF APPRAISAL RIGHTS; AMENDING SECTION 30-1-1321, IDAHO CODE, TO PROVIDE THAT IF A PROPOSED CORPORATION ACTION REQUIRING APPRAISAL RIGHTS IS SUBMITTED TO A VOTE AT A SHAREHOLDERS' MEETING A SHAREHOLDER WHO WISHES TO ASSERT APPRAISAL RIGHTS WITH RESPECT TO ANY CLASS OR SERIES OF SHARES MUST FOLLOW CERTAIN CONDITIONS AND TO REMOVE LANGUAGE REFERENCING A SHAREHOLDER'S SHARES; AMENDING SECTION 30-1-1322, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO APPRAISAL NOTICES AND FORMS; AMENDING SECTION 30-1-1323, IDAHO CODE, TO REMOVE LANGUAGE REFERRING TO THE DUTY TO DEMAND PAYMENT AND TO PROVIDE FOR THE PERFECTION OF RIGHTS AND THE RIGHT TO WITHDRAWAL FROM THE APPRAISAL PROCESS; REPEALING SECTION 30-1-1324, IDAHO CODE, RELATING TO SHARE RESTRICTIONS; AMENDING SECTION 30-1-1325, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PAYMENT; REPEALING SECTION 30-1-1326, IDAHO CODE, RELATING TO A CORPORATION'S FAILURE TO TAKE ACTION; AMENDING SECTION 30-1-1327, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO AFTER-ACQUIRED SHARES; AMENDING SECTION 30-1-1328, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PROCEDURES WHERE A SHAREHOLDER IS DISSATISFIED WITH A PAYMENT OR OFFER; AMENDING SECTION 30-1-1330, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO COURT ACTIONS FOR UNSETTLED PAYMENTS; AMENDING SECTION 30-1-1331, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO COURT COSTS AND COUNSEL FEES IN APPRAISAL PROCEEDINGS; AMENDING SECTION 30-1-1402, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO PROVIDE THAT UNLESS THE ARTICLES OF INCORPORATION OR BOARD OF DIRECTORS REQUIRE A GREATER VOTE, A GREATER NUMBER OF SHARES TO BE PRESENT OR A VOTE BY VOTING GROUPS, ADOPTION OF A PROPOSAL TO DISSOLVE REQUIRES APPROVAL OF SHAREHOLDERS AT A MEETING AT WHICH A QUORUM CONSISTING OF AT LEAST A MAJORITY OF ENTITLED VOTES EXISTS; AMENDING SECTION 30-1-1403, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO ARTICLES OF DISSOLUTION; AMENDING SECTION 30-1-1404, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 30-1-1406, IDAHO CODE, TO PROVIDE THAT A DISSOLVED CORPORATION MAY DISPOSE OF THE KNOWN CLAIMS AGAINST IT BY NOTIFYING ITS KNOWN CLAIMANTS IN WRITING OF THE DISSOLUTION AT ANY TIME AFTER ITS EFFECTIVE DATE; AMENDING SECTION 30-1-1407, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO OTHER CLAIMS AGAINST A DISSOLVED CORPORATION; AMENDING PART 14, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1408, IDAHO CODE, TO PROVIDE FOR COURT PROCEEDINGS; AMENDING PART 14, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1409, IDAHO CODE, TO SET FORTH DIRECTOR DUTIES; AMENDING SECTION 30-1-1601, IDAHO CODE, TO REVISE THE RECORDS A CORPORATION MUST KEEP AT ITS PRINCIPAL OFFICE; AMENDING SECTION 30-1-1603, IDAHO CODE, TO MAKE A GRAMMATICAL CHANGE, TO REMOVE A REFERENCE TO PHOTOGRAPHIC COPIES, TO PROVIDE FOR

THE RIGHT TO RECEIVE COPIES THROUGH AN ELECTRONIC TRANSMISSION IF AVAILABLE AND REQUESTED, TO PROVIDE THAT A CORPORATION MAY COMPLY WITH A SHAREHOLDER'S DEMAND FOR RECORD INSPECTION AT THE CORPORATION'S EXPENSE AND TO PROVIDE A REFERENCE TO THE TRANSMISSION OF RECORDS; AMENDING PART 16, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1605, IDAHO CODE, TO PROVIDE FOR THE INSPECTION OF RECORDS BY DIRECTORS; AND AMENDING PART 16, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1606, IDAHO CODE, TO PROVIDE FOR EXCEPTIONS TO THE NOTICE REQUIREMENT.

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

SECTION 1. That Section 30-1-120, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-120. ~~FILING~~ REQUIREMENTS FOR DOCUMENTS -- EXTRINSIC FACTS. (1) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(2) This chapter must require or permit filing the document in the office of the secretary of state.

(3) The document must contain the information required by this chapter. It may contain other information as well.

(4) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

(5) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(6) Except as otherwise permitted by section 30-1-1622, Idaho Code, the document must be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain a corporate seal, attestation, acknowledgment or verification.

(8) If the secretary of state has prescribed a mandatory form for the document under section 30-1-121, Idaho Code, the document must be in or on the prescribed form.

(9) The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one (1) exact or conformed copy to be delivered with the document, except as provided in sections 30-1-503 and 30-1-1509, Idaho Code.

(10) When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any other fee or penalty required to be paid therewith by this chapter or other law must be paid or provision for payment made in a manner permitted by the secretary of state.

(11) Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent upon facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

(b) The facts may include, but are not limited to:

(i) Any of the following that are available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(ii) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(iii) The terms of, or actions taken under, an agreement or document to which the corporation is a party, or any other agreement or document.

(c) As used in this subsection:

(i) "Filed document" means a document filed with the secretary of state under any provision of this chapter except part 15 or section 30-1-1622, Idaho Code; and

(ii) "Plan" means a plan of domestication, merger or share exchange.

(d) The following provisions of a plan or filed document may not be made dependent upon facts outside the plan or filed document:

(i) The name and address of any person required in a filed document;

(ii) The registered office of any entity required in a filed document;

(iii) The registered agent of any entity required in a filed document;

(iv) The number of authorized shares and designation of each class or series of shares;

(v) The effective date of a filed document;

(vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(e) If a provision of a filed document is made dependent upon a fact ascertainable outside of the filed document, and that fact is not ascertainable bv reference to a source described in subsection (11)(b)(i) of this section or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subsection (11)(e) are deemed to be authorized by the authorization

of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

SECTION 2. That Section 30-1-140, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-140. CHAPTER DEFINITIONS. In this chapter:

(1) "Articles of incorporation" ~~includes amended and restated~~ means the original articles of incorporation, all amendments thereof, and any other documents permitted or required to be filed by a domestic business corporation with the secretary of state under any provision of this chapter except section 30-1-1622, Idaho Code. If an amendment of the articles ~~of merger~~ or any document filed under this chapter restates the articles in their entirety, thenceforth the "articles" shall not include any prior documents.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporation," ~~or~~ "domestic corporation" or "domestic business corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.

(5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

(6) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of this state.

(8) "Effective date of notice" is defined in section 30-1-141, Idaho Code.

(~~8~~9) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction in written form of information by the recipient.

(10) "Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign nonprofit corporation.

(11) "Eligible interests" means interests or memberships.

(~~9~~12) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(1~~0~~3) "Entity" includes domestic and foreign business corporation; domestic and foreign nonprofit corporation; ~~not for profit corporation; limited liability company; profit and not for profit unincorporated association; business trust;~~ estate; ~~; partnership;~~ trust; ~~and two (2) or more persons having a joint or common economic interest~~ domestic and

foreign unincorporated entity; and state, United States and foreign government.

(14) The phrase "facts objectively ascertainable outside the plan or filed document" is as set forth in section 30-1-120(11), Idaho Code.

(15) "Filing entity" means an unincorporated entity that is of a type that is created by filing a public organic document.

(~~11~~16) "Foreign corporation" means a corporation incorporated under a law other than the law of this state~~,--but-does-not-include-"federally chartered-corporations"-which-are-incorporated~~ which would be a business corporation if incorporated under the laws of ~~the--United--States~~ this state.

(17) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of this state, which would be a nonprofit corporation if incorporated under the laws of this state.

(18) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this state.

(~~12~~19) "Governmental subdivision" includes authority, county, district and municipality.

(~~13~~20) "Includes" denotes a partial definition.

(~~14~~21) "Individual" ~~includes-the-estate-of-an-incompetent-or-deceased individual~~ means a natural person.

(22) "Interest" means either or both of the following rights under the organic law of an unincorporated entity:

(a) The right to receive distributions from the entity either in the ordinary course or upon liquidation; or

(b) The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy or person responsible for managing its business and affairs.

(23) "Interest holder" means a person who holds of record an interest.

(~~15~~24) "Means" denotes an exhaustive definition.

(25) "Membership" means the right of a member in a domestic or foreign nonprofit corporation.

(26) "Nonfiling entity" means an unincorporated entity that is of a type that is not created by filing a public organic document.

(27) "Nonprofit corporation" or "domestic nonprofit corporation" means a corporation incorporated under the laws of this state and subject to the provisions of the Idaho nonprofit corporation act.

(~~16~~28) "Notice" is defined in section 30-1-141, Idaho Code.

(29) "Organic document" means a public organic document or a private organic document.

(30) "Organic law" means the statute governing the internal affairs of a domestic or foreign business or nonprofit corporation or unincorporated entity.

(31) "Owner liability" means personal liability for a debt, obligation or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

(a) Solely by reason of the person's status as a shareholder, member or interest holder; or

(b) By the articles of incorporation, bylaws or an organic document under a provision of the organic law of an entity authorizing the articles of incorporation, bylaws or an organic document to make one (1) or more specified shareholders, members or interest holders lia-

ble in their capacity as shareholders, members or interest holders for all or specified debts, obligations or liabilities of the entity.

(~~17~~32) "Person" includes individual and entity.

(~~18~~33) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(34) "Private organic document" means any document, other than the public organic document, if any, that determines the internal governance of an unincorporated entity. Where a private organic document has been amended or restated, the term means the private organic document as last amended or restated.

(~~19~~35) "Proceeding" includes civil suit and criminal, administrative and investigatory action.

(~~20~~36) ~~"Receipt" of a document sent by first class mail, in the absence of evidence of earlier actual receipt by the addressee, means five (5) days after the document is mailed postpaid and correctly addressed~~ "Public organic document" means the document, if any, that is filed of public record to create an unincorporated entity. Where a public organic document has been amended or restated, the term means the public organic document as last amended or restated.

(~~21~~37) "Record date" means the date established under part 6 or 7 of this chapter, on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(~~22~~38) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under section 30-1-840(3), Idaho Code, for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(~~23~~39) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(~~24~~40) "Shares" means the units into which the proprietary interests in a corporation are divided.

(~~25~~41) "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

(~~4~~26) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(~~27~~43) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(~~28~~44) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been cancelled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares, but not "outstanding" shares.

(45) "Unincorporated entity" means an organization or artificial legal person that either has a separate legal existence or has the power

to acquire an estate in real property in its own name and that is not any of the following: a domestic or foreign business or nonprofit corporation, an estate, a trust, a state, the United States, or a foreign government. The term includes, without limitation, a general partnership, limited liability company, limited partnership, business trust, joint stock association and incorporated nonprofit association.

(~~29~~46) "United States" includes district, authority, bureau, commission, de~~partment and any o~~ther agency of the United States.

(~~30~~47) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

(48) "Voting power" means the current power to vote in the election of directors.

SECTION 3. That Section 30-1-202, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-202. ARTICLES OF INCORPORATION. (1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of section 30-1-401, Idaho Code;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office; and

(d) The name and address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

(i) The purpose or purposes for which the corporation is organized,

(ii) Managing the business and regulating the affairs of the corporation,

(iii) Defining, limiting and regulating the powers of the corporation, its board of directors, and shareholders,

(iv) A par value for authorized shares or classes of shares,

(v) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this chapter is required or permitted to be set forth in the bylaws;

(d) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:

(i) The amount of a financial benefit received by a director to which he is not entitled,

(ii) An intentional infliction of harm on the corporation or the shareholders,

(iii) A violation of section 30-1-833, Idaho Code, or

(iv) An intentional violation of criminal law; and

(e) A provision permitting or making obligatory indemnification of a director for liability, as defined in section 30-1-850(5), Idaho Code, to any person for any action taken, or any failure to take any action, as a director, except liability for:

(i) Receipt of a financial benefit to which he is not entitled,

(ii) An intentional infliction of harm on the corporation or its shareholders,

(iii) A violation of section 30-1-833, Idaho Code, or

(iv) An intentional violation of criminal law.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 31-1-120(11), Idaho Code.

SECTION 4. That Section 30-1-601, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-601. AUTHORIZED SHARES. (1) The articles of incorporation must ~~prescribe--the~~ set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one (1) class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class~~,~~ or series and must ~~describe~~, prior to the issuance of shares of a class or series, the terms, including the preferences, rights and limitations ~~and relative rights~~ of that class ~~must be described in the articles of incorporation~~ or series. Except to the extent varied as permitted by this section, a~~A~~ll shares of a class or series must have terms, including preferences, rights and limitations, ~~and relative rights~~ that are identical with those of other shares of the same class ~~except to the extent otherwise permitted by section 30-1-602, Idaho Code~~ or series.

(2) The articles of incorporation must authorize:

(a) One (1) or more classes or series of shares that together have unlimited voting rights; and

(b) One (1) or more classes or series of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one (1) or more classes or series of shares that:

(a) Have special, conditional or limited voting rights, or no right to vote, except to the extent ~~prohibited~~ otherwise provided by this chapter;

(b) Are redeemable or convertible as specified in the articles of incorporation:

(i) At the option of the corporation, the shareholder, or another person or upon the occurrence of a ~~designated~~ specified event;

(ii) For cash, indebtedness, securities or other property; and

(iii) ~~In a designated amount or in an~~ At prices and in amounts specified, or determined in accordance with a ~~designated~~ for-

mula; ~~or by reference to extrinsic data or events;~~

(c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative or partially cumulative; or

(d) Have preference over any other class or series of shares with respect to distributions, including ~~dividends and~~ distributions upon the dissolution of the corporation.

(4) Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 30-1-120(11), Idaho Code.

(5) Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

(6) The description of the ~~designations,~~ preferences, rights and limitations ~~and relative rights~~ of ~~share~~ classes or series of shares in ~~subsection~~ (3) of this section is not exhaustive.

SECTION 5. That Section 30-1-602, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-602. TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS. (1) If the articles of incorporation so provide, the board of directors ~~may~~ is authorized, without shareholder approval, to:

(a) Classify any unissued shares into one (1) or more classes or into one (1) or more series within a class;

(b) Reclassify any unissued shares of any class into one (1) or more classes or into one (1) or more series within one (1) or more classes; or

(c) Reclassify any unissued shares of any series of any class into one (1) or more classes or into one (1) or more series within a class.

(2) If the board of directors acts pursuant to subsection (1) of this section, it must determine~~, in whole or part,~~ the terms, including the preferences, rights and limitations, ~~and relative rights, within the limits set forth in section 30-1-601, Idaho Code,~~ to the same extent permitted under section 30-1-601, Idaho Code, of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) ~~One (1) or more~~ Any series within a class before the issuance of any shares of that series.

~~(2) Each series of a class must be given a distinguishing designation.~~

(3) ~~All shares of a series must have preferences, limitations and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.~~

~~(4)~~ Before issuing any shares of a class or series created under this section, the corporation must deliver to the secretary of state for filing articles of amendment~~, which are effective without shareholder action, that set~~ setting forth the terms determined under subsection (1) of this section~~:~~

~~(a) The name of the corporation;~~

~~(b) The text of the amendment determining the terms of the class or series or shares;~~

~~(c) The date it was adopted; and~~
~~(d) A statement that the amendment was duly adopted by the board of directors.~~

SECTION 6. That Section 30-1-621, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-621. ISSUANCE OF SHARES. (1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property, including cash, promissory notes, services performed, or other securities of the corporation.

(3) Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid and nonassessable.

(4) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

(5) The corporation may place in escrow shares issued for a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the note is paid. If the note is not paid, the shares escrowed or restricted and the distributions credited may be cancelled in whole or part.

(6) (a) An issuance of shares or other securities convertible into or rights exercisable for shares, in a transaction or a series of integrated transactions, requires approval of the shareholders, at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the matter exists, if:

(i) The shares, other securities, or rights are issued for consideration other than cash or cash equivalents; and

(ii) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than twenty (20) percent of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

(b) In this subsection:

(i) For purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares shall be the greater of:

(A) The voting power of the shares to be issued; or

(B) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(ii) A series of transactions is integrated if consummation of one (1) transaction is made contingent on consummation of one (1) or more of the other transactions.

SECTION 7. That Section 30-1-624, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-624. SHARE OPTIONS. (1) A corporation may issue rights, options or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine:

(a) ~~T~~the terms upon which the rights, options or warrants are issued~~, their form and content,~~; and

(b) The terms, including the consideration for which the shares or other securities are to be issued~~, unless the power to make such determination is reserved to the shareholders by the articles of incorporation~~. The authorization by the board of directors for the corporation to issue such rights, options or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options or warrants are exercisable.

(2) The terms and conditions of such rights, options or warrants, including those outstanding on the effective date of this act, may include, without limitation, restrictions or conditions that:

(a) Preclude or limit the exercise, transfer or receipt of such rights, options or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons; or

(b) Invalidate or void such rights, options or warrants held by any such person or persons or any such transferee or transferees.

SECTION 8. That Section 30-1-631, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-631. CORPORATION'S ACQUISITION OF ITS OWN SHARES. (1) A corporation may acquire its own shares. Unless a resolution of the board of directors or the corporation's articles of incorporation provide otherwise, shares so acquired constitute authorized but unissued shares.

(2) If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation pursuant to section 30-1-1005(6), Idaho Code.

(3) ~~The board of directors may adopt articles of amendment under this section without shareholder action and deliver them to the secretary of state for filing. The articles must set forth:~~

~~(a) The name of the corporation;~~

~~(b) The reduction in the number of authorized shares, itemized by class and series; and~~

~~(c) The total number of authorized shares, itemized by class and series, remaining after reduction of the shares.~~

~~(4)~~ A corporation has authority to use, hold, acquire, cancel and dispose of treasury shares.

(~~5~~4) Unless the board of directors adopts an amendment to the corporation's articles of incorporation to reduce the number of authorized shares, treasury shares of the corporation that are cancelled shall be treated as authorized but unissued shares.

SECTION 9. That Section 30-1-640, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-640. DISTRIBUTIONS TO SHAREHOLDERS. (1) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3) of this section.

(2) If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption or other acquisition of the corporation's shares, it is the date the board of directors authorizes the distribution.

(3) No distribution may be made if, after giving it effect:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board of directors may base a determination that a distribution is not prohibited under subsection (3) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(5) Except as provided in subsection (7) of this section, the effect of a distribution under subsection (3) of this section is measured:

(a) In the case of distribution by purchase, redemption or other acquisition of the corporation's shares, as of the earlier of:

(i) The date money or other property is transferred or debt incurred by the corporation, or

(ii) The date the shareholder ceases to be a shareholder with respect to the acquired shares;

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(c) In all other cases, as of:

(i) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization, or

(ii) The date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(6) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(7) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection (3) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

(8) This section shall not apply to distributions in liquidation under part 14 of this chapter.

SECTION 10. That Section 30-1-702, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-702. SPECIAL MEETING. (1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) If the holders of at least twenty percent (20%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the corporation's ~~secretary~~ one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding thirty-three and one-third percent (33 1/3%) of all the votes entitled to be cast on any issue proposed to be considered. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(2) If not otherwise fixed under section 30-1-703 or 30-1-707, Idaho Code, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(3) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(4) Only business within the purpose or purposes described in the meeting notice required by section 30-1-705(3), Idaho Code, may be conducted at a special shareholders' meeting.

SECTION 11. That Section 30-1-704, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-704. ACTION WITHOUT MEETING. (1) Action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one (1) or more written consents bearing the date of signature and describing the action taken, signed by all the shareholders entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) If not otherwise fixed under section 30-1-703 or 30-1-707, Idaho Code, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (1) of this section. No written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest date appearing on a consent delivered to the corporation in the manner required by this section, written consents signed by all shareholders entitled to vote on

the action are received by the corporation. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporate action.

(3) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(4) If this chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least ten (10) days before the action is taken. The notice must contain or be accompanied by the same material that, under this chapter, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

SECTION 12. That Part 7, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-708, Idaho Code, and to read as follows:

30-1-708. CONDUCT OF THE MEETING. (1) At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board.

(2) The chair, unless the bylaws provide otherwise, shall determine the order of business and shall establish rules for the conduct of the meeting.

(3) The rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

(4) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes nor any revocations or changes thereto may be accepted.

SECTION 13. That Section 30-1-722, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-722. PROXIES. (1) A shareholder may vote his shares in person or by proxy. ~~The following shall constitute valid means by which a shareholder may authorize another person to act as proxy:~~

~~(a) A shareholder may execute a writing authorizing another person or persons to act for such shareholder as proxy. Execution may be accomplished by the shareholder, or such shareholder's authorized officer, director, employee or agent, signing such writing or causing such person's signature to be affixed to such writing by any reasonable means including, but not limited to, facsimile signature.~~

~~(b) A shareholder may authorize another person or persons to act for such shareholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or similar agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such~~

~~telegram,--cablegram--or-other-means-of-electronic-transmission-must either-set-forth-or-be-submitted-with-information-from-which-it--can be--determined--that--the--telegram,--cablegram--or-other-electronic transmission-was-authorized-by-the-shareholder.-If-it-is--determined that--such--telegram,--cablegram-or-other-electronic-transmission-is valid,-the-inspectors-or,-if-there-are--no--inspectors,--such--other persons--making--that--determination,--shall-specify-the-information upon-which-they-relied.~~

~~(c)--Any-copy,-facsimile-telecommunication-or-other-reliable--reproduction-of-the-writing-or-transmission-created-pursuant-to-paragraph (a)--or-(b)-of-this-subsection-may-be-substituted-or-used-in-lieu-of the-original-writing-or-transmission-for-any-and--all--purposes--for which--the--original-writing-or-transmission-could-be-used,-provided that-such-copy,-facsimile-telecommunication--or--other--reproduction shall--be-a-complete-reproduction-for-the-entire-original-writing-or transmission.~~

(2) A shareholder or his agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which one can reasonably verify that the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact authorized the transmission.

(3) An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the ~~secretary~~ inspector of election or ~~other~~ the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for eleven (11) months unless a longer period is expressly provided in the ~~writing-or-transmission-executed-pursuant-to-subsection-(1)-of--this section~~ appointment form.

(~~3~~4) An appointment of a proxy is revocable ~~by-the-shareholder~~ unless the ~~writing-or-transmission-executed-pursuant-to--subsection--(1) of--this--section-conspicuously~~ appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation who extended it credit under terms requiring the appointment;

(d) An employee of the corporation whose employment contract requires the appointment; or

(e) A party to a voting agreement created under section 30-1-731, Idaho Code.

(~~4~~5) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the ~~secretary~~ inspector of election or ~~other~~ the officer or agent of the corporation authorized to tabulate votes before the proxy exercises his authority under the appointment.

(~~5~~6) An appointment made irrevocable under subsection (~~3~~4) of this section is revoked when the interest with which it is coupled is extinguished.

(~~6~~7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its exis-

tence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(~~7~~8) Subject to section 30-1-724, Idaho Code, and to any express limitation on the proxy's authority ~~appearing on the face of the writing or transmission executed pursuant to subsection (1) of this section~~ stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder ~~authorizing the person to act as proxy~~ making the appointment.

SECTION 14. That Section 30-1-724, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-724. CORPORATION'S ACCEPTANCE OF VOTES. (1) If the name signed on a vote, consent, waiver or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith is entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the shareholder.

(2) If the name signed on a vote, consent, waiver or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver or proxy appointment;

(e) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name or at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation is entitled to reject a vote, consent, waiver or proxy appointment if the ~~secretary~~ inspector of election or ~~other~~ the officer or agent of the corporation authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(4) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver or proxy appointment in good faith and in accor-

dance with the standards of this section or section 30-1-722(2), Idaho Code, are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver or proxy appointment under this section or section 30-1-722(2), Idaho Code, is valid unless a court of competent jurisdiction determines otherwise.

SECTION 15. That Part 7, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-729, Idaho Code, and to read as follows:

30-1-729. INSPECTORS OF ELECTION. (1) A corporation having any shares listed on a national securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association shall, and any other corporation may, appoint one (1) or more inspectors to act at a meeting of shareholders and make a written report of the inspectors' determinations. Each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

(2) The inspectors shall:

(a) Ascertain the number of shares outstanding and the voting power of each;

(b) Determine the shares represented at a meeting;

(c) Determine the validity of proxies and ballots;

(d) Count all votes; and

(e) Determine the result.

(3) An inspector may be an officer or employee of the corporation.

SECTION 16. That Section 30-1-801, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-801. REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS. (1) Except as provided in section 30-1-732, Idaho Code, each corporation must have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed by or under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation or in an agreement authorized under section 30-1-732, Idaho Code.

SECTION 17. That Section 30-1-803, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-803. NUMBER AND ELECTION OF DIRECTORS. (1) A board of directors must consist of one (1) or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) ~~If--a--board-of-directors-has-power-to-fix-or-change-the-number of-directors,-the-board-may-increase-or-decrease-by-thirty-percent-(30%) or-less-the-number-of-directors-last-approved-by-the--shareholders,--but only--the-shareholders-may-increase-or-decrease-by-more-than-thirty-per-~~

~~cent (30%) the number of directors last approved by the shareholders~~ The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

(3) ~~The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed to a variable range size board or vice versa.~~

~~(4)~~ Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under section 30-1-806, Idaho Code.

SECTION 18. That Section 30-1-806, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-806. STAGGERED TERMS FOR DIRECTORS. ~~If there are nine (9) or more directors, t~~The articles of incorporation may provide for staggering ~~their~~ the terms of directors by dividing the total number of directors into two (2) or three (3) groups, with each group containing one-half (1/2) or one-third (1/3) of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two (2) or three (3) years, as the case may be, to succeed those whose terms expire.

SECTION 19. That Section 30-1-809, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-809. REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING. (1) The Idaho district court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may remove a director of the corporation from office in a proceeding commenced ~~either~~ by or in the right of the corporation ~~or by its shareholders holding at least ten percent (10%) of the outstanding shares of any class~~ if the court finds that:

(a) The director engaged in fraudulent ~~or dishonest~~ conduct~~, or gross abuse of authority or discretion,~~ with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(b) Considering the director's course of conduct and the inadequacy of other available remedies, rRemoval ~~is~~ would be in the best interest of the corporation.

(2) A shareholder proceeding on behalf of the corporation under subsection (1) of this section shall comply with all the requirements of sections 30-1-741 through 30-1-747, Idaho Code, except section 30-1-741(1), Idaho Code.

(3) The court, ~~that removes a~~ in addition to removing the director, may bar the director from reelection for a period prescribed by the court.

(~~3~~4) ~~If--shareholders commence a proceeding under subsection (1) of this section, they shall make the corporation a party defendant~~ Nothing in this section limits the equitable powers of the court to order other relief.

SECTION 20. That Section 30-1-821, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-821. ACTION WITHOUT MEETING. (1) ~~Unless~~ Except to the extent that the articles of incorporation or bylaws ~~provide--otherwise~~ require that action by the board of directors be taken at a meeting, action required or permitted by this act to be taken ~~at--a~~ by the board of directors~~'--meeting~~ may be taken without a meeting if ~~the action is taken by all members of the board.--The action must be evidenced by one (1) or more--written--consents~~ each director signs a consent describing the action to be taken~~, signed by each director, and included in the minutes or filed with the corporate records--reflecting--the--action--taken~~ and delivers it to the corporation.

(2) Action taken under this section is ~~effective~~ the act of the board of directors when ~~the last director signed the consent, unless the consent specifies an earlier or later effective date~~ one (1) or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken thereunder is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked written consents signed by all the directors.

(3) A consent signed under this section has the effect of ~~a meeting vote~~ action taken at a meeting of the board of directors and may be described as such in any document.

SECTION 21. That Section 30-1-825, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-825. COMMITTEES. (1) Unless this chapter, the articles of incorporation or the bylaws provide otherwise, a board of directors may create one (1) or more committees and appoint one (1) or more members of the board of directors to serve on ~~them. Each committee must have two (2) or more members, who serve at the pleasure of the board of directors~~ any such committee.

(2) Unless this chapter otherwise provides, t~~T~~he creation of a committee and appointment of members to it must be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles of incorporation or bylaws to take action under section 30-1-824, Idaho Code.

(3) Sections 30-1-820 through 30-1-824, Idaho Code, ~~which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of--directors,~~ apply both to committees of the board and to their members. ~~as well.~~

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the ~~authority~~ powers of the board of directors under section 30-1-801, Idaho Code.

(5) A committee may not, however:

(a) Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors;

(b) Approve or propose to shareholders action that this chapter requires be approved by shareholders;

(c) Fill vacancies on the board of directors or, subject to subsection (7) of this section, on any of its committees; or

~~(d) Amend articles of incorporation pursuant to section 30-1-1002, Idaho Code;~~

~~(e)~~ Adopt, amend or repeal bylaws.~~;~~

~~(f) Approve a plan of merger not requiring shareholder approval;~~

~~(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors; or~~

~~(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences and limitations of a class or series of shares, except that the board of directors may authorize a committee, or a senior executive officer of the corporation, to do so within limits specifically prescribed by the board of directors.~~

(6) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 30-1-830, Idaho Code.

(7) The board of directors may appoint one (1) or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member.

SECTION 22. That Section 30-1-830, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-830. ~~GENERAL~~ STANDARDS FOR DIRECTORS. (1) ~~A director shall discharge his~~ Each member of the board of directors, when discharging the duties ~~as~~ of a director, ~~including his duties as a member of a committee~~ shall act:

(a) In good faith; and

(b) ~~With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and~~

~~(c)~~ In a manner ~~he~~ the director reasonably believes to be in the best interests of the corporation.

(2) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(3) In discharging board or committee duties a director, who does

not have knowledge that makes reliance unwarranted, is entitled to rely on the performance by any of the persons specified in subsection (5)(a) or (5)(c) of this section to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one (1) or more of the board's functions that are delegable under applicable law.

(4) In discharging ~~his~~ board or committee duties a director, who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data~~, if~~ prepared or presented by any of the persons specified in subsection (5) of this section.

(5) A director is entitled to rely, in accordance with subsection (3) or (4) of this section, on:

(a) One (1) or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the ~~matters presented~~ functions performed or the information, opinion, reports or statements provided;

(b) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(i) Wwithin the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence; or

(c) A committee of the board of directors of which ~~he~~ the director is not a member if the director reasonably believes the committee merits confidence.

~~(3) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.~~

~~(4) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.~~

SECTION 23. That Part 8, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-831, Idaho Code, and to read as follows:

30-1-831. STANDARDS OF LIABILITY FOR DIRECTORS. (1) A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(a) Any provision in the articles of incorporation authorized by section 30-1-202(2)(d), Idaho Code, or the protection afforded by section 30-1-861, Idaho Code, for action taken in compliance with section 30-1-862 or 30-1-863, Idaho Code, if interposed as a bar to the proceeding by the director, does not preclude liability; and

(b) The challenged conduct consisted or was the result of:

(i) Action not in good faith; or

(ii) A decision:

(A) Which the director did not reasonably believe to be in the best interests of the corporation; or

(B) As to which the director was not informed to an

extent the director reasonably believed appropriate in the circumstances; or

(iii) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(A) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(B) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation; or

(iv) A sustained failure of the director to be informed about the business and affairs of the corporation, or other material failure of the director to discharge the oversight function; or

(v) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

(2) The party seeking to hold the director liable:

(a) For money damages, shall also have the burden of establishing that:

(i) Harm to the corporation or its shareholders has been suffered; and

(ii) The harm suffered was proximately caused by the director's challenged conduct; or

(b) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(c) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(3) Nothing contained in this section shall:

(a) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 30-1-861(2)(c), Idaho Code, alter the burden of proving the fact or lack of fairness otherwise applicable;

(b) Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 30-1-833, Idaho Code, or a transactional interest under section 30-1-861, Idaho Code; or

(c) Affect any rights to which the corporation or a shareholder may be entitled under another statute of this state or the United States.

SECTION 24. That Section 30-1-833, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-833. DIRECTORS' LIABILITY FOR UNLAWFUL DISTRIBUTIONS. (1) A director who votes for or assents to a distribution ~~made in violation of~~ in excess of what may be authorized and made pursuant to section 30-1-640(1) or 30-1-1409(1), Idaho Code, ~~or the articles of incorporation~~ is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating section 30-1-640(1) or 30-1-1409(1), Idaho Code, ~~or the articles of incorporation if it is established that he did not perform his duties in compliance~~ if the party asserting liability establishes that when taking the action the director did not comply with section 30-1-830, Idaho Code. ~~In any proceeding commenced under this section, a director has all of the defenses ordinarily available to a director.~~

(2) A director held liable under subsection (1) of this section for an unlawful distribution is entitled to: ~~contribution;~~

(a) Contribution ~~f~~From every other director who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) Recoupment ~~f~~From each shareholder ~~for~~ of the pro rata portion of the amount of the unlawful distribution the shareholder accepted knowing the distribution was made in violation of section 30-1-640(1) or 30-1-1409(1), Idaho Code~~, or the articles of incorporation~~.

(3) A proceeding ~~under this section~~ to enforce:

(a) The liability of a director under subsection (1) of this section is barred unless it is commenced within ~~three~~ two (~~3~~2) years after the date:

(i) ~~O~~on which the effect of the distribution was measured under section 30-1-640(5) or (7), Idaho Code; or

(ii) As of which the violation of section 30-1-640(1), Idaho Code, occurred as the consequence of disregard of a restriction in the articles of incorporation; or

(iii) On which the distribution of assets to shareholders under section 30-1-1409(1), Idaho Code, was made; or

(b) Contribution or recoupment under subsection (2) of this section is barred unless it is commenced within one (1) year after the liability of the claimant has been finally adjudicated under subsection (1) of this section.

SECTION 25. That Section 30-1-840, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-840. REQUIRED ~~OFFICERS~~ OFFICES. (1) A corporation has the ~~officers~~ offices described in its bylaws or ~~appointed~~ designated by the board of directors in accordance with the bylaws.

(2) ~~A duly appointed~~ The board of directors may elect individuals to fill one (1) or more offices of the corporation. An officer may appoint one (1) or more officers ~~or assistant officers~~ if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall ~~delegate~~ assign to one (1) of the officers responsibility for preparing the minutes of the directors' and shareholders' meetings and for maintaining and authenticating the records of the corporation required to be kept under sections 30-1-1601(1) and (2), Idaho Code.

(4) The same individual may simultaneously hold more than one (1) office in a corporation.

SECTION 26. That Section 30-1-842, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-842. STANDARDS OF CONDUCT FOR OFFICERS. (1) An officer, ~~with discretionary--authority shall discharge his duties under that authority~~ when performing in such capacity, shall act:

(a) In good faith;

(b) With the care ~~an ordinarily prudent~~ that a person in a like position would reasonably exercise under similar circumstances; and

(c) In a manner ~~he~~ the officer reasonably believes to be in the best interests of the corporation.

(2) In discharging ~~his~~ those duties an officer, who does not have knowledge that makes reliance unwarranted, is entitled to rely on: ~~information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:~~

(a) The performance of properly delegated responsibilities by one (1) or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or

(b) Information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by o~~O~~ne (1) or more ~~officers or~~ employees of the corporation whom the officer reasonably believes to be ~~reliable and~~ competent in the matters presented~~;~~ or by

~~(b) L~~legal counsel, public accountants or other persons retained by the corporation as to matters involving skill or expertise the officer reasonably believes are matters:

(i) W~~w~~ithin the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence.

(3) ~~An officer is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.~~

~~(4)~~ An officer ~~is~~ shall not be liable to the corporation or its shareholders for any decision to take or not to take action ~~taken as an officer,~~ or any failure to take ~~any~~ action, as an officer, if ~~he performed~~ the duties of ~~his~~ the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 30-1-831, Idaho Code, that have relevance.

SECTION 27. That Section 30-1-843, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-843. RESIGNATION AND REMOVAL OF OFFICERS. (1) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective ~~date~~ time. If a resignation is made effective at a later ~~date~~ time and the ~~corporation~~ board or the appointing officer accepts the future effective ~~date~~ time, ~~its~~ the board ~~of directors~~ or

the appointing officer may fill the pending vacancy before the effective ~~date~~ time if the board ~~of directors~~ or the appointing officer provides that the successor does not take office until the effective ~~date~~ time.

(2) ~~A board of directors~~ An officer may ~~remove any officer~~ be removed at any time with or without cause by:

(a) The board of directors;

(b) The officer who appointed such officer, unless the bylaws or the board of directors provide otherwise; or

(c) Any other officer if authorized by the bylaws or the board of directors.

(3) In this section, "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

SECTION 28. That Section 30-1-858, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-858. VARIATION BY CORPORATE ACTION -- APPLICATION OF INDEMNIFICATION PROVISIONS. (1) A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 30-1-851, Idaho Code, or advance funds to pay for or reimburse expenses in accordance with section 30-1-853, Idaho Code. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 30-1-853(3), Idaho Code, and in section 30-1-855(3), Idaho Code. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 30-1-853, Idaho Code, to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(2) Any provision pursuant to subsection (1) of this section shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 30-1-1106~~7~~(1)(~~c~~d), Idaho Code.

(3) A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part, other than the rights to mandatory indemnification under section 30-1-852, Idaho Code, and to court-ordered indemnification and advance for expenses under section 30-1-854, Idaho Code.

(4) Sections 30-1-850 through 30-1-859, Idaho Code, do not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with his appearance as a witness in a proceeding at a time when he is not a party.

(5) Sections 30-1-850 through 30-1-859, Idaho Code, do not limit a corporation's power to indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

SECTION 29. That Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 9, Chapter 1, Title 30, Idaho Code, and to read as follows:

PART 9.
DOMESTICATION

30-1-901. EXCLUDED TRANSACTIONS. This part may not be used to effect a transaction that:

(1) Is addressed in chapter 28, title 41, Idaho Code, and purports to convert an insurer company organized on the mutual principle to one organized on a stock-share basis; or

(2) Is addressed in chapter 3, title 41, Idaho Code, and purports to change the domicile of an insurance company.

30-1-902. REQUIRED APPROVALS. If a foreign business corporation may not be a party to a merger without the approval of the attorney general, the department of finance, the department of insurance, the public utility commission or another governmental agency, the corporation shall not be a party to a transaction under this part without the prior approval of that agency.

30-1-903 -- 30-1-919. RESERVED.

30-1-920. DOMESTICATION. (1) A foreign business corporation may become a domestic business corporation only if the domestication is permitted by the organic law of the foreign corporation.

(2) If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred or executed by a domestic business corporation before the effective date of this act contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

30-1-921. RESERVED.

30-1-922. ARTICLES OF DOMESTICATION. (1) After the domestication of a foreign business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of domestication shall be executed by any officer or other duly authorized representative. The articles shall set forth:

(a) The name of the corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in this state or the corporation desires to change its name in connection with the domestication, a name that satisfies the requirements of section 30-1-401, Idaho Code;

(b) The jurisdiction of incorporation of the corporation immedi-

ately before the filing of the articles of domestication and the date the corporation was incorporated in that jurisdiction; and

(c) A statement that the domestication of the corporation in this state was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication in this state.

(2) The articles of domestication shall either contain all of the provisions that section 30-1-202(1), Idaho Code, requires to be set forth in articles of incorporation and any other desired provisions that section 30-1-202(2), Idaho Code, permits to be included in articles of incorporation, or shall have attached articles of incorporation. In either case, provisions that would not be required to be included in restated articles of incorporation may be omitted.

(3) The articles of domestication shall be delivered to the secretary of state for filing, and shall take effect at the effective time provided in section 30-1-123, Idaho Code.

(4) If the foreign corporation is authorized to transact business in this state under part 15 of this chapter, its certificate of authority shall be cancelled automatically on the effective date of its domestication.

30-1-923. RESERVED.

30-1-924. EFFECT OF DOMESTICATION. (1) When domestication becomes effective:

(a) The title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;

(b) The liabilities of the corporation remain the liabilities of the corporation;

(c) An action or proceeding pending against the corporation continues against the corporation as if the domestication had not occurred;

(d) The articles of domestication, or the articles of incorporation attached to the articles of domestication, constitute the articles of incorporation of a foreign corporation domesticating in this state;

(e) The shares of the corporation are reclassified into shares, other securities, obligations, rights to acquire shares or other securities, or into cash or other property in accordance with the terms of the domestication, and the shareholders are entitled only to the rights provided by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and

(f) The corporation is deemed to:

(i) Be incorporated under and subject to the organic law of the domesticated corporation for all purposes;

(ii) Be the same corporation without interruption as the domesticating corporation; and

(iii) Have been incorporated on the date the domesticating corporation was originally incorporated.

(2) The owner liability of a shareholder in a foreign corporation that is domesticated in this state shall be as follows:

(a) The domestication does not discharge any owner liability under

the laws of the foreign jurisdiction to the extent any such owner liability arose before the effective time of the articles of domestication.

(b) The shareholder shall not have owner liability under the laws of the foreign jurisdiction for any debt, obligation or liability of the corporation that arises after the effective time of the articles of domestication.

(c) The provisions of the laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any owner liability preserved by subsection (2)(a) of this section, as if the domestication had not occurred.

(d) The shareholder shall have whatever rights of contribution from other shareholders as are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by subsection (2)(a) of this section, as if the domestication had not occurred.

(3) A shareholder who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the corporation as a result of its domestication in this state shall have owner liability only for those debts, obligations or liabilities of the corporation that arise after the effective time of the articles of domestication.

30-1-925 -- 30-1-956. RESERVED.

SECTION 30. That Section 30-1-1001, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1001. AUTHORITY TO AMEND ARTICLES OF INCORPORATION. (1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation ~~or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined~~ as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

(2) A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend, entitlement, or purpose or duration of the corporation.

SECTION 31. That Section 30-1-1002, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-100~~2~~5. AMENDMENT BY BOARD OF DIRECTORS. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt ~~one (1) or more~~ amendments to the corporation's articles of incorporation without shareholder ~~action~~ approval:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file or if an annual report has been filed with the secretary of state;

(4) If the corporation has only one (1) class of shares outstanding:

(a) To change each issued and unissued authorized share of ~~an outstanding~~ the class into a greater number of whole shares ~~if the corporation has only shares~~ of that class; ~~outstanding;~~ or

(b) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(5) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting or changing a geographical attribution for the name;

(6) To ~~reduce the number of~~ reflect a reduction in authorized shares, ~~solely~~ as a result of ~~a cancellation of treasury shares~~ the operation of section 30-1-631(2), Idaho Code, when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(7) To delete a class of shares from the articles of incorporation, as a result of the operation of section 30-1-631(2), Idaho Code, when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(~~7~~8) To make any ~~other~~ change expressly permitted by ~~this chapter~~ section 30-1-602(1) or (2), Idaho Code, to be made without shareholder ~~action~~ approval.

SECTION 32. That Section 30-1-1003, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1003. AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS. If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

(1) ~~A corporation's~~ The proposed amendment must be adopted by the board of directors. ~~may propose one (1) or more amendments to the articles of incorporation for submission to the shareholders.~~

(2) ~~For the~~ Except as provided in sections 30-1-1005, 30-1-1007 and 30-1-1008, Idaho Code, after adopting the proposed amendment: ~~to be adopted:~~

~~(a) The~~ the board of directors must ~~recommend~~ submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless the board of directors ~~determines~~ makes a determination that because of conflicts of interest or other special circumstances it should not make ~~no~~ such a recommendation, ~~and communicates~~ in which case the ~~basis for its determination~~ board of directors must transmit to the shareholders ~~with the amendment; and~~ the basis for that determination.

~~(b) The shareholders entitled to vote on the amendment must approve the amendment as provided in subsection (5) of this section.~~

(3) The board of directors may condition its submission of the ~~proposed~~ amendment to the shareholders on any basis.

(4) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, ~~the~~ the corporation

~~shall~~ must notify each shareholder, whether or not entitled to vote, of the ~~proposed~~ meeting of shareholders~~meeting in accordance with section 30-1-705, Idaho Code~~ at which the amendment is to be submitted for approval. The notice ~~of meeting~~ must ~~also~~ state that the purpose, or one (1) of the purposes, of the meeting is to consider the ~~proposed~~ amendment and must contain or be accompanied by a copy ~~or summary~~ of the amendment.

(5) Unless ~~this chapter,~~ the articles of incorporation, or the board of directors~~,~~ acting pursuant to subsection (3) of this section, requires a greater vote or a ~~vote by voting groups, the amendment to be adopted must be approved by:~~

~~(a) A~~ greater number of shares to be present, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as provided in section 30-1-1004(3), Idaho Code, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the amendment by ~~any voting group with respect to which the amendment would create dissenters' rights; and~~

~~(b) The votes required by sections 30-1-725 and 30-1-726, Idaho Code, by every other voting group entitled to vote on the amendment~~ that voting group exists.

SECTION 33. That Section 30-1-1004, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1004. VOTING ON AMENDMENTS BY VOTING GROUPS. Except as otherwise provided in the articles of incorporation:

(1) If a corporation has more than one (1) class of shares outstanding, t~~T~~he holders of the outstanding shares of a class, whether voting or nonvoting in whole or in part, are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of the class;

(b) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(c) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(d) Change the ~~designation,~~ rights, preferences or limitations of all or part of the shares of the class;

(e) Change the shares of all or part of the class into a different number of shares of the same class;

(f) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior or substantially equal to the shares of the class;

(g) Increase the rights, preferences or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that

are prior, superior or substantially equal to the shares of the class;

(h) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(i) Cancel or otherwise affect rights to distributions ~~or dividends~~ that have accumulated but not yet been ~~declared~~ authorized on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one (1) or more of the ways described in subsection (1) of this section, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

(3) If a proposed amendment that entitles the holders of two (2) or more classes or series of shares to vote as separate voting groups under this section would affect those two (2) or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected must vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or required by the board of directors.

~~(4) A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.~~

SECTION 34. That Section 30-1-1005, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1005~~2~~. AMENDMENT BEFORE ISSUANCE OF SHARES. If a corporation has not yet issued shares, its board of directors, or its incorporators ~~or~~ if it has no board of directors, may adopt one (1) or more amendments to the corporation's articles of incorporation.

SECTION 35. That Section 30-1-1006, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1006. ARTICLES OF AMENDMENT. ~~A corporation amending its~~ After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the corporation shall deliver to the secretary of state for filing articles of amendment, ~~setting~~ which shall set forth:

(1) The name of the corporation;

(2) The text of each amendment adopted;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;

(4) The date of each amendment's adoption; and

(5) If an amendment:

(a) ~~W~~was adopted by the incorporators or board of directors without shareholder ~~action~~ approval, a statement ~~to that effect~~ that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that shareholder ~~action~~ approval was not required; ~~and~~

(~~6~~b) ~~If an amendment was approved~~ Required approval by the shareholders~~:~~, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or

(c) Is being filed pursuant to section 30-1-120(11)(e), Idaho Code, a statement to that effect.

~~(a) The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting; and~~

~~(b) Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.~~

SECTION 36. That Section 30-1-1007, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1007. RESTATED ARTICLES OF INCORPORATION. (1) A corporation's board of directors may restate its articles of incorporation at ~~anytime~~ any time, with or without shareholder ~~action~~ approval, to consolidate all amendments into a single document.

(2) ~~The restatement may~~ If the restated articles include one (1) or more new amendments ~~to the articles. If the restatement includes an amendment requiring~~ that require shareholder approval, ~~it~~ the amendments must be adopted and approved as provided in section 30-1-1003, Idaho Code.

(3) ~~If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 30-1-705, Idaho Code. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.~~

~~(4)~~ A corporation ~~restating~~ that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate ~~setting forth:~~

~~(a) Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement;~~

~~(b) Or if the restatement contains an amendment to the articles requiring shareholder approval, the information~~ which states that the restated articles consolidate all amendments into a single document and, if a new amendment is included in the restated articles, which also includes the statements required ~~by~~ under section 30-1-1006, Idaho Code.

(~~5~~4) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments ~~to them~~ thereto.

(~~6~~5) The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (~~4~~3) of this section.

SECTION 37. That Section 30-1-1008, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1008. AMENDMENT PURSUANT TO REORGANIZATION. (1) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under ~~federal statute if the articles of incorporation after amendment contain only provisions required or permitted by section 30-1-202, Idaho Code~~ the authority of a law of the United States.

(2) The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment approved by the court;

(c) The date of the court's order or decree approving the articles of amendment;

(d) The title of the reorganization proceeding in which the order or decree was entered; and

(e) A statement that the court had jurisdiction of the proceeding under federal statute.

(3) ~~Shareholders of a corporation undergoing reorganization do not have dissenters' rights except as and to the extent provided in the reorganization plan.~~

~~(4)~~ This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

SECTION 38. That Section 30-1-1009, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1009. EFFECT OF AMENDMENT. An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

SECTION 39. That Section 30-1-1020, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1020. AMENDMENT BY BOARD OF DIRECTORS OR SHAREHOLDERS. (1) A corporation's shareholders may amend or repeal the corporation's bylaws.

(2) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

(a) The articles of incorporation or ~~this chapter~~ section 30-1-1021, Idaho Code, reserve ~~this~~ that power exclusively to the shareholders in whole or part; or

(b) The shareholders in amending, ~~or~~ repealing, ~~a particular~~ or adopting a bylaw ~~provide~~ expressly provide that the board of directors may not amend, ~~or~~ repeal, or reinstate that bylaw.

~~(2) A corporation's shareholders may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.~~

SECTION 40. That Section 30-1-1021, Idaho Code, be, and the same is hereby repealed.

SECTION 41. That Section 30-1-1022, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-102~~2~~1. BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR DIRECTORS. (1) A bylaw that ~~fixes~~ increases a ~~greater~~ quorum or voting requirement for the board of directors may be amended or repealed:

(a) If originally adopted by the shareholders, only by the shareholders unless the bylaws otherwise provide;

(b) If ~~originally~~ adopted by the board of directors, either by the shareholders or by the board of directors.

(2) A bylaw adopted or amended by the shareholders that ~~fixes~~ increases a ~~greater~~ quorum or voting requirement for the board of directors may provide that it ~~may~~ can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3) Action by the ~~board of dire~~ctors under subsection (1)~~(b)~~ of this section to ~~adopt or~~ amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

SECTION 42. That Part 11, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1101, Idaho Code, and to read as follows:

30-1-1101. DEFINITIONS. As used in this part:

(1) "Merger" means a business combination pursuant to section 30-1-1102, Idaho Code.

(2) "Party to a merger" or "party to a share exchange" means any domestic or foreign corporation or eligible entity that will:

(a) Merge under a plan of merger;

(b) Acquire shares or eligible interests of another corporation or an eligible entity in a share exchange; or

(c) Have all of its shares or eligible interests or all of one (1) or more classes or series of its shares or eligible interests acquired in a share exchange.

(3) "Share exchange" means a business combination pursuant to section 30-1-1103, Idaho Code.

(4) "Survivor" in a merger means the corporation or eligible entity into which one (1) or more other corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

SECTION 43. That Section 30-1-1101, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-110~~1~~2. MERGER. (1) One (1) or more domestic business corporations may merge ~~into another corporation or, subject to any law applicable to limited liability companies, into a limited liability company if the board of directors of each corporation adopts and its shareholders, if required by section 30-1-1103, Idaho Code, approve a plan of merger~~ with one (1) or more domestic or foreign business corporations or eligible entities pursuant to a plan of merger, or two (2) or more foreign business corporations or domestic or foreign eligible entities may merge into a new domestic business corporation to be created in the merger in the manner provided in this part.

(2) A foreign business corporation, or a foreign eligible entity, may be a party to a merger with a domestic business corporation, or may be created by the terms of the plan of merger, only if the merger is permitted by the foreign business corporation or eligible entity. If the organic law of a domestic eligible entity does not provide procedures for the approval of a merger, a plan of merger may be adopted and approved, the merger effectuated, and appraisal rights exercised in accordance with the procedures in this part and part 13 of this chapter. For the purposes of applying this part and part 13 of this chapter:

(a) The eligible entity, its members or interest holders, eligible interests and organic documents taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

(b) If the business and affairs of the eligible entity are managed by a group of persons that is not identical to the members or interest holders, that group shall be deemed to be the board of directors.

(3) The plan of merger must ~~set forth~~ include:

(a) The name of each domestic or foreign business corporation or ~~limited liability company planning to~~ eligible entity that will merge and the name of the ~~surviving~~ domestic or foreign business corporation or ~~limited liability company into which each other corporation or limited liability company plans to merge~~ eligible entity that will be the survivor of the merger;

(b) The terms and conditions of the merger; ~~and~~

(c) The manner and basis of converting the shares of each merging domestic or foreign business corporation ~~or rights or securities of or interests in each limited liability company~~ and eligible interests of each merging domestic or foreign eligible entity into shares~~, obligations,~~ or other securities, ~~of the surviving or any other corporation, or into rights or securities of or interests in the surviving or any other limited liability company, or into cash or~~ eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property ~~in whole or part~~ or any combination of the foregoing;

(d) The articles of incorporation of any domestic or foreign business or nonprofit corporation, or the organic documents of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign business or nonprofit corporation or unincorporated entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or organic documents; and

(e) Any other provisions required by the laws under which any party

to the merger is organized or by which it is governed, or by the articles of incorporation or organic document of any such party.

(4) Terms of a plan of merger may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 30-1-120(11), Idaho Code.

(~~3~~5) The plan of merger may ~~set forth:~~

~~(a) Amendments to the articles of incorporation of the surviving corporation; and~~

~~(b) Other provisions relating to the merger~~ also include a provision that the plan may be amended prior to filing articles of merger, but if the shareholders of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by such shareholders the plan may not be amended to change:

(a) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders of or owners of eligible interests in any party to the merger;

(b) The articles of incorporation of any corporation, or the organic documents of any unincorporated entity, that will survive or be created as a result of the merger, except for changes permitted by section 30-1-1005, Idaho Code, or by comparable provisions of the organic laws of any such foreign corporation or domestic or foreign unincorporated entity; or

(c) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

SECTION 44. That Section 30-1-1102, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-110~~2~~3. SHARE EXCHANGE. (1) Through a share exchange:

(a) A domestic corporation may acquire all of the ~~outstanding~~ shares of one (1) or more classes or series of shares of another domestic or foreign corporation, ~~if the board of directors of each corporation adopts and its shareholders, if required by section 30-1-1103, Idaho Code, approve the exchange~~ or all of the interests of one (1) or more classes or series of interests of a domestic or foreign eligible entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange; or

(b) All of the shares of one (1) or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or eligible entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

(2) A foreign corporation, or a domestic or foreign eligible entity, may be a party to a share exchange only if the share exchange is permitted by the organic law the corporation or eligible entity is organized under or by which it is governed. If the organic law of a domestic eligible entity does not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the

share exchange effectuated, in accordance with the procedures, if any, for a merger. If the organic law of a domestic eligible entity does not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may be adopted and approved, the share exchange effectuated, and appraisal rights exercised, in accordance with the procedures in this part and part 13 of this chapter. For the purposes of applying this part and part 13:

(a) The eligible entity, its interest holders, interests and organic documents taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

(b) If the business and affairs of the eligible entity are managed by a group of persons that is not identical to the interest holders, that group shall be deemed to be the board of directors.

(~~2~~3) The plan of share exchange must ~~set forth~~ include:

(a) The name of ~~the~~ each corporation or eligible entity whose shares or interests will be acquired and the name of the ~~acquiring~~ corporation or eligible entity that will acquire those shares or interests;

(b) The terms and conditions of the share exchange; ~~and~~

(c) The manner and basis of exchanging ~~the~~ shares ~~to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part~~ of a corporation or interests in an eligible entity whose shares or interests will be acquired under the share exchange into shares or other securities, interests, obligations, rights to acquire shares, other securities, or interests, cash, other property, or any combination of the foregoing; and

(d) Any other provisions required by the laws under which any party to the share exchange is organized or by the articles of incorporation or organic document of such party.

(4) Terms of a plan of share exchange may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 30-1-120(11), Idaho Code.

(~~3~~5) The plan of exchange may ~~set forth other provisions relating to the exchange~~ also include a provision that the plan may be amended prior to filing articles of share exchange, but if the shareholders of a domestic corporation that is a party to the share exchange are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by such shareholders the plan may not be amended to change:

(a) The amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property to be issued by the corporation or to be received under the plan by the shareholders of or owners of interests in any party to the share exchange; or

(b) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(~~4~~6) This section does not limit the power of a domestic corporation to acquire ~~all or part of the shares of one (1) or more classes or series of~~ another corporation ~~through a voluntary exchange or otherwise~~ or interests in an eligible entity in a transaction other than a share exchange.

SECTION 45. That Section 30-1-1103, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-11034. ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE. In the case of a domestic corporation that is a party to a merger or share exchange:

(1) ~~After adopting a~~ The plan of merger or share exchange~~,~~ must be adopted by the board of directors. ~~of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger,~~

(2) Except as provided in subsection (7) of this section~~, or share exchange for approval by its shareholders.~~

~~(2) For a plan of merger or share exchange to be approved:~~

~~(a) The board of directors must recommend~~ and in section 30-1-1105, Idaho Code, after adopting the plan of merger or share exchange the board of directors must submit the plan to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors ~~determines~~ makes a determination that because of conflicts of interest or other special circumstances it should not make ~~no~~ such a recommendation, ~~and communicates~~ in which case the ~~basis for its determination~~ board of directors must transmit to the shareholders ~~with~~ the ~~plan; and~~ basis for that determination.

~~(b) The shareholders entitled to vote must approve the plan.~~

(3) The board of directors may condition its submission of the ~~proposed~~ plan of merger or share exchange to the shareholders on any basis.

(4) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, t~~T~~he corporation ~~shall~~ must notify each shareholder, whether or not entitled to vote, of the ~~proposed~~ meeting of shareholders~~1~~ ~~meeting in accordance with section 30-1-705, Idaho Code~~ at which the plan is to be submitted for approval. The notice must ~~also~~ state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan ~~of merger or share exchange~~ and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or eligible entity, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation or organizational documents of that corporation or eligible entity. If the corporation is to be merged into a corporation or eligible entity that is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or a summary of the articles of incorporation or organizational documents of the new corporation or eligible entity.

(5) Unless ~~this chapter,~~ the articles of incorporation, or the board of directors~~,~~ acting pursuant to subsection (3) of this section, requires a greater vote or a ~~vote by voting groups,~~ greater number of votes to be present, approval of the plan of merger or share exchange ~~to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all~~ requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group consist-

ing of at least a majority of the votes entitled to be cast on the merger or share exchange by that voting group is present.

(6) Separate voting by voting groups is required:

(a) On a plan of merger, ~~if the plan contains a provision that,~~ by each class or series of shares that:

(i) Are to be converted under the plan of merger into other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, other property, or any combination of the foregoing; or

(ii) Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by ~~one (1) or more~~ separate voting groups ~~on the proposed amendment~~ under section 30-1-1004, Idaho Code;

(b) On a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group; and

(c) On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange.

(7) ~~Action~~ Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of ~~the surviving corporation on~~ a plan of merger or share exchange is not required if:

(a) The corporation will survive the merger or is the acquiring corporation in a share exchange;

(b) Except for amendments permitted by section 30-1-1005, Idaho Code, its articles of incorporation ~~of the surviving corporation~~ will not ~~differ, except for amendments enumerated in section 30-1-1002, Idaho Code, from articles before the merger~~ be changed;

(~~b~~c) Each shareholder of the ~~surviving~~ corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical ~~designations,~~ preferences, limitations, and relative rights, immediately after the effective date of change;

~~(c) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than twenty percent (20%) the total number of voting shares of the surviving corporation outstanding immediately before the merger;~~ and

(d) ~~The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than twenty percent (20%) the total number of participating shares outstanding immediately before the merger~~ The issuance in the merger or share exchange of shares or other securities convertible into or rights exercisable for shares does not require a vote under section 30-1-621(6), Idaho Code.

~~(8) As used in subsection (7) of this section:~~

~~(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions;~~

~~(b)--"Voting-shares"-means-shares-that-entitle-their-holders-to-vote unconditionally-in-election-of-directors.~~

~~(9)--After-a-merger-or-share-exchange-is-authorized,-and-at-any-time before--articles--of--merger--or--share--exchange-are-filed,-the-planned merger-or-share-exchange-may-be-abandoned,-subject--to--any--contractual rights,--without-further-shareholder-action,-in-accordance-with-the-procedure-set-forth-in-the-plan-of-merger-or-share-exchange-or,-if-none--is set--forth,--in--the-manner-determined-by-the-board-of-directors~~ If as a result of a merger or share exchange one (1) or more shareholders of a domestic corporation would become subject to owner liability for the debts, obligations or liabilities of any other person or entity, approval of the plan of merger or share exchange shall require the execution, by each such shareholder, of a separate written consent to become subject to such owner liability.

SECTION 46. That Section 30-1-1104, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-11~~04~~5. MERGER ~~OF~~ BETWEEN PARENT AND SUBSIDIARY OR BETWEEN SUBSIDIARIES. (1) A domestic parent corporation ~~owning~~ that owns shares of a domestic or foreign corporation that carry at least ninety percent (90%) of the voting power of each class and series of the outstanding shares of ~~each-class-of-a~~ the subsidiary ~~corporation~~ that have voting power may merge the subsidiary into itself ~~without-approval-of-the shareholders-of-the-parent-or-subsidiary.~~

~~(2)--The~~ or into another such subsidiary, without the approval of the board of directors ~~of-the-parent-shall-adopt-a-plan-of-merger-that sets-forth:~~

~~(a)--The-names-of-the-parent-and-subsidiary;-and~~

~~(b)--The-manner-and-basis-of-converting-the-shares~~ or shareholders of the subsidiary ~~into-shares,-obligations-or-other-securities-of the-parent-or-any-other-corporation-or-into-cash-or--other--property in-whole-or-part.~~

~~(3)--The--parent--shall--mail--a--copy-of-the-plan-of-merger-to-each shareholder-of-the-subsidiary-who-does-not-waive-the-mailing-requirement in-writing.~~

~~(4)--The-parent-may-not-deliver-articles-of-merger-to-the--secretary of--state--for--filing-until-at-least-thirty-(30)-days-after-the-date-it mailed-a-copy-of-the-plan-of-merger-to-each-shareholder-of--the--subsidiary-who-did-not-waive-the-mailing-requirement.~~

~~(5)--Articles--of--merger--under-this-section-may-not-contain-amendments-to~~ unless the articles of incorporation of ~~the-parent-corporation, except-for-amendments-enumerated-in-section-30-1-1002,-Idaho-Code~~ any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.

(2) If under subsection (1) of this section approval of a merger by the subsidiary's shareholders is not required, the parent corporation shall, within ten (10) days after the effective date of the merger, notify each of the subsidiary's shareholders that the merger has become effective.

(3) Except as provided in subsections (1) and (2) of this section, a merger between a parent and a subsidiary shall be governed by the provisions of part 11 of this chapter applicable to mergers generally.

SECTION 47. That Section 30-1-1105, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-11056. ARTICLES OF MERGER OR SHARE EXCHANGE. (1) After a plan of merger or share exchange ~~is-approved-by-the-shareholders,-or--adopted by--the--board-of-directors-if-shareholder-approval-is-not-required,-the surviving-or-acquiring-corporation-shall-deliver--to--the--secretary--of state-for-filing~~ has been adopted and approved as required by this chapter, articles of merger or share exchange ~~setting~~ shall be executed on behalf of each party to the merger or share exchange by any officer or other duly authorized representative. The articles shall set forth:

(a) The names of the parties to the merger or share exchange;

(b) If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;

(c) If t~~T~~he plan of merger or share exchange~~;~~

~~(b)--If-shareholder~~ required approval ~~was-not-required~~ by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation;

(d) If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(~~c~~e) ~~If-approval-of-the-shareholders-of-one-(1)-or--more--corporations-party-to-the-merger-or-share-exchange-was-required:~~

~~(i)---The-designation,-number-of-outstanding-shares,-and-number of--votes--entitled-to-be-cast-by-each-voting-group-entitled-to vote-separately-on-the-plan-as-to-each-corporation;-and~~

~~(ii)--Either-the-total-number-of-votes-cast-for-and-against-the plan-by-each-voting-group-entitled-to-vote--separately--on--the plan--or-the-total-number-of-undisputed-votes-cast-for-the-plan separately-by-each-voting-group-and-a-statement-that-the-number cast-for-the-plan-by--each--voting--group--was--sufficient--for approval-by-that-voting-group~~ As to each foreign corporation or eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

(2) ~~A~~ Articles of merger or share exchange ~~takes--effect--upon--the effective-date-of-the-articles-of~~ shall be delivered to the secretary of state for filing by the survivor of the merger or the acquiring corporation in a share exchange, and shall take effect at the effective time provided in section 30-1-123, Idaho Code. Articles of merger or share exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

SECTION 48. That Section 30-1-1106, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-11067. EFFECT OF MERGER OR SHARE EXCHANGE. (1) When a merger ~~takes effect~~ becomes effective:

(a) ~~Every--other--corporation-or-limited-liability-company-party-to the-merger-merges-into-the-surviving-corporation-or-limited--liability--company--and~~ The corporation or eligible entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be;

(b) ~~T~~the separate existence of every corporation or ~~limited-liability--company--except--the-surviving-corporation-or-limited-liability company~~ eligible entity that is merged into the survivor ceases;

(b~~c~~) ~~The-title-to-all-real-estate-and-other~~ All property owned by, and every contract right possessed by, each corporation or ~~limited liability-company-party-to~~ eligible entity that merges into the ~~merger~~ survivor is vested in the ~~surviving-corporation-or-limited liability-company~~ survivor without reversion or impairment;

(c~~d~~) ~~The-surviving-corporation-or--limited--liability--company--has a~~All liabilities of each corporation or ~~limited-liability-company party-to-the-merger~~ eligible entity that is merged into the survivor are vested in the survivor;

(~~de~~) ~~A-proceeding-pending-against-any-corporation-or--limited--liability-company-party-to-the-merger-may-be-continued-as-if-the-merger did-not-occur-or-the-surviving-corporation-or-limited-liability-company--may--be--substituted--in-the-proceeding-for-the-corporation-or limited-liability-company~~ The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(~~e~~f) The articles of incorporation or organic documents of the ~~surviving--corporation~~ survivor are amended to the extent provided in the plan of merger; ~~and~~

(g) The articles of incorporation or organic documents of a survivor that is created by the merger become effective; and

(~~f~~h) The shares of each corporation ~~or-rights-or-securities-of-or~~ that is a party to the merger, and the interests in ~~each--limited liability--company~~ an eligible entity that is a party to ~~the~~ a merger, that are to be converted under the plan of merger into shares, eligible interests, obligations, ~~or-other~~ rights to acquire securities, ~~of-the-surviving-or-any~~ other ~~corporation-or-into-rights or~~ securities, ~~of-or-interests-in-any-limited-liability--company--or into~~ cash, ~~or~~ other property, or any combination of the foregoing, are converted, and the former holders of ~~the~~ such shares or ~~rights or--securities-or~~ eligible interests are entitled only to the rights provided to them in the ~~articles~~ plan of merger or to ~~their~~ any rights they may have under part 13 of this chapter or ~~under-any-law applicable-to-limited-liability-companies~~ the organic law of the eligible entity.

(2) When a share exchange ~~takes--effect~~ becomes effective, the shares of each ~~acquired~~ domestic corporation ~~are-exchanged--as--provided in--the--plan,--and--the--former--holders--of--the-shares~~ that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, are entitled only to the ~~exchange~~ rights provided to them in the ~~articles~~ plan of share exchange or to ~~their~~ any rights they may have under part 13 of this chapter.

(3) A person who becomes subject to owner liability for some or all

of the debts, obligations or liabilities of any entity as a result of a merger or share exchange shall have owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations and liabilities that arise after the effective time of the articles of merger or share exchange.

(4) Upon merger becoming effective, a foreign corporation, or a foreign eligible entity, that is the survivor of the merger is deemed to:

(a) Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is party to the merger who exercise appraisal rights; and

(b) Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under part 13 of this chapter.

(5) The effect of a merger or share exchange on the owner liability of a person who had owner liability for some or all of the debts, obligations or liabilities of a party to the merger or share exchange shall be as follows:

(a) The merger or share exchange does not discharge any owner liability under the organic law of the entity in which the person was a shareholder or interest holder to the extent any such owner liability arose before the effective time of the articles of merger or share exchange.

(b) The person shall not have owner liability under the organic law of the entity in which the person was a shareholder or interest holder prior to the merger or share exchange for any debt, obligation or liability that arises after the effective time of the articles of merger or share exchange.

(c) The provisions of the organic law of any entity for which the person had owner liability before the merger or share exchange shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (a) of this subsection, as if the merger or share exchange had not occurred.

(d) The person shall have whatever rights of contribution from other persons as are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by paragraph (a) of this subsection, as if the merger or share exchange had not occurred.

SECTION 49. That Section 30-1-1107, Idaho Code, be, and the same is hereby repealed.

SECTION 50. That Part 11, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1108, Idaho Code, and to read as follows:

30-1-1108. ABANDONMENT OF A MERGER OR SHARE EXCHANGE. (1) Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign business corporation or a domestic or foreign eligible entity that is a party to a merger or a share exchange is organized or by which it is governed, after the plan has been adopted and approved as required by this part, and at any time before the merger or share exchange has become effective, it may be abandoned by a domestic

business corporation that is a party thereto without action by its shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the merger or share exchange.

(2) If a merger or share exchange is abandoned under subsection (1) of this section after articles of merger or share exchange have been filed with the secretary of state but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

SECTION 51. That the Heading for Part 12, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended to read as follows:

PART 12.
~~SALE~~ DISPOSITION OF ASSETS

SECTION 52. That Section 30-1-1201, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1201. ~~SALE~~ DISPOSITION OF ASSETS ~~IN-REGULAR-COURSE-OF-BUSINESS AND--MORTGAGE--OF-ASSETS~~ NOT REQUIRING SHAREHOLDER APPROVAL. No approval of the shareholders of a corporation is required, unless the articles of incorporation otherwise provide:

(1) ~~A-corporation-may,-on-the-terms-and-conditions-and-for-the-consideration-determined-by-the-board-of-directors:~~

~~(a)--Sell~~ To sell, lease, exchange, or otherwise dispose of ~~all~~ any~~,~~ or ~~substantially~~ all~~,~~ of ~~its-property~~ the corporation's assets in the usual and regular course of business;

(~~b~~2) To mMortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of ~~its-property-the~~ corporation's assets, whether or not in the usual and regular course of business; or

(~~c~~3) To tTransfer any or all of ~~its-property~~ the corporation's assets to ~~a-corporation~~ one (1) or more corporations or eligible entities all the shares or interests of which are owned by the corporation~~.~~; or

(~~2~~4) ~~Unless--the--articles-of-incorporation-require-it,-approval-by the-shareholders-of-a-transaction-described-in-subsection--(1)--of--this section--is-not-required~~ To distribute assets pro rata to the holders of one (1) or more classes or series of the corporation's shares.

SECTION 53. That Section 30-1-1202, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1202. ~~SALE-OF-ASSETS-OTHER-THAN-IN-REGULAR-COURSE-OF--BUSINESS~~ SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS. (1) A ~~corporation-may-sell~~ sale, lease, exchange or ~~otherwise-dispose-of-all,-or-substantially-all, of--its--property,--with-or-without-the-good-will,-otherwise-than-in-the~~

~~usual-and-regular-course-of-business,-on-the-terms--and--conditions--and for--the--consideration--determined-by-the-corporation's-board-of-directors,-if~~ other disposition of assets, other than a disposition described in section 30-1-1201, Idaho Code, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year, and twenty-five percent (25%) of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing business activity.

(2) A disposition that requires approval of the shareholders under subsection (1) of this section shall be initiated by a resolution by the board of directors ~~proposes-and-its~~ authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed ~~transaction.~~ disposition,

~~(2)--For-a-transaction-to-be-authorized:~~

~~(a)--The--board-of-directors-must-recommend-the-proposed-transaction to-the-shareholders~~ unless the board of directors ~~determines~~ makes a determination that because of a conflicts of interest or other special circumstances it should not make ~~no~~ such a recommendation, ~~and communicates-the-basis-for-its-determination~~ in which case the board of directors shall transmit to the shareholders ~~with-the--submission of-the-proposed-transaction;-and~~

~~(b)--The--shareholders-entitled-to-vote-must-approve-the-transaction~~ the basis for that determination.

(3) The board of directors may condition its submission of a disposition to the ~~proposed-transaction~~ shareholders under subsection (1) of this section on any basis.

(4) If a disposition is required to be approved by the shareholders under subsection (1) of this section, and if the approval is to be given at a meeting, t~~T~~he corporation shall notify each shareholder, whether or not entitled to vote, of the ~~proposed-shareholders'~~ meeting ~~in-accordance-with-section-30-1-705,-Idaho-Code.-The-notice-must-also~~ of shareholders at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one (1) of the purposes, of the meeting is to consider the ~~sale,-lease,-exchange-or-other~~ disposition ~~of all,--or--substantially-all,-the-property-of-the-corporation-and-contain or-be-accompanied-by~~ and shall contain a description of the ~~transaction~~ disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(5) Unless the articles of incorporation or the board of directors, acting pursuant to subsection (3) of this section, require a greater vote or a ~~vote-by-voting-groups,-the-transaction-to-be-authorized-must be-approved-by~~ greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of ~~all~~ the votes entitled to be cast on the ~~transaction~~ disposition exists.

(6) After a ~~sale,-lease,-exchange-or-other~~ disposition ~~of--property~~

~~is--authorized,--the--transaction~~ has been approved by the shareholders under subsection (2) of this section, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights~~,~~ ~~without-further-shareholder-action~~ of other parties to the disposition.

(7) A ~~transaction--that--constitutes-a-distribution-is-governed-by section-30-1-640,-Idaho-Code,-and--not~~ disposition of assets in the course of dissolution under part 14 of this chapter is not governed by this section.

(8) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of this section.

SECTION 54. That the Heading for Part 13, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended to read as follows:

PART 13.
~~DISSENTERS'~~ APPRAISAL RIGHTS

SECTION 55. That Section 30-1-1301, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1301. DEFINITIONS. In this part:

(1) "Affiliate" means a person that directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof. For purposes of section 30-1-1302(2)(d), Idaho Code, a person is deemed to be an affiliate of its senior executives.

(2) "Beneficial shareholder" means a person who is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

(3) "Corporation" means the issuer of the shares held by a ~~dissenter--before--the-corporate-action,-or~~ shareholder demanding appraisal and, for matters covered in sections 30-1-1322 through 30-1-1331, Idaho Code, includes the surviving ~~or-acquiring-corporation-by~~ entity in a merger. ~~or-share-exchange-of-that-issuer.~~

~~(2)--"Dissenter"-means-a-shareholder-who-is-entitled-to-dissent-from corporate-action-under-section-30-1-1302,-Idaho-Code,-and-who--exercises that-right-when-and-in-the-manner-required-by-sections-30-1-1320-through 30-1-1328,-Idaho-Code.~~

(~~3~~4) "Fair value~~,~~" ~~with-respect-to-a-dissenter's-shares,~~ means the value of the corporation's shares determined:

(a) ~~I~~immediately before the effectuation of the corporate action to which the ~~dissenter~~ shareholder objects~~,-excluding-any--appreciation or--depreciation--in--anticipation--of--the--corporate-action-unless exclusion-would-be-inequitable;~~

(b) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(c) Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles pursuant to section 30-1-1302(1)(e), Idaho Code.

(~~4~~5) "Interest" means interest from the effective date of the corporate action until the date of payment, at the ~~average~~ rate ~~currently~~

~~paid-by-the-corporation-on-its-principal-bank-loans-or,-if--none,--at--a rate--that-is-fair-and-equitable-under-all-the-circumstances~~ of interest on judgments in this state on the effective date of the corporate action.

(6) "Preferred shares" means a class or series of shares whose holders have preference over any other class or series with respect to distributions.

(~~5~~7) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with ~~a~~ the corporation.

(~~6~~8) ~~"Beneficial--shareholder"-means-the-person-who-is-a-beneficial owner-of-shares-held-in-a-voting-trust-or-by-a--nominee--as--the--record shareholder~~ "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

(~~7~~9) "Shareholder" means ~~the~~ both a record shareholder ~~or-the~~ and a beneficial shareholder.

SECTION 56. That Section 30-1-1302, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1302. RIGHT TO ~~DISSENT~~ APPRAISAL. (1) A shareholder is entitled to ~~dissent-from~~ appraisal rights, and to obtain payment of the fair value of ~~his~~ that shareholder's shares, in the event of, any of the following corporate actions:

(a) Consummation of a ~~plan-of~~ merger to which the corporation is a party:

(i) If shareholder approval is required for the merger by section 30-1-110~~3~~4, Idaho Code, ~~or-the-articles--of--incorporation~~ and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(ii) If the corporation is a subsidiary ~~that-is-merged-with its--parent--under~~ and the merger is governed by section 30-1-110~~4~~5, Idaho Code;

(b) Consummation of a ~~plan-of~~ share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the ~~plan~~ exchange, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged;

(c) Consummation of a ~~sale--or-exchange-of-all,-or-substantially all,-of-the-property-of-the-corporation-other-than-in-the-usual--and regular-course-of-business~~ disposition of assets pursuant to section 30-1-1202, Idaho Code, if the shareholder is entitled to vote on the ~~sale-or-exchange,-including-a-sale-in-dissolution,-but-not-including a-sale-pursuant-to-court-order-or-a-sale-for-cash-pursuant-to-a-plan by--which--all--or-substantially-all-of-the-net-proceeds-of-the-sale will-be-distributed-to-the-shareholders-within-one--(1)--year--after the-date-of-sale~~ disposition;

(d) An amendment of the articles of incorporation with respect to a

class or series of shares that ~~materially and adversely affects rights in respect of a dissenter's shares because it:~~

~~(i) Alters or abolishes a preferential right of the shares;~~

~~(ii) Creates, alters or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;~~

~~(iii) Alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;~~

~~(iv) Excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or~~

~~(v)~~ Reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created; ~~is to be acquired for cash under section 30-1-604, Idaho Code;~~ or

(e) Any ~~corporate action taken pursuant to a shareholder vote~~ other amendment to the articles of incorporation, merger, share exchange or disposition of assets to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors. ~~provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.~~

(2) Notwithstanding subsection (1) of this section, the availability of appraisal rights under subsections (1)(a), (b), (c) and (d) shall be limited in accordance with the following provisions:

(a) Appraisal rights shall not be available for the holders of shares of any class or series of shares which are:

(i) Listed on the New York stock exchange or the American stock exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, inc.; or

(ii) Not so listed or designated, but have at least two thousand (2,000) shareholders and the outstanding shares of such class or series have a market value of at least twenty million dollars ($20,000,000), exclusive of the value of such shares held by its subsidiaries, senior executives, directors and beneficial shareholders owning more than ten percent (10%) of such shares.

(b) The applicability of subsection (2)(a) of this section shall be determined as of:

(i) The record date fixed to determine the shareholders entitled to receive notice of, and vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights; or

(ii) The day before the effective date of such corporate action if there is no meeting of shareholders.

(c) Subsection (2)(a) of this section shall not be applicable and appraisal rights shall be available pursuant to subsection (1) of this section for the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satis-

fies the standards set forth in subsection (2)(a) of this section at the time the corporate action becomes effective.

(d) Subsection (2)(a) of this section shall not be applicable and appraisal rights shall be available pursuant to subsection (1) of this section for the holders of any class or series of shares where:

(i) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to the corporate action by a person, or by an affiliate of a person, who:

(A) Is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, the beneficial owner of twenty percent (20%) or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares having voting power if such offer was made within one (1) year prior to the corporate action requiring appraisal rights for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action; or

(B) Directly or indirectly has, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporation of the corporate action requiring appraisal rights had, the power, contractually or otherwise, to cause the appointment or election of twenty-five percent (25%) or more of the directors to the board of directors of the corporation; or

(ii) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to such corporate action by a person, or by an affiliate of a person, who is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(A) Employment, consulting, retirement or similar benefits established separately and not as part of or in contemplation of the corporate action; or

(B) Employment, consulting, retirement or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 30-1-862, Idaho Code; or

(C) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one (1) of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

(e) For the purposes of subsection (2)(d) of this section only, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares, provided that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two (2) or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of the corporation beneficially owned by any member of the group.

(3) Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, but any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one (1) year of that date if such action would otherwise afford appraisal rights.

(4) A shareholder entitled to ~~dissent and obtain payment for his shares~~ appraisal rights under this part may not challenge ~~the~~ a completed corporate action ~~creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation~~ for which appraisal rights are available unless such corporate action:

(a) Was not effectuated in accordance with the applicable provisions of part 10, 11 or 12 of this chapter or the corporation's articles of incorporation, bylaws or board of directors' resolution authorizing the corporate action; or

(b) Was procured as a result of fraud or material misrepresentation.

~~(3) This section does not apply to the holders of shares of any class or series if the shares of the class or series are redeemable securities issued by a registered investment company as defined pursuant to the investment company act of 1940 (15 U.S.C. 80a-15 U.S.C. 80a-64).~~

~~(4) Unless the articles of incorporation of the corporation provide otherwise, this section does not apply to the holders of shares of a class or series if the shares of the class or series were registered on a national securities exchange, were listed on the national market systems of the national association of securities dealers automated quotation system or were held of record by at least two thousand (2,000) shareholders on the date fixed to determine the shareholders entitled to vote on the proposed corporate action.~~

SECTION 57. That Section 30-1-1303, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1303. ~~DISSENT~~ ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS. (1) A record shareholder may assert ~~dissenters'~~ appraisal rights as to fewer than all the shares registered in ~~his~~ the record shareholder's name but owned by a beneficial shareholder only if ~~he dissents~~ the record shareholder objects with respect to all shares ~~beneficially~~ of the class or series owned by ~~any one (1) person~~ the beneficial shareholder and notifies the corporation in writing of the name and address of each ~~person~~ beneficial shareholder on whose behalf ~~he asserts dissenters'~~ appraisal rights are being asserted. The rights of a ~~partial dissenter~~ record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection ~~are~~ shall be determined as if the shares as to which ~~he dissents~~ the record shareholder objects and ~~his~~ the record shareholder's other shares were registered in the names of different record shareholders.

(2) A beneficial shareholder may assert ~~dissenters'~~ appraisal rights as to shares held on ~~his~~ behalf of the shareholder only if such shareholder:

(a) ~~He s~~Submits to the corporation the record shareholder's written consent to the ~~dissent not later than the time the beneficial shareholder asserts dissenters'~~ assertion of such rights no later than the date referred to in section 30-1-1322(2)(b)(ii), Idaho Code; and

(b) ~~He d~~Does so with respect to all shares of ~~which he is~~ the class or series that are beneficially owned by the beneficial shareholder. ~~or over which he has power to direct the vote.~~

SECTION 58. That Section 30-1-1320, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1320. NOTICE OF ~~DISSENTERS'~~ APPRAISAL RIGHTS. (1) If proposed corporate action ~~creating dissenters' rights under~~ described in section 30-1-1302(1), Idaho Code, is to be submitted to a vote at a shareholders' meeting, the meeting notice must state that the corporation has concluded that shareholders are, are not or may be entitled to assert ~~dissenters'~~ appraisal rights under this part. ~~and be accompanied by~~ If the corporation concludes that appraisal rights are or may be available, a copy of this part must accompany the meeting notice sent to those record shareholders entitled to exercise appraisal rights.

(2) ~~If corporate action creating dissenters' rights under~~ In a merger pursuant to section 30-1-~~1302~~105, Idaho Code, ~~is taken without a vote of shareholders,~~ the parent corporation ~~shall~~ ~~must notify in writing~~ all record shareholders of the subsidiary who are entitled to assert ~~dissenters'~~ appraisal rights that the corporate action ~~was taken and send them the dissenters' notice~~ became effective. Such notice must be sent within ten (10) days after the corporate action became effective and include the materials described in section 30-1-1322, Idaho Code.

SECTION 59. That Section 30-1-1321, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1321. NOTICE OF INTENT TO DEMAND PAYMENT. (1) If proposed corporate action ~~creating dissenters'~~ requiring appraisal rights under section 30-1-1302, Idaho Code, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert ~~dissenters'~~ appraisal rights with respect to any class or series of shares:

(a) Must deliver to the corporation before the vote is taken written notice of ~~his~~ the shareholder's intent to demand payment ~~for his shares~~ if the proposed action is effectuated; and

(b) Must not vote, ~~his shares~~ or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) of this section is not entitled to payment ~~for his shares~~ under this part.

SECTION 60. That Section 30-1-1322, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1322. ~~DISSENTERS'~~ APPRAISAL NOTICE AND FORM. (1) If proposed corporate action ~~creating dissenters'~~ requiring appraisal rights under section 30-1-1302, Idaho Code, ~~is authorized at a shareholders' meeting~~ becomes effective, the corporation ~~shall~~ must deliver a written ~~dissenters'~~ appraisal notice and form required by subsection (2)(a) of this section to all shareholders who satisfied the requirements of section 30-1-1321, Idaho Code. In the case of a merger under section 30-1-1105, Idaho Code, the parent must deliver a written appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

(2) The ~~dissenters'~~ appraisal notice must be sent no earlier than the date the corporate action became effective and no later than ten (10) days after ~~the corporate action was taken,~~ such date and must:

(a) ~~State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;~~

~~(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;~~

~~(c)~~ Supply a form ~~for demanding payment~~ that ~~includes~~ specifies the date of the first announcement to ~~news media or to~~ shareholders of the principal terms of the proposed corporate action and requires ~~that~~ the ~~person~~ shareholder asserting ~~dissenters'~~ appraisal rights to certify:

(i) ~~W~~whether or not ~~he acquired~~ beneficial ownership of ~~the~~ those shares for which appraisal rights are asserted was acquired before that date; and

(ii) That the shareholder did not vote for the transaction;

(b) State:

(i) Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date may not be earlier than the date for receiving the required form under subsection (2)(b)(ii) of this section;

~~(dii)~~ ~~Set a~~ A date by which the corporation must receive the ~~payment demand~~ form, which date may not be fewer than ~~thirty~~ forty (~~3~~40) nor more than sixty (60) days after the date the appraisal notice and form in subsection (1) of this section ~~is~~

~~delivered;~~ are sent, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

(iii) The corporation's estimate of the fair value of the shares;

(iv) That, if requested in writing, the corporation will provide, to the shareholders so requesting, within ten (10) days after the date specified in subsection (2)(b)(ii) of this section the number of shareholders who return the forms by the specified date and the total number of shares owned by them; and

(v) The date by which the notice to withdraw under section 30-1-1323, Idaho Code, must be received, which date must be within twenty (20) days after the date specified in subsection (2)(b)(ii) of this section; and

(~~e~~c) Be accompanied by a copy of this part.

SECTION 61. That Section 30-1-1323, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1323. ~~DUTY--TO-DEMAND-PAYMENT~~ PERFECTION OF RIGHTS -- RIGHT TO WITHDRAW. (1) A shareholder ~~sent--a--dissenters[1]~~ who receives notice ~~described--in~~ pursuant to section 30-1-1322, Idaho Code, and who wishes to exercise appraisal rights must ~~demand-payment,~~ certify on the form sent by the corporation whether ~~he~~ the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the ~~dissenters[1]~~ notice pursuant to section 30-1-1322(2)(~~c~~a), Idaho Code.~~,-and,-with--respect--to--any--certificated shares,~~ If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 30-1-1325, Idaho Code. In addition, a shareholder who wishes to exercise appraisal rights must execute and return the form and, in the case of certificated shares, deposit ~~his~~ the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 30-1-1322(2)(b)(ii), Idaho Code. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the executed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection (2) of this section.

(2) ~~The-shareholder-who-demands-payment-and,-with--respect--to--any certificated--shares,--deposits--his-share-certificates-under-subsection (1)-of-this-section-retains-all-other--rights--of--a--shareholder--until these--rights--are--cancelled--or-modified-by-the-taking-of-the-proposed corporate-action~~ A shareholder who has complied with subsection (1) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to section 30-1-1322(2)(b)(v), Idaho Code. A shareholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the corporation's written consent.

(3) A shareholder who does not ~~demand-payment-or~~ execute and return the form and, in the case of certificated shares, deposit ~~his~~ that shareholder's share certificates where required, each by the date set

forth in the ~~dissenters'~~ notice described in section 30-1-1322(2), Idaho Code, ~~is~~ shall not be entitled to payment ~~for his shares~~ under this part.

SECTION 62. That Section 30-1-1324, Idaho Code, be, and the same is hereby repealed.

SECTION 63. That Section 30-1-1325, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-13254. PAYMENT. (1) Except as provided in section 30-1-13275, Idaho Code, ~~as soon as the proposed corporate action is taken, or upon receipt of a payment demand~~ within thirty (30) days after the form required by section 30-1-1322(2)(b)(ii), Idaho Code, is due, the corporation shall pay ~~each dissenter~~ in cash to those shareholders who complied with section 30-1-1323(1), Idaho Code, the amount the corporation estimates to be the fair value of ~~his~~ their shares, plus ~~accrued~~ interest.

(2) The payment to each shareholder pursuant to subsection (1) of this section must be accompanied by:

(a) ~~The corporation's~~ Financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any;

(b) A statement of the corporation's estimate of the fair value of the shares, which estimate must equal or exceed the corporation's estimate given pursuant to section 30-1-1322(2)(b)(iii), Idaho Code; and

~~(c) An explanation of how the interest was calculated;~~

~~(d)~~ A statement ~~of the dissenter's~~ that shareholders described in subsection (1) of this section have the right to demand further payment under section 30-1-13286, Idaho Code~~;~~, and

~~(e) A copy of~~ that if any shareholder does not do so within the time period specified therein, such shareholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this part.

SECTION 64. That Section 30-1-1326, Idaho Code, be, and the same is hereby repealed.

SECTION 65. That Section 30-1-1327, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-13275. AFTER-ACQUIRED SHARES. (1) A corporation may elect to withhold payment required by section 30-1-13254, Idaho Code, from ~~a dissenter unless he was the~~ any shareholder who did not certify that beneficial ownership of ~~the~~ all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the ~~dissenters'~~ appraisal notice ~~as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action~~ sent pursuant to section 30-1-1322(2)(a), Idaho Code.

(2) ~~To the extent~~ If the corporation ~~elects~~ elected to withhold

payment under subsection (1) of this section, ~~after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under section 30-1-1328, Idaho Code~~ it must, within thirty (30) days after the form required by section 30-1-1322(2)(b)(ii), Idaho Code, is due, notify all shareholders who are described in subsection (1) of this section:

(a) Of the information required by section 30-1-1324(2)(a), Idaho Code;

(b) Of the corporation's estimate of fair value pursuant to section 39-1-1324(2)(b), Idaho Code;

(c) That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 30-1-1326, Idaho Code;

(d) That those shareholders who wish to accept such offer must so notify the corporation of their acceptance of the corporation's offer within thirty (30) days after receiving the offer; and

(e) That those shareholders who do not satisfy the requirements for demanding appraisal under section 30-1-1326, Idaho Code, shall be deemed to have accepted the corporation's offer.

(3) Within ten (10) days after receiving the shareholder's acceptance pursuant to subsection (2) of this section, the corporation must pay in cash the amount it offered under subsection (2)(b) of this section to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

(4) Within forty (40) days after sending the notice described in subsection (2) of this section, the corporation must pay in cash the amount it offered to pay under subsection (2)(b) of this section to each shareholder described in subsection (2)(e) of this section.

SECTION 66. That Section 30-1-1328, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1328~~6~~. PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OFFER. (1) ~~A dissenter may~~ shareholder paid pursuant to section 30-1-1324, Idaho Code, who is dissatisfied with the amount of the payment must notify the corporation in writing of ~~his own~~ that shareholder's estimate of the fair value of ~~his~~ the shares and ~~amount of interest due, and~~ demand payment of ~~his~~ that estimate plus interest, less any payment under section 30-1-1325~~4~~, Idaho Code~~, or reject the corporation's offer under section 30-1-1327, Idaho Code, and demand payment of the fair value of his shares and interest due, if:~~

~~(a) The dissenter believes that the amount paid under section 30-1-1325, Idaho Code, or offered under section 30-1-1327, Idaho Code, is less than the fair value of his shares or that the interest due is incorrectly calculated;~~

~~(b) The corporation fails to make payment under section 30-1-1325, Idaho Code, within sixty (60) days after the date set for demanding payment; or~~

~~(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer~~

~~restrictions imposed on uncertificated shares within sixty (60) days after the date set for demanding payment.~~ A shareholder offered payment under section 30-1-1325, Idaho Code, who is dissatisfied with that offer must reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

(2) A ~~dissenter waives his right to demand payment under this section unless he notifies~~ shareholder who fails to notify the corporation in writing of ~~his~~ that shareholder's demand ~~in writing~~ to be paid the shareholder's stated estimate of the fair value plus interest under subsection (1) of this section within thirty (30) days after receiving the corporation's ~~made~~ payment or ~~offered~~ offer of payment ~~for his shares~~ under section 30-1-1324 or 30-1-1325, Idaho Code, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

SECTION 67. That Section 30-1-1330, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1330. COURT ACTION. ~~TO DETERMINE SHARE VALUE.~~ (1) If a shareholder makes demand for payment under section 30-1-1326, Idaho Code, which remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each ~~dissenter whose demand remains unsettled~~ shareholder the amount demanded pursuant to section 31-1-1326, Idaho Code, plus interest.

(2) The corporation shall commence the proceeding in the ~~Idaho district~~ appropriate court of the county where ~~a~~ the corporation's principal office, or, if none, ~~in this state,~~ its registered office, in this state is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the principal office or registered office of the domestic corporation merged with ~~or whose shares were acquired by~~ the foreign corporation was located at the time of the transaction.

(3) The corporation shall make all ~~dissenters~~ shareholders, whether or not residents of this state, whose demands remain unsettled parties to the proceeding, as in an action against their shares, and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) of this section is plenary and exclusive. The court may appoint one (1) or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The ~~dissenters~~ shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(5) Each ~~dissenter~~ shareholder made a party to the proceeding is entitled to judgment:

(a) For the amount, if any, by which the court finds the fair value of ~~his~~ the shareholder's shares, plus interest, exceeds the amount

paid by the corporation to the shareholder for such shares; or

(b) For the fair value, plus ~~accrued~~ interest, of ~~his after acquired~~ the shareholder's shares for which the corporation elected to withhold payment under section 30-1-132~~7~~5, Idaho Code.

SECTION 68. That Section 30-1-1331, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1331. COURT COSTS AND COUNSEL FEES. (1) The court in an appraisal proceeding commenced under section 30-1-1330, Idaho Code, shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the ~~dissenters~~ shareholders demanding appraisal, in amounts the court finds equitable, to the extent the court finds ~~the dissenters~~ such shareholders acted arbitrarily, vexatiously, or not in good faith ~~in demanding payment under section 30-1-1328, Idaho Code~~ with respect to the rights provided by this part.

(2) The court in an appraisal proceeding may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the corporation and in favor of any or all ~~dissenters~~ shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of sections 30-1-1320, ~~through~~ 30-1-1328~~2~~, 30-1-1324 or 30-1-1325, Idaho Code; or

(b) Against either the corporation or a ~~dissenter~~ shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this part.

(3) If the court in an appraisal proceeding finds that the services of counsel for any ~~dissenter~~ shareholder were of substantial benefit to other ~~dissenters~~ shareholders similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to ~~these~~ such counsel reasonable fees to be paid out of the amounts awarded to ~~dissenters~~ shareholders who were benefited.

(4) To the extent the corporation fails to make a required payment pursuant to section 30-1-1324, 30-1-1325 or 30-1-1326, Idaho Code, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including counsel fees.

SECTION 69. That Section 30-1-1402, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1402. DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS. (1) A corporation's board of directors may propose dissolution for submission to the shareholders.

(2) For a proposal to dissolve to be adopted:

(a) The board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflicts of interest or other special circumstances it should make

no recommendation and communicates the basis for its determination to the shareholders; and

(b) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (5) of this section.

(3) The board of directors may condition its submission of the proposal for dissolution on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting. ~~in--accordance with--section--30-1-705,-Idaho-Code.~~ The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider dissolving the corporation.

(5) Unless the articles of incorporation or the board of directors, acting pursuant to subsection (3) of this section, require a greater vote, a greater number of shares to be present, or a vote by voting groups, adoption of the proposal to dissolve ~~to-be-adopted-must-be approved-by-a-majority-of-all~~ shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast ~~on-that-proposal~~ exists.

SECTION 70. That Section 30-1-1403, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1403. ARTICLES OF DISSOLUTION. (1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized; and

(c) If dissolution was approved by the shareholders~~:~~

~~(i)---The--number--of-votes-entitled-to-be-cast-on-the-proposal to-dissolve;-and~~

~~(ii)--Either-the-total-number-of-votes--cast--for--and--against dissolution--or--the--total-number-of-undisputed-votes-cast-for dissolution-and-a-statement-that-the-number-cast--for--dissolution-was-sufficient-for-approval;~~

~~(d)--If--voting--by--voting--groups--was--required,--the-information required-by-paragraph-(c)-of-this-subsection-must-be-separately-provided-for-each-voting-group-entitled-to-vote-separately-on-the--plan to--dissolve~~, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(2) A corporation is dissolved upon the effective date of its articles of dissolution.

(3) For purposes of this part, "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

SECTION 71. That Section 30-1-1404, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1404. REVOCATION OF DISSOLUTION. (1) A corporation may revoke its dissolution within one hundred twenty (120) days of its effective date.

(2) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a) The name of the corporation;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was authorized;

(d) If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect;

(e) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f) If shareholder action was required to revoke the dissolution, the information required by section 30-1-1403(1)(c), ~~or (d),~~ Idaho Code.

(4) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(5) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

SECTION 72. That Section 30-1-1406, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1406. KNOWN CLAIMS AGAINST DISSOLVED CORPORATION. (1) A dissolved corporation may dispose of the known claims against it by ~~following the procedure described in this section~~ notifying its known claimants in writing of the dissolution at any time after its effective date.

(2) ~~The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date.~~ The written notice must:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty (120) days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved corporation is barred:

(a) If a claimant who was given written notice under subsection (2) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days from the effective date of the rejection notice.

(4) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SECTION 73. That Section 30-1-1407, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1407. ~~UNKNOWN~~ OTHER CLAIMS AGAINST DISSOLVED CORPORATION. (1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office or, if none in this state, its registered office is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of the notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two (2) years after the publication date of the newspaper notice:

(a) A claimant who ~~did~~ was not ~~receive~~ given written notice under section 30-1-1406, Idaho Code;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim that is not barred by section 30-1-1406(3) or 30-1-1407(3), Idaho Code, may be enforced: ~~under this section:~~

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) Except as provided in section 30-1-1408(4), Idaho Code, i~~f~~f the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of ~~his~~ the shareholder's pro rata share of the claim or the corporate assets distributed to ~~him~~ the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to ~~him~~ the shareholder.

SECTION 74. That Part 14, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1408, Idaho Code, and to read as follows:

30-1-1408. COURT PROCEEDING. (1) A dissolved corporation that has published a notice under section 30-1-1407, Idaho Code, may file an application with the appropriate court of the county where the dissolved corporation's principal office, or, if none in this state, its registered office, is located for a determination of the amount and form of

security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 30-1-1407(3), Idaho Code.

(2) Within ten (10) days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(3) The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(4) Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection (1) of this section, shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a shareholder who received assets in liquidation.

SECTION 75. That Part 14, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1409, Idaho Code, and to read as follows:

30-1-1409. DIRECTOR DUTIES. (1) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets to shareholders after payment or provision for claims.

(2) Directors of a dissolved corporation which has been disposed of claims under section 30-1-1406, 30-1-1407 or 30-1-1408, Idaho Code, shall not be liable for breach of subsection (1) of this section, with respect to claims against the dissolved corporation that are barred or satisfied under section 30-1-1406, 30-1-1407 or 30-1-1408, Idaho Code.

SECTION 76. That Section 30-1-1601, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1601. CORPORATE RECORDS. (1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in

another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation, ~~and~~ all amendments to them currently in effect, and any notices to shareholders referred to in section 30-1-120(11)(e), Idaho Code, regarding facts on which a filed document is dependent;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) Resolutions adopted by its board of directors creating one (1) or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(d) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three (3) years;

(e) All written communications to shareholders generally within the past three (3) years, including the financial statements furnished for the past three (3) years under section 30-1-1620, Idaho Code; ~~and~~

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its most recent annual report delivered to the secretary of state under section 30-1-1622, Idaho Code.

SECTION 77. That Section 30-1-1603, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1603. SCOPE OF INSPECTION RIGHT. (1) A shareholder's agent or attorney has the same inspection and copying rights as the shareholder ~~he represents~~ represented.

(2) The right to copy records under section 30-1-1602, Idaho Code, includes, if reasonable, the right to receive copies ~~made~~ by ~~photographic,~~ xerographic~~,~~ or other means, including copies through an electronic transmission if available and so requested by the shareholder.

(3) ~~The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production or reproduction of the records.~~

~~(4)~~ The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 30-1-1602(2)(c), Idaho Code, by providing ~~him~~ the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

(4) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production, reproduction or transmission of the records.

SECTION 78. That Part 16, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1605, Idaho Code, and to read as follows:

30-1-1605. INSPECTION OF RECORDS BY DIRECTORS. (1) A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(2) The appropriate court of the county where the corporation's principal office, or if none in this state, its registered office, is located may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(3) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable counsel fees, incurred in connection with the application.

SECTION 79. That Part 16, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1606, Idaho Code, and to read as follows:

30-1-1606. EXCEPTION TO NOTICE REQUIREMENT. (1) Whenever notice is required to be given under any provision of this chapter to any shareholder, such notice shall not be required to be given if:

(a) Notice of two (2) consecutive annual meetings, and all notices of meetings during the period between such two (2) consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable; or

(b) All, but not less than two (2), payments of dividends on securities during a twelve (12) month period, or two (2) consecutive payments of dividends on securities during a period of more than twelve (12) months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(2) If any such shareholder shall deliver to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given to such shareholder shall be reinstated.

Approved March 24, 2004.

CHAPTER 325
(H.B. No. 692)

AN ACT

RELATING TO EMERGENCY COMMUNICATIONS SYSTEMS; AMENDING SECTION 31-4801, IDAHO CODE, TO REVISE LEGISLATIVE PURPOSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 31-4815, 31-4816, 31-4817 AND 31-4818, IDAHO CODE, TO CREATE THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION, TO PROVIDE MEMBERSHIP AND TERMS OF OFFICE, TO PROVIDE PURPOSES AND RESPONSIBILITIES OF THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION, TO PROVIDE MEDIATION BY THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION AND TO CREATE THE IDAHO EMERGENCY COMMUNICATIONS FUND.

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, 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 or 911 service areas 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~~ telecommunications providers 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 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 31-4815, 31-4816, 31-4817 and 31-4818, Idaho Code, and to read as follows:

31-4815. CREATION OF IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- TERMS. (1) There is hereby created in the department of administration an Idaho emergency communications commission (hereinafter referred to as "the commission") for the purpose of assisting cities, counties, ambulance districts and fire districts in the establishment, management, operations and accountability of consolidated emergency communications systems. Notwithstanding any other provision of law to the contrary, the commission shall, upon being constituted, exercise its powers and duties in accordance with the provisions of this section relative to consolidated emergency communications in this state established by enactment of the legislature or by private act.

(2) The commission shall be composed of thirteen (13) voting members, with eleven (11) appointed by the governor as follows: one (1) member representing the association of Idaho cities, one (1) member representing the Idaho association of counties, one (1) member representing the Idaho sheriffs' association, one (1) member representing the Idaho chiefs of police association, one (1) member representing the Idaho fire chiefs association, one (1) member representing the Idaho prosecuting attorneys association, one (1) member representing the Idaho state emergency medical services communications center, one (1) member representing the Idaho emergency medical services association, one (1) member representing the public at large and two (2) members representing private industry service providers, one (1) from the wireless industry and one (1) from the traditional phone service industry. The commission shall also include the director of the Idaho state police or a designated representative and the adjutant general or a designated representative. One (1) representative of the attorney general shall serve as a nonvoting ex officio member.

(3) Except as provided in this subsection, members of the commis-

sion shall be appointed for a term of four (4) years. The following five (5) members shall be appointed to an initial term of two (2) years: the member representing the Idaho fire chiefs association, the member representing the Idaho state emergency medical services communications center, the member representing the Idaho emergency medical services association, the member representing the wireless industry, and one (1) member representing the public. The remaining six (6) members appointed by the governor shall be appointed for an initial term of four (4) years. Thereafter, all terms shall be for a period of four (4) years.

(4) The commission shall elect a chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code. Compensation shall be paid from the emergency communications fund created in section 31-4818, Idaho Code.

31-4816. IDAHO EMERGENCY COMMUNICATIONS COMMISSION — PURPOSES AND RESPONSIBILITIES. The purposes and responsibilities of the commission are to:

(1) Determine the status and operability of consolidated emergency communications systems statewide;

(2) Determine the needs for the upgrade of consolidated emergency communications systems;

(3) Determine the costs for the upgrades;

(4) Recommend guidelines and standards for operation of consolidated emergency communications systems;

(5) Recommend funding mechanisms for future implementation of upgrades;

(6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems;

(7) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and programs or projects in progress, completed or anticipated;

(8) Enter into contracts with experts, agents, employees or consultants as may be necessary to carry out the purposes of this chapter; and

(9) Promulgate rules pursuant to the provisions of chapter 52, title 67, Idaho Code, to carry out the purposes of the commission's duties.

31-4817. IDAHO EMERGENCY COMMUNICATIONS COMMISSION — MEDIATION. In the event that a dispute arises between local government entities over the governance of operations of consolidated emergency communications systems, those local governments shall be required, prior to initiating any legal action, to submit the contested issue or issues to the commission for purposes of mediation. The commission shall have sixty (60) days from the date of submission of any issues to mediate and recommend a course of action to the local governments involved in the dispute. Any recommendation of the commission shall be advisory only and shall not be binding on the parties involved. After receipt of any recommendation by the commission, the local governments may accept in whole or in part the recommendations or may initiate legal action as provided by contract or law.

31-4818. IDAHO EMERGENCY COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho emergency communications fund, which shall consist of moneys received from counties, cities, consolidated emergency communications operations, grants, donations, gifts and revenues from any other source to support the delivery of consolidated emergency communications systems.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the commission.

(3) Annually, at the direction of the commission, not more than one percent (1%) of the total emergency communications fees collected in the state of Idaho is hereby dedicated for and shall be placed in the fund on a quarterly basis by county, city or consolidated emergency communications systems. The commission, on an annual basis, shall prepare a budget indicating that portion of the fee necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(4) The commission shall authorize disbursement of moneys in the fund to eligible entities.

Approved March 24, 2004.

CHAPTER 326
(H.B. No. 706)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-828, IDAHO CODE, TO DELETE LANGUAGE PROVIDING FOR THE APPOINTMENT OF COSMETOLOGISTS BY THE GOVERNOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-831, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL APPOINT LICENSED PERSONS TO SERVE AS EXAMINING ASSISTANTS FOR THREE YEAR TERMS TO ASSIST THE BOARD IN THE ADMINISTRATION OF LICENSURE EXAMINATIONS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-832, IDAHO CODE, TO PROVIDE FOR COMPENSATION FOR EXAMINING ASSISTANTS.

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

SECTION 1. That Section 54-828, Idaho Code, be, and the same is hereby amended to read as follows:

54-828. IDAHO BOARD OF COSMETOLOGY -- APPOINTMENT -- TERM. There is hereby created in the department of self-governing agencies a board to be known as the "Idaho Board of Cosmetology." It shall consist of three (3) registered cosmetologists, one (1) from the northern section of the state, one (1) from the south central section of the state, and one (1) from the southeastern section of the state, one (1) electrologist/esthetician and one (1) currently active cosmetology school representative, appointed by the governor from among nominees recommended by any organized and generally recognized group of cosmetologists in this state. The members of the board shall be appointed for terms of three (3) years. On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a

term of three (3) years. Vacancies shall be filled in like manner for the unexpired portion of the term. Members of the board shall hold office until their successors have been appointed and have qualified. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

~~The governor shall appoint two (2) active, licensed registered cosmetologists in each district who shall have authority to assist in conducting cosmetology examinations and they shall be paid such amounts as the board determines, when performing board duties.~~

The action and report in writing of a majority of the board with reference to the violation of any of the provisions of this chapter shall be the basis for the board to proceed according to the provisions of sections 54-816, 54-817, and 54-821, Idaho Code.

SECTION 2. That Section 54-831, Idaho Code, be, and the same is hereby amended to read as follows:

54-831. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold a meeting within thirty (30) days after its members are first appointed, and thereafter board meetings shall be held at such times and places as may be decided upon.

The board shall adopt such ~~by-laws~~ bylaws as it deems necessary and proper for the conduct of its business, and shall appoint persons licensed under the provisions of this chapter to serve as examining assistants for terms of three (3) years who shall assist the board in the administration of licensure examinations. The board shall annually elect a chairman, vice-chairman, and secretary from among its members. A majority of the members of the board shall constitute a quorum.

SECTION 3. That Section 54-832, Idaho Code, be, and the same is hereby amended to read as follows:

54-832. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the board and each examining assistant shall be compensated as provided by section 59-509(n), Idaho Code.

Approved March 24, 2004.

CHAPTER 327
(H.B. No. 711)

AN ACT

RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 56, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT AND TO CREATE THE IDAHO STATE INDEPENDENT LIVING COUNCIL, TO PROVIDE EXEMPTION FROM CERTAIN STATE LAWS, TO PROVIDE POWERS OF THE IDAHO STATE INDEPENDENT LIVING COUNCIL, TO PROVIDE FOR APPOINTMENT OF DIRECTORS OF THE IDAHO STATE INDEPENDENT LIVING COUNCIL, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF THE COUNCIL, TO PROVIDE FOR ALLOCATION OF FUNDS BY DESIGNATED STATE UNITS AND TO CREATE THE IDAHO STATE INDEPENDENT LIVING COUNCIL FUND.

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

SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 56, Idaho Code, and to read as follows:

CHAPTER 12
IDAHO STATE INDEPENDENT LIVING COUNCIL

56-1201. IDAHO STATE INDEPENDENT LIVING COUNCIL -- LEGISLATIVE INTENT. The Idaho state independent living council, as hereby created and as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments prescribed in section 67-2402, Idaho Code.

It is legislative intent that the Idaho state independent living council operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the same manner as other single purpose districts. Pursuant to this intent, and because the Idaho state independent living council is not a state department or agency, the Idaho state independent living council is exempt from the required participation in the services of the purchasing agent or employee liability coverage, as rendered by the department of administration. However, nothing shall prohibit the Idaho state independent living council from entering into contractual arrangements with the department of administration, or any other department of state government or an elected constitutional officer, for these or any other services.

It is legislative intent to require compliance with the state merit system, and to affirm the participation of the Idaho state independent living council in the public employee retirement system, chapter 13, title 59, Idaho Code, and the personnel system, chapter 53, title 67, Idaho Code.

It is also legislative intent that the matters of location of deposit of Idaho state independent living council funds, or the instruments or documents of payment from those funds shall be construed as no more than items of convenience for the conduct of business, and in no way reflect upon the nature or status of the Idaho state independent living council as an entity of government.

This section merely affirms that the Idaho state independent living council created under this chapter is not a state agency and in no way changes the character of it as it existed prior to this chapter. The functions previously performed by the state independent living council created by executive order no. 2002-05, are hereby transferred to the Idaho state independent living council pursuant to this chapter.

56-1202. IDAHO STATE INDEPENDENT LIVING COUNCIL -- POWERS. The council shall:

(1) Be independent of any state agency;

(2) Adopt bylaws and policies governing its operation;

(3) Provide to the council's employees the employee benefit package offered to state of Idaho employees; and

(4) Meet at least quarterly.

56-1203. DIRECTORS OF IDAHO STATE INDEPENDENT LIVING COUNCIL. Directors of the Idaho state independent living council shall be appointed by, and serve at the pleasure of, the governor. The governor shall comply with the provisions of 29 U.S.C. section 796d(b) and 34 CFR 364.21 in making appointments to the council. The council shall select an executive director to carry out the executive functions of the council.

56-1204. ADDITIONAL POWERS AND DUTIES. The council shall carry out those powers and duties set forth in 29 U.S.C. section 796d(c) and 34 CFR 364.21. The council shall also:

(1) Assess the need for services for Idahoans with disabilities and advocate with decision makers;

(2) Supervise and evaluate such staff as may be necessary to carry out the functions of the council;

(3) Ensure that all regularly scheduled meetings of the council are open to the public and that sufficient advance notice of meetings is provided pursuant to the open meeting law;

(4) Prepare reports and make recommendations, as necessary;

(5) Perform other activities the council deems necessary to increase the ability of Idahoans with disabilities to live independently;

(6) Promulgate rules, as may be necessary, in compliance with chapter 52, title 67, Idaho Code.

56-1205. ALLOCATION OF FUNDS BY DESIGNATED STATE UNITS. The Idaho division of vocational rehabilitation shall enter into an agreement with the Idaho state independent living council for the allocation of funds to support the council's activities. The funds shall be deposited in the Idaho state independent living council fund created pursuant to section 56-1206, Idaho Code. Such an agreement shall not be subject to the competitive bidding requirements as provided by law, and shall be limited to the amounts appropriated by the legislature or the United States congress.

56-1206. IDAHO STATE INDEPENDENT LIVING COUNCIL FUND. There is hereby created in the state treasury the Idaho state independent living council fund. Moneys in the fund shall consist of appropriations, grants, federal funds, donations, gifts, or moneys from any other source. Moneys in the fund are hereby perpetually appropriated for purposes provided in this chapter. The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund.

Approved March 24, 2004.

CHAPTER 328
(H.B. No. 726, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1319, IDAHO CODE, TO PROVIDE CIRCUMSTANCES WHEN THE ALTERNATE PAYEE IS THE MEMBER'S NAMED CONTINGENT ANNUITANT AND IS WAIVING ALL

SURVIVOR BENEFITS AS THE NAMED CONTINGENT ANNUITANT; AMENDING SECTION 59-1320, IDAHO CODE, TO PROVIDE FOR ADJUSTMENT OF A MEMBER'S BENEFIT IF AN ALTERNATE PAYEE WAIVES ALL SURVIVOR BENEFITS OTHERWISE PAYABLE AS A CONTINGENT ANNUITANT; AND AMENDING SECTION 59-1351, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF BENEFITS WHEN SURVIVOR BENEFITS ARE WAIVED PURSUANT TO A DOMESTIC RETIREMENT ORDER.

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

SECTION 1. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. APPROVED DOMESTIC RETIREMENT ORDERS -- REQUIREMENTS. (1) An approved domestic retirement order must meet the following requirements:

(a) Clearly specify that such order applies to the retirement system;

(b) Clearly specify the effective date of the order, which is the date of divorce or the date of an earlier property settlement agreement incorporated into the initial divorce decree, the name, social security number, date of birth, sex, and last known mailing address of the member and the name, social security number, date of birth, sex, and last known mailing address of the alternate payee covered by the order;

(c) Provide for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the member are reduced by law;

(d) For benefits as defined in chapter 13, title 59, Idaho Code, for members who are not retired members: (i) clearly specify the amount or percentage of the member's taxed and tax deferred accumulated contributions which are to be credited to the segregated account or the manner in which such amount or percentage is to be determined, and (ii) clearly specify the member's months of credited service, either by specific amount or percentage, to be transferred by the retirement system to the segregated account or the manner in which such amount or percentage is to be determined. The months of credited service transferred to the alternate payee shall be proportional to the accumulated contributions attributable to such months of credited service. Months of credited service transferred shall be whole months and not partial months;

(e) For benefits as defined in chapter 13, title 59, Idaho Code, for retired members, clearly specify the amount or percentage of the member's benefit being paid that the retirement system is to pay to the alternate payee, or the manner in which such amount or percentage is to be determined, and if the alternate payee is the member's named contingent annuitant and is waiving all survivor benefits as the named contingent annuitant, clearly specify such waiver pursuant to this subsection; and

(f) For benefits as defined in chapter 14, title 72, Idaho Code, clearly specify the amount or percentage of the member's benefit paid at the time of retirement which the retirement system is to pay to the alternate payee, or the manner in which such percentage is to be determined.

(2) An approved domestic retirement order cannot:

(a) Require the retirement system to provide any type or form of benefit or any option not otherwise provided under the retirement system;
(b) Require the retirement system to provide increased benefits determined on the basis of actuarial value;
(c) Require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be an approved domestic retirement order or a court order entered prior to July 1, 1998;
(d) Require any action on the part of the retirement system contrary to its governing statutes or rules other than the direct payment of the benefit awarded to an alternate payee;
(e) Segregate or attempt to segregate the right to reinstate previous credited service as provided in section 59-1360, Idaho Code, unless such credited service has been fully reinstated by full payment of contributions and interest as provided in section 59-1360, Idaho Code;
(f) Purport to award to the alternate payee any future benefit increases that are provided or required by the legislature, except as provided in subsections (6) and (7) of section 59-1320, Idaho Code; or
(g) Require the payment of benefits to an alternate payee before the date on which the alternate payee attains the earliest retirement age under the retirement system. However, an alternate payee may take a lump sum distribution any time prior to receiving a lifetime annuity payment.

(3) In no event shall an approved domestic retirement order cause the retirement system to pay any benefit or any amount of benefit greater than would have been paid had the member's account not been segregated.

(4) A party to any domestic retirement order issued prior to July 1, 1998, which distributes benefits defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, may move the court to modify such order to comply with the requirements of this section and section 59-1320, Idaho Code, provided that modifications be limited to issues related to the distribution of benefits defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, and that the value of the distribution is not materially changed.

SECTION 2. That Section 59-1320, Idaho Code, be, and the same is hereby amended to read as follows:

59-1320. APPROVED DOMESTIC RETIREMENT ORDERS -- APPLICATION AND EFFECT. (1) The executive director of the public employee retirement system or his designee upon receipt of a copy of a domestic retirement order, shall determine whether the order is an approved domestic retirement order and shall notify the member and the alternate payee of the determination within ninety (90) days. Orders shall be applied prospectively only from the first day of the month following the order being determined to be an approved domestic retirement order. The retirement system shall then pay benefits or establish a segregated account in accordance with the order. When established, the segregated account will consist of accumulated contributions identified in the approved domestic retirement order together with accrued interest on that amount from the

effective date to the date of segregation.

(2) If the order is determined not to be an approved domestic retirement order, or if no determination is issued within ninety (90) days, the member or the alternate payee named in the order may move the court which issued the order to amend the order so that it will be approved. The court that issued the order or which would otherwise have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated.

(3) The executive director of the retirement system to which a domestic retirement order is submitted or his designee has exclusive authority to determine whether a domestic retirement order is an approved domestic retirement order. If it is determined that a domestic retirement order does not meet the requirements for an approved domestic retirement order, both the issuing court and the parties to the order shall be notified so action may be taken to amend the order.

(4) Because an approved domestic retirement order cannot cause the retirement system to pay any benefit or any amount of benefit greater than would have been paid had the member's account not been segregated, disputes related to benefits paid under an approved domestic retirement order shall be resolved between the parties to the order by the court issuing that order. The retirement system shall not be made a party to the action. Any cost, including attorney's fees, incurred by the retirement system as a result of such actions shall be distributed by the court among the parties and included in any amended order issued.

(5) Unless the approved domestic retirement order specifies differently, if the member has a right to a vested benefit as of the effective date of the order, then both the member and the alternate payee shall have a right to a vested benefit after the transfer of months of service even if the member or the alternate payee has less than sixty (60) months of membership service.

(6) For benefits under chapter 13, title 59, Idaho Code, for members other than retired members, if the domestic retirement order awards to the alternate payee a portion of the member's accumulated contributions the alternate payee shall be entitled to all the same benefits and rights an inactive member has under chapter 13, title 59, Idaho Code. The alternate payee's benefit calculation for a lifetime annuity shall use the member's average monthly salary and base period as of the effective date of the order and the months of credited service transferred to the alternate payee's segregated account. The benefit calculation shall use the alternate payee's age with the appropriate reduction factors based on the alternate payee's age at the time of payment of the lifetime annuity. For the purpose of the lifetime annuity, the bridging factor, as specified in section 59-1355, Idaho Code, shall be the bridging factor between the effective date of the order or the last day of contributions by the member prior to the effective date of the order, whichever is earliest, and the date of the first lifetime annuity payment to the alternate payee. The alternate payee shall have the right to select any of the optional retirement allowances provided in section 59-1351, Idaho Code. The alternate payee shall have the right to name a beneficiary.

(7) For benefits defined under chapter 13, title 59, Idaho Code, for retired members, and for benefits under chapter 14, title 72, Idaho Code, the retirement system shall include in the alternate payee's

amount or percentage of the benefit, on a proportional basis, all future adjustments, including postretirement increases that are granted by the retirement system, and any death benefit. Furthermore, upon the death of the alternate payee, his/her percentage of the benefit will revert to the person or persons, including the member, who are entitled to the benefit under the system at the time of the alternate payee's death.

(8) For benefits under chapter 13, title 59, Idaho Code, for retired members, the form of payment previously elected by the member under section 59-1351, Idaho Code, cannot be changed by a domestic retirement order, except that a member's benefit mav be adjusted as provided in section 59-1351(2), Idaho Code, if an alternate payee waives all survivor benefits otherwise payable as a contingent annuitant as provided in section 59-1319(1)(e), Idaho Code. Furthermore, no segregated account will be established by the retirement system for the alternate payee.

(9) For benefits defined under chapter 14, title 72, Idaho Code, the benefit paid to the alternate payee shall start when the retirement system begins paying benefits to the member, surviving spouse, or surviving children. Unless otherwise ordered, in the event the member dies and leaves a surviving spouse, during the surviving spouse's lifetime, the alternate payee shall be paid his/her designated amount or percentage of the benefit. Unless otherwise ordered, if there is no surviving spouse or the surviving spouse dies and there is a surviving child or children of the member who are under eighteen (18) years of age and unmarried, then the alternate payee shall be paid his/her designated amount or percentage of the benefit until the child or children reach the age of eighteen (18) years or marries, whichever occurs first.

(10) The retirement system shall be authorized to issue any and all appropriate tax forms or reports for any payments made to the alternate payee.

(11) The retirement system, the retirement board, and officers and employees of the retirement system shall not be liable to any person for making payments of any benefits in accordance with an approved domestic retirement order.

SECTION 3. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, or the early retirement allowance of a member who, at time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other benefits under this chapter except that the provisions of section 59-1361(2), Idaho Code, shall be applicable:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the life-

time of the member's named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of the social security normal retirement age for that member, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of the social security normal retirement age for that member, provides either an adjusted option 1 (option 4A) or option 2 (option 4B) retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board. The adjusted retirement allowance shall be paid to the retired member during the member's lifetime and the appropriate continuation amount of the adjusted allowance to the member's named contingent annuitant for life thereafter.

(2) Should the named contingent annuitant under option 1 or option 2 either predecease a member retiring on or after October 1, 1992, or waive all survivor benefits pursuant to a domestic retirement order approved under section 59-1320, Idaho Code, upon notification to the board, the member's benefit on the first day of the month following the death of the contingent annuitant or approval of the domestic retirement order, as applicable, will thereafter become an allowance calculated pursuant to section 59-1342 or 59-1346, Idaho Code, whichever was applicable on the date of retirement, in addition to any postretirement allowance adjustments which may have accrued from that time. Should the named contingent annuitant under option 4 either predecease the member, ~~under option 4,~~ or waive all survivor benefits pursuant to a domestic retirement order approved under section 59-1320, Idaho Code, upon notification to the board, the member's benefit on the first day of the month following the cont~~ingent~~ annuitant's death or approval of the domestic retirement order, as applicable will thereafter become the option 3 allowance to which the member would have been entitled as of the date of the annuitant's death, or approval of the domestic retirement order, as applicable. The benefit changes under this subsection shall be available only to members whose last contribution was made after ~~the effective date of this act~~ June 30, 1992.

(3) Option 1 or 2 may not be chosen if initial payments of less than twenty dollars ($20.00) per month would result.

(4) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(5) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(6) Not later than one (1) year after the marriage of a retired member, the member may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of the member's retirement; or

(b) The member earlier elected option 1, 2, 4A or 4B, having named the member's spouse as contingent annuitant, and said spouse has died or has waived all survivor benefits as provided in subsection (2) of this section. The retirement allowance to be converted in such a case is that currently being paid.

Approved March 24, 2004.

CHAPTER 329
(H.B. No. 748)

AN ACT

RELATING TO RESIDENTIAL CARE FOR THE ELDERLY; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3523, IDAHO CODE, TO SPECIFY A MEDICATION POLICY TO GOVERN INDIVIDUAL DOSE SYSTEMS PREPARED BY A LICENSED NURSE.

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

SECTION 1. That Chapter 35, 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 39-3523, Idaho Code, and to read as follows:

39-3523. MEDICATIONS. The medication policy governed by the policy and procedure of the facility shall include a policy permitting, under the conditions specified, a licensed nurse to fill individual dose systems such as blister pack, medi-set, or other system approved by the department. The policy shall provide for appropriate records to maintain security of medications received from a pharmacist in accordance with pharmacy standards. The licensed nurse shall appropriately label the medication with name, dosage, amount and time to be taken, and special instructions if appropriate.

Approved March 24, 2004.

CHAPTER 330
(H.B. No. 766)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 423,200	$ 420,900				$ 844,100
Department of Lands Fund	414,600	309,200	$ 75,000			798,800
Endowment Administrative Fund	1,352,600	1,201,900	230,000			2,784,500
Federal Grant Fund	56,600	128,200				184,800
TOTAL	$ 2,247,000	$2,060,200	$305,000			$ 4,612,200
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 1,028,700	$ 65,600				$ 1,094,300
Department of Lands Fund	1,988,500	1,544,600	$ 10,700			3,543,800
Endowment Administrative Fund	6,496,600	2,772,300	569,600	$483,300		10,321,800
Community Forestry Fund				79,700		79,700
Federal Grant Fund	647,900	1,264,600		158,300		2,070,800
TOTAL	$10,161,700	$5,647,100	$580,300	$721,300		$17,110,400
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 704,800	$ 117,600				$ 822,400
Department of Lands Fund	18,100	133,700				151,800
Abandoned Mine Reclamation Fund		251,500				251,500
Reclamation Bond Fund		100,000				100,000
Land and Building Rental Fund	1,000	62,800				63,800
Endowment Administrative Fund	1,986,500	1,281,500	$106,500			3,374,500
TOTAL	$ 2,710,400	$1,947,100	$106,500			$ 4,764,000
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$ 2,049,000	$ 2,049,000
Department of Lands Fund					4,393,200	4,393,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Fire Suppression Deficiency Fund					126,000	126,000
Federal Grant Fund					3,434,600	3,434,600
TOTAL					$10,002,800	$10,002,800
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 202,800	$ 45,500				$ 248,300
GRAND TOTAL	$15,321,900	$9,699,900	$991,800	$721,300	$10,002,800	$36,737,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty and sixty-one hundredths (260.61) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 2004.

CHAPTER 331
(H.B. No. 778)

AN ACT

RELATING TO REAL PROPERTY OWNED BY THE UNIVERSITY OF IDAHO; AMENDING SECTION 58-335, IDAHO CODE, TO PROVIDE FOR A PROCESS TO BE FOLLOWED IN THE DISPOSAL OF REAL PROPERTY BY THE UNIVERSITY OF IDAHO.

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

SECTION 1. That Section 58-335, Idaho Code, be, and the same is hereby amended to read as follows:

58-335. LANDS EXEMPT FROM ACT. This act shall not be construed as applying to any lands or properties acquired under the act of congress, known as the Idaho Admission Act, or in the subsequent operations of the various endowment funds of the state. Nor shall this act apply to any lands or properties in the custody of the board of regents of the University of Idaho in its corporate capacity: provided, however, that the board of regents, desiring to avail itself of the facilities of this act, for the sale, exchange or transfer of any such properties, may proceed to negotiate a sale, transfer or exchange with the state board of land commissioners as would any other tax-supported agency. If the board of regents of the University of Idaho does not avail itself of the

facilities of this act, the board of regents shall use a process for disposal of real property that includes, at a minimum, a required appraisal and public notice of the proposed real property disposal prior to disposal; and for property disposals that are not part of an exchange or transfer, consideration given to granting a first option to purchase to local, state and federal governmental entities.

Approved March 24, 2004.

CHAPTER 332
(H.B. No. 803)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-5208, IDAHO CODE, TO PROVIDE THAT THE PREEXISTING CONDITION LIMITATION SHALL NOT APPLY TO CERTAIN INDIVIDUALS; AMENDING SECTION 41-5501, IDAHO CODE, TO FURTHER DEFINE "ELIGIBLE INDIVIDUAL" AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 41-5510, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL BE ELIGIBLE FOR HEALTH BENEFIT PLANS AND TO PROVIDE THAT CERTAIN LIMITATIONS AND REQUIREMENTS SHALL NOT APPLY IF SUCH PERSONS HAVE MAINTAINED CREDITABLE HEALTH INSURANCE COVERAGE FOR A SPECIFIED PERIOD OF TIME.

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

SECTION 1. That Section 41-5208, Idaho Code, be, and the same is hereby amended to read as follows:

41-5208. AVAILABILITY OF COVERAGE -- PREEXISTING CONDITIONS -- PORTABILITY.

(1) (a) Every individual carrier shall, as a condition of offering health benefit plans in this state to individuals, actively offer health benefit plans to individuals, including the individual basic health benefit plan, the individual standard health benefit plan, the individual catastrophic A health benefit plan and the individual catastrophic B health benefit plan.

(b) An individual carrier shall issue an individual basic, standard, catastrophic A or catastrophic B health benefit plan to any eligible individual that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.

(2) (a) An individual carrier shall file with the director, in a format and manner prescribed by the director, the basic, standard and catastrophic health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by an individual carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the individual carrier, disapprove the continued use by an individual carrier of a basic, standard, or catastrophic health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering individuals shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage to the extent such previous coverage provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage.

(c) An individual carrier shall not modify a basic, standard, or catastrophic health benefit plan with respect to an individual or any dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(d) In the case of an individual who is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, the preexisting condition limitation shall not apply only if the individual maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in pool coverage, not counting any period prior to a sixty-three (63) day break in coverage.

(4) (a) An individual carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To an individual, where the individual is not residing in the carrier's established geographic service area;

(ii) Within an area where the individual carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to individuals because of its obligations to existing groups or individuals.

(b) An individual carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(ii) of this section may not offer coverage in the applicable area to new employer groups with more than fifty (50) eligible employees or to any small employer groups or to any individuals until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to individuals and groups.

(5) An individual carrier shall not be required to provide coverage to individuals pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of individuals in accordance with the provisions of subsection (1) of this section would place the individual carrier in a financially impaired condition.

SECTION 2. 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~~8~~), 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:

(a) A~~a~~n 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; or

(b) An individual who is legally domiciled in Idaho on the date of application to the pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986. 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 3. That Section 41-5510, Idaho Code, be, and the same is hereby amended to read as follows:

41-5510. ELIGIBILITY. (1) Any individual eligible person, who is and continues to be a resident shall be eligible for coverage under an individual basic, standard, catastrophic A or catastrophic B health benefit plan if evidence is provided that:

(a) Such person has been rejected by one (1) individual carrier on the basis of health status or claims experience; or

(b) An individual carrier refuses to issue a health benefit plan providing coverage substantially similar to coverage offered under an equivalent pool plan except at a rate exceeding the rate for the pool plan; or

(c) Such person is legally domiciled in Idaho on the date of application to the pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986. In addition, if such person maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in pool coverage, not counting any period prior to a sixty-three (63) day break in coverage:

(i) The preexisting condition limitation set forth in section 41-5208, Idaho Code, shall not apply; and

(ii) The requirement for exhaustion of any available COBRA or state continuation benefits is waived.

(2) A rejection or refusal by a carrier offering only stop loss, excess of loss or reinsurance coverage with respect to an applicant under subsection (1) of this section shall not constitute sufficient evidence for purposes of subsection (1) of this section.

(3) Each resident dependent of a person who is eligible for coverage under the pool shall also be eligible for coverage under the pool.

(4) A person shall not be eligible for coverage under a pool plan if:

(a) The person has or obtains health insurance coverage substantially similar to or more comprehensive than a pool plan, or would be eligible to have coverage if the person elected to obtain it;

(b) The person is determined to be eligible for health care benefits under medicaid;

(c) The person has previously terminated pool plan coverage unless twelve (12) months have lapsed since such termination; provided however, that this provision shall not apply with respect to an applicant who is a federally defined eligible individual;

(d) The person is an inmate or resident of a state or other public institution, or a state, local or private correctional facility; provided however, that this provision shall not apply with respect to an applicant who is a federally defined eligible individual.

(5) Coverage shall cease:

(a) On the first day of the month following the date a person is no longer a resident of this state;

(b) On the first day of the month following the date a person requests coverage to end;

(c) Upon the death of the covered person;

(d) At the option of the board, thirty (30) days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(6) A person who ceases to meet the eligibility requirements of this section may be terminated on the first day of the month following the date when the individual becomes ineligible.

Approved March 24, 2004.

CHAPTER 333
(H.B. No. 815)

AN ACT
RELATING TO DISCLOSURE OF CONTROLLED SUBSTANCE ADULTERATION OR MISAPPROPRIATION; AMENDING CHAPTER 1, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-117A, IDAHO CODE, TO PROVIDE REPORTING AND DISCLOSURE REQUIREMENTS FOR CERTAIN HEALTH CARE PROVIDERS WHO ARE TERMINATED FROM EMPLOYMENT FOR ADULTERATION OR MISAPPROPRIATION OF CONTROLLED SUBSTANCES.

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

SECTION 1. That Chapter 1, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-117A, Idaho Code, and to read as follows:

37-117A. REPORTING AND DISCLOSURE REQUIREMENTS FOR EMPLOYMENT RELATED ADULTERATION OR MISAPPROPRIATION OF CERTAIN DRUGS. (1) When the employment of a health care provider has been terminated, either voluntarily or involuntarily, for adulteration or misappropriation of controlled substances, as defined in chapter 27, title 37, Idaho Code, the employer shall, within thirty (30) days of the termination, furnish written notice of the termination, described herein as "notice of termination," to the health care provider's professional licensing board of the state of Idaho, which shall include a description of the controlled substance adulteration or misappropriation involved in the termination. An employer who in good faith provides such information shall not be held civilly liable for the disclosure or the consequences of providing the information. There is a rebuttable presumption that an employer is acting in good faith when the employer provides such information. The presumption of good faith is overcome only upon showing by clear and convincing evidence that the employer disclosed the information with actual malice or with deliberate intent to mislead. For the purposes of this section, "actual malice" means knowledge that the information was false or given with reckless disregard of whether the information was false. For the purposes of this section, the term "health care provider" means any person licensed by a professional licensing board of the state of Idaho whose license permits the health care provider to dispense or administer controlled substances. For the purposes of this section, "employer" means a person or entity licensed under chapter 18, title 54, Idaho Code, or chapter 13, title 39, Idaho Code, who employs a health care provider or providers.

(2) A professional licensing board that receives a notice of termination from an employer pursuant to subsection (1) of this section shall maintain the notice of termination for the health care provider. The

notice of termination shall be subject to disclosure in accordance with the provisions of subsection (3) of this section.

(3) Any prospective employer of a health care provider shall, before hiring such health care provider, request in writing that the health care provider's professional licensing board furnish the prospective employer any notice of termination maintained by the board with respect to the health care provider. The prospective employer shall maintain the confidentiality of such information and shall not disclose it to any other person or entity without the prior written approval of the health care provider or as required by law, court order or the rules of civil procedure. The professional licensing board shall require, as a condition of furnishing the notice of termination, that the prospective employer file a written request for the health care provider's notice of termination, stating under oath that the request for the notice of termination is made for a bona fide hiring purpose, that the request is made pursuant to the provisions of this section, and that the prospective employer will not disclose the information to any other person or entity without the prior written approval of the health care provider or as required by law, court order or rules of civil procedure. In the event that the prospective employer discloses the information in the notice of termination to any other person or entity in violation of the provisions of this section, and unless the disclosure is required by law, court order or the rules of civil procedure, the health care provider may pursue a civil cause of action against the prospective employer for a breach of the health care provider's right of privacy. Upon receipt of a request made in accordance with this section for a health care provider's notice of termination, the professional licensing board shall furnish the notice of termination to the prospective employer. The professional licensing board shall not be held liable for the correctness or completeness of the information contained in the notice of termination and shall include a disclaimer statement on all released information, attesting that the information has not been verified by the professional licensing board. An employer who obtains a notice of termination from the appropriate professional licensing board as provided in this section shall not be held civilly liable for hiring or contracting with a health care provider who the employer in good faith believes has been rehabilitated from drug abuse, absent the employer's gross negligence or reckless conduct.

(4) Notices of termination submitted hereunder shall be maintained and available to employers as set forth above for fifteen (15) years from the date of receipt by the professional licensing board.

Approved March 24, 2004.

CHAPTER 334
(H.B. No. 839)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2005; AND AUTHORIZING ONE-HALF ADDITIONAL FULL-TIME EQUIVALENT POSITION.

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

SECTION 1. In addition to the appropriation made in Section 2, House Bill No. 762, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Self-Governing Agencies for the Medical Boards, 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, 2004, through June 30, 2005:

I. BOARD OF NURSING:

FOR:	
Personnel Costs	$12,000
FROM:	
State Regulatory Fund	$12,000

SECTION 2. In addition to the full-time equivalent positions authorized in Section 4, House Bill No. 762, as enacted by the Second Regular Session of the Fifty-Seventh Idaho Legislature, the Board of Nursing is hereby authorized an additional one-half (0.5) full-time equivalent position for the period July 1, 2004, through June 30, 2005.

Approved March 24, 2004.

CHAPTER 335
(S.B. No. 1279, As Amended, As Amended in the House)

AN ACT

RELATING TO DRINKING WATER AND WASTEWATER; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 24, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A DECLARATION OF POLICY, TO REQUIRE LICENSING OF CERTAIN OPERATING PERSONNEL FOR PUBLIC DRINKING WATER SYSTEMS, PUBLIC WASTEWATER SYSTEMS AND PERSONS PERFORMING BACKFLOW ASSEMBLY TESTING OR INSPECTION, TO PROHIBIT SPECIFIED CONDUCT, TO PROHIBIT THE TRANSFER OF LICENSES, TO PROVIDE EXEMPTIONS TO SPECIFIED LICENSURE REQUIREMENTS, TO DEFINE TERMS, TO PROVIDE FOR THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS, TO PROVIDE FOR QUALIFICATIONS AND APPOINTMENT, TO PROVIDE FOR TERMS, TO PROVIDE FOR REMOVAL, TO PROVIDE FOR BOARD PROCEDURES, TO PROVIDE FOR THE PAYMENT OF EXPENSES OF BOARD MEMBERS, TO PROVIDE FOR POWERS AND DUTIES OF THE BOARD, TO PROVIDE FOR FEES, TO PROVIDE FOR THE PAYMENT OF COSTS AND EXPENSES, TO PROVIDE FOR LICENSING BY THE BUREAU OF OCCUPATIONAL LICENSES, TO PROVIDE FOR LICENSES, TO REQUIRE THE BOARD TO KEEP AND THE BUREAU TO MAINTAIN CERTAIN RECORDS, TO PROVIDE FOR THE SUBMISSION AND REVIEW OF APPLICATIONS FOR LICENSURE, TO PROVIDE LICENSE CATEGORIES, TO PROVIDE APPLICANT REQUIREMENTS, TO PROVIDE FOR ENDORSEMENT AND LICENSURE OF PERSONS LICENSED IN OTHER STATES PROVIDED CERTAIN QUALIFICATIONS ARE MET, TO PROVIDE REQUIREMENTS FOR THE ANNUAL RENEWAL OF LICENSES, TO PROVIDE FOR THE REVOCATION OR SUSPENSION OF LICENSES, TO PROVIDE FOR POWERS OF THE BOARD, TO PROVIDE PROCEDURES FOR DISCIPLINARY PROCEEDINGS, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE FOR DUTIES OF PROSECUTING ATTORNEYS AND THE ATTORNEY GENERAL; AMENDING SECTION 39-105, IDAHO CODE, TO

REVISE THE POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 67-2601, IDAHO CODE, TO INCLUDE THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES; 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 24, Title 54, Idaho Code, and to read as follows:

CHAPTER 24
DRINKING WATER AND WASTEWATER
PROFESSIONALS LICENSING ACT

54-2401. SHORT TITLE -- DECLARATION OF POLICY. (1) This chapter shall be known and cited as the "Drinking Water and Wastewater Professionals Licensing Act."

(2) In order to protect the public health, safety and welfare, and safeguard the water and land resources of Idaho, the practice of drinking water operators, wastewater operators, and backflow assembly testers in this state is hereby declared to be subject to regulation in the public interest.

54-2402. LICENSE REQUIRED. It shall be unlawful for any person who is not licensed under the provisions of this chapter to operate, offer to operate, be in responsible charge of, or to otherwise serve as operating personnel at any public drinking water system or any public wastewater system as defined in the provisions of this chapter. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. It shall be unlawful for any person to use, in connection with their name or otherwise assume or advertise, any title or description tending to convey the impression of being a water or wastewater system operator, unless such person has been duly registered and possesses a current license in good standing issued by the board or is otherwise exempted under the provisions of this chapter. Furthermore, it shall be unlawful for any person who is the designated responsible charge operator of a drinking water or wastewater system to not be licensed at a category class equal to or greater than the classification of the drinking water or wastewater system. It shall be unlawful for any person to perform backflow assembly testing or inspection unless such person is licensed under the provisions of this chapter. The right to practice as a drinking water operator, wastewater operator, or backflow assembly tester shall be deemed a personal right, based on the qualifications of the individual as evidenced by a current license, and shall not be transferable. Provided however, that persons licensed, registered or otherwise regulated by the state of Idaho to practice a profession shall not be required to obtain a license under this act in order to practice within the scope of practice of the profession for which they are licensed, registered or otherwise regulated.

54-2403. DEFINITIONS. As used in this chapter:

(1) "Backflow assembly tester" means a person who tests backflow prevention assemblies and who holds a current Idaho backflow assembly tester license.

(2) "Backflow prevention assembly" means a set of mechanical components, which prevents the undesired backflow of water or other liquids into a potable water system, and can be in-line tested and repaired.

(3) "Board" means the state board of drinking water and wastewater professionals as provided in section 54-2404, Idaho Code.

(4) "Bureau" means the Idaho bureau of occupational licenses.

(5) "Certified" means the board has confirmed that an applicant has met all the requirements for licensure under this chapter and has approved the issuance of a license to practice in Idaho under the provisions of this chapter.

(6) "Collection system" means that portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/liftstations and other appurtenances.

(7) "Distribution system" means that portion of the water utility in which water is stored and conveyed from the water treatment plant or other supply point to the premises of a consumer.

(8) "Drinking water operator" means any person who operates public drinking water systems, water treatment plants or other systems in order to treat water so that it is safe to drink and who holds a current Idaho water system operator license.

(9) "Laboratory analyst" means any person responsible for conducting laboratory analysis tasks in the laboratory of a wastewater system.

(10) "License" means a physical document issued by the bureau certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of this chapter.

(11) "Operator" or "operating personnel" means any person who is employed, retained, or appointed to conduct the tasks associated with the day to day operation and maintenance of a public drinking water system or a public wastewater system.

(12) "Public drinking water system or public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Every community and nontransient noncommunity water system, and each transient water system using a surface water source or ground water source directly influenced by surface water, shall be operated by a certified drinking water operator.

(13) "Public wastewater system or wastewater system" means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a nonprofit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hun-

dred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, nonmechanical septic tank and subsurface treatment and distribution system, or industrial wastewater systems under private ownership.

(14) "Responsible charge" means active, daily, on-site, or on call responsibility, for the performance of operations or active, ongoing, on-site and on call direction of employees and assistants at a public drinking water system or a public wastewater system.

(15) "Responsible charge operator" means an operator of a public drinking water system, designated by the system owner, who holds a valid certificate at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system.

(16) "Wastewater operator" means a person who operates public wastewater systems, or public wastewater treatment plants or other systems, in order to remove harmful pollutants from domestic and industrial liquid waste so that it is safe to return to the environment, and who holds a current Idaho wastewater system operator license.

54-2404. STATE BOARD ESTABLISHED -- MANNER OF APPOINTMENT -- QUALIFICATIONS -- TERMS OF OFFICE -- REMOVAL FROM OFFICE. (1) In order to safeguard the environment and protect the public health and establish the minimum competency requirements of persons whose duties are identified in this chapter, there is hereby established in the department of self-governing agencies a board of drinking water and wastewater professionals for drinking water and wastewater operators and backflow assembly testers, hereinafter called the board.

(2) The governor shall, within thirty (30) days after the effective date of this chapter, appoint seven (7) members to the board, two (2) of whom shall be drinking water system operators, two (2) of whom shall be wastewater system operators, and one (1) who shall be a backflow assembly tester, all of whom shall be citizens of the United States, residents of the state of Idaho and licensed under the provisions of this chapter, and one (1) who shall be lawfully entitled to reside in the United States and be a resident of the state of Idaho and not be licensed under the provisions of this chapter or otherwise affiliated with water or wastewater operations within five (5) years of the time of appointment, and one (1) who shall be the director of the Idaho department of environmental quality or the director's designated agent.

(3) The members of the first board shall serve for the following terms: one (1) drinking water member and one (1) wastewater member shall serve for one (1) year; one (1) drinking water member and one (1) wastewater member shall serve for two (2) years; and the backflow assembly tester and the public member shall serve for three (3) years from the effective date of appointment or until a successor is duly appointed and qualified. Upon the expiration of the term of any member of the board, the governor shall appoint each member for a term of three (3) years. Each member shall hold office until the expiration of the term for which said member is appointed. Each member shall serve until a successor is appointed. No member shall be appointed for more than two (2) successive terms or a total of two (2) terms during the life of the board or member.

(4) The governor may remove any member of the board for misconduct, incompetence, neglect of duty, or for any other cause.

54-2405. STATE BOARD PROCEDURES -- PAYMENT OF EXPENSES OF BOARD MEMBERS. (1) The members of the board shall, as soon as appointed, organize and at least annually thereafter elect from their number a chairman. The board shall hold at least two (2) meetings each year to transact such business as may be necessary to carry out the provisions of this chapter. Four (4) members of the board shall constitute a quorum and special meetings of the board shall be called by the chairman upon written request of any three (3) members; all meetings shall be open to the public.

(2) The members of the board shall be compensated as provided by section 59-509(g), Idaho Code, subject to availability of funds collected under the provisions of this chapter.

54-2406. POWERS AND DUTIES OF BOARD. (1) It shall be the duty of the board to carry out the provisions of this chapter, review applications, conduct written examinations, charge such fees as the board deems reasonable to cover the cost of licensing, keep records of its transactions, administer disciplinary actions, and record all matters which appropriately may come before it. The board shall have the power to adopt and amend rules including, but not limited to, a code of ethics and standards of conduct that may be reasonably necessary for the proper performance of its duties and the administration of this chapter and the regulation of proceedings before the board. The board shall, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

(2) The board may adopt license requirements for subcategories based on the size and type of system or for other related areas of expertise, such as backflow assembly testers for public drinking water systems.

54-2407. FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall collect a fee not to exceed one hundred dollars ($100) for each application, each administration of an examination, each original license, and each annual renewal of any license issued pursuant to this chapter, and shall deposit all fees in the state treasury in accordance with section 67-2605, Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee equal to that charged by the examination provider when an examination is required as a condition of licensure. All required fees shall not be prorated and are nonrefundable.

(2) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

54-2408. LICENSES -- RECORDS. (1) The bureau of occupational licenses shall, upon the approval of the board and subject to the provisions of this chapter, register and issue licenses to persons who have been approved by the board in accordance with this chapter. The licenses shall bear on their face the seal of the state and the signature of the

chief of the bureau of occupational licenses, and will be effective until the next birthday of the individual being certified. Licenses so issued shall be renewed annually in accordance with section 67-2614, Idaho Code. The provisions of sections 67-2609 through 67-2614, Idaho Code, shall apply to licenses issued pursuant to this chapter.

(2) The board shall keep and the bureau shall maintain a record of board proceedings and a register of all applications that show:

(a) The name, age, social security number and residency of each applicant;

(b) The date of application;

(c) The place of business of such applicant;

(d) The educational and other qualifications of each applicant;

(e) Whether or not an examination was required;

(f) Whether the applicant was rejected;

(g) Whether a license was issued;

(h) The dates of the action by the board;

(i) Compliance with continuing education requirements; and

(j) Such other information as may be deemed necessary by the board.

54-2409. APPLICATION FORM -- LICENSE CATEGORIES -- QUALIFICATIONS FOR REGISTRATION AND LICENSE. (1) The board shall approve an application form for the use of applicants. Each applicant shall submit an original application to the board and provide information and documentation as the board may require including, but not limited to, information relating to the education and experience of the applicant. The board shall accept for review the complete application of any person whose application, accompanied by the necessary documentation and fees, is submitted. The board shall carefully evaluate each application, and shall approve the registration and issuance of a license to any applicant of good moral character who has met the education, experience and examination requirements set forth in this chapter and the rules adopted pursuant to the provisions of this chapter. If the board finds upon the basis of evidence submitted, and in accordance with the provisions of this chapter, that the applicant does not meet the requirements, the application shall be denied and any fees submitted shall not be refunded.

(2) The board shall issue licenses in the following categories:

(a) Drinking water distribution operator and drinking water treatment operator classes;

(b) Wastewater treatment operator, wastewater collection system operator, and wastewater laboratory analyst classes;

(c) Backflow assembly tester.

(3) Each applicant for licensure as a water system operator or wastewater system operator shall submit to the board a complete application with the required fee and provide documentation of having met the following requirements prior to being considered for a license:

(a) Be a lawful resident of the United States;

(b) Possess a high school diploma, GED, or the equivalent;

(c) Document additional education as outlined by rule;

(d) Document such experience as is required by rule;

(e) Successful completion of and a passing grade on the required examination; and

(f) Other such requirements as may be determined by board rule.

54-2410. ENDORSEMENT -- LICENSES FROM OTHER STATES. Any person who holds a valid license to practice as a drinking water system operator or a wastewater system operator or a backflow assembly tester from any other state in which the legally enacted qualifications for licensure are not lower than the qualifications for licensure set forth in this chapter and in the rules adopted pursuant hereto, may upon proper application and payment of a fee as may be established by board rule not to exceed one hundred dollars ($100), and with the approval of the board, be accepted for licensure under the provisions of this chapter.

54-2411. ANNUAL RENEWAL OF LICENSE. Every person licensed under the provisions of this chapter shall annually pay the prescribed renewal fee and certify compliance with continuing education requirements and provide such other information as the board may request. Any license canceled for failure to meet the renewal requirements may be reinstated according to section 67-2614, Idaho Code.

54-2412. REVOCATION OR SUSPENSION OF LICENSE -- POWERS OF BOARD -- PROCEDURES FOR DISCIPLINARY PROCEEDINGS. (1) The board shall have the power to revoke, suspend, refuse to issue, refuse to renew, or otherwise limit any license or certificate issued pursuant to the provisions of this chapter for any of the following:

(a) Procuring a license or registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure or through any form of fraud or misrepresentation;

(b) Being convicted of a felony;

(c) Misrepresentation, or fraudulent representation in the performance of any duty, conduct or activity regulated under this chapter;

(d) Violating the provisions of this chapter or any rules of the board or any code of conduct or ethical standards adopted by the board;

(e) Being negligent or incompetent;

(f) Failing to provide appropriate and personal supervision, if acting as the designated responsible charge operator, to any person gaining experience under the provisions of this chapter.

(2) The board shall have the power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire, relevant to any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of books, records or papers, directed to the sheriff of any county of the state of Idaho where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case.

(3) The procedures for disciplinary proceedings shall be in compliance with the Idaho administrative procedure act and the rules of the office of the attorney general and the bureau of occupational licenses.

54-2413. VIOLATIONS AND PENALTIES. Any person who shall practice or attempt to offer to practice as a drinking water operator or wastewater operator or backflow assembly tester, as defined in this chapter, with-

out having at the time of so doing a current, unexpired, unrevoked, and unsuspended license issued under this chapter shall be deemed guilty of a misdemeanor and, for each violation, shall be subject to punishment by a fine of not more than one thousand dollars ($1,000) or by imprisonment for a period of not more than six (6) months, or both.

54-2414. DUTY OF PROSECUTING ATTORNEY -- DUTY OF ATTORNEY GENERAL. It shall be the duty of the prosecuting attorney of each county to prosecute all violations of this chapter constituting a violation of criminal law and it shall be the duty of the attorney general of the state of Idaho to prosecute any administrative actions brought under the provisions of this chapter as requested by the board.

SECTION 2. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 62, 64, 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his predecessors in law, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All 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 act, formulate and recommend to the board, rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule 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 adopted by the board, shall have the general supervision of the promotion and protection of the environment 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 promulgated hereunder. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits

covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.

(b) The enforcement of rules relating to public water supplies and to administer the drinking water loan fund pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking water systems as defined in the federal safe drinking water act as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to, ~~the adoption and implementation of an operator certification program;~~ the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.

(c) 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 environmental pollution. All of the rules adopted by the board hereunder shall apply to state institutions.

(d) The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

(e) The supervision and administration of a system to safeguard the quality of the waters of this state including, but not limited to, the enforcement of rules relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution. For purposes of complying with the clean water act, the director may provide an exemption from additional reductions for those nonpoint sources that meet the applicable reductions set forth in an approved TMDL as defined in chapter 36, title 39, Idaho Code.

(f) 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 environmental pollution.

(g) The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

(i) The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

(ii) Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

(iii) Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

(iv) The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

(v) The authority to develop and propose rules as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

(h) The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

(i) The ~~adoption-and-implementation-of-a-public-wastewater-operator certification--program--to-ensure-the-operators-of-public-wastewater treatment-facilities--have-the-technical-expertise-and-certification to-comply-with-federal-regulations--and--state--rules--dealing--with wastewater;--and--the~~ enhancement and protection of source waters of the state pursuant to rules of the board.

(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 including, but not limited to, the federal water pollution control act, for use in or by the state of Idaho in relation to health and environmental protection.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial or recreational 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.

SECTION 3. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter

35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; and the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; ~~and~~ the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code,

relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and broker licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing 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 its passage and approval.

Approved March 24, 2004.

CHAPTER 336
(H.B. No. 632)

AN ACT

RELATING TO POWERS AND DUTIES OF THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-520, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT SHALL ADOPT A POLICY GOVERNING MEDICAL INHALERS AND SELF-ADMINISTRATION OF MEDICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 5, 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 33-520, Idaho Code, and to read as follows:

33-520. POLICY GOVERNING MEDICAL INHALERS. (1) The board of trustees of each school district, including charter districts, shall adopt a policy by September 1, 2004, permitting the self-administration of medication administered by way of a metered-dose inhaler by a pupil for asthma or other potentially life-threatening respiratory illness.

(2) As used in this section:

(a) "Medication" means a metered-dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms, prescribed by a physician and having an individual label; and

(b) "Self-administration" means a student's use of medication pursuant to prescription or written direction from a physician.

(3) A student who is permitted to self-administer asthma medication pursuant to this section shall be permitted to possess and use a prescribed inhaler at all times.

(4) Nothing in this section shall be construed to prevent a school district from requiring pupils to maintain current duplicate prescription medications with the school nurse or, in the absence of such nurse, with the school administrator.

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

Approved March 24, 2004.

CHAPTER 337
(H.B. No. 668)

AN ACT

RELATING TO THE CRIME OF STALKING; AMENDING SECTION 18-920, IDAHO CODE, TO PROVIDE A CODE REFERENCE; REPEALING SECTION 18-7905, IDAHO CODE, RELATING TO STALKING; AMENDING CHAPTER 79, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7905, IDAHO CODE, TO PROVIDE FOR THE CRIME OF STALKING IN THE FIRST DEGREE, TO DEFINE TERMS AND TO SET FORTH PUNISHMENT; AMENDING CHAPTER 79, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7906, IDAHO CODE, TO PROVIDE FOR STALKING IN THE SECOND DEGREE, TO DEFINE TERMS AND TO SET FORTH PUNISHMENT; AND AMENDING SECTION 19-603, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND DESCRIPTIVE LANGUAGE.

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

SECTION 1. That Section 18-920, Idaho Code, be, and the same is hereby amended to read as follows:

18-920. VIOLATION OF NO CONTACT ORDER. (1) When a person is charged with or convicted of an offense under section 18-901, 18-903, 18-905, 18-907, 18-909, 18-911, 18-913, 18-915, 18-918, 18-919, 18-6710, 18-6711, <u>18-7905, 18-7906</u> or 39-6312, Idaho Code, or any other offense for which a court finds that a no contact order is appropriate, an order forbidding contact with another person may be issued. A no contact order may be imposed by the court or by Idaho criminal rule.

(2) A violation of a no contact order is committed when:

(a) A person has been charged or convicted under any offense defined in subsection (1) of this section; and

(b) A no contact order has been issued, either by a court or by an Idaho criminal rule; and

(c) The person charged or convicted has had contact with the stated person in violation of an order.

(3) A violation of a no contact order is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one (1) year, or both. No bond shall be set for this violation until the person charged is brought before the court which will set bond. Further, any such violation may result in the increase, revocation or modification of the bond set in the underlying charge for which the no contact order was imposed.

(4) A peace officer may arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a no contact order issued under this section if the person restrained had notice of the order.

SECTION 2. That Section 18-7905, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 79, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7905, Idaho Code, and to read as follows:

18-7905. STALKING IN THE FIRST DEGREE. (1) A person commits the crime of stalking in the first degree if the person violates section 18-7906, Idaho Code, and:

(a) The actions constituting the offense are in violation of a temporary restraining order, protection order, no contact order or injunction, or any combination thereof; or

(b) The actions constituting the offense are in violation of a condition of probation or parole; or

(c) The victim is under the age of sixteen (16) years; or

(d) At any time during the course of conduct constituting the offense, the defendant possessed a deadly weapon or instrument; or

(e) The defendant has been previously convicted of a crime under this section or section 18-7906, Idaho Code, or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment; or

(f) The defendant has been previously convicted of a crime, or an attempt, solicitation or conspiracy to commit a crime, involving the same victim as the present offense under any of the following provisions of Idaho Code or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment:

(i) Chapter 9, title 18;

(ii) Chapter 15, title 18;

(iii) Chapter 61, title 18;

(iv) Section 18-4014 (administering poison with intent to kill);

(v) Section 18-4015 (assault with intent to murder);

(vi) Section 18-4501 (kidnapping);

(vii) Section 18-5501 (poisoning);
(viii) Section 18-6608 (forcible sexual penetration by use of foreign object);
(ix) Section 18-7902 (malicious harassment); or
(x) Section 18-8103 (act of terrorism).

(2) In this section, "course of conduct" and "victim" have the meanings given in section 18-7906(2), Idaho Code.

(3) For the purpose of this section, 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 this section or section 18-7906, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(4) Stalking in the first degree is a felony punishable by a fine not exceeding ten thousand dollars ($10,000) or imprisonment in the state prison for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment.

SECTION 4. That Chapter 79, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7906, Idaho Code, and to read as follows:

18-7906. STALKING IN THE SECOND DEGREE. (1) A person commits the crime of stalking in the second degree if the person knowingly and maliciously:

(a) Engages in a course of conduct that seriously alarms, annoys or harasses the victim and is such as would cause a reasonable person substantial emotional distress; or

(b) Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

(2) As used in this section:

(a) "Course of conduct" means repeated acts of nonconsensual contact involving the victim or a family or household member of the victim, provided however, that constitutionally protected activity is not included within the meaning of this definition.

(b) "Family or household member" means:

(i) A spouse or former spouse of the victim, a person who has a child in common with the victim regardless of whether they have been married, a person with whom the victim is cohabiting whether or not they have married or have held themselves out to be husband or wife, and persons related to the victim by blood, adoption or marriage; or

(ii) A person with whom the victim is or has been in a dating relationship, as defined in section 39-6303, Idaho Code; or

(iii) A person living in the same residence as the victim.

(c) "Nonconsensual contact" means any contact with the victim that is initiated or continued without the victim's consent, that is beyond the scope of the consent provided by the victim, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued. "Nonconsensual contact" includes, but is not limited to:

(i) Following the victim or maintaining surveillance, including by electronic means, on the victim;
(ii) Contacting the victim in a public place or on private property;
(iii) Appearing at the workplace or residence of the victim;
(iv) Entering onto or remaining on property owned, leased or occupied by the victim;
(v) Contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously regardless of whether a conversation ensues;
(vi) Sending mail or electronic communications to the victim; or
(vii) Placing an object on, or delivering an object to, property owned, leased or occupied by the victim.

(d) "Victim" means a person who is the target of a course of conduct.

(3) Stalking in the second degree is punishable by imprisonment in the county jail for not more than one (1) year or by a fine of not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SECTION 5. That Section 19-603, Idaho Code, be, and the same is hereby amended to read as follows:

19-603. WHEN PEACE OFFICER MAY ARREST. A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.
2. When a person arrested has committed a felony, although not in his presence.
3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.
4. On a charge made, upon a reasonable cause, of the commission of a felony by the party arrested.
5. At night, when there is reasonable cause to believe that he has committed a felony.
6. When upon immediate response to a report of a commission of a crime there is probable cause to believe, that the person arrested has committed a violation of section 18-902 (assault), 18-903 (battery), 18-918 (domestic assault or battery), 18-7905 (first degree stalking), 18-7906 (second degree stalking), 39-6312 (violation of a protection order), or 18-920 (violation of a no contact order).
7. When there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of a crime aboard an aircraft, that the person arrested has committed such a crime.

Approved March 24, 2004.

CHAPTER 338
(H.B. No. 840)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2005; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2004; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2005; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2004; AND DECLARING AN EMERGENCY FOR SECTIONS 2 AND 4 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 3, House Bill No. 762, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Self-Governing Agencies, for the Regulatory Boards, 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, 2004, through June 30, 2005:

I. BUREAU OF OCCUPATIONAL LICENSES:

FOR:	
Personnel Costs	$ 60,000
Operating Expenditures	55,000
TOTAL	$115,000
FROM:	
State Regulatory Fund	$115,000

SECTION 2. In addition to the appropriation made in Section 3, Chapter 347, Laws of 2003, there is hereby appropriated to the Department of Self-Governing Agencies, for the Regulatory Boards, 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:

I. BUREAU OF OCCUPATIONAL LICENSES:

FOR:	
Personnel Costs	$27,500
Operating Expenditures	29,000
Capital Outlay	4,000
TOTAL	$60,500
FROM:	
State Regulatory Fund	$60,500

SECTION 3. In addition to the full-time equivalent positions authorized in Section 4, House Bill No. 762, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, the Bureau of Occupational Licenses is hereby authorized an additional two (2) full-time equivalent positions for the period July 1, 2004, through June 30, 2005.

SECTION 4. In addition to the full-time equivalent positions authorized in Section 4, Chapter 347, Laws of 2003, the Bureau of Occupational Licenses is hereby authorized an additional two (2) full-time equivalent positions for the period July 1, 2003, through June 30, 2004.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 2 and 4 of this act shall be in full force and effect on and after passage and approval.

Approved March 24, 2004.

CHAPTER 339
(H.B. No. 752, As Amended)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE FOR RENEWAL OF A DRIVER'S LICENSE UPON APPLICATION IN PERSON WITHOUT THE REQUIREMENT TO TAKE A KNOWLEDGE OR SKILLS TEST IF THE IDAHO DRIVER'S LICENSE HAS EXPIRED WHILE THE PERSON WAS SERVING ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES OR IS A MEMBER OF THE IMMEDIATE FAMILY ACCOMPANYING SUCH PERSON; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.

(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.

(c) Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.

(d) Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.

(e) Except licenses issued to drivers under twenty-one (21) years of age, every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any Class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year Class A, B or C license.

(3) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(4) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(5) Except for drivers under twenty-one (21) years of age, when a driver's license has been expired for fewer than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance.

(6) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to two (2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(7) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four

(4) years so long as active duty continues, or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver's license expired while on active duty, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(8) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(9) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(10) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

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

Approved March 25, 2004.

CHAPTER 340
(S.B. No. 1430)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF ADMINISTRATORS; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2005; 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 2005; EXPRESSING LEGISLATIVE INTENT THAT CERTAIN STATE FUNDED BENEFITS BE PAID; AND DECLARING AN EMERGENCY FOR SECTION 4 OF THIS ACT.

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, 2004, through June 30, 2005:

FROM:

General Fund	$72,821,000
Federal Grant Fund	1,580,000
TOTAL	$74,401,000

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2004, through June 30, 2005:

FROM:

General Fund	$72,821,000

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, 2004, through June 30, 2005:

FROM:

Public School Income Fund	$72,821,000
Federal Grant Fund	1,580,000
TOTAL	$74,401,000

SECTION 4. It is legislative intent that public school employee benefits paid by the state, pursuant to Section 33-1004F, Idaho Code, be paid for all eligible employees that a school district or charter school actually employs with its salary-based apportionment allotment, regardless of whether such employees are categorized as administrative, instructional or classified staff.

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

Approved March 25, 2004.

CHAPTER 341
(S.B. No. 1431)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF TEACHERS; 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 2005; AMENDING SECTION 33-1004A, IDAHO CODE, TO INCREASE THE MAXIMUM LIMIT ON EXPERIENCE AND EDUCATION MULTIPLIERS FOR INSTRUCTIONAL STAFF; AMENDING SECTION 33-1004E, IDAHO CODE, TO REVISE THE INSTRUCTIONAL SALARY ALLOCATION AND REVISE THE MINIMUM SALARY FOR FULL-TIME INSTRUCTIONAL STAFF; PROVIDING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; DIRECTING THAT UP TO $696,400 BE DISTRIBUTED FOR MASTER TEACHER AWARD PAYMENTS; AND DIRECTING THAT $500,000 BE ALLOCATED FOR TRAINING TO SERVE THE NEEDS OF GIFTED AND TALENTED STUDENTS.

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, 2004, through June 30, 2005:

FROM:

General Fund	$633,663,400
Federal Grant Fund	51,945,200
TOTAL	$685,608,600

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2004, through June 30, 2005:

FROM:

General Fund	$633,663,400

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, 2004, through June 30, 2005:

FROM:

Public School Income Fund	$633,663,400
Federal Grant Fund	51,945,200
TOTAL	$685,608,600

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~~ 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds ~~1.58513~~ 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of ~~1.58513~~ 1.59092 divided by the actual statewide average multiplier for instructional staff.

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 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of $23,210. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. The instructional salary allocation shall be increased by ~~$1,000~~ the amount necessary for each ~~teacher~~ full-time equivalent instructional staff member placed on ~~step one, column one, of~~ the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than ~~the state instructional base salary plus $1,000, or $25,000, whichever is greater~~ $27,500. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive $2,000 per year for five (5) years. The instructional salary shall be increased by $2,000 for each master teacher. The resulting amount is the

district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $33,760. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply $18,463 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 6. 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, 2004, through June 30, 2005.

SECTION 7. Of the moneys appropriated in Section 3 of this act, an amount up to $696,400 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 8. 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 1 child count. The number of gifted/talented students identified for purposes of this section shall not exceed seven percent (7%) of the district's total student enrollment. No district shall receive less than $500. Funds shall be distributed upon submission and approval of an application submitted to the State Department of Education demonstrating how in-service training will establish or improve identification and service of gifted/talented stu-

dents 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.

Approved March 25, 2004.

CHAPTER 342
(S.B. No. 1432)

AN ACT

RELATING TO THE APPROPRIATION FOR THE 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 2005; 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; DIRECTING THAT CERTAIN TECHNOLOGY GRANT REQUESTS BE GIVEN HIGHER PRIORITY; APPROPRIATING THE AMOUNT OF GENERAL FUND MONEYS NECESSARY AS DETERMINED BY SECTION 33-1002D, IDAHO CODE, FOR PROPERTY TAX REPLACEMENT; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT; AND AMENDING SECTION 33-1004E, IDAHO CODE, TO INCREASE BASE SALARY FOR CLASSIFIED STAFF.

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, 2004, through June 30, 2005:

FROM:

General Fund	$244,022,100
Public School Endowment Earnings Reserve Fund Transfer	22,957,800
Federal Mineral Royalties	1,500,000
Liquor Control Fund	1,200,000
Miscellaneous Receipts/Balances	1,250,000
Federal Grant Fund	5,314,600
TOTAL	$276,244,500

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2004, through June 30, 2005:

FROM:

General Fund	$244,022,100

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, 2004, through June 30, 2005:

FROM:

Public School Income Fund	$270,929,900
Federal Grant Fund	5,314,600
TOTAL	$276,244,500

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; 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. Moneys granted for one-time expenditures shall be used by school districts in such a way as to enable districts to participate effectively in the Idaho Student Information Management System (ISIMS). Funds not needed for ISIMS may be used to purchase software, electronic communications connectivity, technology equipment, or repairs and maintenance of such equipment.

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. For the portion of federal technology grants to school districts that are competitively granted, the State Department of Education shall assign a higher priority to grant requests that demonstrate a need for funds to enable a school district to participate effectively in the Idaho Student Information Management System.

SECTION 7. 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, 2004, through June 30, 2005.

SECTION 8. 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 $24,450 per support unit.

SECTION 9. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the state-

wide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of $23,210. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. The instructional salary allocation shall be increased by $1,000 for each teacher placed on step one, column one, of the experience and education index. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than the state instructional base salary plus $1,000, or $25,000, whichever is greater. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive $2,000 per year for five (5) years. The instructional salary shall be increased by $2,000 for each master teacher. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $33,760. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply ~~$18,463~~18,648 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

Approved March 25, 2004.

CHAPTER 343
(S.B. No. 1433)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF CHILDREN'S PROGRAMS; PROVIDING A DESCRIPTION OF THE PUBLIC SCHOOLS 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 2005; 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 $2,800,000 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 $4,850,000 BE ALLOCATED FOR PROGRAMS FOR STUDENTS WITH NON-ENGLISH OR LIMITED-ENGLISH PROFICIENCY; DIRECTING THE STATE BOARD OF EDUCATION TO DEVELOP A PROGRAM TO ASSIST STUDENTS TESTING BELOW PROFICIENCY; DIRECTING THAT $450,000 BE DISTRIBUTED TO THE IDAHO DIGITAL LEARNING ACADEMY; AND GRANTING AUTHORITY TO TRANSFER FUNDS BETWEEN THE FIVE DIVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM BUDGET.

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, 2004, through June 30, 2005:

FROM:	
General Fund	$ 14,200,000
Cigarette/Tobacco and Lottery Income Taxes	4,700,000
Federal Grant Fund	99,140,200
TOTAL	$118,040,200

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2004, through June 30, 2005:

FROM:	
General Fund	$14,200,000

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, 2004, through June 30, 2005:

FROM:

Public School Income Fund	$ 18,900,000
Federal Grant Fund	99,140,200
TOTAL	$118,040,200

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, 2004, through June 30, 2005.

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 programs to the State Department of Education as to the effectiveness of their programs.

SECTION 7. Of the moneys appropriated in Section 3 of this act, $2,800,000 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 with state literacy programs, resulting in well-coordinated, complementary literacy efforts.

SECTION 8. Of the moneys appropriated in Section 3 of this act, $4,850,000 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 Board of Education shall utilize its appropriation of federal grant funds to develop a computer-based system of tutoring and assistance for students failing to achieve proficiency in one (1) or more areas of the Idaho Standards Achievement Test.

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. 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.

Approved March 25, 2004.

CHAPTER 344
(S.B. No. 1434)

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 2005; TRANSFERRING AND APPROPRIATING CERTAIN FUNDS TO THE BOND LEVY EQUALIZATION FUND; TRANSFERRING AND APPROPRIATING CERTAIN FUNDS TO THE SCHOOL SAFETY AND HEALTH REVOLVING LOAN AND GRANT FUND; AND DIRECTING THE DISTRIBUTION OF CERTAIN FUNDS PURSUANT TO IDAHO CODE.

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, 2004, through June 30, 2005:

FROM:

School District Building Account	$11,300,000

SECTION 2. The provisions of Section 33-905, Idaho Code, notwithstanding, of the moneys appropriated in Section 1 of this act, $2,000,000 is hereby transferred and appropriated from the School District Building Account to the Bond Levy Equalization Fund. There is hereby appropriated $2,000,000 from the Bond Levy Equalization Fund, to be expended pursuant to the provisions of Section 33-906, Idaho Code.

SECTION 3. The provisions of Section 33-905, Idaho Code, notwithstanding, of the moneys appropriated in Section 1 of this act, $377,500 is hereby transferred and appropriated from the School District Building

Account to the School Safety and Health Revolving Loan and Grant Fund. There is hereby appropriated $377,500 from the School Safety and Health Revolving Loan and Grant Fund, to be expended pursuant to the provisions of Section 33-1017, Idaho Code, notwithstanding the provisions of subsection (12) of Section 33-1017, Idaho Code.

SECTION 4. Any moneys appropriated in Section 1 of this act that are not utilized to satisfy the provisions of Sections 2 and 3 of this act shall be distributed pursuant to the provisions of Section 33-905, Idaho Code.

Approved March 25, 2004.

CHAPTER 345
(H.B. No. 536)

AN ACT

RELATING TO INCOME TAX CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN IDAHO AND FOR INVESTMENT IN BROADBAND EQUIPMENT; AMENDING SECTION 63-3029G, IDAHO CODE, TO DELETE THE SUNSET PROVISION AND TO DELETE LANGUAGE REGARDING RESEARCH ACTIVITIES BE CONDUCTED DURING ANY CONSECUTIVE FIVE YEAR PERIOD; AND AMENDING SECTION 63-3029I, IDAHO CODE, TO DELETE THE SUNSET PROVISION.

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

SECTION 1. That Section 63-3029G, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE -- CARRY FORWARD.

(1) (a) Subject to the limitations of this section, for taxable years ~~beginning between~~ after January 1, 2001, ~~and--December--31, 2005,--inclusive,~~ there shall be allowed to a taxpayer a nonrefundable credit against ~~taxes imposed~~ by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for increasing research activities in Idaho ~~during any consecutive five (5) year period~~ beginning, at the election of the taxpayer, either:

(i) January 1, 2001, or

(ii) The first day of the taxpayer's taxable year beginning in 2001.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) Subject to the limitation in subsection (3) of this section, a taxpayer making the election permitted by subsection (1)(a)(i) of this section, credit for research activities occurring prior to the

beginning of the taxpayer's taxable year beginning in 2001 shall be claimed on the taxpayer's return for its taxable year 2001 in addition to credit relating to activity in that year.

(2) As used in this section:

(a) The terms "qualified research expenses," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) The base amount does not include the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code;

(ii) A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section 63-3027, Idaho Code; and

(iii) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 2. That Section 63-3029I, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning ~~between~~ after January 1, 2001, ~~and December 31, 2005, inclusive,~~ there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section 3(44) of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in section 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable opera-

tor, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsections (2)(b)(i) through (2)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (2)(b)(i) through (2)(b)(vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars ($750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be

in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer who earns and is entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or a portion of the unused credit to:

(i) Another taxpayer required to file a return under this chapter; or

(ii) To an intermediary for its use or for resale to a taxpayer required to file a return under this chapter.

In the event of either such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

Approved March 26, 2004.

CHAPTER 346
(H.B. No. 607)

AN ACT

RELATING TO THE CREATION OF THE IDAHO DEPARTMENT OF COMMERCE AND LABOR; AMENDING THE CHAPTER HEADING OF CHAPTER 47, TITLE 67, IDAHO CODE, TO INCORPORATE THE DEPARTMENT OF LABOR IN THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4701, IDAHO CODE, TO INCORPORATE THE DEPARTMENT OF LABOR IN THE DEPARTMENT OF COMMERCE; REPEALING SECTION 67-4702, IDAHO CODE; AMENDING SECTION 72-1333, IDAHO CODE, TO REDESIGNATE THE

SECTION, TO PROVIDE AUTHORITY AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE AND LABOR, AND TO PROVIDE THAT THE DIRECTOR IS THE SUCCESSOR IN LAW TO POWERS, DUTIES AND OBLIGATIONS OF HIS PREDECESSORS; AMENDING SECTION 67-4703, IDAHO CODE, TO INCORPORATE THE DEPARTMENT OF LABOR IN THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4704, IDAHO CODE, TO DELETE REFERENCES TO THE DEPARTMENT OF COMMERCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-4708, IDAHO CODE, TO PROVIDE APPLICATION OF PUBLIC RECORDS PROVISIONS; AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE A SINGLE DEPARTMENT OF COMMERCE AND LABOR; AMENDING SECTION 67-2402, IDAHO CODE, TO PROVIDE A SINGLE DEPARTMENT OF COMMERCE AND LABOR; AMENDING SECTION 67-2406, IDAHO CODE, TO PROVIDE THAT THERE SHALL BE A DIRECTOR OF THE DEPARTMENT OF COMMERCE AND LABOR; AMENDING SECTION 72-1318, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO FURTHER DEFINE TERMS; AND AMENDING SECTION 72-1347B, IDAHO CODE, TO GOVERN EXPENDITURES OF THE WORKFORCE DEVELOPMENT TRAINING FUND.

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

SECTION 1. That the Heading of Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 47
DEPARTMENT OF COMMERCE AND LABOR

SECTION 2. That Section 67-4701, Idaho Code, be, and the same is hereby amended to read as follows:

67-4701. DEPARTMENT OF COMMERCE AND LABOR CREATED. There is hereby created in the executive branch of the government, a department of commerce and labor, hereinafter referred to as the department, which shall have the duties, powers and authorities hereinafter provided.

Whenever in Idaho Code or elsewhere, reference is made to the department of commerce or the department of labor, or their predecessor departments or agencies, it shall mean and hereafter be the department of commerce and labor.

SECTION 3. That Section 67-4702, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

~~72-1333~~ 67-4702. ~~DEPARTMENT OF LABOR---~~ AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director of the department of commerce and labor, hereafter the director, shall administer the provisions of this chapter, the employment security law, chapter 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, and to perform such other duties relating to commerce, labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the

state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the "department ~~of labor" which is hereby created, and~~ which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government. The director shall have an official seal which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, two (2) deputy directors, the division administrators, and ~~two~~ five (~~2~~5) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he is charged to implement as he deems proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law and he shall be the successor in law to all contractual obligations entered into by his predecessors in law.

SECTION 5. That Section 67-4703, Idaho Code, be, and the same is hereby amended to read as follows:

67-4703. POWERS AND DUTIES. The department of commerce and labor shall have the power and it shall be its duty to engage in advertising the state of Idaho, its resources, both developed and undeveloped, its tourist resources and attractions, its agricultural, mining, lumbering and manufacturing resources, its health conditions and advantages, its scenic beauty and its other attractions and advantages; and in general either directly, indirectly or by contract do anything and take any action which will promote and advertise the resources and products of the state of Idaho, develop its resources and industries, promote tourist travel to and within the state of Idaho, and further the welfare and prosperity of its citizens.

The department shall also have the following duties when it deals with promoting economic development and tourism within the state:

(1) Survey and investigate the social, economic and physical resources of the state, including land, water, minerals, facilities for power, transportation, communications, recreation, health, education and other resources and facilities; endeavor to aid the legislature and the citizens of the state of Idaho in formulating a program for the development and utilization of these resources and facilities, and for balancing our agricultural, timber and mining economy with industrial capacity. It shall cooperate with local and regional agencies within the state. It shall cooperate with like agencies of other states, with agencies maintained by private persons or corporations, and with agencies established or employed by the United States to promote the development of the country and the welfare of its people.

(2) To develop and promote a comprehensive international marketing plan for Idaho's products.

(3) To collect and compile reliable data for general dissemination

which will tend to the development of the state of Idaho by inducing people and capital to come within our borders.

(4) Keep accurate records and preserve all data collected by it, and from time to time prepare and submit to the governor and the legislature, reports, programs, recommendations and plans for the comprehensive, long-range development, conservation and use of all the resources of the state of Idaho. It shall make such special investigations as to resources, facilities, and other matters as may be required by the governor or the legislature.

(5) Coordinate those activities of local, state, federal and private agencies and departments when they deal with the promotion of Idaho's economic resources.

(6) To require and receive from the various executive departments and public officials of the state of Idaho such information as may be required by the division to enable it to fulfill its functions and carry out the purposes of this act.

(7) Administer and perform any other related functions or activities assigned by the governor or the legislature.

(8) Enter into interagency agreements with other state agencies in developing economic and community plans and programs.

(9) Provide technical assistance to other state agencies upon request.

(10) Contract with universities, consultants and other public and private agencies to develop plans and programs.

(11) Serve as a clearinghouse for information, data, and other materials which may be used in developing Idaho's economy.

(12) Prepare a comprehensive economic development strategy.

(13) Collect and compile reliable economic data for general dissemination.

(14) Petition for and receive moneys such as grants or gifts, to be used for state or local planning and economic development activities.

SECTION 6. That Section 67-4704, Idaho Code, be, and the same is hereby amended to read as follows:

67-4704. ADVISORY COUNCIL ~~--~~ APPOINTMENT OF MEMBERS -- QUALIFICATIONS. There shall be an advisory council ~~in the department of commerce~~ to advise ~~with~~ the department in the preparation and execution of plans, projects and programs in the furtherance of the power and duties conferred by section 67-4703, Idaho Code. The ~~D~~director ~~of the department~~ shall consult, confer and advise with the advisory council in connection with all decisions concerning the administration and development of such plans, projects and programs. ~~of the department.~~ The approval of the advisory council shall be a condition precedent to the undertaking of action in the implementation of such plans, projects and programs by the department. The advisory council shall consist of six (6) persons, who shall be appointed by the governor, and who shall serve for three (3) year terms, with two (2) members' terms expiring each year. They shall serve and shall be compensated as provided by section 59-509(b), Idaho Code. One (1) person shall be appointed to represent each of the six (6) planning regions of the state. Membership shall be divided between political parties.

SECTION 7. That Section 67-4708, Idaho Code, be, and the same is hereby amended to read as follows:

67-4708. BUSINESS RECORDS. ~~All--papers,--records,-correspondence, communications-and-proceedings-of-the-Idaho-department-of-commerce,--its advisory--board,--and--the-Idaho-travel-council-shall-be-open-and-public provided,-however,-that-b~~Business records and information submitted to the department by business clients shall be subject to disclosure according to chapter 3, title 9, Idaho Code. These records and information shall include financial statements, employment/employee records, loan agreements, the method of financing, the source and terms of financing, business and individual tax returns, insurance policies, bank statements, financial institution letters and documents, sales records, inventory lists, collateral agreements, and other documents or information the business declares to be, and marked "confidential -- proprietary information."

The exemption from disclosure as provided in chapter 3, title 9, Idaho Code, shall also be extended to and be consistent with the requirements for confidentiality for business information included in any application for the various federal grant, loan or loan guarantee programs, various federal procurement contracting programs, and other similar federal business assistance programs in which the ~~Idaho~~ department ~~of-commerce~~ is a participant.

This exemption from disclosure shall also apply to business information and records associated with industrial revenue bonds, department efforts to assist businesses with international marketing, industrial relocation projects, and other business development projects in which the department extends assistance.

SECTION 8. That Section 59-904, Idaho Code, be, and the same is hereby amended to read as follows:

59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), and (f) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,
Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,

~~Director of the department of labor,~~
Director of the department of water resources,
Director of the Idaho state police,
Director of the department of commerce and labor,
Director of the department of environmental quality,
Director of the department of juvenile corrections,
Executive director of the commission of pardons and parole,
The state historic preservation officer,
The administrator of the division of human resources,
Member of the state tax commission,
Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resources board,
Members of the state fish and game commission,
Members of the Idaho transportation board,
Members of the state board of health and welfare,
Members of the board of environmental quality,
Members of the board of directors of state parks and recreation,
Members of the board of correction,
Members of the industrial commission,
Members of the Idaho public utilities commission,
Members of the Idaho personnel commission,
Members of the board of directors of the Idaho state retirement system,
Members of the board of directors of the state insurance fund,
Members of the commission of pardons and parole.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted to the senate forthwith for the advice and consent of that body. The appointment so made and submitted shall not be effective until the approval of the senate has been recorded in the journal of the senate. Appointments made pursuant to this section while the senate is not in session shall be effective until the appointment has been submitted to the senate for the advice and consent of the senate. Should the senate adjourn without granting its consent to such an interim appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

(f) It is the intent of the legislature that the provisions of this section as amended by this chapter shall not apply to appointments which have been made prior to the effective date of this chapter. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

SECTION 9. That Section 67-2402, Idaho Code, be, and the same is hereby amended to read as follows:

67-2402. STRUCTURE OF THE EXECUTIVE BRANCH OF IDAHO STATE GOVERNMENT. (1) Pursuant to section 20, article IV, Idaho constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of state, except for those assigned to the elected constitutional officers, are allocated among and within the following departments:

Department of administration
Department of agriculture
Department of commerce and labor
Department of correction
~~Department of labor~~
Department of environmental quality
Department of finance
Department of fish and game
Department of health and welfare
Department of insurance
Department of juvenile corrections
Idaho transportation department
Industrial commission
Department of lands
Idaho state police
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(b) The principal unit of a division is a bureau. Each bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor.

SECTION 10. That Section 67-2406, Idaho Code, be, and the same is hereby amended to read as follows:

67-2406. DIRECTORS OF DEPARTMENTS ENUMERATED. The following department directors are created:

Director, department of administration
Director, department of agriculture
Director, department of commerce and labor
Director, department of correction
~~Director, department of labor~~
Director, department of finance
Director, department of fish and game
Director, department of environmental quality
Director, department of health and welfare
Director, department of insurance
Director, department of juvenile corrections
Director, Idaho transportation department
Director, department of lands
Director, Idaho state police
Director, department of parks and recreation
Director, department of water resources.

SECTION 11. That Section 72-1318, Idaho Code, be, and the same is hereby amended to read as follows:

72-1318. DIRECTOR -- DEPARTMENT. "Director" means the director of the department of commerce and labor, the individual appointed pursuant to section ~~72-1331~~ 59-904, Idaho Code.

"Department" means the department of commerce and labor.

SECTION 12. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through

existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;

(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director ~~and the director of the department of commerce~~ in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2007, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this

subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

Approved March 26, 2004.

CHAPTER 347
(H.B. No. 651, As Amended, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAX CREDITS FOR NEW EMPLOYEES; AMENDING SECTION 63-3029F, IDAHO CODE, TO PROVIDE THAT IN THE CASE OF CERTAIN NEW EMPLOYEES EARNING AN AVERAGE OF FIFTEEN DOLLARS AND FIFTY CENTS PER HOUR AND ELIGIBLE FOR EMPLOYER PROVIDED HEALTH AND ACCIDENT COVERAGE THE STATE INCOME TAX CREDIT SHALL BE ONE THOUSAND DOLLARS PER EMPLOYEE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029F, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029F. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) Any taxpayer shall be allowed a credit, in an amount determined under subsection (2) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the taxpayer's employment of new employees, as defined under section 63-3029E(1), Idaho Code, increases above the taxpayer's average employment for either: (a) the prior taxable year, or (b) the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person.

(2) (a) The credit authorized in subsection (1) of this section shall be:

(i) ~~F~~five hundred dollars ($500) per new employee described in subsection (2)(d) of this section; or

(ii) One thousand dollars ($1,000) per new employee described in subsection (2)(c) of this section, but not both.

(b) ~~but t~~The total credit allowed by this section shall not exceed three and one-quarter percent (3.25%) of net income from the taxpayer's corporate, proprietorship, partnership, small business corporation or limited liability company revenue-producing enterprise in which the employment occurred. Additionally, the total

amount of this and all other credits allowed under this chapter except for the credits allowed under section 63-3029, Idaho Code, 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.

(c) The credit allowed for new employees described in this paragraph shall apply to an employee who, in the calendar year ending during the taxable year for which the credit is claimed, received annual earnings at an average rate of fifteen dollars and fifty cents ($15.50) or more per hour worked and who, during such calendar year, was eligible to receive employer provided coverage under an accident or health plan described in section 105 of the Internal Revenue Code.

(d) The credit allowed for new employees described in this paragraph shall apply to an employee not described in subsection (2)(c) of this section and who is employed in a revenue-producing enterprise as defined in section 63-3029E. Idaho Code.

(3) If the sum of the credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (2) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be a credit carryover to the three (3) succeeding taxable years. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the employment level for which the credit was granted is still maintained.

SECTION 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, 2004.

Approved March 26, 2004.

CHAPTER 348
(H.B. No. 774)

AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 67-4212, IDAHO CODE, TO PROVIDE FOR THE CORRECT NAME OF THE EARL M. HARDY BOX CANYON SPRINGS NATURE PRESERVE IN MALAD GORGE STATE PARK; AND DECLARING AN EMERGENCY.

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.

(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, Niagara Springs, Earl M. Hardy Box Canyon Springs Nature Preserve, and Billingsley Creek state 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.

(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.

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

Approved March 26, 2004.

CHAPTER 349
(H.B. No. 787)

AN ACT

RELATING TO COURSES OF INSTRUCTION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1617, IDAHO CODE, TO REQUIRE DEVELOPMENT OF GOALS FOR ENGLISH LANGUAGE LEARNERS, FORMULATION OF DISTRICT PLANS, REPORTS TO THE STATE BOARD OF EDUCATION AND RECOMMENDATIONS TO THE LEGISLATURE.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1617, Idaho Code, and to read as follows:

33-1617. ENGLISH LANGUAGE LEARNERS -- PROGRAM REQUIREMENTS. It is legislative intent that the state board of education and state department of education develop statewide, research-based goals for students in Idaho who are English language learners. Goals shall specifically address compliance with applicable state and federal law and court decisions.

The board of trustees of each school district shall formulate a plan in sufficient detail that measurable objectives can be identified and addressed which will accomplish English language acquisition and improved academic performance. Moneys distributed to school districts based upon the population of limited-English proficiency students and distributed to school districts to support programs for students with non-English or limited-English proficiency shall be utilized in support of the district plan.

The district plan and allocation of funds shall be part of a report made annually to the state board of education and state department of education. The state board of education shall provide a summary of these reports to the legislature. Recommendations for program enhancements needed to reach the statewide goals are to be brought to the legislature after review and approval by the state board of education.

Approved March 26, 2004.

CHAPTER 350
(H.B. No. 836)

AN ACT

RELATING TO AQUACULTURE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 44, TITLE 22, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE IDAHO AQUACULTURE COMMISSION, TO PROVIDE POWERS AND DUTIES OF THE COMMISSION, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS, TO PROVIDE FOR STATE AUDITS OF COMMISSION FUNDS, TO PROVIDE FOR ANNUAL REPORTS, TO PROVIDE FOR BIENNIAL AUDITS, TO PROVIDE THAT THE STATE IS NOT LIABLE, TO PROVIDE FOR ASSESSMENTS, TO PROVIDE FOR REFUNDS AND TO PROVIDE FOR AN OPT OUT ALTERNATIVE; AND AMENDING SECTION 67-2601, IDAHO CODE, TO INCLUDE THE IDAHO AQUACULTURE COMMISSION IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES.

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

SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 44, Title 22, Idaho Code, and to read as follows:

CHAPTER 44
IDAHO AQUACULTURE COMMISSION

22-4401. LEGISLATIVE INTENT. The aquaculture industry is one of the agricultural industries that contributes to the economic welfare of the state. It is the purpose of this chapter to promote the public health and welfare of the citizens of the state by providing means for the protection, promotion, study, research, analysis and development of markets relating to the growing and marketing of Idaho aquaculture products and Idaho aquaculture byproducts.

22-4402. DEFINITIONS. As used in this chapter:

(1) "Aquaculture" means the husbandry of fish, aquatic animals and plants, and the processing for sale of the same, both public and private.

(2) "Commission" means the Idaho aquaculture commission.

(3) "Processor" means a facility where aquaculture products are delivered for the purpose of processing the product for sale, and shall for the purposes of membership on the commission, include persons owning, operating or otherwise participating in the operation of the facility.

(4) "Producer" means the owner or tenant of a facility, hatchery, pond, lake, stream or other water facility where fish or other aquatic animals and plants are raised, held or produced for sale.

22-4403. IDAHO AQUACULTURE COMMISSION -- ESTABLISHED -- COMPOSITION -- QUALIFICATION OF MEMBERS -- MEETINGS. (1) A commission on Idaho aquaculture, hereinafter referred to in this chapter as "the commission," is hereby established in the department of self-governing agencies. The commission shall be composed of five (5) members appointed by the governor as follows:

(a) Three (3) members shall be from the producer segment of the industry;

(b) Two (2) members shall be from the processor segment of the industry.

Nominations for the initial appointments to the commission shall be made pursuant to the provisions of subsection (6) of this section.

(2) Members must meet the following qualifications:

(a) Be a United States citizen and a resident of the state of Idaho;

(b) Be over the age of twenty-five (25) years;

(c) Producer members shall be persons who have been actively engaged in the production of an aquaculture product within the state of Idaho with a major portion of their income from aquaculture derived from commercial fisheries, whether operating as a sole proprietor, partnership, corporation, limited liability company, cooperative, or other business entity;

(d) Processor members shall be persons who have been actively engaged as processors within the state of Idaho with a major portion of their income from aquaculture derived from aquaculture processing, sales, handling, packing, shipping, or buying and selling aquaculture products as an agent or broker, whether operating as a sole proprietor, partnership, corporation, limited liability company, cooperative, or other business entity;

(e) No more than one (1) person from any partnership, corporation, limited liability company, cooperative, or other business entity shall serve as a member of the commission at the same time.

(3) Each member of the commission shall be appointed by the governor for a term of three (3) years. Provided however, that the initial appointments in the first year shall be appointments of two (2) years for one (1) producer member, three (3) years for two (2) producer members, two (2) years for one (1) processor member and three (3) years for one (1) processor member. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, malfeasance in office, or failure to continue to meet the qualifications set forth in subsection (2) of this section. In the event a commissioner vacancy occurs prior to the expiration of a scheduled term, the commission shall conduct a meeting and nominate two (2) nominees. The names of the nominees shall be submitted to the governor who shall appoint one (1) of the nominees to fill the unexpired term.

(4) Members shall serve no more than two (2) consecutive terms without the lapse of one (1) full term occurring prior to being eligible for reappointment.

(5) Members shall serve without compensation from the state.

(6) Nominations for the initial appointments to the commission under subsection (1) of this section shall be made in the following manner:

(a) At the time of the effective date of this act, the Idaho aquaculture association shall set a date, time and location for a meeting where nominations for membership shall be voted upon;

(b) At least thirty (30) days prior to the meeting date, the association shall send written notification setting forth the date, time and location of such meeting to all producers and processors in the state of Idaho, regardless of whether a producer or processor is a member of the association;

(c) At least thirty (30) days prior to the meeting date, the association shall post written notice of the meeting in places of business involved in the aquaculture industry;

(d) At least thirty (30) days prior to the meeting date, the association shall provide written notice of the meeting to the department of agriculture and, upon receipt, the department shall post the notice on their official website.

No less than two (2) nominees shall be chosen for submission to the governor for each vacancy. Nominations as voted upon at the time of the meeting shall be submitted to the governor within fourteen (14) days of the meeting. The governor shall make appointments to the commission within thirty (30) days of receipt of nominations.

(7) The commission shall elect a chair from among its members each calendar year. After its original organizational meeting, the commission shall meet at the call of the chair or by a consensus of three (3) members of the commission. A majority of the members of the commission constitutes a quorum and an official action of the commission may be taken with a majority vote of the quorum. The commission shall, at a minimum, conduct quarterly meetings of the commission and an annual meeting of all producers and processors. Notification of the date, time and location of annual meetings shall be made in accordance with the provisions set forth in paragraphs (b), (c) and (d) of subsection (6) of this sec-

tion. Nominations for terms on the commission that are scheduled to expire prior to the next annual meeting shall be voted upon during the annual meeting and submitted to the governor. No less than two (2) nominees shall be chosen for submission to the governor for each upcoming vacancy.

22-4404. POWERS AND DUTIES. The powers and duties of the commission shall include the following:

(1) To contract in the name of the commission and be contracted with, to sue and be sued;

(2) To appoint, employ, prescribe duties, fix compensation, and at its pleasure discharge, all necessary agents, employees, professional personnel and other personnel, including experts in aquaculture and the publicizing of products;

(3) To keep books, records, and accounts of all its dealings, including minutes of commission meetings;

(4) To establish an office or offices, to incur expenses, and to create liabilities as reasonable for the proper administration of the commission;

(5) To determine new markets for aquaculture products, to conduct promotional activities relating to the national and international use of aquaculture products;

(6) To provide and to publicize reliable information relating to the value of aquaculture products determined to be useful and profitable;

(7) To conduct research, and to investigate and study problems relative to the industry;

(8) To promote and protect the sale of aquaculture products;

(9) To cooperate with agencies of this state, other states and the federal government, engaged in similar work to that of the commission and enter into agreements or contracts with such agencies;

(10) To adopt, amend and rescind rules in conjunction with the exercise of its powers and duties pursuant to the provisions of this chapter.

22-4405. DEPOSIT AND DISBURSEMENT OF FUNDS -- AUDITS -- REPORTS. (1) The commission may accept assessment receipts, grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter or as provided by law shall be deposited into one (1) or more separate accounts in the name of the commission in one (1) or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. At the option of the commission, an account known as the "Idaho Aquaculture Commission Account," to be administered by the Idaho aquaculture commission, may be created and established in the state treasury for the deposit of such funds. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter. Any interest earned on the investment of idle moneys in an account shall be returned to the account.

(2) Funds can be withdrawn or paid out of bank accounts only upon hecks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative services office, the state controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current fiscal year and a projection of anticipated expenses by category for the current fiscal year. The report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited every second year, but shall address every year distinctly, by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the director of legislative services and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

22-4406. STATE NOT LIABLE. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof, or any officer, agent or employee thereof.

22-4407. ASSESSMENTS. (1) From and after the first day of July 2004, there is hereby imposed an assessment of five cents (5¢) per hundred weight on the production of aquaculture products produced or grown in Idaho for purpose of profit. Thereafter, the commission is authorized to establish the rate of assessment by rule, up to a maximum assessment rate of ten cents (10¢) per hundred weight on the production of aquaculture products produced or grown in Idaho for purpose of profit.

(2) With the exception of the assessments pursuant to subsection (3) of this section, assessments shall be collected by the processor and deducted from payments to the producer. The processor shall remit all assessments to the commission within fifteen (15) days of the end of each calendar quarter, along with the name, address and dollar amount of each producer's respective assessment. The commission shall maintain records identifying the specific amount of assessment collected from each producer.

(3) Producers shall be responsible for submitting assessments on aquaculture products sold for human consumption, pond stocking, or live aquaculture products sold directly to the public, to retailers or to a governmental entity. Producers shall remit the assessments to the commission by the fifteenth day of the month following the sale, along with a verification of the amount of product so sold.

22-4408. REFUNDS. Within thirty (30) days following the end of a calendar quarter, a producer that does not support the program established under this chapter, may request in writing that the commission refund all or a portion of assessments remitted to the commission by the producer, or remitted on his behalf. Any producer that fails to request a refund within the thirty (30) day period pursuant to the provisions of this section shall be deemed to have waived their right to do so. Within

thirty (30) days of receipt of the written request for refund, the commission shall reimburse the producer the requested refund amount, provided the commission determines from its records that the amount so requested was actually remitted to the commission by the producer, or on his behalf.

22-4409. OPT OUT ALTERNATIVE. (1) Each and every year, any producer may, at his election, opt out of application of all provisions of this chapter, including assessment provisions. In order to opt out of application of the provisions of this chapter, a producer shall comply with the following requirements:

(a) On an annual basis, no later than June 30 of each year, submit a letter to the Idaho aquaculture commission, stating his intent to opt out of application of the provisions of the chapter for the upcoming fiscal year;

(b) The letter shall include the producer's name and address.

(2) The Idaho aquaculture commission, upon formation, shall provide written notice of their mailing address to the department of agriculture and, upon receipt, the department shall post the address on their official website. The commission shall also set forth their mailing address by rule.

SECTION 2. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; ~~and~~ the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosme-

tology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and broker licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that

nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

Approved March 26, 2004.

CHAPTER 351
(H.B. No. 843)

AN ACT

RELATING TO WATER AND MONEYS FOR REMEDIATION; PROVIDING LEGISLATIVE INTENT; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2004; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2004; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2004; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2004; APPROPRIATING AND TRANSFERRING GENERAL FUND MONEYS TO THE WATER MANAGEMENT FUND FOR FISCAL YEAR 2004; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2005; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2005; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2005; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2005; APPROPRIATING ADDITIONAL DEDICATED FUND MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2005; APPROPRIATING AND TRANSFERRING GENERAL FUND MONEYS TO THE REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 2005; AND DECLARING AN EMERGENCY FOR SECTIONS 1 THROUGH 6 OF THIS ACT.

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

SECTION 1. The state of Idaho is committed to participating as an active partner with affected water users to develop a long-term solution to address the declines in spring flows discharging from the Eastern Snake Plain Aquifer.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 229, Laws of 2003, there is hereby appropriated to the Department of Commerce the following amount to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2003, through June 30, 2004:

DEPARTMENT OF COMMERCE:

FOR:	
Personnel Costs	$10,300
Operating Expenditures	1,600
TOTAL	$11,900
FROM:	
General Fund	$11,900

SECTION 3. In addition to the full-time equivalent positions authorized in Section 3, Chapter 229, Laws of 2003, there is hereby authorized one (1) full-time equivalent position for the Department of Commerce for the period July 1, 2003, through June 30, 2004.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 324, Laws of 2003, there is hereby appropriated to the Department of Water Resources the following amount to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2003, through June 30, 2004:

WATER MANAGEMENT:

FOR:	
Personnel Costs	$10,900
Operating Expenditures	1,700
TOTAL	$12,600
FROM:	
General Fund	$12,600

SECTION 5. In addition to the full-time equivalent positions authorized in Section 2, Chapter 324, Laws of 2003, there is hereby authorized one (1) full-time equivalent position for the Department of Water Resources for the period July 1, 2003, through June 30, 2004.

SECTION 6. There is hereby appropriated $520,000 from the General Fund for the period July 1, 2003, through June 30, 2004. The State Controller shall immediately transfer that amount to the Water Management Fund established in Section 42-1760, Idaho Code. Such moneys shall be used to rent storage water.

SECTION 7. In addition to the appropriation made in Section 1 of Senate Bill No. 1405, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Commerce the following amount to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2004, through June 30, 2005:

DEPARTMENT OF COMMERCE:

FOR:	
Personnel Costs	$ 61,500
Operating Expenditures	6,200
Trustee and Benefit Payments	500,000
TOTAL	$567,700
FROM:	
General Fund	$567,700

SECTION 8. In addition to the full-time equivalent positions authorized in Section 2 of Senate Bill No. 1405, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby authorized one (1) full-time equivalent position for the Department of Commerce for the period July 1, 2004, through June 30, 2005.

SECTION 9. In addition to the appropriation made in Section 1 of Senate Bill No. 1415, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Water Resources the following amount to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2004, through June 30, 2005:

WATER MANAGEMENT:

FOR:	
Personnel Costs	$65,600
Operating Expenditures	6,600
TOTAL	$72,200
FROM:	
General Fund	$72,200

SECTION 10. In addition to the full-time equivalent positions authorized in Section 2 of Senate Bill No. 1415, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby authorized one (1) full-time equivalent position for the Department of Water Resources for the period July 1, 2004, through June 30, 2005.

SECTION 11. The Idaho Water Resource Board is authorized to redirect up to $300,000 in encumbered moneys originally appropriated for aquifer recharge in Section 1, Chapter 200, Laws of 1995. The Board shall transfer such moneys to the Miscellaneous Revenue Fund in the Department of Water Resources to be used to develop and implement a long-term aquifer management plan. In addition to the appropriation provided in Section 1 of Senate Bill No. 1415, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Department of Water Resources $300,000 from the Miscellaneous Revenue Fund to be expended for the Planning and Technical Services Program for the period July 1, 2004, through June 30, 2005.

SECTION 12. There is hereby appropriated $500,000 from the General Fund for the period July 1, 2004, through June 30, 2005. The State Controller shall transfer that amount on July 1, 2004, to the Revolving Development Fund established in Section 42-1752, Idaho Code. Such moneys shall be used for loans to ground water districts.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 6 of this act shall be in full force and effect on and after passage and approval.

Approved March 26, 2004.

CHAPTER 352
(H.B. No. 848)

AN ACT

RELATING TO THE ADMINISTRATION OF GROUND WATER RIGHTS WITHIN THE EASTERN SNAKE RIVER PLAIN; DECLARING LEGISLATIVE INTENT RELATING TO THE CONJUNCTIVE ADMINISTRATION OF CERTAIN WATER RIGHTS; DECLARING LEGISLATIVE INTENT RELATING TO THE PROVISION OF CERTAIN MITIGATION FOR MATERIAL INJURY CAUSED BY GROUND WATER WITHDRAWAL AND USE; DECLARING LEGISLATIVE INTENT RELATING TO THE EQUITABLE SHARING OF CERTAIN MITIGATION AND PROVIDING THAT BEGINNING APRIL 1, 2004, THE HOLDERS OF CERTAIN GROUND WATER RIGHTS SHALL BE DEEMED NONMEMBER PARTICIPANTS SOLELY FOR MITIGATION PURPOSES IN A GROUND WATER DISTRICT PURSUANT TO THE PROVISIONS OF SECTION 42-5259, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is legislative intent that the conjunctive administration of water rights from the Eastern Snake River Plain Aquifer and hydraulically connected surface water sources be achieved in a manner consistent with the prior appropriation doctrine and state law.

SECTION 2. It is legislative intent that the holders of junior priority ground water rights on the Eastern Snake River Plain subject to administration within water districts created pursuant to Chapter 6, Title 42, Idaho Code, be required to provide mitigation to the holders of senior priority water rights from hydraulically connected surface water sources beginning April 1, 2004, for material injury caused by ground water withdrawal and use.

SECTION 3. It is the intent of the Legislature to ensure that the burden of providing mitigation for junior ground water diversions from the Eastern Snake River Plain Aquifer causing material injury to senior priority water rights is equitably shared by the holders of all such junior ground water rights subject to administration within water districts created pursuant to Chapter 6, Title 42, Idaho Code. It is, therefore, hereby provided that beginning April 1, 2004, all holders of such ground water rights not otherwise covered by a mitigation plan and that are not members or applicants for membership of a ground water district created pursuant to Chapter 52, Title 42, Idaho Code, with a mitigation plan approved by the Director of the Department of Water Resources, shall be deemed a nonmember participant solely for mitigation purposes and shall be required to pay for mitigation, pursuant to Section 42-5259, Idaho Code, in the ground water district situated nearest the lands to which the water right is appurtenant, as determined by the Director of the Department of Water Resources in case of dispute.

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

Approved March 26, 2004.

CHAPTER 353
(S.B. No. 1439, As Amended in the House)

AN ACT

RELATING TO COUNTY-BASED INTERMODAL COMMERCE AUTHORITIES; AMENDING TITLE 70, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 70, IDAHO CODE, TO AUTHORIZE A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY, TO SET FORTH PURPOSES, TO PROVIDE FOR ESTABLISHMENT AND ABOLISHMENT, TO PROVIDE FOR COMMISSIONERS, TO PROVIDE FOR THE COOPERATION OF COUNTIES, TO SET FORTH GENERAL POWERS OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY, TO PROVIDE FOR RULES, POLICIES AND ORDERS, TO PROVIDE FOR SUPPLEMENTARY POWERS, TO PROVIDE FOR THE GRANTING OF OPERATION AND USE PRIVILEGES, TO PROVIDE FOR THE DISPOSAL OF PROPERTY, TO PROVIDE FOR BONDS AND OBLIGATIONS, TO PROVIDE FOR THE CREATION OF A DEBT SERVICE FUND AND TO SET FORTH PROVISIONS APPLICABLE TO FEDERAL, STATE AND LOCAL MONEY.

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

SECTION 1. That Title 70, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 22, Title 70, Idaho Code, and to read as follows:

CHAPTER 22
COUNTY-BASED INTERMODAL COMMERCE AUTHORITY

70-2201. COUNTY-BASED INTERMODAL COMMERCE AUTHORITY AUTHORIZED. The county-based intermodal commerce authority, hereinafter referred to as the intermodal authority, is hereby authorized to acquire, construct, maintain, operate, develop and regulate rail, truck, and other on-land transfer and terminal facilities, buildings, warehouses and storage facilities, manufacturing, industrial and economic development facilities and services, reasonably incident to a modern, efficient and competitive land-based port, and may be established according to this chapter in any county.

70-2202. PURPOSE -- PUBLIC AND GOVERNMENT FUNCTIONS. The purposes of a county-based intermodal authority are to:

(1) Promote, stimulate and advance the commerce, economic development, and prosperity of its jurisdiction and of the state;

(2) Endeavor to increase the volume of commerce within the jurisdiction of the county-based intermodal commerce authority through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, and protection of transportation, storage, and other facilities that promote economic handling of commerce;

(3) Cooperate and act in conjunction with other organizations, either public or private, in the development of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, and other economic activity in the state; and

(4) Support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries, and assist in and support the growth of all kinds of economic activity that will tend

to promote commerce and business development, maintain the economic stability and prosperity of its jurisdiction and of the state.

70-2203. ESTABLISHMENT AND ABOLISHMENT. Any county, hereinafter referred to as a governing body, may, after a public hearing, by resolution or ordinance of its governing body, create a public body, corporate and politic, to be known as a local county-based intermodal commerce authority. Any county after establishment of an intermodal authority may, after a public hearing, by resolution or ordinance abolish the county-based intermodal commerce authority. A county-based intermodal commerce authority shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. The resolution or ordinance creating an authority shall include provisions for governance and how the authority shall conduct its affairs. The board of directors shall consist of no less than three (3) members.

70-2204. COMMISSIONERS. (1) The powers of each authority are vested in the commissioners thereof. The resolution or ordinance creating an authority shall include provisions for establishing a commission to govern the affairs of the authority, to define what constitutes a quorum of the commission, terms of commissioners, procedures for appointment, reappointment, and vacancies. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes. Action may be taken by the intermodal authority upon a vote of not less than a majority of the commissioners present.

(2) Each local county-based intermodal commerce authority must elect a chairman and vice-chairman from among the commissioners at a time and for terms as set out in the respective resolution or ordinance.

(3) An intermodal authority may employ such other officers, agents, and employees, permanent or temporary, as it may require. Commissioners shall determine necessary qualifications, duties and compensation for officers, agents and employees. An intermodal authority may delegate to one (1) or more of its agents or employees such powers or duties as it considers proper.

(4) A commissioner of an intermodal authority is entitled to receive reimbursement for expenses for travel and the discharge of his or her duties according to the policies of the governing body.

70-2205. COOPERATION OF COUNTY. For the purpose of cooperating in the planning, establishment, construction or operation of an intermodal authority or any of its facilities, any governing body of the respective county for which an intermodal authority has been created may:

(1) Dedicate, sell, convey or lease any of its interest in any property or facility or grant easements, licenses, or any other rights or privileges therein to the intermodal authority;

(2) Cooperate with the intermodal authority in the planning of an intermodal authority and its facilities; and

(3) Enter into agreements with the intermodal authority respecting action to be taken by the county pursuant to the provisions of this section.

70-2206. GENERAL POWERS OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY. An intermodal authority shall have the powers provided to it

by a local governing body including:

(1) Have perpetual succession unless abolished as provided in this chapter;

(2) Sue and be sued;

(3) Have a seal;

(4) Execute contracts and other instruments and take other action that may be necessary or convenient to carry out the purposes of this chapter;

(5) Plan, establish, acquire, develop, construct, purchase, enlarge, improve, modify, maintain, equip, operate, regulate and protect transportation, storage, or other facilities or other personal property necessary or convenient to carry out the purposes of this chapter;

(6) Acquire any land or interest in land. All land and other property and privileges acquired and used by or on behalf of any intermodal authority must be used for intermodal authority purposes. As specified in this chapter, a port authority may pledge, lease, sell, or mortgage all or any part of its facilities to secure bonds;

(7) Recommend to the local governing body that created it, comprehensive county-based intermodal commerce authority zoning regulations in accordance with the laws of this state and the governing body; and

(8) Provide financial and other support to corporations or other business entities or organizations under the provisions of Idaho law, whose purpose is to promote, stimulate, develop and advance the economic development and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state, all of which will tend to promote business development, maintain the economic stability and prosperity of the state, and thus provide maximum opportunities for employment and improvement in the standards of living of citizens of the state.

70-2207. RULES, POLICIES AND ORDERS. An intermodal authority may adopt, amend, and repeal such reasonable rules, policies and orders as it considers necessary for its own administration, management, and governance as well as for the management, governance, and use of any transportation, storage, or other facility owned by it or under its control. No rule, policy, order or standard prescribed by the intermodal authority may be inconsistent with or contrary to any act of the congress of the United States or any law, rule, ordinance or resolution of the state of Idaho or the local governing body creating the intermodal authority. The intermodal authority shall keep on file at the principal office of the intermodal authority a copy of all its rules, policies and orders for public inspection.

70-2208. SUPPLEMENTARY POWERS. In addition to the general and special powers conferred by this chapter, each intermodal authority may exercise all powers delegated to it by the governing body creating it and powers incidental to the exercise of such general and special powers contained herein.

70-2209. GRANTING OF OPERATION AND USE PRIVILEGES. In connection with the operation of transportation, storage, or other facilities owned or controlled by an intermodal authority, the intermodal authority may:

(1) Enter into contracts, leases, and other arrangements for terms not to exceed thirty (30) years:

(a) Granting the privilege of using or improving the intermodal authority facility or any portion or facility thereof or space therein for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, services or facilities at the intermodal authority facility; and

(c) Making available services to be furnished by the intermodal authority or its agents at the transportation, storage or other facility; and

(2) Establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which must be reasonable and uniform for the same class of privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the authority.

70-2210. PROPERTY -- DISPOSAL. Except as may be limited by the terms and conditions of any grant, loan or agreement entered into by the intermodal authority, an intermodal authority may sell, lease or otherwise dispose of any transportation, storage or other facility or other property or portion of or interest in the intermodal authority's facility or property acquired pursuant to this chapter. The disposal by sale, lease, or otherwise must be in accordance with the laws of this state and the governing body governing the disposition of other public property, unless a sale, lease, mortgage or other disposition is made under this chapter to secure bonds of the intermodal authority.

70-2211. BONDS AND OBLIGATIONS. (1) Except for providing financial support to a private organization, including a business operating under Idaho law, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an intermodal authority may borrow money for any of its lawful purposes. For the purposes of sections 3 and 3B, article VIII of the constitution of the state of Idaho, the local intermodal authority shall be deemed and considered to be a port district. The bonds may be issued according to processes and in the form and upon terms as it determines pursuant to section 3B, article VIII of the constitution of the state of Idaho. Bonds shall be payable out of any revenue of the intermodal authority, including revenue derived from:

(a) Any transportation, storage or other facility;

(b) Grants or appropriations from federal, state or local governments; or

(c) Other sources.

(2) The bonds may be issued by resolution of the intermodal authority pursuant to section 3B, article VIII of the constitution of the state of Idaho, without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then outstanding bonds for which revenue from the same source is pledged exceeds the amount of revenue to be received in that year, as estimated in the intermodal authority order authorizing the issuance of the bonds. The intermodal authority shall take all action necessary and possible to impose, maintain, and collect rates, charges and rentals sufficient to make the revenue from the pledged source in such year at least equal to the amount

of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and shall bear interest at such rate or rates as the issuing intermodal authority respectively shall determine. Except as otherwise provided in this chapter, any bonds issued pursuant to this chapter by an intermodal authority shall be payable as to principal and interest solely from revenue of the intermodal authority or from particular transportation, storage or other facilities of the intermodal authority. The bonds must state on their face the applicable limitations or restrictions regarding the source from which principal and interest are payable. In no circumstance shall the bonds be payable with a property tax.

(4) Bonds issued by an intermodal authority pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose.

(5) For the security of bonds, the intermodal authority may by resolution make and enter into any covenant, agreement or indenture and may exercise any additional powers authorized by a county. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. As further security for the bonds, the intermodal authority, with the approval of the governing body of the county that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or any portion of its land-based port, transportation, storage or other facilities, whether or not the facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the intermodal authority consider advisable. The provisions must be consistent with this chapter and are subject to and must be in accordance with the laws of this state governing mortgages, trust indentures, security agreements, or instruments. The instrument may provide that in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by the appointment of a receiver in equity. The receiver may collect charges, rents or fees and may apply the revenue from the mortgaged property or collateral in accordance with the provisions of the instrument.

(6) Nothing in this section may be construed to limit the use of intermodal authority revenue, including federal, state and local money to make grants and loans or to otherwise provide financial and other support to a private intermodal authority, including corporations and business entities operating under the provisions of Idaho law. The credit of the state, county or municipal governments or their agencies or authorities may not be pledged to provide financial support to the intermodal authority.

70-2212. DEBT SERVICE FUND. An intermodal authority may create a debt service fund and accumulate therein a sum determined by the governing body, together with interest thereon, for the use, repairs, maintenance, and capital outlays of a county-based intermodal commerce authority.

70-2213. FEDERAL, STATE AND LOCAL MONEY. An intermodal authority may accept, receive, receipt for, and spend federal, state and local money and other public or private money made available by grant, loan or appropriation to accomplish any of the purposes of this chapter and according to conditions of the grant, loan or appropriation. All federal money accepted under this section must be accepted and spent by the authority upon terms and conditions prescribed by the United States and consistent with state law. All state money accepted under this section must be accepted and spent by the intermodal authority upon terms and conditions prescribed by the state. All county money accepted under this section must be accepted and spent by the intermodal authority upon terms and conditions prescribed by the governing county.

Approved March 26, 2004.

CHAPTER 354
(S.B. No. 1293, As Amended in the House)

AN ACT

RELATING TO MENTAL HEALTH SERVICES; AMENDING SECTION 39-3129, IDAHO CODE, TO REVISE PETITION REQUIREMENTS FOR REGIONAL MENTAL HEALTH SERVICES AND TO DELETE A REFERENCE TO NOMINATIONS FOR REGIONAL MENTAL HEALTH ADVISORY BOARDS; AMENDING SECTION 39-3130, IDAHO CODE, TO PROVIDE FOR REGIONAL MENTAL HEALTH BOARDS, TO SET FORTH MEMBERSHIP, TO SET FORTH APPOINTING AUTHORITY, TO REQUIRE MEETINGS, TO PROVIDE FOR THE SUBMISSION OF APPOINTMENT LISTS TO THE DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE FOR BOARD MEMBERSHIP AS APPLICABLE TO CURRENT MEMBERS OF REGIONAL MENTAL HEALTH ADVISORY BOARDS AND FUTURE APPOINTMENTS; AMENDING SECTION 39-3131, IDAHO CODE, TO REMOVE A REFERENCE TO ADVISORY BOARDS AND TO PROVIDE FOR THE FILLING OF VACANCIES; AMENDING SECTION 39-3132, IDAHO CODE, TO REVISE TERMINOLOGY, TO MAKE GRAMMATICAL CHANGES AND TO SET FORTH ADDITIONAL POWERS AND DUTIES FOR REGIONAL MENTAL HEALTH BOARDS; AND AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3134A, IDAHO CODE, TO PROVIDE FOR COOPERATIVE SERVICE PLAN COMPONENTS.

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

SECTION 1. That Section 39-3129, Idaho Code, be, and the same is hereby amended to read as follows:

39-3129. PETITION FOR REGIONAL SERVICES. Petition for regional mental health services may be made to the state mental health authority. The petition may be submitted by units of government within the region, by public and private agencies or professional associations serving within the region, or by a private, nonprofit corporation formed by citizens of that region for the purpose of planning for, petitioning for and securing mental health services for that region. The petition shall contain: (1) an identification of the petitioning group or groups; (2) a statement of the mental health needs of the region; <u>and</u> (3) an outline of the planning for mental health services already accomplished in the region~~; and (4) a list of twenty (20) names of citizens of the region for nomination to the regional mental health advisory board~~.

SECTION 2. That Section 39-3130, Idaho Code, be, and the same is hereby amended to read as follows:

39-3130. REGIONAL MENTAL HEALTH ~~ADVISORY~~ BOARD -- MEMBERS. ~~The state--mental--health authority shall appoint a~~ A regional mental health ~~advisory~~ board for each region consisting of ~~not less than nine~~ fourteen (9~~1~~4) ~~and not more than fifteen (15)~~ members is hereby created and shall be appointed as provided herein. Members ~~who~~ shall be qualified electors and ~~who~~ shall ~~be representative of the population within the region~~ represent the following: three (3) county commissioners; two (2) department of health and welfare employees who represent the mental health system within the region; a representative of the children's mental health regional council who is not an employee of the department of health and welfare; a law enforcement officer; three (3) mental health services consumer representatives, advocates or family members; a provider of mental health services within the region; a physician or other licensed health practitioner from within the region; a representative of a hospital within the region; and a member of the regional advisory substance abuse authority. The consumer and family representatives shall be selected from nominations submitted by mental health consumer and advocacy organizations. The board shall meet at least twice each year, and shall annually elect a chairperson and other officers as it deems appropriate.

The appointing authority in each region shall be a committee composed of the chairperson of the board of county commissioners of each of the counties within the region, the regional mental health program manager for the department of health and welfare and the regional director for the department of health and welfare. The committee shall meet annually or as needed to fill vacancies on the board. The list of appointments shall be submitted to the department of health and welfare.

Members of the regional mental health advisory board who are serving on the effective date of this act may continue to serve until the end of the current term of their appointment. Appointments made after the effective date of this act shall be made in a manner to achieve the representation provided in this section as soon as reasonably practical.

SECTION 3. That Section 39-3131, Idaho Code, be, and the same is hereby amended to read as follows:

39-3131. TERM -- VACANCIES -- COMPENSATION. The term of each member of the ~~advisory~~ board shall be for four (4) years; provided, however, that of the members first appointed, one-third (1/3) from each region shall be appointed for a term of two (2) years; one-third (1/3) for a term of three (3) years; and one-third (1/3) for a term of four (4) years. After the membership representation required in section 39-3130, Idaho Code, is achieved, v~~V~~acancies shall be filled for the unexpired term in the same manner as original appointments. Board members shall be compensated as provided by section 59-509(b), Idaho Code, and such compensation shall be paid from the operating budget of the regional mental health service.

SECTION 4. That Section 39-3132, Idaho Code, be, and the same is hereby amended to read as follows:

39-3132. POWERS AND DUTIES. The ~~duties of the~~ regional mental health ~~advisory~~ board: ~~shall be:~~

(1) ~~To~~ Shall advise the division of mental health on local mental health needs within the region;

(2) ~~To~~ Shall assist in the formulation of an operating policy for the regional service;

(3) ~~To~~ Shall interpret the regional mental health services to the citizens and agencies of the region;

(4) ~~To~~ Shall advise the state mental health authority of the progress, problems and proposed projects of the regional service;

(5) Shall collaborate with the regional advisory substance abuse authorities and the regional children's mental health councils to develop appropriate joint programs;

(6) Shall promote improvements in the delivery of mental health services and coordinate and exchange information regarding mental health programs in the region;

(7) Shall identify gaps in available services and recommend service enhancements that address identified needs for consideration to the state mental health authority;

(8) Shall assist the state planning council on mental health with planning for service system improvement; and

(9) May develop, or obtain proposals for, a service plan component for consideration by the state mental health authority.

SECTION 5. That Chapter 31, 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 39-3134A, Idaho Code, and to read as follows:

39-3134A. COOPERATIVE SERVICE PLAN COMPONENT. The regional mental health board may undertake development of a service plan component specifically designed to address an identified unmet need in the region. Such a service plan component may be based upon the assertive community treatment team model, other available intensive models, or a model unique to the region. Such a service plan component shall specify the distinct resource contribution of each participating entity, the terms and conditions of participation and the measures to be used to assess performance and outcomes under the service plan component. The service plan component shall include governance procedures, evaluation data, and the means for amendment or termination of the service plan component. If a service plan component is developed pursuant to this section and approved by the state mental health authority, the service plan component shall be funded by the state as provided in the service plan component, subject to the appropriation made for that purpose.

Approved March 31, 2004.

CHAPTER 355
(S.B. No. 1322)

AN ACT

RELATING TO IDAHO PROMISE SCHOLARSHIPS; AMENDING SECTION 33-4307, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF THE SCHOLARSHIP AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-4307, Idaho Code, be, and the same is hereby amended to read as follows:

33-4307. ELIGIBILITY -- MAXIMUM AMOUNTS -- CONDITIONS. A grant may be awarded to an eligible student for matriculation at an eligible postsecondary educational institution in the state of Idaho if:

(1) The individual is accepted for enrollment as a full-time undergraduate or professional-technical student, as follows:

(a) In the case of an individual beginning his first year or freshman year of postsecondary education, he has satisfied the requirements for admission and has enrolled in an eligible postsecondary institution.

(b) In the case of an individual enrolled in an eligible postsecondary institution following the successful completion of the first term, he continues to meet the requirements of this act and has maintained such high standards of performance as may be required. Provided that high academic standards are maintained in accordance with requirements of this chapter, a student continues to be eligible when transferring from one (1) major program to another.

(c) In the case of an individual transferring from one (1) eligible postsecondary institution in Idaho to another eligible postsecondary institution in Idaho, he continues to meet the requirements of this act, is accepted and enrolled at the eligible postsecondary institution to which he is transferring, and has maintained such high standards of performance as may be required.

(2) The grant for category A students is as follows:

(a) The grant payment to an individual per educational year for attendance on a full-time basis is not in excess of an amount determined annually by the state board of education or in excess of the total educational costs as certified by an official of the eligible postsecondary institution to be attended by the individual receiving the grant, whichever is less.

(b) The total grant payments over a period of six (6) years to an individual may not exceed four (4) annual grants or the total educational costs for four (4) educational years completed as certified by an official of the eligible postsecondary institution or institutions attended by the individual receiving the grant, whichever is less.

(c) The individual receiving such a grant signs an affidavit stating that the grant will be used for educational costs only.

(d) The grant is awarded on the basis of extraordinary performance in standardized, unweighted competitive examination and high school record.

(e) The individual receiving the grant is not precluded from receiving other financial aids, awards, or scholarships, provided the total of the grant and such other financial aids, awards or scholarships does not exceed the total educational costs for attendance at an eligible postsecondary institution as certified by an official of the eligible postsecondary institution to be attended by the individual receiving the grant.

(f) Grant payments shall correspond to academic terms, semesters, quarters or equivalent time periods at an eligible postsecondary

institution; in no instance may the entire amount of a grant for an educational year, as defined in section 33-4306(10), Idaho Code, be paid to or on behalf of such student in advance.

(g) The individual has complied with such rules as may be necessary for the administration of this act.

(3) The grant for category B students is as follows:

(a) The grant payment to an individual per educational year for attendance on a full-time basis is not in excess of an amount determined annually by the state board of education and the board of regents of the university of Idaho and not to exceed one thousand two hundred dollars ($1,0200) per year including the required match.

(b) The total grant payments over a period of four (4) years to an individual may not exceed two (2) annual grants.

(c) The individual receiving such a grant signs an affidavit stating that the grant will be used for educational costs only.

(d) The grant is awarded on the basis of a high school record of a 3.0 grade point average or an ACT composite score of 20 or better and other criteria as may be established by the state board of education and the board of regents of the university of Idaho.

(e) The individual receiving the grant is not precluded from receiving other financial aid, awards or scholarships except that category A student award recipients are not eligible for category B awards.

(f) Grant payments shall correspond to academic terms, semesters, quarters or equivalent time periods at an eligible postsecondary institution; in no instance may the entire amount of a grant for an educational year, as defined in section 33-4306(8), Idaho Code, be paid to or on behalf of such student in advance. The first grant payments pursuant to this section for category B students shall be made in the fall of 2001 or in the first fall academic term following an appropriation and when moneys are available to implement the category B scholarship program, whichever date is later.

(g) The individual has complied with such rules as may be necessary for the administration of this chapter.

(h) All eligible postsecondary institutions will report annually to the state board of education and the board of regents of the university of Idaho the number of students for each term receiving a grant award and the number of awards that were matched by the institution.

Approved March 31, 2004.

CHAPTER 356
(H.B. No. 724)

AN ACT

RELATING TO PREMIUM TAXES; AMENDING SECTION 41-402, IDAHO CODE, TO REVISE THE RATE OF PREMIUM TAX; AMENDING SECTION 41-403, IDAHO CODE, TO REVISE THE PERCENTAGE OF ASSETS REQUIRED FOR REDUCED PREMIUM TAXES AND TO PROVIDE CODE REFERENCES; REPEALING SECTION 41-403, IDAHO CODE, RELATING TO REDUCED TAXES BASED ON IDAHO INVESTMENTS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 41-402, Idaho Code, be, and the same is hereby amended to read as follows:

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director on or before the dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath for the period set forth in subsections (3) and (4) of this section, and pay the director a tax at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to policyholders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to policyholders. As to title insurance "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section 41-403, Idaho Code, as that section applies through calendar year 2009, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and five-tenths percent (1.5%).

(b) As to all other kinds of insurance, the rate of tax shall be:

(i) For calendar year 2004 and before, two and seventy-five hundredths percent (2.75%);

(ii) For calendar year 2005, two and five-tenths percent (2.5%);

(iii) For calendar year 2006, two and three-tenths percent (2.3%);

(iv) For calendar year 2007, two and one-tenth percent (2.1%);

(v) For calendar year 2008, one and nine-tenths percent (1.9%);

(vi) For calendar year 2009, one and seven-tenths percent (1.7%); and

(vii) For calendar year 2010 and thereafter, one and five-tenths percent (1.5%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business, if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars ($400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of

the insurer's tax obligation based on the preceding calendar year's business and the current year's rate, and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty percent (60%);

(ii) On or before September 15, twenty percent (20%); and

(iii) On or before December 15, fifteen percent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any reciprocal insurer doing exclusively a worker's compensation business and complying with the provisions of the worker's compensation law of this state and writing worker's compensation only for members under that law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under section 401(a), 403, 404, 408 or 501(a) of the United States Internal Revenue Code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any reciprocal insurer which exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.

(9) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

SECTION 2. That Section 41-403, Idaho Code, be, and the same is hereby amended to read as follows:

41-403. REDUCED TAX BASED ON IDAHO INVESTMENTS. (1) Provided that it shall comply with rules and standards duly promulgated by the director of insurance for the purposes of assuring the establishment and maintenance in this state of services and facilities consistent with the nature and extent of its operations, any insurer, other than a life insurance company, having at all times throughout the year with respect to which the tax is payable ~~twenty-five--percent--(25%)--or--more~~ the required percentage of its assets set forth in subsection (2) of this section invested in the investments set forth below, shall, with respect to premiums on which taxes are to be computed under section 41-402, Idaho Code, compute and pay such tax at the rate ~~of-one-and-four-tenths percent-(1.4%)~~ set forth in subsection (3) of this section instead of at any higher rate provided for under section 41-402, Idaho Code; and provided further, any life insurance company, in order to qualify for a tax rate ~~of-one-and-four-tenths-percent-(1.4%)~~ set forth in subsection (3) of this section instead of any higher rate provided for under section 41-402, Idaho Code, shall maintain throughout the year with respect to which tax is payable ~~at-least-twenty-five-percent-(25%)~~ the required percentage of the reserve required under section 41-706(4), Idaho Code, set forth in subsection (2) of this section invested in the designated investments set forth below:

(~~1~~a) Bonds or warrants of this state, or of any county, city or incorporated town or district within this state authorized by law to be issued; or

(~~2~~b) Taxable real estate within this state; or

(~~3~~c) First mortgages upon improved, unencumbered real estate situated within this state; or

(~~4~~d) Stocks or bonds of corporations organized under the laws of, or maintaining their home office and principal administrative records in this state if such stocks or bonds are lawful investments of the insurer under chapter 7 (investments) of this code; or

(~~5~~e) Bonds authorized by law to be issued against the revenues derived from the operation in this state of domestic water and sewage systems or off-street parking facilities; or

(~~6~~f) Time deposits, or other deposits for interest income purposes, in any Idaho branch of any bank, or trust company, or savings and loan association, or any other legally organized and approved financial institution with one (1) or more branches in this state and insured by any instrumentality of the United States government.

(2) For purposes of subsection (1) of this section, the required percentage of assets invested shall be:

(a) For calendar years 2004 and 2005, twenty-five percent (25%) or more;

(b) For calendar year 2006, twenty percent (20%) or more;

(c) For calendar year 2007, fifteen percent (15%) or more;

(d) For calendar year 2008, ten percent (10%) or more; and

(e) For calendar year 2009, five percent (5%) or more.

(3) For purposes of this section, the rate of tax achievable through investments designated in this section shall be:

(a) For calendar years 2004 and 2005, one and four-tenths percent (1.4%);

(b) For calendar year 2006, one and forty-two hundredths percent (1.42%);

(c) For calendar year 2007, one and forty-four hundredths percent (1.44%);

(d) For calendar year 2008, one and forty-six hundredths percent (1.46%); and

(e) For calendar year 2009, one and forty-eight hundredths percent (1.48%).

SECTION 3. That Section 41-403, 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, 2004. Section 3 of this act shall be in full force and effect on and after January 1, 2010.

Approved March 31, 2004.

CHAPTER 357
(H.B. No. 793)

AN ACT
APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 2005.

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 funds for the period July 1, 2004, through June 30, 2005:

FOR:	
Trustee and Benefit Payments	$20,055,400
FROM:	
General Fund	$19,755,400
Community College Fund	300,000
TOTAL	$20,055,400

Approved March 31, 2004.

CHAPTER 358
(H.B. No. 567)

AN ACT
RELATING TO INCOME TAX CREDITS; AMENDING SECTION 63-3022Q, IDAHO CODE, TO REMOVE THE LIMITATION ON THE AMOUNT OF PREMIUMS FOR LONG-TERM CARE INSURANCE THAT QUALIFY FOR THE CREDIT AGAINST INCOME TAXES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022Q, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022Q. LONG-TERM CARE INSURANCE. For taxable years commencing on or after January 1, 200~~1~~4, ~~fifty percent (50%) of the~~ premiums paid during the taxable year, by a taxpayer for long-term care insurance as that term is defined in section 41-4603, Idaho Code, which long-term care insurance is to be for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer, may be deducted from taxable income to the extent that the premium is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes.

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, 2004.

Approved April 1, 2004.

CHAPTER 359
(H.B. No. 569)

AN ACT

RELATING TO ELEVATOR SAFETY; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 86, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO SET FORTH LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO PROVIDE FOR ENFORCEMENT AND RULEMAKING AUTHORITY, TO PROVIDE SCOPE AND EXEMPTIONS, TO REQUIRE THAT INSTALLATION AND PERIODIC INSPECTIONS BE PERFORMED BY CERTAIN PERSONS, TO REQUIRE PERMITS, TO PROVIDE FOR THE SUBMISSION OF PERMIT APPLICATIONS, TO REQUIRE POSTING OF PERMITS, TO PROVIDE EXCEPTIONS, TO PROVIDE THAT PERMITS AND INSPECTIONS ARE NOT EXCLUSIVE REQUIREMENTS, TO PROVIDE FOR THE RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF EQUIPMENT AND PERIODIC TESTS, TO PROVIDE FOR TEMPORARY CERTIFICATES TO OPERATE, TO PROVIDE FOR CERTIFICATES TO OPERATE, TO PROVIDE THAT OPERATION OF A CONVEYANCE WITHOUT A CERTIFICATE MAY BE ENJOINED, TO SET FORTH PROVISIONS RELATING TO THE AUTHORITY OF THE ADMINISTRATOR TO ORDER THE DISCONTINUANCE OF CERTAIN OPERATIONS, TO ADOPT SAFETY CODES, TO REQUIRE INSPECTIONS AND TESTS, TO SET FORTH FEE SCHEDULES, TO PROVIDE FOR ANNUAL RENEWAL OF CERTIFICATES, TO PROVIDE FOR INSPECTION REPORTS, TO PROVIDE THAT VIOLATIONS CONSTITUTE MISDEMEANORS AND TO SET FORTH PUNISHMENT, TO PROVIDE FOR CIVIL PENALTIES, TO REQUIRE NOTICE OF VIOLATIONS, TO SET FORTH NONLIABILITY PROVISIONS AND TO SET FORTH PROVISIONS RELATING TO ACCIDENTS; AMENDING SECTION 39-4109, IDAHO CODE, TO REMOVE A REFERENCE TO AN ELEVATOR AND ESCALATOR SAFETY CODE; AND AMENDING SECTION 72-720, IDAHO CODE, TO REMOVE A REFERENCE TO ELEVATORS.

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

CHAPTER 86
IDAHO ELEVATOR SAFETY CODE ACT

39-8601. SHORT TITLE. This chapter shall be known and may be cited as the "Elevator Safety Code Act."

39-8602. LEGISLATIVE FINDINGS AND INTENT. (1) The purpose of this chapter is to provide for safety of life and limb and to ensure that the safe design, mechanical and electrical operation, erection, installation, alteration, maintenance, inspection and repair of elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters, and all such operation, erection, installation, alteration, maintenance, inspection and repair subject to the provisions of this chapter shall be reasonably safe to persons and property and in conformity with the provisions of this chapter. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions. The prevention of these injuries and the protection of employees and the public from

unsafe conditions is in the best interest of the people of this state. Personnel performing work covered by this chapter must, by documented training or experience or both, be familiar with the operation and safety functions of the components and equipment and be licensed in accordance with this chapter. Training and experience shall include, but are not limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of this chapter. This chapter establishes the minimum acceptable standards for personnel performing all inspections required in this chapter.

(2) This chapter is not intended to prevent the use of systems, methods or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability and safety to those required by this chapter, provided that there is technical documentation to demonstrate the equivalency of the system, method or device, as prescribed in this chapter and the rules adopted under this chapter.

39-8603. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings unless the context clearly indicates another meaning:

(1) "Administrator" means the administrator of the division of building safety for the state of Idaho.

(2) "ANSI" means the American national standards institute.

(3) "ASME" means the American society of mechanical engineers.

(4) "Conveyance" includes elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters.

(5) "Division" means the Idaho division of building safety.

(6) "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car of limited size that is used exclusively for carrying materials and that moves in guide rails and serves two (2) or more landings.

(7) "Elevator" means a hoisting or lowering machine equipped with a car or platform that moves in guides and services two (2) or more floors or landings of a building or structure.

(8) "Escalator" means a power-driven, inclined, continuous stairway used for raising and lowering passengers.

(9) "Installation" means a complete conveyance including any hoistway, hoistway enclosures and related construction, and all machinery and equipment for its operation.

(a) "Existing installation" means an installation that has been completed or upon which construction was commenced prior to July 1, 2004.

(b) "New installation" means any installation not classified as an existing installation by definition, or an existing conveyance moved to a new location subsequent to July 1, 2004.

(10) "Maintenance" means a process of routine examination, lubrication, cleaning, adjustment, and replacement of parts for the performance in accordance with applicable code requirements.

(11) "Major alteration" means any change to equipment or other maintenance, repair or replacement where work is defined by any applicable code requirement.

(12) "Material lift" means a hoisting and lowering mechanism normally classified as an elevator, equipped with a car that moves within a guide system installed at an angle of greater than seventy degrees (70°) from the horizontal, serving two (2) or more landings, for the purpose

of transporting materials which are manually or automatically loaded or unloaded.

(13) "Modernization" means the replacing or upgrading of any major operating component(s) of a conveyance.

(14) "Moving walks" means a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(15) "Owner" includes the designated agent or representative of the owner.

(16) "Platform lift" means a hoisting and lowering mechanism that moves within a guide system and serves two (2) or more landings, and may include vertical or inclined platform lifts used by persons who are mobility impaired.

(17) "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling occupied only by the members of a single family unit.

(18) "Qualified elevator inspector" or "QEI" means a person who is currently certified by the National Association of Elevator Safety Authorities International (NAESA International) accredited certifying organization as meeting the requirements of the NAESA International QEI-1 standard, and who is employed by or under contract to the division of building safety.

(19) "Repair" means the process of rehabilitation, upgrading or replacement of parts that are basically the same as the originals for the purpose of ensuring performance in accordance with the applicable code requirements.

(20) "Replacement" means the substitution of a device or component in its entirety with a new unit that is basically the same as the original for the purpose of ensuring performance in accordance with the applicable code requirements.

39-8604. ENFORCEMENT. The administrator shall enforce the provisions of this chapter. Local governments shall not adopt codes or institute enforcement programs with regard to conveyances.

39-8605. ADMINISTRATOR'S RULEMAKING AUTHORITY. The administrator may adopt rules and codes governing the operation, installation, alteration, maintenance, inspection and repair of conveyances and shall adopt minimum standards governing existing installations. The administrator may adopt such rules and fees as are reasonably necessary to establish and administer the provisions of this chapter.

39-8606. SCOPE -- EXEMPTIONS. The provisions of this chapter shall apply to all conveyances within the state of Idaho except the following:

(1) Conveyances located in private residences;

(2) Conveyances in federally-owned facilities;

(3) Conveyances permanently removed from service or made effectively inoperative; and

(4) Conveyances erected temporarily for use only during construction work that are of such a design that they must be operated by a workman stationed at the hoisting machine.

39-8607. INSPECTIONS. On and after July 1, 2004, all installations and periodic inspections required by this chapter shall be performed by a QEI as defined in this chapter.

39-8608. INSTALLATION PERMITS REQUIRED -- APPLICATION -- POSTING -- EXCEPTIONS -- OTHER LICENSES, PERMITS AND INSPECTIONS. (1) On and after July 1, 2004, it shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any installation or major alteration of any conveyance in the state of Idaho without first procuring an installation permit from the division of building safety authorizing the work to be done.

(2) The owner of a conveyance shall submit an application for the permit in a form that the division may prescribe. A copy of the plans or specifications for the installation, erection, major alteration, or relocation shall be attached to the permit application.

(3) The permit issued by the division shall be kept posted conspicuously at the site of installation.

(4) No installation permit is required for repairs and replacement normally necessary for maintenance and made with parts of equivalent materials, strength and design, or for installations and major alterations that have been commenced prior to July 1, 2004, or for new installations let for bid prior to November 1, 2002.

(5) The installation permit and inspections required in this chapter are not exclusive. Installations and major alterations of conveyances as herein defined may be subject to licensing, permitting and inspection requirements set forth in other provisions of law.

39-8609. RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF EQUIPMENT AND FOR PERIODIC TESTS. (1) The person installing or altering a conveyance is responsible for its operation and maintenance until the division has issued an operating certificate for the conveyance. The owner is responsible for all tests of a new, relocated or altered conveyance until the division has issued an operating permit for the conveyance.

(2) The owner shall be responsible for the safe operation and proper maintenance of the conveyance after the division has issued the operating certificate and also during the period of effectiveness of any temporary operating permit. The owner shall be responsible for assuring that all required periodic tests are performed by a QEI as defined in this chapter.

39-8610. TEMPORARY CERTIFICATE TO OPERATE. A temporary certificate to operate may be issued by the administrator and shall be effective for not more than sixty (60) days. No temporary certificate shall be issued when life-safety nonconformances are present. Before the expiration of sixty (60) days, the conveyance shall be reinspected and a permanent certificate to operate shall be issued or the conveyance shall be put out of service.

39-8611. CERTIFICATE TO OPERATE. (1) Inspection and certificate. No conveyance shall be placed into operation until an inspection has been performed and a certificate to operate has been issued by the division.

(2) Inspection prior to issuance. A certificate to operate may be issued only if, after a thorough inspection, the QEI finds that the con-

veyance meets the required safety standards. If the conveyance is found to be unsafe, the division shall prohibit the use of the conveyance until it is made safe.

(3) Term of certificate. A certificate to operate shall be in effect for five (5) years, provided that the conveyance continues to meet the requirements of the appropriate codes as evidenced by annual inspections.

(4) Revocation of certificate. The certificate to operate shall remain the property of the state of Idaho and may be revoked at any time if the conveyance fails to meet the requirements of the appropriate codes or if the annual certification fee is not paid.

39-8612. OPERATION WITHOUT CERTIFICATE MAY BE ENJOINED. Whenever any conveyance is being operated without a certificate required by this chapter, the administrator may apply to the district court of the county in which the conveyance is located for a temporary restraining order or a temporary or permanent injunction restraining the operation of the conveyance until the division issues a certificate to operate. Notwithstanding any other provision of law, the division shall not be required to post a bond.

39-8613. ORDER TO DISCONTINUE OPERATION -- NOTICE -- CONDITIONS -- CONTENTS OF ORDER -- RESCISSION OF ORDER -- VIOLATION -- PENALTY -- RANDOM INSPECTIONS. (1) The administrator may order the owner or person operating a conveyance to discontinue the operation of a conveyance, and may place a notice that states that the conveyance shall not be operated, in a conspicuous place in the conveyance if the conveyance:

(a) Has not been constructed, installed, maintained or repaired in accordance with the requirements of this chapter; or

(b) Has otherwise become unsafe.

(2) The administrator's order is effective immediately and shall not be stayed by a request for an administrative hearing.

(3) The administrator shall prescribe a form for the order to discontinue operation. The order shall specify why the conveyance violates this chapter or is otherwise unsafe.

(4) The administrator shall rescind the order to discontinue operation if the conveyance is fixed or modified to bring it into compliance with this chapter.

(5) An owner or a person that knowingly operates or allows the operation of a conveyance in contravention of an order to discontinue operation, or that removes a notice not to operate, is:

(a) Guilty of a misdemeanor; and

(b) Subject to a civil penalty.

(6) The division may conduct random on-site inspections and tests on existing installations and may witness periodic inspections and testing in order to ensure satisfactory performance.

(7) Administrative hearings of appeals from orders issued by the administrator shall be governed by the provisions of the Idaho administrative procedure act, chapter 67, title 52, Idaho Code.

39-8614. ADOPTION OF CODES. The following codes, including updates and addenda as set forth in the duly promulgated administrative rules, are hereby adopted for all conveyances subject to this chapter:

(1) ANSI/ASME, Safety Code for Elevators and Escalators.

(2) ANSI/ASME, Guide for Inspection of Elevators, Escalators, and Moving Walks.
(3) ANSI/ASME, Safety Code for Existing Elevators and Escalators.
(4) ANSI/ASME, Guide for Emergency Personnel.
(5) ANSI/ASME, Standards for Elevator and Escalator Electrical Equipment.
(6) ANSI/ASME, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations.
(7) ICC/ANSI, American National Standard, Accessible and Usable Buildings and Facilities.
(8) ANSI/ASME, Safety Standards for Platform Lifts and Stairway Chairlifts.
(9) ASME, Standards for the Qualification of Elevator Inspectors.

39-8615. INSPECTIONS AND TESTS. Conveyances shall have an inspection performed in accordance with ANSI/ASME standards set forth in section 39-8614, Idaho Code. The following types of inspections are required:
(1) Acceptance. The initial inspection and tests of new or altered equipment by a QEI to check for compliance with the applicable code requirements.
(2) Periodic. Periodic inspection and tests plus additional detailed examination and operation of equipment at specified intervals performed by a QEI to check for compliance with the applicable code requirements. Periodic inspections are required at least every five (5) years.
(3) Routine. Annual examinations performed in compliance with applicable codes to verify compliance with requirements.

39-8616. FEES. Fees to be charged by the division shall be as follows:
(1) Installation, alteration, modernization or relocation fee schedule. Fees include one (1) plan review and certificate to operate, and two (2) acceptance inspections (each inspection thereafter will incur a reinspection fee):
(a) Certification fee:
(i) Traction and roped hydraulic elevator.....$1,500
(ii) Moving walk/escalator.....$1,500
(iii) Hydraulic elevator.....$1,000
(iv) Platform lift/material lift/dumbwaiter.....$750
(b) Reinspection fee:
(i) Traction and roped hydraulic elevator.....$500
(ii) Moving walk/escalator.....$500
(iii) Hydraulic elevator.....$500
(iv) Platform lift/material lift/dumbwaiter.....$250
(2) Annual certificate to operate fee schedule. Fees include annual certificate to operate and periodic inspection (every five (5) years):
(a) Certification fee:
(i) Traction and roped hydraulic elevator.....$225
(ii) Moving walk/escalator.....$225
(iii) Hydraulic elevator.....$125
(iv) Platform lift/material lift/dumbwaiter.....$100

(b) Reinspection fee:
(i) Traction and roped hydraulic elevator.....$225
(ii) Moving walk/escalator.....$225
(iii) Hydraulic elevator.....$125
(iv) Platform lift/material lift/dumbwaiter.....$100
(3) Temporary certificate to operate fee schedule (same as annual):
(a) Temporary certification fee:
(i) Traction and roped hydraulic elevator.....$225
(ii) Moving walk/escalator.....$225
(iii) Hydraulic elevator.....$125
(iv) Platform lift/material lift/dumbwaiter.....$100
(b) Reinspection fee:
(i) Traction and roped hydraulic elevator.....$225
(ii) Moving walk/escalator.....$225
(iii) Hydraulic elevator.....$125
(iv) Platform lift/material lift/dumbwaiter.....$100
(4) Application for initial certification (nonrefundable):
All conveyances.....$50

39-8617. ANNUAL RENEWAL. Certificates to operate shall be renewed annually by making application to the division on such forms as the division may prescribe. Successful application shall require payment of the annual renewal fee and submission of a satisfactory routine inspection form, provided however, that on each five (5) year anniversary of issuance of the certificate, successful application shall require payment of the annual renewal fee and submission of a satisfactory periodic inspection form.

39-8618. INSPECTION REPORTS. Within fifteen (15) days of completion of the inspection, all inspection reports shall be filed with the division and a copy shall be sent to the owner for corrective actions as required. Failure to complete corrective actions within fifteen (15) days of receipt of the inspection report shall constitute grounds for the imposition of civil penalties and such further action as the division may deem appropriate.

39-8619. VIOLATIONS -- MISDEMEANORS. (1) Any person who willfully violates any provision of this chapter or the duly promulgated rules hereunder is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than three hundred dollars ($300) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

(2) A separate violation is deemed to have occurred with respect to each conveyance not in compliance with this chapter. Each day such violation continues constitutes a separate offense.

39-8620. CIVIL PENALTY FOR VIOLATION OF CHAPTER -- NOTICE. (1) The administrator may assess a penalty against a person violating a provision of this chapter. The penalty shall be not more than five hundred dollars ($500) per violation. Each day that the violation continues is a separate violation and is subject to a separate penalty.

(2) The administrator shall notify the violator of his action and the reasons for his action in writing. The administrator shall send the notice by certified mail to the violator's last known address. The

notice shall inform the violator that a hearing may be requested under the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. A request for a hearing shall not stay the effect of the penalty.

39-8621. NO LIMITATION OR ASSUMPTION OF LIABILITY. This chapter shall not be construed to relieve or lessen the responsibility of any person, firm or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing or repairing any conveyance covered by this chapter for damages to any person or property caused by any defect therein, nor does the state assume any such liability or responsibility for any liability to any person for whatever reason whatsoever by the adoption of this chapter or any acts or omissions arising hereunder.

39-8622. ACCIDENTS -- REPORT AND INVESTIGATION -- CESSATION OF USE -- REMOVAL OF DAMAGED PARTS. The owner shall promptly notify the division of each accident to a person requiring the service of a physician or resulting in a disability exceeding one (1) day and shall afford the division every facility for investigating and inspecting the accident. After being so notified, the division shall without delay make an inspection and shall place on file a full and complete report of the accident. The report shall detail all material facts and information gathered as a part of the investigation and shall include the potential cause or causes of the accident, as may be ascertained by the division. The report shall be open to public inspection at all reasonable hours. When an accident involves the failure or destruction of any part of the construction or the operating mechanism of a conveyance, the use of the conveyance is forbidden until it has been made safe, it has been reinspected, any repairs, changes or alterations have been approved by the division, and a permit has been issued by the division. The removal of any part of the damaged construction or operating mechanism from the premises is forbidden until the division grants permission to do so.

SECTION 2. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. APPLICATION OF CODES. The following codes are hereby adopted for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

(1) The 2000 International Building Code and appendices thereto pertaining to building accessibility, not including the adoption of the incorporated electrical codes, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code, but including the incorporated International Residential Code; International Mechanical Code; International Fuel Gas Code; International Energy Conservation Code; for the 2000 edition of the International Building Code, the requirements pertaining to accessibility for persons with disabilities published by the International Code Council in the 2001 supplement to the International Codes and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guide-

lines and the fair housing act accessibility guidelines shall be included;

(2) The 2000 International Residential Code as published by the International Code Council, except for parts VII and VIII as they pertain to plumbing and electrical requirements;

(3) The 2000 International Energy Conservation Code as published by the International Code Council;

(4) The latest edition of the Uniform Mechanical Code, published by the International Conference of Building Officials; and

(5) The 1997 Uniform Code for Building Conservation as published by the International Conference of Building Officials~~;-and~~

~~(6)--The-Safety-Code-for-Elevators-and-Escalators-(ASME/ANSI--A17.1) as--published--by--the--American-Society-of-Mechanical-Engineers-and-the American-National-Standards-Institute~~.

SECTION 3. That Section 72-720, Idaho Code, be, and the same is hereby amended to read as follows:

72-720. POWERS OF COMMISSION -- SAFETY. (1) Except as provided in subsection (2) of this section, whenever it receives a written request for an inspection or has written documented information that any employer subject to the commission's jurisdiction in worker safety matters is employing workers in or about any structure, room or place of employment which is not constructed and maintained in conformity with reasonable standards of construction as shall render it safe, or is employing workers on, or with, tools, equipment or machinery which are not equipped with safety devices, safeguards or other means of protection well adapted to render employees and places of employment safe, the commission is authorized to inspect such places of employment, to compel such employer to cease employing workers in such places, or on, or with, such tools, appliances or machinery, if they are deemed unsafe, and, pursuant to the provisions of chapter 52, title 67, Idaho Code, to adopt reasonable minimum safety standards.

(2) The provisions of this section requiring a written request or written documentation prior to an inspection shall not apply to:

(a) Inspections conducted pursuant to rules promulgated by the commission relating to the logging safety program, ~~or-elevators,~~ boilers and pressure vessels; or

(b) Inspections of buildings owned or maintained by a political subdivision of the state if such political subdivision has not, pursuant to chapter 41, title 39, Idaho Code, adopted applicable building codes and instituted and implemented a code enforcement program; provided however, that inspections by the commission of such buildings shall be conducted on an annual basis only. For purposes of this subsection, "political subdivision" means any governmental unit or special district of the state of Idaho.

Approved April 1, 2004.

CHAPTER 360
(H.B. No. 619)

AN ACT

RELATING TO INSURANCE PREMIUM RATES; AMENDING SECTIONS 41-4706 AND 41-5206, IDAHO CODE, TO REMOVE SUNSET PROVISIONS AND TO DELETE LANGUAGE REQUIRING A REVIEW AND REPORT BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

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

SECTION 1. That Section 41-4706, Idaho Code, be, and the same is hereby amended to read as follows:

41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent (20%).

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than fifty percent (50%) of the index rate. ~~The provisions of this subsection (1)(b) shall apply until July 1, 2004, with respect to all health benefit plans offered to small employers other than the small employer basic, standard and catastrophic plans. The director shall review the provisions of this subsection following the receipt of data from health care insurers for calendar year 2004 and shall submit to the house business committee and the senate commerce and human resources committee a report regarding retention of the index rate bands.~~

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the

case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(d) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(e) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(f) (i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(g) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(h) The small employer carrier shall not use case characteristics, other than age, individual tobacco use, geography, as defined by rule of the director, or gender, without prior approval of the director.

(i) A small employer carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-three (23) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(j) The director may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(iii) Prescribe the manner in which a small employer carrier is to demonstrate compliance with the provisions of this section, including requirements that a small employer carrier provide the director with actuarial certification as to such compliance.

(2) A small employer carrier shall not transfer a small employer

involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more small employers included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 2. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than fifty percent (50%) of the index rate. ~~The provisions of this subsection (1)(a) shall apply until July 1, 2004, with respect to all health benefit plans offered to individuals other than the individual basic, standard, catastrophic A and catastrophic B plans. The director shall review the provisions of this subsection following the receipt of data from health care insurers for calendar year 2004 and shall submit to the house business committee and the senate commerce and human resources committee a report regarding retention of the index rate bands.~~

(b) The percentage increase in the premium rate charged to an individual for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals.

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the individual or dependents as determined from the individual carrier's rate manual; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the individual carrier's rate manual.

(c) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(d) (i) Individual carriers shall apply rating factors, including case characteristics, consistently with respect to all individuals. Rating factors shall produce premiums for identical individuals which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the individuals assumed to select particular health benefit plans; and

(ii) An individual carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(e) For purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a

network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(f) The individual carrier shall not use case characteristics, other than age, individual tobacco use, geography as defined by rule of the director, or gender, without prior approval of the director.

(g) An individual carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-three (23) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(h) The director may establish rules to implement the provisions of this section and to assure that rating practices used by individual carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by individual carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by individual carriers; and

(iii) Prescribe the manner in which an individual carrier is to demonstrate compliance with the provisions of this section, including requirements that an individual carrier provide the director with actuarial certification as to such compliance.

(2) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more individuals for one (1) or more rating periods upon a filing by the individual carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the individual carrier or that the suspension would enhance the efficiency and fairness of the marketplace for individual health insurance.

(3) In connection with the offering for sale of any health benefit plan to an individual, an individual carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for an individual are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the individual and his dependents;

(b) The provisions of the health benefit plan concerning the individual carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(4) (a) Each individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each individual carrier shall file with the director annually on or before September 15, an actuarial certification certifying

that the carrier is in compliance with the provisions of this chapter and that the rating methods of the individual carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the individual carrier at its principal place of business.

(c) An individual carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

Approved April 1, 2004.

CHAPTER 361
(H.B. No. 654)

AN ACT

RELATING TO SINGLE COUNTYWIDE HIGHWAY DISTRICTS; AMENDING CHAPTER 14, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1418, IDAHO CODE, TO PROVIDE FOR DISSOLUTION OF EXISTING SINGLE COUNTYWIDE HIGHWAY DISTRICTS; AND AMENDING SECTION 40-1801, IDAHO CODE, TO PROVIDE THAT THE SECTION SHALL NOT APPLY TO SINGLE COUNTYWIDE HIGHWAY DISTRICTS AND TO PROVIDE APPLICATION TO A SINGLE COUNTYWIDE HIGHWAY DISTRICT.

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

SECTION 1. That Chapter 14, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1418, Idaho Code, and to read as follows:

40-1418. PROCEEDINGS FOR DISSOLUTION OF EXISTING SINGLE COUNTYWIDE HIGHWAY DISTRICT. All proceedings for the dissolution of single countywide highway districts shall be initiated by a petition of ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, addressed to the commissioners of the county in which the single countywide highway district is situate, and which shall concisely state the grounds or reasons for the dissolution and contain a request for a hearing of the petition. A hearing on the petition shall be conducted pursuant to sections 40-1803 through 40-1805, Idaho Code. Following the hearing on the petition, the election and process for dissolution shall be conducted as provided in sections 40-1806 through 40-1821, Idaho Code. The election shall be held at the next general election and in the event a majority of the qualified electors at the election vote in favor of dissolution, the commission shall immediately make and enter an order declaring the single countywide highway district dissolved.

SECTION 2. That Section 40-1801, Idaho Code, be, and the same is hereby amended to read as follows:

40-1801. DISTRICTS SUBJECT TO DISSOLUTION. Any highway district of the state, except a single countywide highway district formed pursuant to chapter 14, title 40, Idaho Code, may be dissolved as provided in this chapter. Sections 40-1806 through 40-1821, Idaho Code, shall apply to any election and process for dissolution of a single countywide highway district.

Approved April 1, 2004.

CHAPTER 362
(H.B. No. 697)

AN ACT

RELATING TO RULES OF THE BOARD OF HEALTH AND WELFARE; AMENDING SECTION 56-1017, IDAHO CODE, TO PROVIDE FOR THE ADOPTION OF RULES AND STANDARDS CONCERNING CRITERIA FOR THE USE OF AIR MEDICAL SERVICES BY CERTIFIED EMS PERSONNEL AT EMERGENCY SCENES.

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

SECTION 1. That Section 56-1017, Idaho Code, be, and the same is hereby amended to read as follows:

56-1017. RULES. (1) The board of medicine is authorized and directed to adopt appropriate rules defining the allowable scope of practice and acts and duties which can be performed by persons certified by the department and the required level of supervision by a licensed physician.

(2) The board of health and welfare is authorized and directed to adopt appropriate rules and standards concerning the administration of sections 56-1011 through 56-1018B, Idaho Code, including criteria for training programs, certification of personnel, licensure of ambulances and non-transport services, licensure of ambulance and non-transport vehicles, criteria for the use of air medical services by certified EMS personnel at emergency scenes, establishment of fees for training, inspections, and certifications, and appropriate requirements for recertification of personnel and equipment. The rules of the board of health and welfare must be consistent with the rules adopted by the board of medicine.

(3) Additionally, the department shall develop guidelines, standards and procedures for reducing exposure to pathogens from human blood, tissue or fluids. Such guidelines, standards and procedures shall be made available to all law enforcement personnel, all emergency medical services personnel, and such other emergency personnel as request such information.

Approved April 1, 2004.

CHAPTER 363
(H.B. No. 768)

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 2005; 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; REQUIRING THE STATE BOARD OF EDUCATION TO TRACK AND REPORT FACULTY, NONFACULTY EXEMPT AND CLASSIFIED STAFF TURNOVER; EXPRESSING THE BELIEF OF THE LEGISLATURE REGARDING FUNDING EQUITY AMONG IDAHO'S FOUR YEAR INSTITUTIONS OF HIGHER EDUCATION; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho, and the Office of the State Board of Education the following amount to be expended for the designated programs from the listed funds for the period July 1, 2004, through June 30, 2005:

FOR:	
General Education Programs	$341,294,500
FROM:	
General Fund	$223,366,200
Agricultural College Endowment Fund	760,800
Charitable Institutions Endowment Earnings Fund	750,600
Normal School Endowment Earnings Fund	2,741,300
Science School Endowment Fund	3,136,900
University Endowment Fund	2,630,900
Unrestricted Current Fund	34,700,100
Restricted Current Fund	73,207,700
TOTAL	$341,294,500

SECTION 2. Of the amount appropriated from the General Fund in Section 1 of this act, an amount not to exceed $75,000 shall be used by the Office of the State Board of Education for system-wide needs.

SECTION 3. Of the amount appropriated from the General Fund in Section 1 of this act, 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 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 8. The Legislature continues to believe that funding equity among Idaho's four year institutions of higher education, as identified by the State Board of Education, is an important issue. Further, the Legislature encourages the State Board of Education to begin the process of gradually achieving funding equity within existing and future resources in a manner that is beneficial to the institutions.

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 367, Laws of 2003, to be used for nonrecurring expenditures, for the period July 1, 2004, through June 30, 2005.

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, 2004, 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, 2004, 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.

Approved April 1, 2004.

CHAPTER 364
(H.B. No. 794)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:				
FROM:				
General Fund	$ 493,500	$1,089,000		$1,582,500
II. WWAMI MEDICAL EDUCATION:				
FROM:				
General Fund	$ 682,500	$ 62,500	$2,475,700	$3,220,700
Unrestricted Current Fund	22,600	62,600	121,800	207,000
TOTAL	$ 705,100	$ 125,100	$2,597,500	$3,427,700
III. IDEP DENTAL EDUCATION:				
FROM:				
General Fund	$ 207,200	$ 14,100	$ 685,000	$ 906,300
Unrestricted Current Fund	109,600			109,600
TOTAL	$ 316,800	$ 14,100	$ 685,000	$1,015,900
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:				
FROM:				
General Fund			$ 892,900	$ 892,900
V. FAMILY PRACTICE RESIDENCIES:				
FROM:				
General Fund	$ 422,100	$ 107,500	$ 520,300	$1,049,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. WICHE:				
FROM:				
General Fund			$ 193,800	$ 193,800
GRAND TOTAL	$1,937,500	$1,335,700	$4,889,500	$8,162,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty and thirty-nine hundredths (20.39) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, 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 336, Laws of 2003, to be used for nonrecurring expenditures, for the period July 1, 2004, through June 30, 2005.

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, 2004, 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, 2004, 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 1, 2004.

CHAPTER 365
(H.B. No. 795)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:				
FROM:				
General Fund	$ 488,000	$ 93,400		$ 581,400
II. IDAHO GEOLOGICAL SURVEY:				
FROM:				
General Fund	$ 769,200	$ 25,700		$ 794,900
III. SCHOLARSHIPS AND GRANTS:				
FROM:				
General Fund			$7,330,500	$ 7,330,500
Federal Grant Fund			440,000	440,000
TOTAL			$7,770,500	$ 7,770,500
IV. IDAHO MUSEUM OF NATURAL HISTORY:				
FROM:				
General Fund	$ 492,600	$ 13,500		$ 506,100
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:				
FROM:				
General Fund			$ 286,700	$ 286,700
VI. IDAHO COUNCIL ON ECONOMIC EDUCATION:				
FROM:				
General Fund			$ 53,200	$ 53,200
VII. TECHHELP:				
FROM:				
General Fund			$ 164,800	$ 164,800
GRAND TOTAL	$1,749,800	$132,600	$8,275,200	$10,157,600

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, 2004, through June 30, 2005, 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 who entered 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 1, 2004.

CHAPTER 366
(H.B. No. 822)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2005; 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:				
FROM:				
General Fund	$2,970,000	$1,273,300	$ 967,700	$ 5,211,000
Driver's Education Fund	145,900	147,900	2,073,900	2,367,700
Public Instruction Fund	354,700	843,800	11,200	1,209,700
Student Tuition Recovery Fund		5,300	49,600	54,900
Federal Grant Fund	3,172,900	3,724,300		6,897,200
Indirect Cost Recovery Fund	334,100	186,400		520,500
Data Processing Services Fund	66,100	42,200		108,300
Miscellaneous Revenue Fund	787,900	2,059,100		2,847,000
TOTAL	$7,831,600	$8,282,300	$3,102,400	$19,216,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred thirty-two (132) full-time equivalent positions at any point during the

period July 1, 2004, through June 30, 2005, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 1, 2004.

CHAPTER 367
(S.B. No. 1260)

AN ACT

RELATING TO THE IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 88, TITLE 67, IDAHO CODE, TO ESTABLISH THE IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR, TO PROVIDE FOR THE CREATION OF A COMMISSION, TO SET FORTH MEMBERSHIP, TO PROVIDE FOR COMMISSION POSITIONS, TO REQUIRE COMMISSION MEETINGS, TO AUTHORIZE THE PROMULGATION OF RULES, TO PROVIDE FOR THE AWARDING OF THE MEDAL OF HONOR, TO PROVIDE FOR POSTHUMOUS AWARDS, TO SET FORTH THE DESIGN OF THE MEDAL, TO PROVIDE FOR THE PAYMENT OF THE COST OF THE MEDAL AND TO PROVIDE THAT THE FAMILY OF A RECIPIENT MAY REQUEST A SECOND MEDAL.

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

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 88, Title 67, Idaho Code, and to read as follows:

CHAPTER 88
IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR

67-8801. IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR ESTABLISHED. There is hereby established a decoration of the Idaho law enforcement and firefighting medal of honor with accompanying ribbons and appurtenances for award by the governor in the name of the state to any law enforcement officer or firefighter who has been killed or seriously injured in the performance of duty, or who has been distinguished by exceptionally meritorious conduct, upon nomination of the Idaho law enforcement and firefighting medal of honor commission.

67-8802. IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR COMMISSION CREATED -- MEMBERSHIP -- ESTABLISHMENT OF QUALIFICATIONS FOR AWARD. (1) There is hereby created in the office of the governor the Idaho law enforcement and firefighting medal of honor commission, hereafter referred to as the commission, which shall nominate candidates for the award of the Idaho law enforcement and firefighting medal of honor. The commission shall consist of one (1) representative from each of the following: the office of the governor, the office of the attorney general, the Idaho prosecuting attorneys association, the Idaho chiefs of police association, the Idaho fire chiefs association, the Idaho sheriffs' association, the Idaho peace officers association and the peace officers standards and training council. Members of the commission shall be appointed by the governor and shall each serve for a term of four (4) years.

(2) The attorney general or his designee shall serve as chair of the commission and shall designate a secretary for the commission.

(3) The commission shall meet annually, or at the call of the chair, to consider candidates for nomination. Commission meetings may be conducted via teleconference.

(4) The commission shall adopt rules establishing the qualifications for the Idaho law enforcement and firefighting medal of honor and the protocol governing the decoration, and other rules necessary to carry out the purposes of this chapter.

67-8803. WHEN AND BY WHOM AWARDED. The Idaho law enforcement and firefighting medal of honor shall be awarded by the governor to the recipients during the national law enforcement recognition week. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general.

67-8804. POSTHUMOUS AWARD. The Idaho law enforcement and firefighting medal of honor may be awarded posthumously by presentation to a representative of the deceased as may be deemed appropriate by the governor or the designees specified in section 67-8803, Idaho Code.

67-8805. DESIGN AND COST. The decoration of the Idaho law enforcement and firefighting medal of honor shall be cast in bronze or other metal. The design of the medal shall incorporate the great seal of the state of Idaho with other insignia as deemed appropriate by the law enforcement and firefighting medal of honor commission. The reverse of the decoration shall be inscribed with the words: "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer or firefighter." The cost of the medal shall be paid by the agency whose officer or firefighter receives the medal. The family of a recipient may request a second medal and may receive such medal upon payment to the commission of the cost of the medal.

Approved April 1, 2004.

CHAPTER 368
(S.B. No. 1425)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 2005; 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; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SHELTERED WORKSHOP SERVICES FOR FISCAL YEAR 2004; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:				
FROM:				
General Fund	$10,473,900	$ 2,650,100	$ 9,043,900	$ 22,167,900
Cooperative Welfare Fund (Federal)	14,851,900	7,520,800	10,882,700	33,255,400
Cooperative Welfare Fund (Dedicated)			1,294,800	1,294,800
TOTAL	$25,325,800	$10,170,900	$21,221,400	$ 56,718,100
II. DEVELOPMENTAL DISABILITIES SERVICES:				
FROM:				
General Fund	$ 5,444,100	$ 889,200	$ 267,900	$ 6,601,200
Cooperative Welfare Fund (Federal)	2,727,600	2,463,900	1,415,700	6,607,200
Cooperative Welfare Fund (Dedicated)	913,900	45,400	9,500	968,800
TOTAL	$ 9,085,600	$ 3,398,500	$ 1,693,100	$ 14,177,200
III. COMMUNITY MENTAL HEALTH SERVICES:				
FROM:				
General Fund	$ 7,349,100	$ 2,076,100	$ 2,360,500	$ 11,785,700
Cooperative Welfare Fund (Federal)	2,019,500	998,200	821,500	3,839,200
Cooperative Welfare Fund (Dedicated)	2,659,000			2,659,000
TOTAL	$12,027,600	$ 3,074,300	$ 3,182,000	$ 18,283,900
IV. IDAHO STATE SCHOOL AND HOSPITAL (ISSH):				
FROM:				
General Fund	$ 3,809,400	$ 816,100	$ 103,400	$ 4,728,900
Medical Assistance Fund		3,500		3,500
Cooperative Welfare Fund (Dedicated)	667,500	122,400	10,200	800,100
Cooperative Welfare Fund (Federal)	13,130,100	2,000,000	206,800	15,336,900
TOTAL	$17,607,000	$ 2,942,000	$ 320,400	$ 20,869,400
V. STATE HOSPITAL NORTH:				
FROM:				
General Fund	$ 3,929,600	$ 226,200	$ 6,900	$ 4,162,700
Alcohol Intoxication Treatment Fund	699,800	28,100		727,900
Cooperative Welfare Fund (Dedicated)	143,100			143,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Hospital North Endowment Income Fund	463,700	408,900	43,200	915,800
TOTAL	$ 5,236,200	$ 663,200	$ 50,100	$ 5,949,500
VI. STATE HOSPITAL SOUTH:				
FROM:				
General Fund	$ 8,101,800	$ 1,608,600	$ 233,500	$ 9,943,900
Cooperative Welfare Fund (Dedicated)	344,000	131,400	800	476,200
Mental Hospital Endowment Fund	1,623,300	66,000		1,689,300
Cooperative Welfare Fund (Federal)	3,151,000	1,275,400	12,400	4,438,800
TOTAL	$13,220,100	$ 3,081,400	$ 246,700	$ 16,548,200
VII. SUBSTANCE ABUSE SERVICES:				
FROM:				
General Fund	$ 57,500	$ 410,000	$ 2,676,600	$ 3,144,100
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	526,000	881,900
Substance Abuse Treatment Fund			8,800	8,800
Cooperative Welfare Fund (Federal)	261,200	2,607,400	5,904,300	8,772,900
TOTAL	$ 571,600	$ 3,940,500	$ 9,945,500	$ 14,457,600
GRAND TOTAL	$83,073,900	$27,270,800	$36,659,200	$147,003,900

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 2004, to be used for nonrecurring expenditures only for the period July 1, 2004, through June 30, 2005. 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, 2004, through June 30, 2005.

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. SHELTERED WORKSHOP SERVICES. It is the intent of the Legislature that funds appropriated to the Department of Health and Welfare, Division of Family and Community Services, for Sheltered Workshop Services during fiscal year 2004 be fully utilized; and that eligible persons on waiting lists, and other persons subsequently found to be eligible, be processed to receive services.

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.

Approved April 1, 2004.

CHAPTER 369
(S.B. No. 1428)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2005; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE PROGRAMS:				
FROM:				
General Fund	$10,703,400	$ 5,289,000	$ 8,747,300	$ 24,739,700
Cooperative Welfare Fund (Federal)	15,686,000	14,617,400	47,998,200	78,301,600
Cooperative Welfare Fund (Dedicated)	506,500	2,125,600		2,632,100
TOTAL	$26,895,900	$22,032,000	$56,745,500	$105,673,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. TAFI AND AABD BENEFIT PAYMENTS:				
FROM:				
General Fund			$ 8,387,500	$ 8,387,500
Cooperative Welfare Fund (Federal)			6,996,400	6,996,400
TOTAL			$15,383,900	$ 15,383,900
GRAND TOTAL	$26,895,900	$22,032,000	$72,129,400	$121,057,300

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 2004, to be used for nonrecurring expenditures only for the period July 1, 2004, through June 30, 2005. 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, 2004, through June 30, 2005.

Approved April 1, 2004.

CHAPTER 370
(S.B. No. 1443)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY AND TO PROVIDE TRANSPORTATION REIMBURSEMENT FOR PUBLIC VIRTUAL SCHOOLS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5202A, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 33-5208, IDAHO CODE, TO CLARIFY COMPUTATION OF SUPPORT UNITS FOR CHARTER SCHOOLS FORMED BY CONVERSION OF AN EXISTING TRADITIONAL PUBLIC SCHOOL, TO PROVIDE FUNDING FOR PUBLIC VIRTUAL SCHOOLS AND TO PROVIDE PROPER TERMINOLOGY; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 administration 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:

(a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

(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;

(c) The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

(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 provided 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;

(e) The costs of providing transportation to and from approved school activities as may be approved by rules of the state board of education;

(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~~ reimbursable transportation costs of the district incurred during the immediately preceding state fiscal year, provided the ~~allowable~~ reimbursable costs do not exceed one hundred three percent (103%) of the statewide average reimbursable cost per mile or the state average reimbursable cost per student rider, 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~~ reimbursable costs to the state board of education, which may establish for that district a new percentile limit for ~~allowable~~ reimbursable costs compared to the statewide 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 circumstances, 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.

(7) Beginning on July 1, 2005, any eligible home-based public virtual school may claim transportation reimbursement for the prior fiscal year's cost of providing educational services to students. In order to be eligible, such a school shall have at least one (1) average daily attendance divisor, pursuant to section 33-1002, Idaho Code, that is greater than the median divisor shown for any category of pupils, among the actual divisors listed. For the purposes of paragraphs (a), (b) and (c) of this subsection (7), "education provider" means the home-based public virtual school or an entity that has legally contracted with the home-based public virtual school to supply education services. Reimbursable costs shall be limited to the costs of:

(a) Providing an internet connection service between the student and the education provider, not including the cost of telephone service;

(b) Providing electronic and computer equipment used by the student to transmit educational material between the student and the education provider;

(c) Providing a toll-free telephone service for students to communicate with the education provider;

(d) Providing education-related, face-to-face visits by representatives of the home-based public virtual school, with such reimbursements limited to the mileage costs set for state employee travel by the state board of examiners; and

(e) Any actual pupil transportation costs that would be reimbursable if claimed by a school district.

The total reimbursement for such home-based public virtual schools shall be exempt from the statewide average cost per mile limitations of this section. The state's share of reimbursable costs shall be eighty-five percent (85%), subject to the statewide cost per student rider provisions of this section. For the purposes of such home-based public virtual school, the number of student riders shall be the same as the number of pupils in average daily attendance.

SECTION 2. That Chapter 52, 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 33-5202A, Idaho Code, and to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(2) "Public virtual school" means a public charter school that may serve students in more than one (1) school district and that provides instruction to pupils primarily through virtual distance learning or online technologies. A building-based public virtual school primarily provides such instruction at one (1) or more central building locations. A home-based public virtual school primarily provides such instruction directly to the pupil at home.

(3) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

SECTION 3. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (8) of this section, fFrom the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002 6., Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply. Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public cCharter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the

department with an enrollment count as of the first Friday in November, of public charter school students living more than one and one-half (1 1/2) miles from the school.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a state public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: section 33-1003B, Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(8) (a) For the period July 1, 2003, through June 30, 2005, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the median divisor shown for each respective category of pupils, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. If there is an even number of possible divisors listed for a particular category of pupils, then the lesser of the two (2) median divisors shall be used. For the period July 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the second highest divisor shown, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. The divisor provisions contained herein shall only be applicable to the number of pupils in average daily attendance in such public virtual schools for the period July 1, 2003, through June 30, 2004. If the number of pupils in average daily attendance in any particular category of pupils increases, during the period July 1, 2004, through June 30, 2005, to

a number above that which existed in the prior fiscal year, then those additional pupils in average daily attendance shall be assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise been assigned to the school district or public charter school had this section not been in force.

(b) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(c) At the discretion of the board of directors, and subject to any specific limitations in its charter, all federal educational funds shall be administered and distributed to public virtual schools that enroll students from multiple school districts in the same manner as an independent local education agency (LEA).

(9) Nothing in this section prohibits separate face-to-face learning activities or services.

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 1 2004.

CHAPTER 371

(S.B. No. 1444, As Amended in the House, As Amended in the House)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202, IDAHO CODE, TO CLARIFY LEGISLATIVE INTENT; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5202A, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE LIMITS ON THE NUMBER OF PUBLIC CHARTER SCHOOLS, TO GOVERN METHODS OF FORMING A PUBLIC CHARTER SCHOOL, TO PROVIDE THAT A NEW PUBLIC CHARTER SCHOOL MAY BE APPROVED BY AN AUTHORIZED CHARTERING ENTITY, TO PROVIDE ADDITIONAL LIMITATIONS ON AUTHORIZING A CHARTER, TO PROVIDE RULES TO BE ADOPTED BY THE STATE BOARD OF EDUCATION AND TO DESIGNATE CERTAIN LOCAL EDUCATIONAL AGENCIES; AMENDING SECTION 33-5204, IDAHO CODE, TO CLARIFY LIABILITY FOR PUBLIC CHARTER SCHOOLS AND TO SPECIFY CERTAIN PROHIBITED ACTS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5204A, IDAHO CODE, TO GOVERN APPLICABILITY OF PROFESSIONAL CODES AND STANDARDS TO EMPLOYEES OF PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO FURTHER GOVERN PROCEDURE FOR A PETITION TO ESTABLISH A PUBLIC CHARTER SCHOOL AND TO FURTHER GOVERN PERMITTED ADMISSION PROCEDURES; AMENDING SECTION 33-5206, IDAHO CODE, TO PROVIDE REFERENCES TO AUTHORIZED CHARTERING ENTITY AND TO FURTHER GOVERN REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC CHARTER SCHOOL; AMENDING SECTION 33-5207, IDAHO CODE, TO PROVIDE REFERENCES TO AUTHORIZED CHARTERING ENTITY AND TO FURTHER GOVERN APPEAL PROCEDURES; AMENDING SECTION 33-5209, IDAHO CODE, TO STRIKE CERTAIN RENEWAL REQUIREMENTS, TO PROVIDE REFERENCES TO AUTHORIZED CHARTERING ENTITY, TO PROVIDE

FOR PUBLIC HEARING OF DETERMINATION TO REVOKE A CHARTER AND TO CLARIFY THE APPEAL PROCEDURE; AMENDING SECTION 33-5210, IDAHO CODE, TO PROVIDE REFERENCES TO AUTHORIZED CHARTERING ENTITY, TO REQUIRE CERTAIN FINANCIAL REPORTING AND TO SPECIFY APPLICATION OF RULES WHICH SPECIFICALLY PERTAIN TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5211, IDAHO CODE, TO REVISE INFORMATION DISTRIBUTION REQUIREMENTS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5213, IDAHO CODE, TO CREATE AN INDEPENDENT PUBLIC CHARTER SCHOOL COMMISSION, TO PROVIDE MEMBERS AND PROVIDE FOR MEETINGS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-5202, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202. LEGISLATIVE INTENT. It is the intent of the legislature to provide opportunities for teachers, parents, students and community members to establish and maintain public charter schools which operate independently from the existing traditional school district structure but within the existing public school system as a method to accomplish ~~all~~ any of the following:

(1) Improve student learning;

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students;

(3) Include the use of different and innovative teaching methods;

(4) Utilize virtual distance learning and on-line learning;

(5) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(6) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;

(7) Hold the schools established under this chapter accountable for meeting measurable student educational standards.

SECTION 2. That Chapter 52, 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 33-5202A, Idaho Code, and to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means either the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a

person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(6) "Public virtual school" means a public charter school that may serve students in more than one (1) school district and that provides instruction to pupils primarily through virtual distance learning or online technologies. A building-based public virtual school primarily provides such instruction at one (1) or more central building locations. A home-based public virtual school primarily provides such instruction directly to the pupil at home.

(7) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

SECTION 3. That Section 33-5203, Idaho Code, be, and the same is hereby amended to read as follows:

33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public charter schools is hereby authorized. Public c~~C~~harter schools shall be part of the state's program of public education.

(2) ~~It is the intent of the legislature that t~~The number of charter schools which may be approved ~~in each of the first five (5) years after the effective date of this act~~ shall be limited in number ~~and geographic distribution~~ in accordance with the following:

(a) ~~Not more than sixty (60) schools may be approved in the first five (5) years after the effective date of this act; and~~

~~(b)~~ Not more than ~~twelve~~ six (~~12~~6) newly-chartered public schools may be approved ~~in~~ for any one (1) school year, and

~~(c) Not more than two (2) charters per year may be granted within an educational classification region as established by the state board of education; and~~

(~~d~~b) Not more than one (1) newly-chartered public school may be granted for any one (1) school district ~~in~~ for a school year, and

(~~e~~c) No whole school district may be converted to a charter district or any configuration which includes all schools as public charter schools.

~~The legislature further finds that, notwithstanding the limitations of this subsection (2), if fewer than twelve (12) charters are approved by June 1 of a year, the unused allotments shall be assigned to a statewide pool for use by other requesting districts. Distributions from the pool shall be made by random drawing.~~

(3) A public charter school may be formed either by creating a new public charter school, which charter may be granted by any authorized chartering entity, or by converting an existing traditional public school to a public charter ~~status~~ school, which charter may only be granted by the board of trustees of the school district in which the existing public school is located.

(4) No charter shall be granted under this chapter: ~~which authorizes~~

(a) Which provides for the conversion of any existing private or parochial school to a public charter school.

(b) ~~No--charter--shall--be---granted-t~~To a for-profit entity or any school which is operated by a for-profit entity, provided however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.

(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district. The limitation provided in this subsection (4)(c) does not apply to a home-based public virtual school.

(5) A public virtual school charter may be granted by the public charter school commission. In addition, a charter may also be approved and granted by the state board of education pursuant to section 33-5207(5)(b), Idaho Code.

(6) The state board of education shall adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.

(7) The state board of education shall be responsible to designate those public charter schools that will be identified as a local education agency (LEA) as such term is defined in 34 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA.

SECTION 4. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located, except as provided in the charter. ~~A charter school shall be considered a public school for all purposes and shall comply with the audit reporting requirements of section 33-701-6., Idaho Code, and shall annually file financial and statistical reports as required in section 33-701-7., Idaho Code.~~ For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

(a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence;

(b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts with officers;

(c) Chapter 7, title 59, Idaho Code, on ethics in government;

(d) Chapter 23, title 67, Idaho Code, on open public meetings; and

(e) Cchapter 3, title 9, Idaho Code, on disclosure of public records

in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

(2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The ~~approving authority of~~ authorized chartering entity that grants a public school charter ~~school~~ shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in ~~an agreement or contract with such~~ the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.

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

(4) Public c~~C~~harter schools shall secure insurance for liability and property loss.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (5). The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require,

the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

SECTION 5. That Chapter 52, 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 33-5204A, Idaho Code, and to read as follows:

33-5204A. APPLICABILITY OF PROFESSIONAL CODES AND STANDARDS -- LIMITATIONS UPON AUTHORITY. (1) Every person who serves in a public charter school, either as an employee, contractor, or otherwise, in the capacity of teacher, supervisor, administrator, education specialist, school nurse or librarian, must comply with the professional codes and standards approved by the state board of education, including standards for ethics or conduct.

(2) Every employee of a public charter school and every member of the board of directors of a public charter school, whether compensated or noncompensated, shall comply with the standards of ethics or conduct applicable to public officials including, but not limited to, chapter 7, title 59, Idaho Code, except that section 59-704A, Idaho Code, which permits a noncompensated public official to have an interest in a contract made or entered into by the board of which he is a member under certain conditions, shall not apply to the board of directors of a public charter school. A member of the board of directors of a public charter school is prohibited from receiving a personal pecuniary benefit, directly or indirectly, pertaining to a contractual relationship with the public charter school.

SECTION 6. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may ~~request the board of trustees of a school district~~ petition to establish a new public charter school, or to convert an existing traditional public school ~~within the school district~~ to a public charter ~~status~~ school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the service area designated in the petition, and shall first be submitted to the local board of trustees in which the public charter school will be located. The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and reject the charter; or (iii) refer the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within thirty (30) days from the date of the submission of the charter petition, the petitioners may withdraw

their petition from the local board of trustees and may submit their charter petition to the public charter school commission.

(b) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review ~~after~~ and approval. T~~t~~he petition ~~has been~~ shall be signed by not ~~less~~ fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not ~~less~~ fewer than sixty percent (60%) of the students currently attending the school to be converted. ~~A petition to establish a new charter school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than thirty (30) qualified electors of the district.~~

(2) Not later than thirty (30) days after receiving a petition signed in accordance with the specifications in subsection (1) of this section, the ~~board of trustees~~ authorized chartering entity shall hold a meeting open to the public for the purpose of discussing the provisions of the charter, at which time the ~~board~~ authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, the public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. Following review of the petition and the public hearing, the ~~board of trustees~~ authorized chartering entity shall either grant or deny the charter within sixty (60) days of receipt of the petition, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to ~~meet~~ contain the requisite signatures ~~requirements~~ or fails to contain all of the information required in this section, or if both parties agree to the extension.

(3) ~~A board of trustees~~ An authorized chartering entity may grant a charter ~~for operation of a school~~ under the provisions of this chapter only if it determines that the petition contains the ~~number of~~ requisite signatures, ~~required, a statement of each of the conditions described in~~ the information required by subsection (4) of this section, and ~~descriptions of~~ additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.
(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.
(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.
(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers, or may apply for a waiver or any of the limited certification options as provided by rule of the state board of education.
(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.
(i) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the i~~I~~nitial admission procedures for a new public charter school, ~~not a renewal,~~ including provision for overenrollment, ~~which specifies admission~~ will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and ~~second~~ third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and ~~third~~ fourth, an equitable selection process such as by lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.
(j) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.
(k) The disciplinary procedures ~~by which~~ that the public charter school will utilize, including the procedure by which students ~~can~~ may be suspended, expelled and reenrolled.
(l) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance and worker's compensation insurance.

(m) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(n) A description of the transfer rights of any employee choosing to work in a public charter school and the rights of such employees to return to any noncharter school in the school district after employment at a public charter school.

(o) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(p) The procedures to be followed by the public charter school and the authorized chartering entity ~~granting the charter~~ to resolve disputes relating to provisions of the charter.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act.

(r) The manner by which eligible students from the public charter school shall be allowed to participate in dual enrollment in noncharter schools within the same district as the public charter school, as provided for in ~~chapter 2, title 33~~ section 33-203(7), Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the ~~district~~ authorized chartering entity.

SECTION 7. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(3) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for

service in a public charter school and such experience shall be counted by any school district to which the teacher returns after employment in a public charter school.

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

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

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

SECTION 8. That Section 33-5207, Idaho Code, be, and the same is hereby amended to read as follows:

33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, grants a charter for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the ~~local board of trustees~~ authorized chartering entity, pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of the request, review the charter petition and convene a public hearing regarding the charter ~~request~~ petition. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the ~~local board of trustees~~ authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains

the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the ~~local board of trustees~~ authorized chartering entity shall hold a public hearing. Within ten (10) days of this hearing, the ~~local board of trustees~~ authorized chartering entity shall either affirm or reverse its initial decision. The ~~board's~~ authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of an ~~existing~~ traditional public school to a public charter school, the local school board:

(a) Affirms its initial decision to authorize such conversion, the charter shall be granted and there shall be no further appeal.

(b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny establishment of a new public charter school, the ~~local school board~~ authorized chartering entity:

(a) Reverses its initial decision and approves the new public charter school, the charter shall be granted and there shall be no further appeal.

(b) Affirms its initial decision denying the new public charter school, the petitioners for the establishment of the new public charter school may appeal to the state board of education. The state board of education shall hold a public hearing ~~at its next regular meeting~~ within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve the charter for the establishment of a new public charter school if it determines that the ~~local board of trustees~~ authorized chartering entity failed to appropriately consider the charter ~~request~~ petition, or if ~~the local board~~ it acted in an arbitrary manner in denying the request; (ii) remand the matter back to the authorized chartering entity for further review as directed by the state board of education; or (iii) redirect the matter to another authorized chartering entity for further review as directed by the state board of education. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

(6) A public charter school for which a charter is granted by the state board of education shall qualify fully as a public charter school for all funding and other purposes of this chapter. The ~~state board of education~~ public charter school commission shall assume the role of the authorized chartering entity for any charter authorized by the state board of education as provided in subsection (5)(b) of this section. Employees of a public charter school authorized by the state board of education shall not be considered employees of the local school district in which the public charter school is located, nor of the state board of education, nor of the commission.

(7) The ~~finding~~ decision of the state board of education shall be subject to review pursuant to chapter 52, title 67, Idaho Code. Nothing in this section shall prevent a petitioner from bringing a new petition at a later time.

(8) There shall be no appeal of a decision by a local school board of trustees which denies the conversion of an existing traditional public school within that district to a public charter school, or which grants a petition for the establishment of a new public charter school.

SECTION 9. That Section 33-5209, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209. ~~TIME--LIMITS~~ ENFORCEMENT -- REVOCATION -- APPEAL. (1) ~~A charter-granted-pursuant-to-this-chapter-shall-be-valid-for-a-period-not to-exceed-five-(5)-years.-A-charter-may-be-granted-one-(1)-or-more--subsequent--renewals-by-the-original-granting-authority.-Each-renewal-shall be-valid-for-a-period-not-to-exceed-five-(5)-years.-A-material--revision of--the--provisions--of--the--charter-petition-may-be-made-only-with-the approval-of-the-authority-which-granted-the-charter~~ An authorized chartering entity shall ensure that all public charter schools for which it authorized charters, or for which it has responsibility, operate in accordance with the charter granted. A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions.

(2) ~~A-charter-may-be-revoked-by-the-original-granting-authority-i~~If the ~~authority-finds~~ authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter; ~~petition;~~

(b) Failed to substantially meet any of the student educational standards identified in the approved charter; ~~petition;~~

(c) Failed to meet generally accepted accounting standards of fiscal management;

(d) Failed to submit required reports to the ~~authority-which~~ authorized chartering entity governing the charter; or

(e) Violated any provision of law.

(3) A charter may be revoked by the authorized chartering entity if the public charter school has failed to cure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect. Revocation may not occur until the public charter school has been afforded a public hearing and a reasonable opportunity to cure the defect, unless the authorized chartering entity reasonably determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with section 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum. written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(4) A decision to revoke~~, not to renew,~~ or not to approve a revision of a charter may be appealed directly to the state board of education. With respect to such appeal, t~~T~~he state board of education shall ~~essentially~~ follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation, the public charter school subject to such action shall then be placed under the chartering authority of the commission.

SECTION 10. That Section 33-5210, Idaho Code, be, and the same is hereby amended to read as follows:

33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION FROM STATE RULES. (1) All public charter schools are under the general supervision of the state board of education.

(2) ~~The local board of trustees and the state board of education are responsible to ensure~~ Every authorized chartering entity that grants a charter shall be responsible for ensuring that each public charter school program approved by ~~it~~ that authorized chartering entity meets the terms of the charter, complies with the general education laws of the state unless specifically directed otherwise in this chapter 52, title 33, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in section 33-1612, Idaho Code.

(3) Each charter school shall comply with the financial reporting requirements of section 33-701, subsections 5. through 10., Idaho Code, in the same manner as those requirements are imposed upon school districts.

(4) Each public charter school is otherwise exempt from rules governing school districts which have been promulgated by the state board of education, ~~or by the superintendent of public instruction,~~ with the exception of state rules relating to:

(a) Waiver of teacher certification as necessitated by the provisions of section 33-5205(3)(g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code;

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code; ~~and~~

(d) The requirement that all employees of the school undergo a criminal history check as required by section 33-130, Idaho Code; and

(e) All rules which specifically pertain to public charter schools promulgated by the state board of education.

SECTION 11. That Section 33-5211, Idaho Code, be, and the same is hereby amended to read as follows:

33-5211. ASSISTANCE WITH PETITIONS -- INFORMATION. (1) The state department of education shall provide technical assistance to persons or groups preparing or revising charter petitions.

(2) Upon request, the state department of education shall ~~distribute~~ provide the following information concerning a public charter school whose petition has been approved:

(a) The public charter school's petition.

(b) The annual audit performed at the public charter school pursuant to the public charter school petition.
(c) Any written report by the state board of education to the legislature reviewing the educational effectiveness of public charter schools.

SECTION 12. That Chapter 52, 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 33-5213, Idaho Code, and to read as follows:

33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby created an independent public charter school commission, referred to hereinafter as the commission, to be located in the office of the state board of education, pursuant to section 33-105, Idaho Code. It shall be the responsibility and duty of the executive director of the state board of education acting at the direction of the commission to administer and enforce the provisions of this chapter, and the director or his designee, shall serve as secretary to the commission.
(2) The public charter school commission shall adopt rules, subject to law, regarding the governance and administration of the commission.
(3) The commission shall be composed of seven (7) members:
(a) Three (3) members shall be current or former members of boards of directors of Idaho public charter schools, and shall be appointed by the governor, subject to the advice and consent of the senate; provided however, that no current board member of a public charter school authorized by the commission shall be eligible for appointment;
(b) Three (3) members shall be current or former trustees of an Idaho school district, and shall be appointed by the governor, subject to the advice and consent of the senate; and
(c) One (1) member shall be a member of the public at large not directly associated with the Idaho public education system, and shall be appointed by the governor, subject to the advice and consent of the senate.
For the purpose of establishing staggered terms of office, the initial term of office for three (3) commission members shall be four (4) years and thereafter shall be four (4) years; the initial term of office for two (2) members shall be three (3) years and thereafter shall be four (4) years; and the initial term of office for two (2) members shall be two (2) years and thereafter shall be four (4) years. In making such appointments, the governor shall consider regional balance. Members of the commission shall hold office until the expiration of the term to which the member was appointed and until a successor has been duly appointed, unless sooner removed for cause by the appointing authority. Whenever a vacancy occurs, the appointing authority shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.
(4) All members of the commission shall be citizens of the United States and residents of the state of Idaho for not less than two (2) years.
(5) The members of the commission shall, at their first regular meeting following the effective date of this act, and every two (2) years thereafter, elect, by a majority vote of the members of the commission, a chairman and a vice-chairman. The chairman shall preside at

meetings of the commission, and the vice-chairman shall preside at such meetings in the absence of the chairman. A majority of the members of the commission shall constitute a quorum. The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the chair.

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

SECTION 13. 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 14. 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 1, 2004.

CHAPTER 372
(H.B. No. 728, As Amended)

AN ACT

RELATING TO TEACHERS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1213, IDAHO CODE, TO AUTHORIZE REQUIREMENT OF TECHNOLOGY PROFICIENCY, TO PROVIDE THAT A WAIVER PROCESS SHALL BE ADOPTED AND TO PROVIDE CERTAIN LIMITATIONS FOR WAIVERS; AND TO PROVIDE A SUNSET DATE.

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 33-1213, Idaho Code, and to read as follows:

33-1213. TECHNOLOGY PROFICIENCY. The state board of education shall, by rule, provide technology proficiency standards to apply to certificated educators in Idaho.

The rules shall provide a process to request a waiver from the requirement, upon application for recertification, as provided in this section. A letter of appeal shall be submitted to the department describing the circumstances whereby meeting the technology requirement is not applicable. The letter shall be signed by the superintendent and chair of the board of trustees of the district which employs the individual. If the superintendent or the chair of the board of trustees, or both, refuse to sign the letter of appeal, the individual may apply directly to the board of trustees of the district for approval of the letter of appeal. If this application is disapproved, the individual may apply to the state department without the endorsement of the employing district.

A decision by the department not to grant a waiver may be appealed to the state board of education.

Each decision on the waiver letter or application shall be determined on the basis of the relevance of the technology requirements and tests to the requirements of the individual's core subjects taught, teaching assignment and the individual's ability to utilize the necessary technology for such tasks as recording grades and attendance. Provided however, that an educator may never be granted more than one (1) waiver pursuant to the provisions of this section, nor may any waiver granted extend beyond five (5) years.

SECTION 2. Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2009.

Approved April 2, 2004.

CHAPTER 373
(S.B. No. 1317, As Amended)

AN ACT

RELATING TO EMERGENCY SERVICES; AMENDING SECTION 46-1007, IDAHO CODE, TO CLARIFY JURISDICTION OF LICENSED EMERGENCY MEDICAL SERVICE AGENCIES; AND AMENDING SECTION 46-1009, IDAHO CODE, TO PROVIDE AN EXCEPTION TO JURISDICTION OF THE SHERIFF.

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

SECTION 1. That Section 46-1007, Idaho Code, be, and the same is hereby amended to read as follows:

46-1007. LIMITATIONS. Nothing in this act shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) Interfere with dissemination of news or comment on public affairs;

(3) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, local emergency medical service (EMS) agencies licensed by the state department of health and welfare EMS bureau, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state, local, and intergovernmental disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or

(4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution or statutes of this state independent of or in conjunction with any provisions of this act.

SECTION 2. That Section 46-1009, Idaho Code, be, and the same is hereby amended to read as follows:

46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES. (1) Each county within this state shall be within the jurisdiction of and served by the bureau and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.

(2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.

(3) The chairman of the board of county commissioners of each county in the state shall notify the bureau of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau requires.

(4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.

(5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

(6) Except as provided in subsections (7), (8), ~~and~~ (9) and (10) of this section, the sheriff of each county shall:

(a) be the official responsible for command of all search and rescue operations within his jurisdiction;

(b) prepare and keep current a plan to command the search and rescue capability and resources available within the county.

(7) Pursuant to chapter 1, title 21, Idaho Code, subsection (6) of this section shall not apply to all aerial activity related to the search for lost aircraft and airmen which shall be under the direction and supervision of the director of the Idaho transportation department and coordinated with the division of aeronautics.

(8) Nothing in subsection (6) of this section shall apply to search and rescue operations within the incorporated limits of any city.

(9) Nothing in subsection (6) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district, where the fire district performs such service.

(10) Nothing contained in subsection (6) of this section shall apply to the removal of entrapped or injured persons where the person's location is known to a local EMS agency licensed by the state of Idaho.

Approved April 2, 2004.

CHAPTER 374
(S.B. No. 1347)

AN ACT

RELATING TO CHARTER SCHOOLS; AMENDING SECTION 33-5208, IDAHO CODE, TO AUTHORIZE ADVANCE PAYMENT OF A PORTION OF ESTIMATED TRANSPORTATION COSTS.

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

SECTION 1. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. CHARTER SCHOOL FINANCIAL SUPPORT. From the state educational support program the state department of education shall make the following apportionment to each charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002 6., Idaho Code, except that charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply. Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code.

(2) Special education. For each student enrolled in the charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the charter school is located.

(3) Alternative school support. Charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each charter school shall furnish the department with an enrollment count as of the first Friday in November, of charter school students living more than one and one-half (1 1/2) miles from the school. For charter schools in the initial year of operation, the petition shall include a proposal for transportation services with an estimated first year cost. The state department of education is authorized to include in the annual appropriation to the charter school eighty percent (80%) of the estimated transportation cost. The final appropriation payment in July shall reflect eighty-five percent (85%) of the actual cost.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the charter school has an increase of student population in any given year of twenty (20) students

or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a state charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the charter school in the same manner as other public schools in accordance with the provisions of section 33-1009, Idaho Code.

A charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to charter schools: section 33-1003B, Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a charter school.

(7) Nothing in this chapter shall prevent a charter school from applying for federal grant moneys.

Approved April 2, 2004.

CHAPTER 375
(S.B. No. 1361)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO REQUIRE THAT EACH PETITION SUBMITTED TO CONVERT AN EXISTING SCHOOL OR TO ESTABLISH A NEW CHARTER SCHOOL SHALL CONTAIN A COPY OF THE ARTICLES OF INCORPORATION AND THE BYLAWS OF THE NONPROFIT CORPORATION.

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

SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH CHARTER SCHOOL. (1) Any person may request the board of trustees of a school district to establish a charter school, or to convert an existing school within the school district to charter status. A petition to convert an existing school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than sixty percent (60%) of the teachers currently employed by the school district at the school to be

converted, and by one (1) or more parents or guardians of not less than sixty percent (60%) of the students currently attending the school to be converted. A petition to establish a new charter school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than thirty (30) qualified electors of the district. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than thirty (30) days after receiving a petition signed in accordance with the specifications in subsection (1) of this section, the board of trustees shall hold a meeting open to the public for the purpose of discussing the provisions of the charter, at which time the board shall consider the merits of the petition and the level of employee and parental support for the petition. Following review of the petition and the public hearing, the board of trustees shall either grant or deny the charter within sixty (60) days of receipt of the petition, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to meet the signature requirements or fails to contain all of the information required in this section, or if both parties agree to the extension.

(3) A board of trustees may grant a charter for operation of a school under the provisions of this chapter if it determines that the petition contains the number of signatures required, a statement of each of the conditions described in subsection (4) of this section, and descriptions of all of the following:

(a) The educational program of the charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the school, and the process to be followed by the charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the charter school. Instructional staff shall be certified teachers, or may apply for a waiver or any of the limited certification options as provided by rule of the state board of education.

(h) The procedures that the charter school will follow to ensure the health and safety of students and staff.
(i) Admission procedures, including provision for overenrollment. Initial admission procedures for a new charter school, not a renewal, including provision for overenrollment, which specifies admission will be determined by lottery or other random method. If initial capacity is insufficient to enroll all pupils who submit a timely application, preference shall be given in the following order: first, to siblings of pupils already selected by the lottery or other random method; and second, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, preference shall be given in the following order: first, to pupils returning to the charter school in the second or any subsequent year of its operation; second, to siblings of pupils already enrolled in the charter school; and third, an equitable selection process such as by lottery or other random method.
(j) The manner in which an annual audit of the financial and programmatic operations of the charter school is to be conducted.
(k) The procedures by which students can be suspended, expelled and reenrolled.
(l) A provision which ensures all staff members of the charter school will be covered by the public employee retirement system, federal social security, unemployment insurance and worker's compensation insurance.
(m) The public school attendance alternative for students residing within the school district who choose not to attend the charter school.
(n) A description of the transfer rights of any employee choosing to work in a charter school and the rights of such employees to return to any noncharter school in the school district after employment at a charter school.
(o) A provision which ensures that the staff of the charter school shall be considered a separate unit for purposes of collective bargaining.
(p) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.
(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act.
(r) The manner by which eligible students from the charter school shall be allowed to participate in dual enrollment in noncharter schools within the district as provided for in chapter 2, title 33, Idaho Code.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the school including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided and the potential civil liability effects upon the school and upon the district.

Approved April 2, 2004.

CHAPTER 376
(S.B. No. 1363)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5206, IDAHO CODE, TO REQUIRE THAT EMPLOYMENT OF CHARTER SCHOOL TEACHERS AND ADMINISTRATORS SHALL BE ON WRITTEN CONTRACT IN FORM AS APPROVED BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION CONDITIONED UPON A VALID CERTIFICATE BEING HELD BY SUCH PROFESSIONAL PERSONNEL AT THE TIME OF ENTERING UPON THE DUTIES THEREUNDER.

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

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

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

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

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

(4) Employment of charter school teachers and administrators shall be on written contract in form as approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder.

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

(~~5~~6) Upon approval of the petition by the board of trustees, the petitioner shall provide written notice of that approval, including a copy of the petition, to the state board of education. For the purpose of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education.

(~~6~~7) Each charter school shall annually submit a report to the local board of trustees which approved its charter. In the case of a new charter school whose charter was granted by the state board of education

pursuant to section 33-5207, Idaho Code, the annual report shall be submitted to the state board of education. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(j), Idaho Code, a report on student progress based on the charter school's student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the charter school's accreditation report.

Approved April 2, 2004.

CHAPTER 377
(S.B. No. 1389)

AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-3101, IDAHO CODE, TO PROVIDE THAT THE CHAPTER SHALL BE KNOWN AS THE "RESIDENTIAL MORTGAGE PRACTICES ACT"; AMENDING SECTION 26-3102, IDAHO CODE, TO REVISE AND UPDATE DEFINITIONS AND TO DEFINE "LOAN ORIGINATOR" AND "LOAN ORIGINATION ACTIVITIES"; AMENDING SECTION 26-3103, IDAHO CODE, TO REVISE EXEMPTIONS; AMENDING SECTION 26-3104, IDAHO CODE, TO REVISE PROVISIONS PROVIDING FOR UNLAWFUL ACTS AND PUNISHMENT; AMENDING SECTION 26-3105, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A GRAMMATICAL CORRECTION; AMENDING SECTION 26-3108, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO LICENSES TO DO BUSINESS AS MORTGAGE BROKERS OR MORTGAGE LENDERS; AMENDING CHAPTER 31, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-3108A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO LICENSES TO DO BUSINESS AS LOAN ORIGINATORS; AMENDING SECTION 26-3109, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE REVOCATION OR SUSPENSION OF A LICENSE; AMENDING SECTION 26-3110, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO INCREASE THE BOND AMOUNT FOR MORTGAGE BROKER AND MORTGAGE LENDER LICENSEES, TO REQUIRE THE LICENSEE TO PLACE THE BOND ON FILE WITH THE DEPARTMENT, TO PROVIDE FOR A CERTIFICATE OF DEPOSIT IN LIEU OF BOND, TO REQUIRE A BOND FOR LOAN ORIGINATOR LICENSEES AND TO PROVIDE FOR A CERTIFICATE OF DEPOSIT IN LIEU OF SUCH BOND, TO PROVIDE CLARIFYING LANGUAGE, TO REFERENCE LAWS PERTAINING TO LOAN ORIGINATION AND MORTGAGE LENDING, TO PROVIDE FOR THE ADOPTION OF RULES REQUIRING CONTINUING EDUCATION, TO PROVIDE FOR THE FILING OF INFORMATION BY ACCREDITED SPONSORS OF CONTINUING EDUCATION PROGRAMS AND TO SET FORTH FEES FOR REVIEWS; AMENDING SECTION 26-3111, IDAHO CODE, TO SPECIFY THAT FINANCIAL RECORDS SHALL BE MAINTAINED, TO PROVIDE THAT LOAN RECORDS NEED NOT BE MAINTAINED FOR MORE THAN THREE YEARS AFTER MAKING THE FINAL ENTRY RELATING TO THE LOAN, TO PROVIDE NOTIFICATION AND RECORDS MAINTENANCE REQUIREMENTS FOR MORTGAGE BROKER AND MORTGAGE LENDER LICENSEES WHO EMPLOY OR CONTRACT WITH LOAN ORIGINATOR LICENSEES, TO INCREASE THE ANNUAL LICENSE RENEWAL FEE FOR MORTGAGE BROKER AND MORTGAGE LENDER LICENSEES, TO PROVIDE CLARIFYING LANGUAGE AND TO SET FORTH AN ANNUAL LICENSE RENEWAL FEE FOR LOAN ORIGINATOR LICENSEES; AMENDING SECTION 26-3112, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-3114, IDAHO CODE, TO

REVISE DESCRIPTIVE LANGUAGE AND TO REVISE THE PROHIBITED PRACTICES OF MORTGAGE BROKER AND MORTGAGE LENDER LICENSEES; AMENDING CHAPTER 31, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-3114A, IDAHO CODE, TO SET FORTH PROHIBITED PRACTICES OF LOAN ORIGINATORS; AMENDING SECTION 26-3116, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING CHAPTER 31, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-3116A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO INITIAL LOAN ORIGINATOR LICENSING; AND PROVIDING EFFECTIVE DATES AND A CONTINGENCY.

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

SECTION 1. That Section 26-3101, Idaho Code, be, and the same is hereby amended to read as follows:

26-3101. SHORT TITLE. This chapter ~~may~~ shall be known and may be cited as the "Residential Mortgage Practices Act."

SECTION 2. That Section 26-3102, Idaho Code, be, and the same is hereby amended to read as follows:

26-3102. DEFINITIONS. As used in this chapter and in rules promulgated pursuant to this chapter:

(1) "Act" means this Idaho residential mortgage practices act.

(2) "Agent" means a person who acts with the consent and on behalf of a licensee, and is subject to the licensee's direct or indirect control, and may include an independent contractor.

(3) "Borrower" means the person who has applied ~~to a lender~~ for a residential mortgage loan from a licensee, or person required to be licensed, under this chapter, or on whose behalf the activities set forth in subsections (1~~7~~8), ~~and~~ (1~~8~~9), or (20) of this section are conducted.

(4) "Department" means the department of finance of the state of Idaho.

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

(6) "Licensee" means a person licensed pursuant to this chapter to engage in the activities regulated by this act.

(7) "Mortgage ~~banker~~ lender" means any person, other than an exempt person, who makes residential mortgage loans to borrowers, and performs the activities described in subsection (1~~7~~8) of this section.

(8) "Mortgage broker" means any person, other than an exempt person, who performs the activities described in subsection (1~~8~~9) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "mortgage broker" does not include persons who are mortgage ~~bankers~~ lenders.

(9) "Loan originator" means any person, other than an exempt person, who performs the activities described in subsection (20) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "loan originator" does not include persons who are mortgage brokers or mortgage lenders.

(10) "Mortgage brokerage agreement" means a written agreement in which a mortgage broker agrees to obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan.

(10~~0~~1) "Person" means an individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other association of individuals, however organized.

(11~~2~~2) "Real estate settlement procedures act" means the act set forth in 12 U.S.C. section 2601 et seq., as amended to and including January 1, 200~~3~~4, or a subsequent date if so defined by administrative rule.

(12~~3~~3) "Regulation X" means regulation X as promulgated by the U.S. department of housing and urban development and codified in 24 CFR part 3500 et seq., as amended to and including January 1, 200~~3~~4, or a subsequent date if so defined by administrative rule.

(13~~4~~4) "Regulation Z" means regulation Z as promulgated by the board of governors of the federal reserve system and codified in 12 CFR part 226 et seq., as amended to and including January 1, 200~~3~~4, or a subsequent date if so defined by administrative rule.

(14~~5~~5) "Residential mortgage loan" means a loan made primarily for personal, family, or household use and primarily secured by a security interest on residential real property located in this state.

(15~~6~~6) "Residential real property" means real property located in this state improved by a one (1) to four (4) family dwelling.

(16~~7~~7) "Truth in lending act" means the act set forth in 15 U.S.C. section 1601 et seq., as amended to and including January 1, 200~~3~~4, or a subsequent date if so defined by administrative rule.

(17~~8~~8) "Mortgage ~~banking~~ lending activities" means for compensation or gain, either directly or indirectly, accepting or offering to accept applications for residential mortgage loans, assisting or offering to assist in the preparation of an application for a residential mortgage loan.

(18~~9~~9) "Mortgage brokering activities" means for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans.

(20) "Loan origination activities" means for compensation or gain, either directly or indirectly, engaging in any of the following activities while representing or acting on behalf of a mortgage broker or mortgage lender:

(a) Soliciting, accepting, or offering to accept an application for a residential mortgage loan;

(b) Assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application; or

(c) Negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

SECTION 3. That Section 26-3103, Idaho Code, be, and the same is hereby amended to read as follows:

26-3103. EXEMPTIONS. The provisions of this chapter do not apply to:

(1) Agencies of the United States and agencies of this state and its political subdivisions;

(2) An owner of real property who offers credit secured by a contract of sale, mortgage or deed of trust on the property sold;

(3) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs;

(4) ~~Any person licensed or chartered under the laws of this state or the United States as a bank, r~~Regulated lenders licensed under the Idaho credit code and regularly engaged in making regulated consumer loans other than those secured by a security interest in real property~~, savings and loan association, credit union, or trust company~~;

(5) Trust companies as defined in section 26-3203, Idaho Code;

(6) Any person licensed or chartered under the laws of any ~~other~~ state or of the United States as a bank, savings and loan association, ~~or~~ credit union, or industrial loan company. The terms "bank," "savings and loan association," "credit union" and "industrial loan company" shall include employees and agents of such organizations as well as wholly-owned subsidiaries of such organizations, provided that the subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes, and shall also include employees and agents of a licensee if the licensee is an affiliate of a bank and is wholly owned by the holding company system that owns the bank;

(~~6~~7) Attorneys, or persons licensed under chapter 2, title 54, Idaho Code, provided that the license held by such attorneys or persons is in an active status;

(~~7~~8) Persons employed by, ~~licensees on a full-time basis or persons who are employed by no more than one (1) licensee on a part-time basis~~ or who contract with, a licensee under this chapter to perform only clerical or administrative functions on behalf of such licensee, and who do not solicit borrowers or negotiate the terms of loans on behalf of the licensee;

(~~8~~9) Any person or entity not making more than five (5) loans primarily for personal, family, or household use and primarily secured by a security interest on residential real property, with his own funds for his own investment, in any period of twelve (12) consecutive months; nor

(~~9~~10) Any person who funds a residential mortgage loan which has been originated and processed by a licensee or by an exempt person, who does not directly or indirectly solicit borrowers in this state for the purpose of making residential mortgage loans, and who does not participate in the negotiation of residential mortgage loans with the borrower. For the purpose of this subsection, "negotiation of residential mortgage loans" does not include setting the terms under which a person may buy or fund a residential mortgage loan originated by a licensee or exempt person.

SECTION 4. That Section 26-3104, Idaho Code, be, and the same is hereby amended to read as follows:

26-3104. UNLAWFUL ACTS. (1) ~~No~~ Any person, except a person exempt under section 26-3103, Idaho Code, ~~shall~~ who engages in mortgage ~~banking activities~~ brokering or mortgage ~~brokering~~ lending activities without first obtaining a mortgage broker or mortgage lender license ~~from the department~~ in accordance with this chapter, shall be guilty of a felony.

(2) Any person, not exempt under section 26-3103, Idaho Code, who engages in ~~mortgage--banking~~ loan origination activities ~~or mortgage brokering activities~~ without first obtaining a loan originator license ~~issued pursuant to~~ in accordance with this chapter, shall be guilty of a felony.

SECTION 5. That Section 26-3105, Idaho Code, be, and the same is hereby amended to read as follows:

26-3105. POWERS AND DUTIES OF DIRECTOR. In addition to any other duties imposed upon the director by law, the director shall:

(1) Administer and enforce the provisions and requirements of this chapter;

(2) Conduct investigations and issue subpoenas as necessary to determine whether a person has violated any provision of this chapter or rules promulgated under the authority of this chapter;

(3) Conduct examinations of the books and records of licensees and conduct investigations as necessary and proper for the enforcement of the provisions of this chapter and the rules promulgated under the authority of this chapter;

(4) Appoint a volunteer advisory board which shall consist of two (2) individuals who are mortgage ~~bankers~~ lenders and two (2) individuals who are mortgage brokers;

(5) Pursuant to chapter 52, title 67, Idaho Code, issue orders and promulgate rules that, in the opinion of the director, are necessary to execute, enforce and effectuate the purposes of this chapter;

(6) Be authorized to set, by annual written notification to licensees, limits on the fees and charges which are set forth in subsections (1) and (2) of section 26-3113, Idaho Code;

(7) Require that all funds collected by the department under this chapter ~~shall~~ be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code; and

(8) Review and approve forms used by licensees prior to their use as prescribed by the director.

SECTION 6. That Section 26-3108, Idaho Code, be, and the same is hereby amended to read as follows:

26-3108. LICENSE TO DO BUSINESS AS A MORTGAGE ~~BANKER~~ BROKER OR MORTGAGE ~~BROKER~~ LENDER. (1) The director shall receive and act on all applications for licenses to do business as a mortgage ~~banker~~ broker or mortgage ~~broker~~ lender. Applications shall be filed in the manner prescribed by the director, shall contain such information as the director may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of ~~two~~ three hundred fifty dollars ($~~20~~350). When an application for licensure is denied or withdrawn, the director shall retain all fees paid by the applicant.

(2) An application for license may be denied if the director finds that:

(a) The financial responsibility, character, and fitness of the license applicant, and of the officers and directors thereof, if the applicant is a corporation, partners thereof if the applicant is a partnership, members or managers thereof if the applicant is a lim-

ited liability company, and individuals designated in charge of the applicant's places of business, are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this chapter;

(b) The individual designated in charge of applicant's places of business does not have a minimum of three (3) years' experience in residential mortgage lending;

(c) ~~The applicant does not have a net worth of at least ten thousand dollars ($10,000);~~

~~(d)~~ The applicant has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the applicant of any felony or a misdemeanor involving any aspect of the financial services business;

(~~e~~d) The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;

(~~f~~e) The applicant has filed an application for a license which is false or misleading with respect to any material fact;

(~~g~~f) The applicant or any partner, officer, director, manager, member, employee or agent of the applicant has violated this chapter or any rule or order lawfully made pursuant to this chapter;

(~~h~~g) The applicant or any partner, officer, director, manager, member, employee or agent of the applicant has violated any ~~other law of this~~ state~~,~~ or federal laws, rule or regulations pertaining to the ~~mortgage banking or mortgage brokering activities set forth in section 26-3102, Idaho Code~~ financial services industry; or

(~~i~~h) The applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section.

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

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

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

(b) The director has not issued a license within sixty (60) days after the application for the license was filed. If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) Every licensee under this section shall ~~have licensed and shall~~ maintain a home office licensed under this chapter as ~~a~~ the licensee's principal location for the transaction of mortgage business. The director may, on application, issue additional branch licenses to the same licensee upon compliance with all the provisions of this chapter governing the issuance of a single license. A separate license shall be required for each place of business from which mortgage brokering activ-

ities or mortgage ~~banking~~ lending activities are directly or indirectly conducted. The individual in charge of each place of business must satisfy the requirements of subsections (2)(b), (~~d~~c) and (~~e~~d) of this section. Each license under this section shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of section 26-3111(~~2~~3), Idaho Code, or the license is relinquished, suspended, or revoked; provided however, branch licenses shall be terminated upon the relinquishment or revocation of a home office license.

(6) No licensee under this section shall change the location of any place of business, consolidate two (2) or more locations, or close any home office location, without giving the director at least fifteen (15) days' prior written notice. A licensee under this section shall give written notice to the director within three (3) business days of the closure of any branch location licensed under this chapter. Written notice of the closure of a home or branch office location shall include a detailed explanation of the disposition of all loan applications pending at the time of closure of the licensed location.

(7) ~~A~~ No licensee under this section shall ~~not~~ engage in the business of making or brokering residential mortgage loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that on the license.

(8) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which ~~would~~ could disqualify that applicant if convicted.

(9) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any civil action or administrative proceeding against an applicant in which the civil action or administrative proceeding involves any aspect of a financial service business and the outcome of which could disqualify the applicant.

(10) An applicant under this section shall make complete disclosure of all information required in the application, including information ~~concerning officers~~, directors, partners, members, managers, employees or agents. An applicant, or an individual acting on behalf of the applicant, is not liable in any civil action other than a civil action brought by a governmental agency, related to an alleged untrue statement made pursuant to this section unless it is shown by clear and convincing evidence that:

(a) The applicant, or an individual acting on behalf of the applicant, knew at the time that the statement was made that it was false in any material respect; or

(b) The applicant, or an individual acting on behalf of the applicant, acted in reckless disregard as to the statement's truth or falsity.

(11) Each mortgage broker or mortgage lender licensed under this chapter shall display in plain view the certificate of licensure issued by the department in its principal office and in each branch office.

SECTION 7. That Chapter 31, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-3108A, Idaho Code, and to read as follows:

26-3108A. LICENSE TO DO BUSINESS AS A LOAN ORIGINATOR. (1) The director shall receive and act on all loan originator license applications. Applications shall be filed in the manner prescribed by the director, shall contain such information as the director may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of two hundred dollars ($200). When an application for licensure is denied or withdrawn, the director shall retain all fees paid by the applicant.

(2) An application for license may be denied if the director finds that:

(a) The financial responsibility, character, and fitness of the license applicant are not such as to warrant belief that the loan originator will operate honestly and fairly within the purposes of this chapter;

(b) The applicant has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the applicant of any felony or a misdemeanor involving any aspect of the financial services business;

(c) The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;

(d) The applicant has filed an application for a license which is false or misleading with respect to any material fact;

(e) The applicant has violated this chapter or any rule or order lawfully made pursuant to this chapter;

(f) The applicant has violated any state or federal law, rule or regulation pertaining to mortgage brokering, mortgage lending, or loan origination activities set forth in section 26-3102, Idaho Code; or

(g) The applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section.

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

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

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

(b) The director has not issued a license within sixty (60) days after the application for the license was filed. If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) A loan originator may transact business only for a mortgage broker or mortgage lender licensed in accordance with the provisions of this chapter. The original license issued by the department to a loan originator must be provided to and be maintained by the employing mort-

gage broker or mortgage lender at the mortgage broker's or lender's main office. A copy of the loan originator's license must be displayed at the office where that loan originator principally transacts business.

(6) Each license under this section shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of section 26-3111(4), Idaho Code, or the license is relinquished, suspended or revoked.

(7) A loan originator licensee under this chapter shall not engage in loan origination activities at any location that is not a licensed home or branch office location of the mortgage broker or mortgage lender he represents or is acting on behalf of, nor shall he engage in loan origination activities under any other name than that on the license.

(8) The director may suspend action upon a loan originator license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which could disqualify that applicant if convicted.

(9) The director may suspend action upon a loan originator license application pending resolution of any civil action or administrative proceeding against an applicant, in which the civil action or administrative proceeding involves any aspect of a financial service business and the outcome of which could disqualify the applicant.

(10) An applicant under this section shall make complete disclosure of all information required in the application. An applicant, or an individual acting on behalf of the applicant, is not liable in any civil action other than a civil action brought by a governmental agency, related to an alleged untrue statement made pursuant to this section unless it is shown by clear and convincing evidence that:

(a) The applicant, or an individual acting on behalf of the applicant, knew at the time that the statement was made that it was false in any material respect; or

(b) The applicant, or an individual acting on behalf of the applicant, acted in reckless disregard as to the statement's truth or falsity.

SECTION 8. That Section 26-3109, Idaho Code, be, and the same is hereby amended to read as follows:

26-3109. REVOCATION OR SUSPENSION OF LICENSE. (1) If the department has reason to believe that grounds exist for revocation or suspension of a license, the department may initiate a contested case against a mortgage ~~banker~~ broker, ~~or~~ mortgage ~~broker~~ lender or loan originator, and any partner, officer, director, manager, member, employee or agent whose activities constitute the basis for revocation or suspension, in accordance with chapter 52, title 67, Idaho Code. The director may, after proceedings pursuant to chapter 52, title 67, Idaho Code, suspend the license for a period not to exceed six (6) months, or revoke the license, if he finds that:

(a) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has violated this chapter or any rule or order lawfully made pursuant to this chapter; or

(b) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has violated any ~~other laws of this~~ state~~,~~ or federal laws, rule or regulations ~~pertaining to the~~ mortgage ~~banking~~ brokering, ~~or~~ mortgage ~~brokering~~ lending, or

loan origination activities set forth in section 26-3102, Idaho Code; or

(c) Facts or conditions exist which would clearly have justified the director in refusing to grant a license had these facts or conditions been known to exist at the time the license was issued; or

(d) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the licensee or partner, officer, director, manager, member, employee or agent of the licensee, of any felony or a misdemeanor involving any aspect of the financial services business; or

(e) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has had a license substantially equivalent to a license under this chapter, and issued by another state, denied, revoked or suspended under the laws of such state; or

(f) The licensee has filed an application for a license which as of the date the license was issued, or as of the date of an order denying, suspending or revoking a license, was incomplete in any material respect or contained any statement that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(g) ~~The licensee fails to maintain a net worth of ten thousand dollars--($10,000)~~ The mortgage broker or mortgage lender licensee has employed, or has entered into a contractual relationship with, any person who performs loan origination activities for the licensee without first obtaining a loan originator license under this chapter; or

(h) The mortgage broker or mortgage lender licensee has failed to notify the director of the employment or termination of, or the entering into or termination of a contractual relationship with a licensed loan originator pursuant to section 26-3111(2), Idaho Code; or

(i) The mortgage broker or mortgage lender licensee has failed to supervise diligently and control the mortgage-related activities of a loan originator employed by the licensee.

(2) If the director finds that probable cause for revocation of a license exists and that enforcement of this chapter and the public interest require immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(3) Any licensee may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect his liability for acts previously committed, and may not occur after the filing of a complaint for revocation of the license.

(4) The director may, in his discretion, reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would justify the department in refusing to grant a license.

SECTION 9. That Section 26-3110, Idaho Code, be, and the same is hereby amended to read as follows:

26-3110. SURETY BONDS AND CONTINUING EDUCATION. (1) All mortgage broker and mortgage lender licensees, with or without an office located in this state, shall maintain a surety bond to the state of Idaho in accordance with this section. The bond to be maintained shall be in the amount of ~~ten~~ twenty-five thousand dollars ($~~10~~25,000). This amount shall be increased by additional sums of ten thousand dollars ($10,000) for each licensed branch office. The bond shall be a continuing obligation of the issuing surety. The surety's liability under the bond for any claims made thereunder either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Idaho. The licensee shall place the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, ~~shall be placed~~ on file with the department. In lieu of the bonds required by this section, a certificate of deposit issued by an Idaho bank and made payable to the director may be provided to the director in the same principal amount as required for bonds. The interest on the certificate of deposit shall be payable to the licensee. The certificate of deposit shall be maintained at all times during which the licensee is authorized to conduct mortgage brokering or mortgage lending activities under this chapter, and must provide that it will remain in effect for at least three (3) years following discontinuance of operations unless released earlier by the director.

(2) All loan originator licensees under this chapter, whether operating within or outside of the state of Idaho, shall maintain a surety bond to the state of Idaho in accordance with this section. The bond to be maintained shall be in the amount of ten thousand dollars ($10,000). The surety's liability under the bond for any claims made thereunder either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Idaho. The licensee shall place the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, on file with the department. In lieu of the bond required by this section, a certificate of deposit issued by an Idaho bank and made payable to the director may be provided to the director in the same principal amount as required for a bond. The interest on the certificate of deposit shall be payable to the licensee. The certificate of deposit shall be maintained at all times during which the licensee is authorized to conduct loan origination activities under this chapter, and must provide that it will remain in effect for at least three (3) years following discontinuance of operations unless released earlier by the director.

(3) In the event that a licensee under this chapter, or any employee or agent of ~~a~~ such licensee, has violated any of the provisions of this chapter or of a rule or order lawfully made pursuant to this chapter, or federal law or regulation pertaining to ~~the~~ loan origination, mortgage ~~banking~~ lending or mortgage brokering activities set forth in section 26-3102, Idaho Code, and has damaged any person by such violation, then the bond shall be forfeited and paid by the surety to the state of Idaho for the benefit of any person so damaged.

(4) (a) The director may adopt rules to require continuing education of licensees under this chapter for the purpose of enhancing the professional competence and the professional responsibility of all licensees. The rules may include, but shall not be limited to,

criteria for the content of continuing education courses, the accreditation of continuing education sponsors and programs, the computation of continuing education credits, and general compliance with this subsection.

(b) Continuing professional education requirements shall be determined by the director, provided however, the requirements shall not exceed twenty (20) credit hours within a two (2) year period.

(c) The director may require accredited sponsors of continuing education programs to file information, in a manner prescribed by the director, regarding the contents and materials of proposed courses to satisfy the education requirements with the director for review and approval. The director may set fees for the initial and continuing review of courses for which credit hours will be granted. The initial filing fee for review of materials shall not exceed five hundred dollars ($500) and the fee for continued review shall not exceed two hundred fifty dollars ($250) per annum per course offered.

SECTION 10. That Section 26-3111, Idaho Code, be, and the same is hereby amended to read as follows:

26-3111. RECORDS -- ANNUAL REPORTS -- RENEWAL OF LICENSE. (1) Every licensee shall maintain records, including financial records, in conformity with generally accepted accounting principles, in a manner that will enable the director to determine whether the licensee is complying with the provisions of this chapter. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where residential mortgage loans are made, if the director is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than ~~five~~ three (~~5~~3) years after making the final entry relating to the loan.

(2) Any mortgage broker or mortgage lender licensee who employs or contracts with a loan originator licensee, for the purpose of conducting loan origination activities, shall:

(a) Notify the director of the employment of, or contractual relationship with, a loan originator licensee within thirty (30) days of such employment or contract. Notification shall be made in a manner prescribed by the director;

(b) Notify the director of the termination of employment of, or contractual relationship with, a loan originator licensee within thirty (30) days of such termination. Notification shall be made in a manner prescribed by the director; and

(c) Maintain any records relating to the employment of, or contractual relationship with, a loan originator licensee, for a period not to exceed three (3) years.

(3) On or before August 31 of each year, every mortgage broker and mortgage lender licensee under this chapter shall pay an annual license renewal fee of one hundred fifty dollars ($150~~0~~), and file with the director a renewal form containing such information as the director may require and a composite annual report for the residential mortgage loans made or brokered by him.

(4) On or before October 31 of each year, every loan originator licensee under this chapter shall pay an annual license renewal fee of one hundred dollars ($100), and file with the director a renewal form containing such information as the director may require.

SECTION 11. That Section 26-3112, Idaho Code, be, and the same is hereby amended to read as follows:

26-3112. EXAMINATION AND INVESTIGATIONS. (1) The director shall examine periodically at intervals he deems appropriate, the loans and business records of each licensee. In addition, for the purpose of discovering violations of the provisions of this chapter or securing information lawfully required, the director may at any time investigate the loans, business, books and records of any such licensee. For these purposes, he shall have free and reasonable access to the offices, places of business, and books and records of the licensee. The director, for purposes of examination of licensees herein, shall be paid the actual cost of examination by the licensee, within thirty (30) days of the examination.

(2) If a licensee's records are located outside this state, the licensee shall have the option to make them available to the director at a convenient location within this state, or pay the reasonable and necessary expenses for the director or his representative to examine them at the place where they are maintained. The director may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) For the purposes of this section, the director may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby the director may apply to the district court for an order compelling compliance.

SECTION 12. That Section 26-3114, Idaho Code, be, and the same is hereby amended to read as follows:

26-3114. PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS. No mortgage broker or mortgage lender licensee or person required under this chapter to have a such license shall:

(1) Obtain any exclusive dealing or exclusive agency agreement from any borrower;

(2) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(3) Accept any fees at closing which were not previously disclosed fully to the borrower;

(4) Obtain any agreement or instrument in which blanks are left to be filled in after ~~execution~~ signing by a borrower;

(5) Engage in any misrepresentation in connection with a residential mortgage loan;

(6) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage loan;

(7) Make any false promises likely to influence or persuade, or pursue a course of misrepresentations and false promises through loan originators or other agents, ~~solicitors,~~ or through advertising or otherwise;

(8) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a residential mortgage loan transaction; ~~to which it is a party;~~ nor

(9) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule pursuant to this chapter.

SECTION 13. That Chapter 31, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-3114A, Idaho Code, and to read as follows:

26-3114A. PROHIBITED PRACTICES OF LOAN ORIGINATORS. No loan originator licensee or person required under this chapter to have such license shall:

(1) Be employed simultaneously by more than one (1) mortgage broker or mortgage lender licensed under this chapter;

(2) Enter into concurrent contractual relationships for delivery of loan origination services to more than one (1) licensee under this chapter;

(3) Obtain any exclusive dealing or exclusive agency agreement from any borrower;

(4) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(5) Accept any fees at closing which were not previously disclosed fully to the borrower;

(6) Obtain any agreement or instrument in which blanks are left to be filled in after signing by a borrower;

(7) Engage in any misrepresentation in connection with a residential mortgage loan;

(8) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage loan;

(9) Make any false promises likely to influence or persuade, or pursue a course of misrepresentations and false promises through agents, solicitors, advertising or otherwise;

(10) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a residential mortgage loan transaction; nor

(11) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule pursuant to this chapter.

SECTION 14. That Section 26-3116, Idaho Code, be, and the same is hereby amended to read as follows:

26-3116. INITIAL LICENSING AND COMPLIANCE. A person who conducts any of the activities set forth in subsections (1~~7~~8) and (1~~8~~9) of section 26-3102, Idaho Code, on the effective date of this act shall, within sixty (60) days following the effective date of this act, apply to the department for a license.

SECTION 15. That Chapter 31, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-3116A, Idaho Code, and to read as follows:

26-3116A. INITIAL LOAN ORIGINATOR LICENSING. A person who conducts any of the activities set forth in section 26-3102(20), Idaho Code, shall have sixty (60) days to apply to the department for a loan originator license following the effective date of the loan originator licensing provisions of this chapter and, notwithstanding the provisions of section 26-3108A, Idaho Code, shall pay an initial one (1) time reduced loan origination license application fee of one hundred dollars ($100).

SECTION 16. This act shall be in full force and effect on and after July 1, 2004, provided however, that the loan originator licensing requirements set forth in Section 7 of this act shall not become effective until the succeeding January 1 following the legislative session in which the Legislature grants to the Department of Finance a specific appropriation and approval of additional department staffing for implementation of the loan originator licensing provisions of this act and the Director of the Department of Finance files with the Secretary of State certification that such appropriation and approval requirements have been satisfied.

Approved April 2, 2004.

CHAPTER 378
(S.B. No. 1441)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340B, IDAHO CODE, TO REVISE EXEMPTION PROVISIONS APPLICABLE TO WORKER'S COMPENSATION RECORDS OF THE IDAHO INDUSTRIAL COMMISSION.

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

SECTION 1. That Section 9-340B, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(6), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

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

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

(v) Records of a prisoner, as defined in section 9-337(9), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and

section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

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

(6) Records of the sheriff or Idaho state police received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

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

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

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

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or

(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(14) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

Approved April 2, 2004.

CHAPTER 379
(S.B. No. 1445)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2005; REDUCING THE APPROPRIATION 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 WITH REGARD TO MANAGING GROWTH IN THE CHILDREN'S HEALTH INSURANCE PROGRAMS; REQUIRING THE DEPARTMENT OF HEALTH AND WELFARE TO FILE A WRITTEN REPORT ON THE STATUS OF MEDICAID IN JANUARY 2005; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO A MEDICAID BUY-IN PROGRAM; AND DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense classes from the various funds listed for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$ 5,453,700	$ 6,238,000	$ 276,479,900	$ 288,171,600
Medical Assistance Fund			2,500	2,500
Liquor Control Fund			650,000	650,000
Idaho Health Insurance Access Card Fund	95,200	139,800	1,389,200	1,624,200
Cooperative Welfare Fund (Federal)	9,703,800	14,236,600	675,301,000	699,241,400
Cooperative Welfare Fund (Dedicated)			61,711,400	61,711,400
TOTAL	$15,252,700	$20,614,400	$1,015,534,000	$1,051,401,100

SECTION 2. The appropriation to the Department of Health and Welfare for Medical Assistance Services made in Section 1, Chapter 356, Laws of 2003, is hereby reduced by the following amounts according to the designated expense class from the listed funds for the period July 1, 2003, through June 30, 2004:

FOR:	
Trustee and Benefit Payments	$57,526,400
FROM:	
General Fund	$15,000,000
Cooperative Welfare Fund (Federal)	42,526,400
TOTAL	$57,526,400

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from 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 4. 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 2004, to be used for nonrecurring expenditures only for the period July 1, 2004, through June 30, 2005. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 5. 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, 2004, through June 30, 2005.

SECTION 6. CHILDREN'S HEALTH INSURANCE PROGRAMS. The Legislature finds that the Idaho Health Insurance Access Card Act of 2003 provides

the innovative next step in promoting the availability of employer-sponsored or individual health plans with an emphasis towards partnering with the private sector. As envisioned, the benefits for the new CHIP Plan B and Children's Access Card programs will provide needed reform with no impact to the General Fund. In order to better manage growth in the children's health insurance programs, enrollment will be limited to available revenues as appropriated from the Idaho Health Insurance Access Card Fund along with the associated federal match, for the period July 1, 2004, through June 30, 2005.

SECTION 7. MEDICAID REPORT. In order to keep the Legislature informed on the extent to which Medicaid has achieved cost savings through various cost reduction initiatives and to better ascertain the impact of its policy decisions, the Department of Health and Welfare is hereby directed to provide the House and Senate germane committees and the Joint Finance-Appropriations Committee with a comprehensive written report on the status of Medicaid in January 2005. At a minimum, the report should address the implementation and issues surrounding the children's health insurance programs. The Department should also report on the estimated cost savings versus actual savings for those initiatives identified and implemented such as managed care, disease management, and the First Choice Drug Program.

SECTION 8. MEDICAID BUY-IN. It is the intent of the Idaho Legislature that the Department of Health and Welfare begin the Medicaid Buy-In Program in fiscal year 2005 with existing financial resources. Implementation should be based on budget neutrality.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 2004.

CHAPTER 380
(H.B. No. 590, As Amended)

AN ACT

RELATING TO THE IDAHO COMMONSENSE CONSUMPTION ACT; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 87, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO LIMIT CIVIL LIABILITY RELATING TO THE LONG-TERM CONSUMPTION OF FOOD, TO PROVIDE EXEMPTIONS, TO DEFINE TERMS, TO SET FORTH REQUIREMENTS FOR PLEADINGS, TO PROVIDE FOR THE STAY OF DISCOVERY AND OTHER PROCEEDINGS; AND TO PROVIDE FOR APPLICATION TO CLAIMS.

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

CHAPTER 87
IDAHO COMMONSENSE CONSUMPTION ACT

39-8701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Commonsense Consumption Act."

39-8702. PREVENTION OF FRIVOLOUS LAWSUITS. Except as provided in section 39-8703, Idaho Code, a manufacturer, packer, distributor, carrier, holder, seller, marketer or advertiser of a food, as defined in section 39-8704, Idaho Code, or an association of one (1) or more of such entities, shall not be subject to civil liability arising under any Idaho law for any claim, as defined in section 39-8704, Idaho Code, arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or any other generally known obesity-related condition allegedly caused by or allegedly likely to result from long-term consumption of food.

39-8703. EXEMPTION. Notwithstanding section 39-8702, Idaho Code, civil liability shall not be precluded where the claim of weight gain, obesity, a health condition associated with weight gain or obesity, or any other generally known obesity-related condition allegedly caused by or allegedly likely to result from long-term consumption of food is based on:

(1) A material violation of an adulteration or misbranding provision set forth by statute, rule or regulation in Idaho or the United States provided the claimed injury was proximately caused by such violation; or

(2) Any other material violation of federal or state law applicable to manufacturing, marketing, distribution, advertising, labeling or the sale of food, provided such violation is knowing and willful, as defined in section 39-8704, Idaho Code, and provided further that the claimed injury was proximately caused by such violation.

39-8704. DEFINITIONS. As used in this chapter:

(1) "Claim" means any claim by or on behalf of a natural person as well as any derivative or other claim arising therefrom asserted by or on behalf of any other person.

(2) "Food" means:

(a) Articles used for food or drink for persons or other animals;

(b) Chewing gum; and

(c) Articles used for components of any other such article.

(3) "Generally known obesity-related condition allegedly caused by or allegedly likely to result from long-term consumption" means an obesity-related condition generally known to result or to likely result from the cumulative effect of consumption and not from a single instance of consumption.

(4) "Knowing and willful violation" means:

(a) The conduct constituting the violation was committed with the intent to deceive or injure consumers or with actual knowledge that such conduct was injurious to consumers; and

(b) The conduct constituting the violation was not required by any law, regulation, order or rule of the United States, the state of Idaho, or any political subdivision thereof.

(5) "Person" means any individual, partnership, corporation, firm,

association, governmental subdivision or agency, public or private organization or other legal entity.

39-8705. PLEADING REQUIREMENTS. (1) In any action exempted pursuant to section 39-8703(1), Idaho Code, the complaint initiating such action shall state with particularity the following:

(a) The statute, rule, regulation or other law of Idaho or the United States that was allegedly violated;

(b) The facts that are alleged to constitute a material violation of such law; and

(c) The facts that are alleged to demonstrate that such violation proximately caused actual injury to the plaintiff.

(2) In any action exempted pursuant to section 39-8703(2), Idaho Code, the complaint initiating such action shall state with particularity facts sufficient to support a reasonable inference that the violation was done with the intent to deceive or injure consumers or with actual knowledge that such violation was injurious to consumers.

39-8706. STAY PENDING MOTION TO DISMISS. In any action exempted pursuant to section 39-8703, Idaho Code, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party. During the pendency of any stay of discovery, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations, including electronically recorded or stored data, and tangible objects that are in the custody or control of such party and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party.

SECTION 2. The provisions of this act shall apply to all covered claims pending on the effective date of this act and to all claims filed thereafter, regardless of when the claim arose.

Approved April 2, 2004.

CHAPTER 381
(H.B. No. 631, As Amended)

AN ACT

RELATING TO COMMUNITY COLLEGES; AMENDING SECTION 33-2115, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO MAKE A GRAMMATICAL CHANGE AND TO PROVIDE THAT THE BOARDS OF TRUSTEES OF COMMUNITY COLLEGE DISTRICTS SHALL BE AUTHORIZED AND EMPOWERED TO COOPERATE WITH COUNTY COMMISSIONERS, MAYORS, CITY COUNCILS AND SCHOOL DISTRICT BOARDS OF TRUSTEES AND TO PERMIT THE USE OF COMMUNITY COLLEGE EQUIPMENT AND FACILITIES FOR COUNTY, CITY AND SCHOOL DISTRICT PURPOSES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-2115, Idaho Code, be, and the same is hereby amended to read as follows:

33-2115. COUNTIES, CITIES, ~~AND~~ SCHOOL DISTRICTS AND BOARDS TO COOPERATE. ~~WITH BOARD.~~ (1) The county commissioners of the county in which any ~~junior~~ community college is located, ~~and~~ the mayor and council of the city in or adjacent to which a ~~junior~~ community college is located, and the board of trustees of the school district in such city, whether operating under special charter or general law, shall be and hereby are authorized and empowered to cooperate with the board of trustees of the ~~junior~~ community college district, and to permit the use, for ~~junior~~ community college purposes, of such buildings, grounds, athletic fields, gymnasiums, libraries, laboratories and other equipment and facilities, as are not at the time required for other purposes by such county, city or school district.

(2) The boards of trustees of community college districts shall be and hereby are authorized and empowered to cooperate with the county commissioners, mayors, city councils and school district boards of trustees identified in subsection (1) of this section and to permit the use, for such county, city and school district purposes, of such buildings, grounds, athletic fields, gymnasiums, libraries, laboratories and other equipment and facilities, as are not at the time required for other purposes by the community college.

Approved April 2, 2004.

CHAPTER 382
(H.B. No. 646)

AN ACT

RELATING TO THE IDAHO HEALTH FACILITIES AUTHORITY ACT; AMENDING SECTION 39-1443, IDAHO CODE, TO CLARIFY THAT THE TERM "HEALTH INSTITUTION" INCLUDES PRIVATE NOT FOR PROFIT HOSPITALS, CORPORATIONS OR INSTITUTIONS OR PUBLIC HOSPITALS OR INSTITUTIONS AUTHORIZED BY LAW TO PROVIDE OR OPERATE HEALTH FACILITIES WHETHER DIRECTLY OR INDIRECTLY THROUGH AFFILIATES IN IDAHO AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 39-1443, Idaho Code, be, and the same is hereby amended to read as follows:

39-1443. DEFINITIONS. In this act, unless the context otherwise clearly requires, the terms used herein shall have the meanings ascribed to them as follows:

(a) "Authority" means the Idaho health facilities authority created by this act.

(b) "Bonds," "notes" or "bond anticipation notes" and "other obligations" means any bonds, notes, debentures, interim certificates or other evidences of financial indebtedness, respectively, issued by the authority pursuant to this act.

(c) "Health institution" means any:

(i) private not for profit hospital, corporation or institution, or

(ii) public hospital or institution,

authorized by law to provide or operate health facilities whether directly or indirectly through one (1) or more affiliates in the state of Idaho~~,~~; and "participating health institution" means a health institution which, pursuant to the provisions of this act, shall undertake the financing and construction or acquisition of health facilities or shall undertake the refunding or refinancing of outstanding obligations as provided in and permitted by this act.

(d) "Health facilities" or "facilities," in the case of a participating health institution, means a structure or building suitable for use as a hospital, clinic, nursing home, or other health care facility, laboratory, laundry, nurses', doctors' or interns' residence, administration building, research facility, maintenance, storage or utility facility, auditorium, dining hall, food service and preparation facility, mental and physical health care facility, dental care facility, nursing school, medical teaching facility, or other structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, including, without limitation, offices, parking lots and garages and other supporting service structures, and all necessary, useful and related equipment, furnishings and appurtenances and including without limitation the acquisition, preparation and development of all lands, real and personal property, necessary or convenient as a site or sites for any of the foregoing; but shall not include such items as food, fuel, supplies or other items which are customarily considered as a current operating charge; facilities shall not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Costs" as applied to facilities financed in whole or in part under the provisions of this act means and includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, equipment, enlargement, improvement and extension of such facilities and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary, used for or useful for or in connection with a facility and all other undertakings which the authority deems reasonable or necessary for the development of a facility~~,~~ including, but not limited to, the cost of demolishing or removing any building or structures on land so acquired, the cost of acquiring any lands to which such building or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and if judged advisable by the authority, for a period after completion of such construction, the cost of financing facilities, including interest on bonds and notes issued by the authority to finance facilities; reserves for principal and interest and for extensions, enlargements, additions and improvements; including without limitation the cost of studies and surveys; the costs for land title and mortgage guaranty policies; plans, specifications, architectural and engineering services; legal, organization, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings

and all other necessary and incidental expenses to the construction and acquisition of facilities, the financing of such construction, and acquisition and the placing of facilities in operation.

(f) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments and other income received or to be received by the authority from any source on account of such facilities.

(g) "Refinancing of outstanding obligations" means liquidation, with the proceeds of bonds or notes issued by the authority, of any indebtedness of a participating health institution incurred to finance or aid in financing a lawful purpose of such health institution not financed pursuant to this act which would constitute a facility had it been undertaken and financed by the authority, or consolidation of such indebtedness with indebtedness of the authority incurred for a facility related to the purpose for which the indebtedness of the health institution was incurred.

Approved April 2, 2004.

CHAPTER 383
(H.B. No. 693, As Amended in the Senate)

AN ACT

RELATING TO ANATOMICAL GIFTS; AMENDING SECTION 39-3413, IDAHO CODE, TO REVISE THE DOCUMENT REQUIREMENTS FOR THE MAKING OF AN ANATOMICAL GIFT TO INCLUDE A STATEMENT THAT TISSUES OR PARTS MAY OR MAY NOT BE RETRIEVED AND/OR USED BY FOR-PROFIT PROCUREMENT ENTITIES; AND AMENDING SECTION 39-3413A, IDAHO CODE, TO INCLUDE IN THE REQUIREMENTS FOR INFORMED CONSENT A STATEMENT THAT TISSUES OR PARTS MAY BE RETRIEVED AND/OR USED BY FOR-PROFIT PROCUREMENT ENTITIES.

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

SECTION 1. That Section 39-3413, Idaho Code, be, and the same is hereby amended to read as follows:

39-3413. ANATOMICAL GIFTS BY LIVING DONORS. (1) A document containing the following information is sufficient to comply with the provisions of this chapter for the making of an anatomical gift by a living donor or the refusal to make such a gift:

(a) A statement, signed and dated by the donor, that upon the donor's death he or she gives:

(i) Any needed organs, tissues or parts or only specified organs, tissues or parts; and

(ii) The purpose or purposes for which such organs, tissues or parts may be used, including transplantation, therapy, research or education; <u>and</u>

<u>(iii) That tissues or parts may or may not be retrieved and/or used by for-profit procurement entities;</u> or

(b) A statement, signed and dated by the donor, that the donor refuses to make any anatomical gift.

(2) Any document evidencing a living donor's intent to make an anatomical gift, or the refusal to make such a gift, shall also contain the printed name of the donor and the donor's date of birth and current address.

SECTION 2. That Section 39-3413A, Idaho Code, be, and the same is hereby amended to read as follows:

39-3413A. REQUIREMENTS FOR INFORMED CONSENT. In the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, the following information shall be provided to any person or persons, listed in section 39-3404(1), Idaho Code, approached for purposes of obtaining informed consent:

(1) A confirmation of the donor's identity and his or her clinical terminal condition;

(2) A general description of the purposes of anatomical gift donation;

(3) Identification of specific organs and/or tissues, including cells, that are being requested for donation, provided that subsequent information on the specific gifts recovered shall be supplied;

(4) An explanation that the retrieved organs and/or tissues may be used for transplantation, therapy, medical research or educational purposes;

(5) A general description of the recovery process including, but not limited to, timing, relocation of the donor if applicable, and contact information;

(6) An explanation that laboratory tests and a medical and/or social history will be completed to determine the medical suitability of the donor and that blood samples from the donor will be tested for certain transmissible diseases, including testing for HIV antibodies or antigens;

(7) An explanation that the spleen, lymph nodes and blood may be removed, and cultures may be performed, for the purpose of determining donor suitability and donor and recipient capability;

(8) A statement granting access to the donor's medical records and providing that the medical records may be released to other appropriate parties;

(9) An explanation that costs directly related to the evaluation, recovery, preservation and placement of the organs and/or tissues will not be charged to the family members of the donor; ~~and~~

(10) An explanation of the impact the donation process may have on burial arrangements and on the appearance of the donor's body; and

(11) A statement that tissues or parts may be retrieved and/or used by for-profit procurement entities.

Approved April 2, 2004.

CHAPTER 384
(H.B. No. 712)

AN ACT

RELATING TO DESIGNATION OF THE STATE RAPTOR; AMENDING THE HEADING FOR CHAPTER 45, TITLE 67, IDAHO CODE; AND AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4512, IDAHO CODE, TO DESIGNATE THE PEREGRINE FALCON AS THE STATE RAPTOR OF THE STATE OF IDAHO.

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

SECTION 1. That the Heading for Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 45
STATE ~~BIRD, STATE FLOWER, STATE GEM, STATE HORSE, STATE SONG, STATE TREE, STATE FOSSIL, STATE INSECT, STATE FRUIT, STATE VEGETABLE AND STATE FISH~~ SYMBOLS

SECTION 2. That Chapter 45, 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 67-4512, Idaho Code, and to read as follows:

67-4512. STATE RAPTOR DESIGNATED. The Peregrine Falcon is hereby designated and declared to be the state raptor of the state of Idaho.

Approved April 2, 2004.

CHAPTER 385
(H.B. No. 770)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE STATE ATHLETIC COMMISSION; REPEALING SECTIONS 54-411, 54-419 AND 54-422, IDAHO CODE; AMENDING SECTION 54-401, IDAHO CODE, TO INCREASE COMPENSATION; AMENDING SECTION 54-402, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 54-403, IDAHO CODE, TO AUTHORIZE APPOINTMENT OF DEPUTY STATE ATHLETIC COMMISSIONERS AND OFFICIAL INSPECTORS AND TO SPECIFY THEIR DUTIES; AMENDING SECTION 54-405, IDAHO CODE, TO AUTHORIZE A SANCTIONING PERMIT; AMENDING SECTION 54-406, IDAHO CODE, TO SPECIFY DUTIES OF THE COMMISSION REGARDING SANCTIONING PERMITS AND TO SPECIFY EXEMPTIONS FROM THE REQUIREMENTS; AMENDING CHAPTER 4, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-407, IDAHO CODE, TO GOVERN THE TIME REQUIRED BETWEEN CONTESTS; AMENDING SECTION 54-407, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY BOND REQUIREMENTS FOR PROMOTERS; AMENDING CHAPTER 4, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-409, IDAHO CODE, TO SPECIFY ISSUES TO BE CONSIDERED BEFORE ISSUANCE OF A LICENSE OR SANCTIONING PERMIT; AMENDING SECTION 54-408, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE REFERENCE TO A SANCTIONING PERMIT; AMENDING SECTION

54-409, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REQUIRE A GROSS RECEIPTS REPORT, TO SPECIFY THE CONTENTS OF THE REPORT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 4, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-412, IDAHO CODE, TO CREATE THE STATE ATHLETIC COMMISSION FUND; AMENDING SECTION 54-410, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-412, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE LIMITS ON THE ROUNDS AND BOUTS AND TO CLARIFY THE WEIGHT OF GLOVES; AMENDING SECTION 54-413, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE REQUIREMENTS FOR THE EXAMINATION OF CONTESTANTS' PHYSICAL CONDITION; AMENDING SECTION 54-414, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY IN REFERENCE TO REQUIREMENTS FOR ANNUAL LICENSES; AMENDING SECTION 54-415, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-416, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY RELATING TO VIOLATIONS AND PENALTIES; AMENDING SECTION 54-417, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-418, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROHIBIT CERTAIN ACTS AND TO PROVIDE PENALTIES; AMENDING SECTION 54-420, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REQUIRE EMERGENCY MEDICAL EQUIPMENT AND PERSONNEL; AND AMENDING SECTION 54-421, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY RELATED TO REQUIREMENTS FOR SECURITY.

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

SECTION 1. That Sections 54-411, 54-419 and 54-422, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 54-401, Idaho Code, be, and the same is hereby amended to read as follows:

54-401. STATE ATHLETIC COMMISSION. There is hereby created and established the state athletic commission in the department of self-governing agencies. The state athletic commission shall be administered by the state athletic commissioner who shall be appointed by the governor subject to confirmation by the senate and shall be subject to removal at the pleasure of the governor. The state athletic commissioner shall be appointed for a term of four (4) years and shall receive ~~such~~ compensation not to exceed that provided in section 59-509(~~f~~h), Idaho Code.

SECTION 3. That Section 54-402, Idaho Code, be, and the same is hereby amended to read as follows:

54-402. DEFINITIONS. (1) The terms used i~~t~~n this chapter have the following meanings:

(a) "Amateur" means an individual who has never been a professional boxer or professional wrestler, as defined in this chapter, as well as an individual who has never received nor competed for any purse or other article of value, either for participating in any boxing contest or exhibition or for the expenses of training therefor, other than a noncash prize which does not exceed fifty dollars ($50.00) in value.

(b) "Applicant" means any individual, club, association, corpora-

tion, partnership, trust or other business entity which submits an application to the athletic commission for a license or permit pursuant to this chapter.

(c) "Booking agent" means persons who act as bookers, agents, agencies and representatives who secure engagements and contracts for boxers.

(~~1~~d) "Boxing" means the pugilistic act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body to deliver blows upon an opponent including, but not limited to, the foot, knee, leg, elbow or head. "Boxing" includes, but is not limited to, ~~sumo, judo,~~ kickboxing and ~~karate in addition to fisticuff~~ martial arts but does not include professional wrestling.

~~(2) "Commission" means the athletic commission.~~

(e) "Broadcast" means any audio or visual transmission sent by any means of signal within, into, or from this state, whether live or taped or time delayed, and includes any replays thereof.

(f) "Closed-circuit telecast" means any telecast of professional boxing contests, professional boxing exhibitions or professional wrestling exhibitions which is not intended to be available for viewing without the payment of a fee, collected or based upon each telecast viewed, or for the privilege of viewing the telecast.

(g) "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose.

(h) "College" and/or "univerity" means:

(i) An educational institution of higher learning that typically grants associate's, bachelor's, master's or doctorate degrees;

(ii) A division or school of a university; and

(iii) As used in this chapter, also includes educational institutions known as junior colleges, community colleges and professional-technical schools.

(i) "Commission" means the state athletic commission.

(j) "Commissioner" means the state athletic commissioner.

(k) "Contest" means a match in which the participants strive earnestly in good faith to win.

(l) "Contestant" means an individual who takes part as a competitor in a boxing contest, boxing exhibition or wrestling exhibition.

(m) "Corner person" means, but shall not be limited to, a trainer, a second, or any other individual who attends the contestant during a match.

(n) "Exhibition" means an engagement in which the participants show or display their skill without necessarily striving to win, such as a wrestling match between professional wrestlers or boxing match where contestants are sparring.

(o) "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest.

(p) "Kickboxing" means any form of competitive pugilistic professional contest or professional exhibition in which blows are delivered with the hand and any part of the foot.

(q) "License" means a certificate issued by the commission to participants of sanctioned professional contests and exhibitions or amateur contests and exhibitions which are not exempt from regula-

tion under section 54-406(2), Idaho Code, which is required for participation in such events.

(r) "Licensee" means a person who has been issued a license by the commission.

(s) "Manager" means a person who controls or administers the affairs of any professional contestant. The term "manager" includes a person acting as a booking agent or a person acting as the representative of a manager.

(t) "Martial arts" means any form of karate, kung fu, tae kwon-do, sumo, judo or any other system or form of combat or self-defense art.

(u) "Matchmaker" means a person who brings together or induces professional boxing or wrestling contestants to participate in contests or exhibitions or a person who arranges professional contests or professional exhibitions.

(v) "Participant" means any person who is required by this chapter to be licensed by the commission in connection with taking part in or being associated with a boxing contest, boxing exhibition or wrestling exhibition.

(w) "Person" means any individual, partnership, limited liability company, club, association, corporation, organization, secondary school, college, university, trust or other legal entity.

(x) "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine.

(y) "Professional boxer" means an individual eighteen (18) years of age or older who participates as a contestant in a boxing event for money, prizes, or purses, or who teaches, instructs, or assists in the practice of boxing or sparring as a means of obtaining pecuniary gain.

(z) "Professional contest and professional exhibition" means any boxing match or wrestling exhibition conducted within this state involving professional boxing or wrestling contestants.

(aa) "Professional wrestler" means an individual eighteen (18) years of age or older who participates as a contestant in a wrestling exhibition for money, prizes, or purses, or who teaches, instructs, or assists in wrestling exhibitions as a means of obtaining pecuniary gain.

(bb) "Professional wrestling" means an activity, other than boxing, in which contestants struggle hand-to-hand primarily for the purpose of providing entertainment to spectators and which does not comprise a bona fide athletic contest or competition.

(~~3~~cc) "Promoter" means any person ~~and in the case of a corporation,~~ including an owner, officer, partner, member, director, employee or shareholder thereof, who produces, arranges or stages any professional wrestling exhibition, ~~or~~ any professional boxing contest or exhibition. or any amateur boxing contest or exhibition which is not exempt from regulation pursuant to section 54-406(2), Idaho Code.

(dd) "Pugilistic" means an act related to the skill or practice of fighting with the fists.

(ee) "Purse" means the financial guarantee or any other remuneration or thing of value for which a person participates in a professional boxing contest, professional boxing exhibition or professional wrestling exhibition.

(ff) "Ring official" means any individual who performs an official function during the progress of a regulated boxing contest or a regulated boxing or wrestling exhibition including, but not limited to, timekeepers, judges, referees and attending physicians.

(gg) "Sanctioning permit" means a license issued by the commission to a promoter which authorizes the holding of boxing contests, boxing exhibitions or professional wrestling exhibitions.

(hh) "Secondary school" shall mean a school which, for operational purposes, is organized and administered on the basis of grades seven (7) through twelve (12), inclusive, or any combination thereof.

(ii) "Sparring" means to engage in a form of boxing with jabbing or feinting movements, and the exchange of few heavy blows, such as occurs in a practice or exhibition boxing match.

(jj) "Trainer" means an individual who assists, coaches or instructs any boxer or wrestler with respect to physical conditioning, strategy, techniques or preparation for competition in boxing contests, boxing exhibitions or professional wrestling exhibitions which are not exempt from regulation pursuant to section 54-406(2), Idaho Code.

(2) To the extent the commission deems pertinent, any specialized term not otherwise defined in this chapter may be defined by rule.

SECTION 4. That Section 54-403, Idaho Code, be, and the same is hereby amended to read as follows:

54-403. OFFICERS, EMPLOYEES, INSPECTORS. (1) The commission may employ and fix the compensation of such officers, employees and inspectors as may be necessary to administer the provisions of this chapter.

(2) The commissioner may appoint up to five (5) deputy state athletic commissioners who shall be assigned such duties and given such authority as designated by the commissioner. Deputy commissioners shall serve at the discretion of the commissioner and may be appointed for a term not to exceed the tenure of the commissioner. Deputy commissioners shall be entitled to compensation as provided in section 59-509(b), Idaho Code.

(3) The commission may appoint official inspectors at least one (1) of whom, in the absence of the commissioner or a deputy commissioner, shall be present at any boxing contest or boxing exhibition held under the provisions of this chapter and may be present at any wrestling exhibition. Such inspectors shall carry a card signed by the state athletic commissioner evidencing their authority. It shall be their duty to see that all rules of the commission and the provisions of this chapter are strictly complied with and to be present at the accounting of the gross receipts of any contest or exhibition, and such inspector is authorized to receive from the licensee conducting the contest or exhibition the statement of gross receipts herein provided for and to immediately transmit such reports to the commission. Each inspector shall receive a fee from the licensee to be set by the commission for each contest or exhibition officially attended and, in addition, each inspector shall be compensated by the commission in accordance with section 59-509(b), Idaho Code.

SECTION 5. That Section 54-405, Idaho Code, be, and the same is hereby amended to read as follows:

54-405. ~~LICENSES~~ SANCTIONING PERMIT FOR BOXING~~,--SPARRING~~ AND WRESTLING EVENTS -- TELECASTS. The commission shall have power to issue and for cause to revoke ~~a license~~ any sanctioning permit to conduct boxing contests, ~~sparring matches~~ boxing exhibitions, or wrestling ~~shows or~~ exhibitions, including a simultaneous telecast of any live, current or spontaneous boxing~~,--sparring~~ contests, boxing exhibitions or wrestling ~~match--or--performance~~ exhibitions on a closed circuit telecast within this state, whether originating in this state or elsewhere, and for which a charge is made, as herein provided under such terms and conditions and at such times and places as the commission may determine. Such ~~license~~ permit shall entitle the holder thereof to conduct boxing contests and ~~sparring--and/~~ boxing exhibitions or wrestling ~~matches and~~ exhibitions under such terms and conditions and at such times and places as the commission may determine. In case the commission shall refuse to grant a ~~license~~ permit to any applicant, or shall cancel any ~~license~~ permit, such applicant, or the holder of such canceled ~~license~~ permit shall be entitled, upon application, to a hearing to be held not less than sixty (60) days after the filing of such order at such place as the commission may designate; provided however, that it has been found by a valid finding and such finding is fully set forth in the order, that the applicant or ~~licensee~~ permittee has been guilty of any felony or of disobeying any provision of this chapter, such hearing shall be denied.

SECTION 6. That Section 54-406, Idaho Code, be, and the same is hereby amended to read as follows:

54-406. DUTIES OF COMMISSION -- SANCTIONING PERMITS -- LICENSING -- EXEMPTIONS -- MEDICAL CERTIFICATION. (1) The commission shall have power, and it shall be its duty, to direct, supervise and control all boxing contests, ~~sparring matches~~ boxing exhibitions and wrestling ~~shows or~~ exhibitions conducted within the state and no such boxing contest, ~~sparring match~~ boxing exhibitions, or wrestling ~~show or~~ exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission may, in its discretion, issue and for cause revoke ~~a license~~ sanctioning permits to conduct, hold or give boxing ~~and sparring~~ contests, boxing exhibitions and wrestling ~~shows and~~ exhibitions where an admission fee is charged by any ~~club,--corporation~~ person, organization, association or fraternal society~~;-provided,-however,-that~~. The commission may also, in its discretion, issue and for cause revoke licenses for participants of sanctioned contests and exhibitions.

(2) Specifically exempt from the provisions of this chapter are all boxing contests, ~~sparring~~ boxing exhibitions or wrestling ~~matches--or~~ exhibitions which:

(~~1~~a) Are contests or exhibitions conducted by any secondary school, college or university, whether public or private, ~~or by the official student--association--thereof,-whether on or off the school,-college or university grounds,~~ where all the participating contestants are bona fide students enrolled in any secondary school, college or university, within or without this state; or

(~~2~~b) Are entirely ~~amateur events promoted on a nonprofit basis or for charitable purposes~~ contests or exhibitions, in which all contestants are amateurs, which have been sanctioned as amateur athletic events by any of the following associations:

(i) United States amateur boxing, inc., also known as USA boxing, inc.;
(ii) Amateur athletic union of United States, inc., also known as the national amateur athletic union, the amateur athletic union and the AAU;
(iii) Any other entity that the commission approves as an officially recognized amateur boxing or other amateur athletic sanctioning authority; or

(~~3~~c) Are ~~athletic~~ contests or exhibitions held under the auspices or sanction of an established nonprofit secondary school activities organization or of its public or nonprofit accredited secondary school members, or held under ~~a higher--education~~ the auspices or sanction of an established college or university activities organization or its public or not-for-profit accredited ~~higher--education~~ college or university members;

(d) Are contests or exhibitions conducted by any military installation or branch of the United States armed forces, or the state national guard, where the participants are employed by the military installation, are members of the branch of the armed forces, or the state national guard unit conducting the contest or exhibition.

(3) ~~shall not be subject to the provisions of--this--chapter.~~ Provided, further, that every contestant in any boxing contest or ~~sparring match~~ boxing exhibition or wrestling exhibition not conducted under the provisions of this chapter, prior to engaging in and conducting such contest or ~~match~~ exhibition, shall be examined by a licensed physician at least once in each calendar year, or where such contest is conducted by a secondary school, college or university or organization as further described in this section, once in each academic year in which instance the physician shall also designate the maximum and minimum weights at which the contestant shall be medically certified to participate. Provided further, that no contestant shall be permitted to participate in any such boxing contest, ~~sparring~~ boxing exhibitions or wrestling ~~match or~~ exhibition in any weight classification other than that or those for which he is certificated. Provided further, that the exempted organizations shall be governed by the provisions of section 54-41~~2~~4, Idaho Code, as that section applies to boxing contests, ~~or sparring matches~~ boxing exhibitions or wrestling exhibitions conducted by ~~organizations~~ persons exempted in this section from the general provisions of this chapter. No boxing contest, ~~sparring--match~~ boxing exhibition or wrestling ~~show or~~ exhibition shall be conducted within this state except pursuant to a license issued in accordance with the provisions of this chapter and the rules ~~and regulations~~ of the commission except as hereinabove provided.

SECTION 7. That Chapter 4, 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 54-407, Idaho Code, and to read as follows:

54-407. TIME BETWEEN BOXING CONTESTS. (1) In no case may a boxing contestant participate in more than one (1) boxing contest or exhibition in any twenty-four (24) hour period.

(2) Without the special permission of the commission, a boxing contestant may not compete in a boxing contest or exhibition in this state unless:

(a) Four (4) days have elapsed since his last contest if the contest lasted for no more than four (4) rounds.
(b) Seven (7) days have elapsed since his last contest if the contest lasted five (5) or six (6) rounds.
(c) Fourteen (14) days have elapsed since his last contest if the contest lasted nine (9) or ten (10) rounds.
(d) Twenty-one (21) days have elapsed since his last contest if the contest lasted nine (9) or ten (10) rounds.
(e) Forty-five (45) days have elapsed since his last contest if the contest lasted eleven (11) or twelve (12) rounds.
(f) Sixty (60) days have elapsed since his last contest if the contest lasted thirteen (13) or more rounds.

SECTION 8. That Section 54-407, Idaho Code, be, and the same is hereby amended to read as follows:

54-407~~8~~. PROMOTERS -- BOND -- MEDICAL INSURANCE. (1) ~~Every boxing promoter, as a condition for receiving a license, shall file a good and sufficient bond in an amount determined by the commission with the commission, conditioned upon the faithful performance by such licensee of the provisions of this chapter, the payment of the taxes, officials, and contracts as provided for herein and the observance of all rules and regulations of the commission, which bond shall be subject to the approval of the attorney general~~ Before any sanctioning permit is issued to any promoter to conduct or hold a boxing contest, boxing exhibition or wrestling exhibition which is not exempt from regulation pursuant to section 54-406(2), Idaho Code, the applicant shall file with the commission a bond payable to the state of Idaho in an amount determined by the commission, executed by the applicant and a surety company or companies authorized to do business in this state, and conditioned upon the faithful performance by the promoter, which shall include, but not be limited to, the cancellation of a boxing contest, boxing exhibition or wrestling exhibition without good cause as determined by the commission once the event has been approved by the commission.

(2) ~~Every promoter of a wrestling exhibition or closed-circuit telecast as a condition of receiving a license as provided for under this chapter shall file a good and sufficient bond in an amount determined by the commission with the commission conditioned upon the faithful performance by such licensee of the provisions of this chapter, the payment of the taxes and officials provided for herein and the observance of all rules and regulations of the commission, which bond shall be subject to the approval of the attorney general~~ The bond required under this section shall guarantee the payment of all taxes, fees, fines and other moneys due and payable pursuant to the provisions of this chapter and the rules of the commission including, but not limited to, the payment of purses to the participants, other than the promoter, any contributions for required insurance, pensions, disability and medical examinations, the repayment to ticketholders of purchased tickets, the payment of fees to ring officials and physicians and, in the event of the cancellation of a boxing contest, boxing exhibition or wrestling exhibition approved by the commission without good cause, an amount determined by the commission.

(3) After issuance of a sanctioning permit to a promoter, the commission may modify the amount of bond required to ensure adequate and

sufficient coverage for payment of taxes, fees, fines, purses, and other moneys due and payable pursuant to the provisions of this section. Failure of any promoter to secure a modified bond required pursuant to this subsection within such period of time as the commission may prescribe, shall be grounds for revocation of the sanctioning permit of such promoter.

(4) All bond proceeds collected pursuant to the provisions of this section shall be deposited in the state treasury to the credit of the state athletic commission fund.

(5) Boxing and wrestling promoters must obtain health insurance to cover any injuries incurred by participants, other than the promoter, at the time of the event.

SECTION 9. That Chapter 4, 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 54-409, Idaho Code, and to read as follows:

54-409. CONSIDERATIONS BEFORE ISSUANCE OF LICENSE OR SANCTIONING PERMIT. Before issuing any license or sanctioning permit, the commission shall consider the following in order of importance:

(1) The preservation of the safety and health of the contestants;
(2) The best interest and welfare of the public; and
(3) The best interest of the sport in general.

SECTION 10. That Section 54-408, Idaho Code, be, and the same is hereby amended to read as follows:

54-40~~8~~10. ISSUANCE OF A LICENSE OR SANCTIONING PERMIT. Upon the approval by the commission of any application for a license or sanctioning permit, as hereinabove provided, and the filing of the bond the commission shall forthwith issue such license or sanctioning permit.

SECTION 11. That Section 54-409, Idaho Code, be, and the same is hereby amended to read as follows:

54-40~~9~~11. STATEMENT AND REPORT OF EVENT -- TAX ON GROSS RECEIPTS. (1) Any promoter as herein provided shall, within seven (7) days prior to the holding of any boxing contest ~~or sparring match~~ or exhibition, file with the commission a statement setting forth the name of each ~~licensee~~ contestant, his manager or managers and such other information as the commission may require. Any promoter shall, within seven (7) days before holding any wrestling exhibition, ~~or show,~~ file with the commission a statement setting forth the name of each contestant, his manager or managers and such other information as the commission may require. Participant changes within a twenty-four (24) hour period regarding a wrestling exhibition ~~or show~~ may be allowed after notice to the commission, if the new participant holds a valid license under this chapter. ~~Upon~~ Within seventy-two (72) hours after the termination of any contest or exhibition the promoter shall file with the designated commission representative a ~~written~~ gross receipts report, duly verified as the commission may require showing the number of tickets sold for such contest, the price charged for such tickets and the gross ~~proceeds~~ receipts thereof, and such other and further information as the commission may require. The promoter shall pay to the commission at the time of filing

the above report a tax equal to five ~~per cent~~ percent (5%) of the gross receipts ~~and the five per cent (5%) of the gross receipts shall be paid within twenty-four (24) hours by the commission into the state athletic commission account which is hereby created in the dedicated fund of the state treasury. Moneys in the account may be expended pursuant to appropriation and shall be utilized by the commission to administer the provisions of this chapter. All moneys in the state athletic fund as of June 30, 1992, are hereby transferred and deposited in the state athletic commission account on July 1, 1992~~ for deposit by the commission.

(2) The number of complimentary tickets shall be limited to two ~~per cent~~ percent (2%) of the total tickets sold per event location. All complimentary tickets exceeding this set amount shall be subject to taxation.

(3) Gross receipts reports signed under oath shall also include:

(a) The name of the promoter;

(b) The boxing contest, boxing exhibition or wrestling exhibition sanctioning permit number;

(c) The promoter's business address and any license or sanctioning permit number required of such promoter by law;

(d) Gross receipts as specified by this section, during the period specified by this section; and

(e) Such further information as the commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

(4) In addition to the information required on gross receipts reports, the commission may request, and the promoter shall furnish, any information deemed necessary for a correct computation of the assessment levied pursuant to this section.

(5) All levies pursuant to this section shall be collected by the commission and shall be deposited in the state treasury to the credit of the state athletic commission fund.

(6) The moneys collected from the assessment levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the state athletic commission.

(7) The promoter shall compute and pay to the commission the required assessment due. If the payment of the assessment is not postmarked or delivered to the commission as specified in subsection (1) of this section, the assessment shall be delinquent from such date.

(8) It shall be the duty of every promoter required to make a gross receipts report and pay any assessment pursuant to the provisions of this section to keep and preserve suitable records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the commission or by its authorized agents.

SECTION 12. That Chapter 4, 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 54-412, Idaho Code, and to read as follows:

54-412. STATE ATHLETIC COMMISSION FUND. The "State Athletic Commission Fund" is a dedicated fund created, effective July 1, 1992, in the state treasury in the name of the commission. Moneys in the fund may be expended pursuant to appropriation and shall be utilized by the commission to administer the provisions of this chapter.

SECTION 13. That Section 54-410, Idaho Code, be, and the same is hereby amended to read as follows:

54-410~~3~~. SIMULTANEOUS OR CLOSED CIRCUIT TELECASTS -- REPORT -- TAX ON GROSS RECEIPTS. Every licensee who charges and receives an admission fee for exhibiting a simultaneous telecast of any live, current or spontaneous boxing ~~or sparring match~~ contest, boxing exhibition or wrestling exhibition ~~or show~~ on a closed circuit telecast viewed within this state shall, within seventy-two (72) hours after such event, furnish to the commission a verified ~~written~~ gross receipts report on a form which is supplied by the commission showing the number ~~or~~ of tickets issued or sold, and the gross receipts therefor without any deductions whatsoever. Such licensee shall also, at the same time pay to ~~the commission~~ a tax equal to five ~~per--cent~~ percent (5%) of such gross receipts paid for admission to the showing of the contest~~, match~~ or exhibition. In no event, however, shall the tax be less than twenty-five dollars ($25.00). The tax shall apply uniformly at the same rate to all persons subject to the tax. Such receipts shall be paid within twenty-four (24) hours by the commission into the state athletic commission ~~account~~ fund.

SECTION 14. That Section 54-412, Idaho Code, be, and the same is hereby amended to read as follows:

54-412~~4~~. BOXING ROUNDS AND BOUTS LIMITED -- WEIGHT OF GLOVES. No boxing contest or ~~sparring~~ boxing exhibition held in this state whether under the provisions of this chapter or otherwise shall be for more than ten (10) rounds. ~~and n~~ Each round in a contest or exhibition shall be scheduled to last for the same length of time. No one (1) round of any ~~such~~ boxing contest or exhibition shall be scheduled for ~~less than or~~ longer than three (3) minutes and there shall be not less than one (1) minute intermission between each round. In the event of bouts involving a state or regional championship, the commission may grant an extension of no more than two (2) additional rounds to allow total bouts of twelve (12) rounds, and in bouts involving a national or world championship the commission may grant an extension of no more than five (5) additional rounds to allow total bouts of fifteen (15) rounds. No ~~contestant~~ participant in any boxing contest or ~~sparring match or~~ boxing exhibition shall be permitted to wear gloves weighing less than eight (8) ounces each; provided, however, that no ~~contestants~~ participants weighing more than one hundred ~~sixty five~~ forty-seven (16547) pounds ~~or more~~ shall be permitted to wear gloves weighing less than ten (10) ounces each. The commission shall promulgate rules ~~and regulations~~ to assure clean and sportsmanlike conduct on the part of all ~~contestants~~ participants and officials, and the proper and orderly conduct of the contest or exhibition in all respects, and to otherwise make rules ~~and regulations~~ consistent with this chapter, but such rules ~~and--regulations~~ shall apply only to contests or exhibitions held under the provisions of this chapter.

SECTION 15. That Section 54-413, Idaho Code, be, and the same is hereby amended to read as follows:

54-413~~5~~. PHYSICIAN'S ATTENDANCE -- EXAMINATION OF CONTESTANTS. Each contestant for a boxing contest or ~~sparring~~ boxing exhibition shall be examined within eight (8) hours prior to the contest or exhibition by a ~~competent~~ physician appointed by the commission. The physician shall forthwith and before such contest or exhibition report in writing and over his signature the physical condition of each and every contestant to the commissioner, deputy commissioner or inspector present at such contest. ~~No--contestant-whose-physical-condition-is-not-approved-by-the examining-physician-shall-be-permitted-to-participate--in--any--contest.~~ Blank forms of physicians' reports shall be provided by the commission and all questions upon such blanks shall be answered in full. ~~The--examining--physician-shall-be-paid-a-fee-designated-by-the-commission-by-the promoter-conducting-such-match-or-exhibition.~~ At the discretion of t~~T~~he commission ~~may--have--a--participant--in-a-wrestling-exhibition-or-show~~ prior to a wrestling exhibition, the commission may require a contestant to be examined by a physician appointed by the commission. ~~prior-to--the exhibition--or--show.--A--participant--in-a-wrestling-exhibition-or-show whose-condition-is-not-approved-by-the-examining-physician-shall-not--be permitted--to--participate-in-the-exhibition-or-show~~ No contestant whose physical condition is not approved by the examining physician shall be permitted to participate in any contest or exhibition. The promoter conducting such contest or exhibition shall pay the examining physician a fee in the amount designated by the commission. No boxing contest, ~~sparring-match~~ boxing exhibition or wrestling exhibition shall be held unless a ~~licensed~~ physician ~~of~~ appointed by the commission ~~or-his-duly appointed--representative~~ is present throughout the contest or exhibition. ~~The-commission-may-require-that-a-physician-be-present-at-a wrestling-exhibition-or-show.-Any~~ The promoter shall pay the fees, in the amount designated by the commission, of the physician who is required to be present at a boxing contest, boxing exhibition or wrestling ~~show-or~~ exhibition. ~~shall-be-paid-for-by-the-promoter.~~

~~Any--practicing-physician~~ The commission may ~~be selected-by-the-commission~~ any practicing physician as the examining or attending physician. The physician present at the contest or exhibition shall have the authority to stop any contest or exhibition when in the physician's opinion it would be dangerous ~~to~~ for a contestant to continue.

SECTION 16. That Section 54-414, Idaho Code, be, and the same is hereby amended to read as follows:

54-414~~6~~. ANNUAL LICENSES -- FEES -- REVOCATION. (1) The commission may grant annual licenses in compliance with the rules ~~and-regulations~~ prescribed by the commission, and the payment of the fees, the amount of which is to be determined by the commission upon application, prescribed to promoters, managers, ~~referees~~ booking agents, matchmakers, ring officials, boxers, wrestlers, and ~~seconds~~ corner persons; provided, that the provisions of this section shall not apply to contestants or ~~participants~~ other persons who may participate in ~~strictly-amateur~~ contests ~~and/or-fraternal-organizations-and/or-veterans--organizations--chartered by--congress--or--the--defense-department-or-any-bona-fide-athletic-club which-is-a-member-of-an-association-of-the-amateur-athletic-union-of-the~~

~~United States, holding and promoting athletic contests and where all funds are used primarily for the benefit of their members~~ or exhibitions which are exempted from the provisions of this chapter pursuant to section 54-406(2), Idaho Code.

(2) Any such license may be revoked by the commission for any cause which it shall deem sufficient.

(3) No person shall participate or serve in any of the above capacities unless licensed as provided in this chapter.

(4) The ~~referee~~ ring officials for any boxing contest shall be designated by the commission from among ~~such~~ the active pool of licensed ~~referees~~ or appointed ring officials.

(5) The ~~referee~~ ring officials for any wrestling exhibition ~~or show~~ shall be provided by the promoter and licensed by the commission.

(6) All fees collected pursuant to this section shall be deposited in the state athletic commission ~~account created in section 54-409, Idaho Code~~ fund.

SECTION 17. That Section 54-415, Idaho Code, be, and the same is hereby amended to read as follows:

54-415~~7~~. PARTICIPATION IN PURSE -- CONDUCTING SHAM BOXING EVENTS -- FORFEITURE OF LICENSE. Any person ~~or any member of any group of persons or corporation~~ promoting boxing exhibitions or contests who shall directly or indirectly participate in the purse or fee of any manager of any boxers or any boxer and any licensee who shall conduct or participate in any sham or fake boxing contest or ~~sparring match or~~ exhibition shall thereby forfeit ~~its~~ his license and the commission shall declare the license canceled and void and the licensee shall not thereafter be entitled to receive another such license, or any license issued pursuant to the provisions of this chapter.

SECTION 18. That Section 54-416, Idaho Code, be, and the same is hereby amended to read as follows:

54-416~~8~~. VIOLATION OF RULES -- SHAM BOXING EVENTS -- PENALTIES. Any ~~contestant~~ participant or licensee who shall participate in any sham or fake boxing contest~~, match~~ or exhibition and any licensee or participant who violates any rule ~~or regulation~~ of the commission shall be penalized in the following manner. For the first offense he shall be restrained by order of the commission for a period of not less than three (3) months from participating in any ~~contest~~ event held under the provisions of this chapter, such suspension to take effect immediately after the occurrence of the offense, for any ~~second offe~~nse such ~~contestant~~ participant or licensee shall be forever suspended ~~for~~ from participation in any ~~contest~~ event under the provisions of this chapter.

SECTION 19. That Section 54-417, Idaho Code, be, and the same is hereby amended to read as follows:

54-417~~9~~. FAILURE TO MAKE REPORTS -- ADDITIONAL TAX -- NOTICE -- PENALTY FOR DELINQUENCY. Whenever any licensee shall fail to make a report of any contest or exhibition within the time prescribed in this chapter or when such report is unsatisfactory to the commission, the commissioner or his designee shall examine the books and records of such

licensee; he may subpoena and examine under oath any officer of such licensee and such other person or persons as he may deem necessary to a determination of the total gross receipts from any contest or exhibition and the amount of tax thereon. If, upon the completion of such examination it shall be determined that an additional tax is due, notice thereof shall be served upon the licensee, and if such licensee shall fail to pay such additional tax within twenty (20) days after service of such notice the delinquent licensee shall forfeit ~~its~~ his license and shall forever be disqualified from receiving any new license and in addition thereto, such licensee ~~and the members thereof~~ shall be ~~jointly and severally~~ liable to this state in the penal sum of ten thousand dollars ($10,000) to be collected by the attorney general by civil action in the name of the state in the manner provided by law. All moneys collected pursuant to the provisions of this section shall be remitted to the state athletic commission ~~account~~ fund.

SECTION 20. That Section 54-418, Idaho Code, be, and the same is hereby amended to read as follows:

54-4~~1~~820. ~~PENALTY--FOR--CONDUCTING--EVENTS-WITHOUT-LICENSE~~ PROHIBITIONS -- PENALTIES -- INJUNCTIONS. (1) Any person~~,--club,--corporation, organization,--association,--fraternal--society,-participant-or-promoter~~ conducting or participating in boxing contests, ~~sparring-matches~~ boxing exhibitions or wrestling ~~shows-or~~ exhibitions within this state without first having obtained a license or sanctioning permit therefor in the manner provided in this chapter is in violation of the provisions of this chapter, excepting such contests excluded from the operation of the provisions of this chapter in section 54-406(2), Idaho Code. ~~The--attorney--general,--each-prosecuting-attorney,-the-commission,-or-any-citizen of-any-county-where-any-person,-club,-corporation,-organization,-association,-fraternal-society,-promoter,-or--participant--shall--threaten--to hold--or,--appears-likely-to-hold-or-participate-in-athletic-contests-or exhibitions-in-violation-of-the--provisions--of--this--chapter,--may--in accordance--with--the--laws--of-this-state-governing-injunctions,-enjoin such-person,-club,--corporation,--organization,--association,--fraternal society,--promoter,-or-participant-from-holding-or-participating-in-such contest-or-exhibition.~~

(2) It is unlawful for any promoter or person associated with or employed by any promoter to destroy any ticket or ticket stub, whether sold or unsold, within three (3) months after the date of any contest or exhibition.

(3) The striking of any individual who is not a licensed contestant in that particular boxing contest, boxing exhibition or wrestling exhibition shall constitute grounds for suspension, revocation or both of a license issued pursuant to the provisions of this chapter.

(4) Any person violating any of the provisions of this chapter or the rules of the commission for which no penalty is otherwise herein provided, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars ($1,000) or by incarceration in the county jail for not more than thirty (30) days or by both such fine and incarceration. The commission shall suspend or revoke the license of any person convicted of violating the provisions of this chapter and the rules of the commission.

(5) In addition to other penalties provided by law if, after a

hearing in accordance with the provisions of this chapter and the rules of the commission, the commission shall find any person to be in violation of any of the provisions of this chapter, such person may be subject to an administrative penalty equal to the greater of five hundred dollars ($500) or one percent (1%) of gross receipts received for each violation. Each day a person is in violation of the provisions of this chapter and the rules of the commission may constitute a separate violation. All administrative penalties collected pursuant to the provisions of this subsection shall be deposited in the state treasury to the credit of the state athletic commission fund. Upon the request of the commission, the attorney general may institute action to enforce the administrative penalties imposed pursuant to this subsection in the district court for Ada county.

(6) Upon the request of the commission, the county prosecutor in the county where a violation has occurred or is about to occur may make application to the district court in the county for an order enjoining the acts or practices prohibited by the provisions of this chapter and the rules of the commission, and upon a showing that the person has engaged or is about to engage in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 21. That Section 54-420, Idaho Code, be, and the same is hereby amended to read as follows:

54-42~~0~~1. EMERGENCY MEDICAL ~~EMERGENCIES~~ EQUIPMENT AND PERSONNEL. A promoter shall have an ambulance or paramedical unit with appropriate resuscitation equipment continuously present at the ~~arena~~ event site during the performance of all boxing contests, boxing exhibitions and wrestling exhibitions in case a serious injury occurs. ~~unless an ambulance or paramedical unit is located within five (5) miles of the arena and that unit is on call for such an occurrence.~~

SECTION 22. That Section 54-421, Idaho Code, be, and the same is hereby amended to read as follows:

54-42~~1~~2. SECURITY -- PROMOTER'S RESPONSIBILITY. A promoter shall ensure that adequate security personnel are ~~in attendance~~ present at a ~~wrestling exhibition or~~ boxing contest, boxing exhibition or wrestling exhibition to control the crowd or audience in attendance. The size of the security force shall be determined by mutual agreement of the promoter, the person in charge of operating the ~~arena~~ event site or other facility and the commission.

Approved April 2, 2004.

CHAPTER 386
(H.B. No. 801)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2005; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING RESOURCE SHARING; DIRECTING REIMBURSEMENT OF DONATED FUNDS TO THE IDAHO HOSPITAL ASSO-

CIATION; REDUCING THE APPROPRIATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2004; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:				
FROM:				
General Fund	$1,204,500	$2,806,700	$ 85,900	$4,097,100
Federal Grant Fund	375,900	4,163,600	691,300	5,230,800
Miscellaneous Revenue Fund	2,000	120,900	10,000	132,900
TOTAL	$1,582,400	$7,091,200	$787,200	$9,460,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Legislature reaffirms that the Division of Professional-Technical Education, the Division of Vocational Rehabilitation and the Office of the State Board of Education each play unique and vital roles in the state's educational system. The Legislature authorizes these agencies to share administrative resources only to the extent necessary to achieve readily obtainable administrative efficiencies. The shared resources authorized in this section shall be narrowly defined as human resources, information technology, reception and the fiscal activities of accounts payable, payroll processing and financial statement and budget preparation. Each division administrator shall retain management decision-making autonomy over their respective divisions. The employees of the Division of Professional-Technical Education and the Division of Vocational Rehabilitation shall not be considered or used as adjunct staff by the Office of the State Board of Education. Under no circumstances shall this arrangement impair the individual ability of these agencies to fulfill their individual missions. This authorization is automatically withdrawn to the extent it is found to be inconsistent with laws or regulations pertaining to the use of federal or dedicated funds. The Legislature shall review this authorization each year and reserve its prerogative to withdraw it at any time.

SECTION 4. The 2002 Idaho Legislature adopted House Concurrent Resolution No. 58 to recognize the state and national nursing shortage and to request that the State Board of Education address that shortage. Subsequently, the Idaho Hospital Association donated $482,277 in fiscal year 2003 and $439,184 in fiscal year 2004 to the State Board of Education to potentially fund initiatives developed by the State Board of Education's Committee on Health Professions. None of those donated funds have been expended. The Legislature directs that all funds donated by the Idaho Hospital Association to the State Board of Education for the purposes of supporting the Health Professions Workforce Development Initiative be reimbursed to the Idaho Hospital Association. The reimbursed amount shall reflect reasonable interest earned on those funds and reasonable administrative fees charged against those funds as agreed to by the Idaho Hospital Association and the State Board of Education. The State Board of Education shall provide the Joint Finance-Appropriations Committee with a full and complete accounting of the transaction immediately after it is consummated.

SECTION 5. The appropriation to the State Board of Education for the Office of the State Board of Education made in Section 1, Chapter 226, Laws of 2003, is hereby reduced for the designated expense class from the listed fund for the period July 1, 2003, through June 30, 2004:

FOR:	
Operating Expenditures	$1,500,000
FROM:	
General Fund	$1,500,000

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

Approved April 2, 2004.

CHAPTER 387
(H.B. No. 828)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1229, IDAHO CODE, TO REVISE THE RATE OF TAX ON SURPLUS LINES; AND AMENDING SECTION 41-1233, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 41-1229, Idaho Code, be, and the same is hereby amended to read as follows:

41-1229. TAX ON SURPLUS LINES. (1) On or before the first day of March of each year each broker shall remit to the director a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the director, and at the following rates:

~~BEGINNING EFFECTIVE DATE OF POLICY~~	~~RATE~~
~~January 1, 1987 through July 31, 1987~~	~~3%~~
~~August 1, 1987 through July 31, 1988~~	~~3.663%~~
~~August 1, 1988 through December 31, 1994~~	~~3%~~
~~January 1, 1995, and thereafter~~	~~2.75%~~

(a) For calendar years 2004, 2005 and 2006, beginning with the effective date of the policy, two and seventy-five hundredths percent (2.75%); and

(b) For calendar year 2007 and thereafter, beginning with the effective date of the policy, one and five-tenths percent (1.5%).

Such tax shall be in lieu of all other taxes upon such insurers with respect to the business so reported.

(2) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

SECTION 2. That Section 41-1233, Idaho Code, be, and the same is hereby amended to read as follows:

41-1233. REPORT AND TAX OF INDEPENDENTLY PROCURED COVERAGES. (1) Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line broker pursuant to the surplus line law of this state or exempted from tax pursuant to section 41-1212, Idaho Code, shall within thirty (30) days after the date such insurance policy was so received by the insured, continued or renewed file a written report of the same with the surplus line association on forms designated by the director and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the director reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this state for the purposes of this section.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection (1) of this section.

(3) The insured with respect to the obligation, chose in action, or right represented by such insurance shall be subject to ~~chapter 4, title 41~~ section 41-1229, Idaho Code, as it pertains to premium tax. Within thirty (30) days after the insurance policy was so received by the insured, continued or renewed, and coincidentally with the filing with the surplus line association of the report provided for in subsection (1) of this section, the insured shall pay the amount of the tax to the

director and a stamping fee to the surplus line association.

(4) The tax imposed hereunder if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.

(5) The tax shall be collectible from the insured by civil action brought by the director, or by distraint.

(6) This section does not abrogate or modify any provision of sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (representing or aiding unauthorized insurer prohibited — penalty), or 41-1203 (suits by unauthorized insurer prohibited), Idaho Code.

(7) This section does not apply as to life or disability insurances.

Approved April 2, 2004.

CHAPTER 388
(H.B. No. 847)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2005; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND AMENDING CHAPTER 15, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1513, IDAHO CODE, TO PROVIDE FEES.

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

SECTION 1. In addition to the appropriation made in Section 1 of House Bill No. 822, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, there is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2004, through June 30, 2005:

FOR:	
Personnel Costs	$150,100
Operating Expenditures	40,000
TOTAL	$190,100
FROM:	
Miscellaneous Revenue Fund	$190,100

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2 of House Bill No. 822, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature, the Superintendent of Public Instruction/State Department of Education is hereby authorized two (2) full-time equivalent positions for the period July 1, 2004, through June 30, 2005.

SECTION 3. That Chapter 15, 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 33-1513, Idaho Code, and to read as follows:

33-1513. FEE -- REIMBURSEMENT FOR PUPIL TRANSPORTATION COSTS. The state department of education shall assess an annual fee based on past reimbursement to school districts, to be paid by all school districts claiming reimbursement for pupil transportation costs, to defray the department's actual cost of providing financial reviews of school district pupil transportation records. Such fees shall be treated, and may be claimed as reimbursable pupil transportation costs, pursuant to the provisions of section 33-1006, Idaho Code.

Approved April 2, 2004.

CHAPTER 389
(S.B. No. 1283)

AN ACT

RELATING TO LIMITATIONS ON SMOKING IN PUBLIC PLACES; AMENDING SECTION 39-5501, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 39-5502, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-5503, IDAHO CODE, TO EXTEND THE PROHIBITION ON SMOKING TO PUBLICLY-OWNED BUILDINGS OR OFFICES AND TO REVISE WHAT MAY BE A DESIGNATED SMOKING AREA; REPEALING SECTION 39-5504, IDAHO CODE; AMENDING SECTION 39-5506, IDAHO CODE, TO REVISE RESPONSIBILITIES OF EMPLOYERS; AMENDING SECTION 39-5507, IDAHO CODE, TO REVISE ENFORCEMENT PROCEDURES; AND AMENDING CHAPTER 55, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5511, IDAHO CODE, TO PROVIDE THAT MORE STRINGENT LOCAL PROVISIONS MAY BE ADOPTED.

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

SECTION 1. That Section 39-5501, Idaho Code, be, and the same is hereby amended to read as follows:

39-5501. LEGISLATIVE FINDINGS AND INTENT. (1) Public health officials have concluded that secondhand tobacco smoke causes disease, including lung cancer and heart disease, in nonsmoking adults, as well as causes serious conditions in children such as asthma, respiratory infections, middle ear infections, and sudden infant death syndrome. In addition, public health officials have concluded that secondhand smoke can exacerbate adult asthma and allergies and cause eye, throat and nasal irritation. The conclusions of public health officials concerning secondhand tobacco smoke are sufficient to warrant measures that regulate smoking in public places in order to protect the public health and the health of employees who work at public places.

(2) The intent of this chapter is to protect the public health, comfort and environment, the health of employees who work at public places and the rights of nonsmokers to breathe clean air by ~~restricting~~ prohibiting smoking in public places and at public meetings. ~~to designated smoking areas.~~

SECTION 2. That Section 39-5502, Idaho Code, be, and the same is hereby amended to read as follows:

39-5502. DEFINITIONS. As used in this chapter:

(1) "Auditorium" means a public building where an audience sits and any corridors, hallways or lobbies adjacent thereto.

(2) "Bar" means any indoor area open to the public operated primarily for the sale and service of alcoholic beverages for on-premises consumption and where: (a) the service of food is incidental to the consumption of such beverages, or (b) no person under the age of twenty-one (21) years is permitted except as provided in section 23-943, Idaho Code, as it pertains to employees, musicians and singers, and all public entrances are clearly posted with signs warning patrons that it is a smoking facility and that persons under twenty-one (21) years of age are not permitted. "Bar" does not include any area within a restaurant.

(3) "Employer" means any person, partnership, limited liability company, association, corporation or nonprofit entity that employs one (1) or more persons, including the legislative, executive and judicial branches of state government; any county, city, or any other political subdivision of the state; or any other separate unit of state or local government.

(4) "Indoor shopping mall" means an indoor facility located at least fifty (50) feet from any public street or highway and housing no less than ten (10) retail establishments.

(5) "Public meeting" means all meetings open to the public.

(~~2~~6) "Public place" means any enclosed indoor ~~area used by the general public including but not limited to restaurants with a seating capacity of thirty (30) or more customers, retail stores, grocery stores and stores which sell food primarily for off-site consumption, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms~~ place of business, commerce, banking, financial service or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the public place have general and regular access or which the public uses including:

(a) Buildings, offices, shops or restrooms;

(b) Waiting rooms for means of transportation or common carriers;

(c) Restaurants;

(d) Theaters, auditoriums, museums or art galleries;

(e) Hospitals, libraries, indoor shopping malls, indoor sports arenas, concert halls, or airport passenger terminals, and within twenty (20) feet of public entrances and exits to such facilities;

(f) Public or private elementary or secondary school buildings and educational facilities and within twenty (20) feet of entrances and exits of such buildings or facilities;

(g) Retail stores, grocery stores or arcades;

(h) Barbershops, hair salons or laundromats;

(i) Sports or fitness facilities;

(j) Common areas of nursing homes, resorts, hotels, motels, bed and breakfast lodging facilities and other similar lodging facilities, including lobbies, hallways, restaurants and other designated dining areas and restrooms of any of these;

(k) Any child care facility subject to licensure under the laws of Idaho, including those operated in private homes, when any child cared for under that license is present;

(l) Public means of mass transportation including vans, trains, taxicabs and limousines when passengers are present; and

(m) Any public place not exempted by section 39-5503, Idaho Code.

(7) "Publicly-owned building or office" means any enclosed indoor place or portion of a place owned, leased or rented by any state, county or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, municipal or county taxes.

(~~3~~8) "Restaurant" means an eating establishment including, but not limited to, coffee shops, cafes, cafeterias, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within a restaurant.

(9) "Smoking" includes ~~carrying a lighted cigar, cigarette, pipe, or any other matter or substance which contains~~ the possession of any lighted tobacco product in any form.

(~~4~~10) "Smoking area" means a designated area in which smoking is permitted.

SECTION 3. That Section 39-5503, Idaho Code, be, and the same is hereby amended to read as follows:

39-5503. PROHIBITIONS -- EXCEPTIONS. (1) No person shall smoke in a public place, publicly-owned building or office, or at a public meeting, except in the following which may contain smoking areas or be designated as smoking areas~~.~~ in their entirety:

~~(2) The following may be designated as smoking areas in their entirety:~~

(a) ~~When an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;~~

~~(b)~~ Bars; ~~and~~

(b) Retail businesses primarily engaged in the sale of tobacco or tobacco products;

(c) Bowling alleys;

(d) Buildings owned and operated by social, fraternal, or religious organizations when used by the membership of the organization, their guests or families, or any facility that is rented or leased for private functions from which the public is excluded and for which arrangements are under the control of the sponsor of the function;

(e) Guest rooms in hotels, motels, bed and breakfast lodging facilities, and other similar lodging facilities, designated by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted;

(f) Theatrical production sites, if smoking is an integral part of the story in the theatrical production;

(g) Areas of owner-operated businesses, with no employees other than the owner-operators, that are not commonly open to the public;

(h) Any office or business, other than child care facilities, located within the proprietor's private home when all such offices and/or businesses occupy less than fifty percent (50%) of the total area within the private home; and

(i) A designated employee breakroom established by a small business owner employing five (5) or fewer employees, provided that all of the following conditions are met:

(i) The breakroom is not accessible to minors;

(ii) The breakroom is separated from other parts of the building by a floor to ceiling partition;

(iii) The breakroom is not the sole means of entrance or exit to the establishment or its restrooms and is located in an area where no employee is required to enter as part of the employee's work responsibilities. For purposes of this paragraph, the term "work responsibilities" does not include custodial or maintenance work performed in a breakroom when it is unoccupied; and

(iv) "Warning: Smoking Permitted" signs are prominently posted in the smoking breakroom and properly maintained by the employer. The letters on such signs shall be at least one (1) inch in height.

(2) This section shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

(3) Nothing in this section shall prohibit an employer from prohibiting smoking in an enclosed place of employment.

SECTION 4. That Section 39-5504, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 39-5506, Idaho Code, be, and the same is hereby amended to read as follows:

39-5506. RESPONSIBILITIES OF ~~PROPRIETORS~~ EMPLOYERS. (1) ~~The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by posting appropriate signs designating smoking and nonsmoking areas~~ No employer or other person in charge of a public place or publicly-owned building or office shall knowingly or intentionally permit the smoking of tobacco products in violation of this chapter.

(2) ~~Failure to post signs shall not be construed as indicating the area to be either smoking or nonsmoking~~ Any employer or other person in charge of a public place or publicly-owned building or office who knowingly violates the provisions of this section is guilty of an infraction and is subject to a fine not to exceed one hundred dollars ($100).

(3) Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the department of health and welfare or the department of labor pursuant to this section shall be subject to a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation.

SECTION 6. That Section 39-5507, Idaho Code, be, and the same is hereby amended to read as follows:

39-5507. VIOLATIONS. ~~Any person who violates any of the provisions of this chapter~~ An employer, or other person in charge of a public place or publicly-owned building, or the agent or employee of such person, who

observes a person smoking in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products. If the person persists in violating this chapter, the employer, person in charge, agent or employee shall ask the person to leave the premises. Any person who refuses to either extinguish all lighted tobacco products or leave the premises is guilty of an infraction and is subject to a fine not to exceed fifty dollars ($50.00). Any violation may be reported to a law enforcement officer.

SECTION 7. That Chapter 55, 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 39-5511, Idaho Code, and to read as follows:

39-5511. LOCAL PROVISIONS. Nothing in this chapter shall be interpreted to prevent local, county or municipal governments from adopting ordinances or regulations more restrictive than the provisions contained herein.

Approved April 2, 2004.

SENATE JOINT MEMORIALS

(S.J.M. No. 105)

A JOINT MEMORIAL
TO THE PRESIDENT OF THE UNITED STATES, GEORGE W. BUSH, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, it has been determined by the Department of Defense and the Congress of the United States that reductions will occur in the size of the military forces of the United States; and

WHEREAS, these force reductions will result in the elimination and consolidation of military bases throughout the United States; and

WHEREAS, maximizing the security of the United States with a downsized military establishment will necessitate utilizing the most cost-effective and versatile bases; and

WHEREAS, Mountain Home Air Force Base has been demonstrated to be a highly cost-effective and versatile base, with costs of operation among the lowest in the nation; and

WHEREAS, the state of Idaho has worked closely with the United States Air Force in order to significantly increase the size and capabilities of the training range used by Mountain Home Air Force Base, demonstrating the commitment of the state of Idaho to the United States Air Force and the strategic defense of the United States of America.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress of the United States should give strong consideration to both increasing the current mission and adding additional missions to Mountain Home Air Force Base.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to President George W. Bush, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 12, 2004
Adopted by the House February 25, 2004

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE SECRETARY OF THE TREASURY, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO GOVERNOR KEMPTHORNE.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, protecting consumers and ensuring the safety and soundness of insurance companies operating in the United States have been the prime objectives of state insurance regulation for over 150 years; and

WHEREAS, the states have the sole authority to regulate the business of insurance as provided under the McCarran-Ferguson Act and as recently affirmed by the Gramm-Leach-Bliley Financial Services Modernization Act of 1999; and

WHEREAS, state insurance regulation has been successful and effective, and has continuously adapted to change in the marketplace including, but not limited to, the challenges of financial services modernization; and

WHEREAS, in responding to the Gramm-Leach-Bliley Financial Services Modernization Act, states already have successfully implemented reforms to meet the requirements of the law including, among other things, agent licensing reform and consumer financial privacy protections, and are working to develop and implement further efficiencies; and

WHEREAS, governors, state legislators, and insurance commissioners have acknowledged the need to streamline and simplify insurance regulation for the 21st century financial services marketplace and are enacting specific reforms to address differences in state laws and rules that can present obstacles to insurers, consumers' needs, and marketplace efficiencies; and

WHEREAS, some insurance companies and national associations representing insurers and banks support federal legislation to either establish one federal regulator of insurance or allow for dual federal and state insurance regulation; and

WHEREAS, if enacted by Congress, these proposals will bifurcate insurance regulation between the states and the federal government, undermining the state system of consumer protections and financial surveillance, as well as inevitably causing a loss of jobs, taxes, fees, and other vital and necessary state revenues needed to effectively regulate the insurance market and provide revenues to support residual market programs, such as high-risk pools.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature is committed to maintaining the states as the sole regulators of the business of insurance, and continue to support state efforts to streamline, simplify and modernize insurance regulation.

BE IT FURTHER RESOLVED that the Idaho Legislature will oppose any proposed federal law that undermines this state authority, including

allowing insurers the ability to obtain federal charters, or ceding any authority to federal agencies to regulate financial institutions involved in the business of insurance.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Secretary of the Treasury, the congressional delegation representing the State of Idaho in the Congress of the United States, and Governor Dirk Kempthorne as chairman of the National Governors Association.

Adopted by the Senate February 13, 2004
Adopted by the House February 25, 2004

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE UNITED STATES SECRETARY OF AGRICULTURE, THE UNITED STATES SECRETARY OF THE INTERIOR, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-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, or who are constrained by time or finances, to access remote areas and to enjoy the outdoor opportunities Idaho has to offer; and

WHEREAS, the Idaho backcountry airstrip system is unique and is an important asset to Idaho because it creates jobs and economic enhancements by drawing tourism and recreational visitors from all fifty states and numerous foreign countries; and

WHEREAS, forty-five of the sixty-two Idaho backcountry public use airstrips 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 state of Idaho has issued a notice that it is appealing the decision of the Forest Supervisors of the Bitterroot, Nez Perce, Payette and Salmon-Challis National Forests to select a management alternative which renders four airstrips unserviceable and closes yet another airstrip; and

WHEREAS, the federal government continues to act 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 sharply curtailing or eliminating general use of these airstrips and forcing air traffic to be concentrated at other airstrips; and

WHEREAS, in concentrating air traffic and increasing use at fewer airstrips, the federal government is not only limiting access of specific outdoor areas, but the federal government's stated objective is to assess use limits at public airstrips and require a special use permit; and

WHEREAS, another method used by the federal government to close existing airstrips is to purchase land containing an airstrip and have 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; and

WHEREAS, many of these existing backcountry airstrips which were privately owned and open to general public use and provided access to recreational areas are no longer available because the federal government is implementing its stated standard of not converting any newly-acquired private airstrips to public use airstrip facilities; and

WHEREAS, yet another method being used by the federal government to effectively close airstrips is to intentionally omit certain airstrips from published, official airport identification locator maps and wilderness maps.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urgently request the Congress of the United States to preserve access to, and the historic use of backcountry airstrips by introducing into Congress legislation which will preserve backcountry landing strips on currently-owned federal lands and any future federal acquisition of lands.

BE IT FURTHER RESOLVED that to ensure the greatest amount of public access to public recreational 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 to further ensure the greatest amount of public access to public recreational lands, the Congress of the United States is strongly urged to limit the ability of the federal government to place use limits or require special use permits for using any backcountry airstrip.

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 United States Secretary of Agriculture, 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 Senate February 17, 2004
Adopted by the House March 1, 2004

(S.J.M. No. 108)

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 Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the goal of the No Child Left Behind Act is to move all students to proficiency in reading, language arts and mathematics by 2014; and

WHEREAS, that goal can best be achieved by giving states flexibility to capitalize on their unique resources and populations; and

WHEREAS, the short and long term financial implications of compliance with the No Child Left Behind Act are of concern at the school district, state and national levels; and

WHEREAS, it is appropriate for the President and Congress to consider amendments to the No Child Left Behind Act that will continue both the commitment to a quality public school education for every child and ensure that states, school districts and educators can achieve the goals of the No Child Left Behind Act.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge Congress to support amendments to the No Child Left Behind Act that will accomplish the following:

(1) Allow determinations of "adequate yearly progress" to be made on the basis of individual student growth from year to year;

(2) Target options for choice and supplemental services to specific subgroups that fail to make adequate yearly progress rather than to all children in a school;

(3) Provide flexibility and more reasonable rules for English Language Learners so that these students are exempt from the calculation of a school's participation level until they have been in the United States for one full academic year; that scores of such students may, at the state's option, be exempted from adequate yearly progress proficiency measurements until they have been in the United States for three years; and that students who become proficient in English will be allowed to continue to be included in the English Language Learners subgroup; and

(4) Permit states to identify, for school improvement only, those schools that fail to meet adequate yearly progress for two consecutive years in the same subject and for the same subgroup.

BE IT FURTHER RESOLVED that we request the United States Department of Education and the states to continue progress on the open communications that have started in implementing the No Child Left Behind Act.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to President George W. Bush, to the President of the Senate and the Speaker

of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 23, 2004
Adopted by the House March 4, 2004

(S.J.M. No. 109)

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 Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho is a rapidly growing state with large, low-population density areas that need additional federal support for transit services; and

WHEREAS, providing rural transit services in Idaho and other rural states is a challenge due to long trip distances and the allocation of transit costs among relatively fewer riders; and

WHEREAS, over 62% of the lands in the state of Idaho are under federal ownership, and cannot be taxed or developed by the state, thereby reducing the ability of the state to raise additional tax revenues; and

WHEREAS, under Section 120 of Title 23, United States Code on federal share payable, federal law has compensated for this reduced ability to raise tax revenues by providing a "sliding scale" upward adjustment in the federal share of project costs in the highway program in those states with a high percentage of federal lands, but no such adjustment has been applied to the transit program to date; and

WHEREAS, the United States Congress is currently in the process of reauthorizing the Transportation Equity Act for the 21st Century (TEA-21) which will set the surface transportation programs for highways and transit for the next six years; and

WHEREAS, reauthorization legislation pending in Congress would, commendably, apply the upward adjustment to certain areas of the federal transit program, resulting in an increased percentage of federal transit program formula dollars being distributed to rural states and their communities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress be commended for its efforts to date to increase transit funding for Idaho and to apply a higher federal match to transit projects due to the presence of significant federal lands in a state.

BE IT FURTHER RESOLVED that the Congress, as it completes highway and transit reauthorization legislation, should extend the concept of the federal lands upward match adjustment into additional areas in the

transit program and ensure that such match adjustment takes into account all forms of federal lands to the same extent as is done under the highway program.

BE IT FURTHER RESOLVED that the Congress should adopt funding and formula features that will do the most to enable Idaho and its communities to more fully respond to pressing transit needs.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 4, 2004
Adopted by the House March 15, 2004

(S.J.M. No. 110)

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 Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, 39% of the land area in the state of Idaho is national forest administered by the U.S. Forest Service, and an additional 22% of the land area in Idaho is public land administered by the U.S. Bureau of Land Management; and

WHEREAS, in 1996, the Idaho Board of Land Commissioners appointed the Federal Land Task Force to examine alternative methods of federal land management in Idaho. In July of 1998, the task force completed its report entitled "New Approaches for Managing Federally Administered Lands." The report identified problems with management of lands administered by the Forest Service and the Bureau of Land Management in Idaho and recommended the pursuit of pilot projects to test collaborative, cooperative, and/or trust models as alternative approaches for federal land management; and

WHEREAS, in March of 1999, the First Regular Session of the Fifty-fifth Idaho Legislature adopted House Concurrent Resolution No. 8, endorsing the task force report, stating its support for further action by the Idaho Board of Land Commissioners on the proposals contained in the report, and urging the Congress of the United States to pass legislation implementing the recommendations contained in the report; and

WHEREAS, in September of 1999, the Idaho Board of Land Commissioners appointed the Federal Land Task Force Working Group to identify pilot projects to test the three alternative approaches described in the task force report; and

WHEREAS, in December of 2000, after soliciting and reviewing pilot

project proposals from around Idaho, the working group completed its report entitled "Breaking the Gridlock: Federal Land Pilot Projects in Idaho." The report confirmed the continuing need to pursue alternative ways to manage federal lands in Idaho, described five such pilot projects proposed for different locations within Idaho, and recommended the projects be considered for implementation; and

WHEREAS, the working group report was circulated for public comment between December of 2000 and February of 2001, and over 80% of the 500 comments received from within and outside Idaho were favorable of the report. In February of 2001, the Idaho Board of Land Commissioners reviewed and approved the report; and

WHEREAS, one of the projects in the report, designed to provide a working test of a more collaborative approach to management of national forest lands in the Clearwater River Basin, was developed into draft legislation known as the Clearwater Basin Project Act; and

WHEREAS, in the first session of the 108th Congress of the United States, the Clearwater Basin Project Act was introduced in the United States House of Representatives by Congressman Otter of Idaho, on behalf of himself and Congressman Simpson, as H.R. 835, and in the United States Senate by Senator Craig of Idaho as S. 433; and

WHEREAS, since introduction of the Clearwater Basin Project Act, the federal Healthy Forests Restoration Act of 2003 was enacted, and Congress has expanded stewardship contracting authority for projects on lands administered by the Bureau of Land Management and Forest Service; and

WHEREAS, catastrophic fire, fish and wildlife habitat, forest health, and other environmental and management problems identified in the reports of the task force and working group persist regarding federal lands administered by the Forest Service in the Clearwater Basin, in which the citizens and communities of Idaho have a vital stake; and

WHEREAS, the proposed federal Clearwater Basin Project Act will assist in addressing these problems and providing a useful working test for improved management of national forest lands, fully consistent with continued federal ownership and decision making authority over these lands, inclusive of requirements for public participation and environmental protection; and

WHEREAS, the proposed Clearwater Basin Project Act will act to enhance, and will be fully consistent with, the Healthy Forests Restoration Act, national, state of Idaho, and community catastrophic wildfire risk reduction plans, stewardship contracting authority, and other initiatives addressing federal land management issues; and

WHEREAS, additional useful pilot projects to implement the recommendations in the reports of the Federal Land Task Force and Federal Land Task Force Working Group may be further developed with local interest and support, and require federal legislation to fully implement.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we endorse the federally proposed Clearwater Basin Project Act, urge the congressional delegation representing the state of Idaho to work toward enactment of the legislation with continued public participation, and urge the Congress of the United States to enact the Clearwater Basin Project Act.

BE IT FURTHER RESOLVED that we endorse continued action by the federal government, as well as the Idaho Board of Land Commissioners,

toward additional development and implementation of pilot projects for improved management of federal lands in other areas of Idaho where local support exists, in accordance with the recommendations in the July 1998 report of the Federal Lands Task Force and the December 2000 report of the Federal Lands Task Force Working Group.

BE IT FURTHER RESOLVED that we endorse coordinating Idaho federal land pilot project efforts with implementation by federal agencies of the Healthy Forests Restoration Act, national, state of Idaho, and community catastrophic wildfire risk reduction plans, stewardship contracting authority, and other initiatives to improve federal land management.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 18, 2004
Adopted by the House March 20, 2004

HOUSE JOINT MEMORIALS

(H.J.M. No. 15)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho experiences on its roads and highways every year significant movement of agricultural commodities, including livestock, livestock food, poultry and poultry feed; and

WHEREAS, the federal National Highway System Designation Act of 1995 includes an agricultural operations exemption from the federal hours of service regulations for truck drivers transporting agricultural commodities; and

WHEREAS, the majority of states in the nation have, without adverse safety consequences, implemented the agricultural operations exemption based upon the specific agricultural transportation needs found within the individual states; and

WHEREAS, produce and other perishable commodities must be delivered in a timely manner, as the need for efficient, timely commercial agricultural transportation grows; and

WHEREAS, the federal Motor Carrier Safety Administration has issued a "guidance" which states that livestock, livestock feed, poultry and poultry feed are not agricultural commodities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently support the passage of H.R. 871, to amend the national Highway System Designation Act of 1995, to provide a comprehensive definition of the term "agricultural commodity" and thereby make the agricultural operations exemption permanent and not subject to modification or revocation by the United States Department of Transportation.

BE IT FURTHER RESOLVED that we urge the congressional delegation representing the State of Idaho in the Congress of the United States to actively support and become cosponsors for passage of H.R. 871.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a

copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 17, 2004
Adopted by the Senate March 9, 2004

(H.J.M. No. 17)

A JOINT MEMORIAL
TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, current federal and state medical assistance expenditures for long-term care services in Idaho exceed $145.7 million annually, with the state's annual share at approximately $43.7 million; and

WHEREAS, skyrocketing costs of providing care to persons who need assistance to meet daily needs have hit the middle class particularly hard; and

WHEREAS, the national average cost for nursing home care is approximately $50,000 per year; and

WHEREAS, costs to the state of Idaho will rise on account of increasing demands for services as our population ages; and

WHEREAS, the purpose of the long-term care partnership program is to provide incentives to individuals to purchase long-term care insurance, and consequently to relieve the financial burdens on the states when they assume payment for the long-term care needs of their citizens under the Medicaid program by allowing individuals who exhaust qualified private long-term care policy benefits to protect an equivalent value of assets and still satisfy Medicaid's financial eligibility requirements; and

WHEREAS, the concept of long-term care partnership results in private insurance paying first and government paying last; and

WHEREAS, the four states that have had partnership plans for almost a decade, specifically California, Connecticut, Indiana and New York, have experienced significant savings to taxpayers, and have seen less than 100 total partnership purchasers qualify for Medicaid; and

WHEREAS, American citizens in 46 states, the District of Columbia and territories of the United States are being discriminated against by not being able to enjoy the benefits provided by long-term care partnership plans due to a restriction present in Section 1917(b)(1)(C) of the Social Security Act (49 Stat. 620, 42 U.S.C. 1396p(b)(1)(C)) which has discouraged additional states from enacting long-term care partnership programs by effectively removing the major incentive for individuals to participate.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular

Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the United States Congress to amend Section 1917(b)(1)(C) of the Social Security Act (49 Stat. 620, 42 U.S.C. 1396p(b)(1)(C)) by deleting May 14, 1993, as the deadline for approval by states of long-term care partnership plans, thus affording states throughout the nation the ability to give their citizens the same rights to participate in those types of plans.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 25, 2004
Adopted by the Senate March 9, 2004

(H.J.M. No. 18)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho is the second leading producer of sugarbeets in the United States, producing eighteen percent of the nation's market share; and

WHEREAS, the United States is already the world's fourth largest sugar-importing nation and has existing World Trade Organization commitments to import at least 1,250,000 tons of foreign sugar every year, duty free, from forty-one foreign nations including the Central American Free Trade Area (CAFTA) countries; and

WHEREAS, the United States sugar producers are already holding over 700,000 tons of United States sugar off the market this year under the marketing allocation system in the U.S. Farm Bill in order to properly manage the program, stabilize prices and prevent a glut on the market; and

WHEREAS, the nation's sugarbeet industry is facing one of the gravest threats in its history in the form of the CAFTA agreement, as well as other trade agreements currently under negotiation, which seek to provide unneeded additional foreign access to the United States sugar market; and

WHEREAS, in January 2002, the federal government announced that it was initiating negotiations on a free trade agreement involving the countries of El Salvador, Guatemala, Honduras and Nicaragua. That negotiation concluded in December 2003. The United States is also seeking to include Costa Rica and the Dominican Republic in the agreement. Congress must now decide whether to ratify CAFTA; and

WHEREAS, CAFTA would allow the Central American countries to export over 100,000 additional tons of sugar to the United States, harming the United States sugar industry in the process; and

WHEREAS, the United States sugar industry is efficient by world standards but cannot be expected to compete with these foreign countries under free trade agreements due to the labor practices, lack of environmental regulations and subsidized agricultural production of these foreign countries; and

WHEREAS, concerns over free trade agreements face the sugar industry at a time when the domestic consumption of sugar is declining, forcing domestic sugar producers to store extremely high quantities of sugar; and

WHEREAS, the state of Idaho stands to lose thousands of jobs and millions of dollars if these free trade agreements are implemented, potentially devastating the state's sugarbeet industry, moving production into other supply-sensitive crops, and severely harming the state's economy as a whole; and

WHEREAS, the economic impact of any trade agreement on the states must be recognized and considered to maintain viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade; and

WHEREAS, the provisions of CAFTA should be renegotiated to limit exports from Central American countries to a needs-based access, allowing the United States sugar policy to properly function and fairly treat sugarbeet and cane growers in the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that in negotiating any national trade agreements, the federal government is urged to recognize the economic impact of such trade agreements on the states and consider those impacts to maintain viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade. The government is further urged to renegotiate the provisions of CAFTA to limit sugar exports from the Central American countries to fairly protect sugarbeet and cane growers in the United States.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 4, 2004
Adopted by the Senate March 15, 2004

(H.J.M. No. 20)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, state financial regulators and attorneys general have a long history of protecting consumers from predatory lending and other lending abuses; and

WHEREAS, state financial regulators aggressively promote access to healthy, comprehensive, and competitive financial services for their citizens; and

WHEREAS, on January 7, 2004, the federal Office of the Comptroller of the Currency (OCC) finalized rules that preempt most state consumer protection laws and enforcement of those laws as they apply to national banks, their operating subsidiaries and agents; and

WHEREAS, the sweeping OCC rules reach beyond preempting state laws and enforcement for national banks, and also prohibit the states from licensing, examining and otherwise regulating state-chartered corporations that are subsidiaries of national banks, like mortgage brokers and mortgage lenders, finance companies, and other nondepository lending companies; and

WHEREAS, the OCC has no office in Idaho, is not listed in Idaho telephone books, and has no other local presence in Idaho, and under the OCC rules, Idaho consumers with complaints regarding national banks and their subsidiaries would be referred to one OCC office in Texas; and

WHEREAS, the OCC ignored calls from members of Congress, the National Governors Association, National Association of Attorneys General, National Conference of State Legislatures, Conference of State Bank Supervisors, North American Securities Administrators Association, American Association of Residential Mortgage Regulators, major consumer groups and state financial regulators, for congressional oversight and review of the impact of the rules, and finalized the rules while Congress was in recess; and

WHEREAS, the OCC preemption threatens to undermine the unique American dual banking system that promotes the strongest banking market in the world and provides critical fuel to the economy of the United States; and

WHEREAS, the OCC's rules radically rewrite the time-honored standard for federal preemption of state laws as interpreted by courts and intended by Congress; and

WHEREAS, the federalist system is based upon belief in a decentralized government, with authority given to the states and the federal government, and the OCC's rules centralize regulatory power in the hands of a single individual - the Comptroller; and

WHEREAS, Congress has authority over this federal regulatory agency that is not operating in the best interest of the nation's banking system and economy; and

WHEREAS, both houses of Congress have either held or scheduled oversight hearings to address the OCC's preemption rules.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature is committed to maintaining the role of the states in enforcement of consumer protection laws and in dual regulation of financial institutions, and it opposes any federal rule that undermines this state authority,

including the OCC's rules preempting state consumer protection laws and enforcement that apply to national banks, their operating subsidiaries and agents.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho urges Congress to carefully review the actions of the OCC, reestablish a balance of power between state and federal laws in a way that benefits consumers, all financial institutions and our economy, restore the dual banking system, and reassert its authority over federal banking policy.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 23, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 21)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, military veterans who suffer from service-connected disabilities have had to forfeit a dollar of military retired pay for each dollar of Department of Veterans Affairs Disability Compensation pay they receive; and

WHEREAS, the Military Retirement Trust Fund was authorized by Public Law 98-94 for accumulation of funds to finance the liabilities of the Department of Defense under military retirement and survivors benefit programs; and

WHEREAS, the reported mission of the Military Retirement Trust Fund is to accumulate funds in order to finance, on an actuarially sound basis, the liabilities of the Department of Defense under military retirement and survivors benefit programs; and

WHEREAS, the Secretary of Defense is tasked with the responsibility of budgeting funds annually for replenishment of the fund; and

WHEREAS, disabled retired veterans are having deductions from their retirement checks to offset, dollar for dollar, their Department of Veterans Affairs Disability Compensation and those offsets are Military Retirement Trust Fund assets, which should be creating a surplus; and

WHEREAS, the United States government and the Department of Defense have been required by their own laws and regulations to fund retired military pay; and

WHEREAS, no persons, other than military retirees, fund their own disability payments from their retirement funds; and

WHEREAS, this inequity was partially addressed in November 2003, when President Bush signed the fiscal year 2004 Department of Defense bill containing provisions to phase-in concurrent receipt; and

WHEREAS, Public Law 108-136 became effective January 1, 2004; and

WHEREAS, all military retirees with Department of Veterans Affairs disability ratings of fifty percent or higher will have full concurrent receipt phased-in over a ten year period; and

WHEREAS, National Guard and Reservist career retirees will be treated the same as active duty retirees and will be included in both the Combat-Related Special Compensation Program and the phase-in of concurrent disability pay receipt for veterans rated fifty percent or higher; and

WHEREAS, Public Law 108-136 is a move forward; however, military retirees with noncombat disabilities rated less than fifty percent continue to be treated unfairly; and

WHEREAS, Idaho's chartered veterans' organizations intend to resume efforts to expand concurrent receipt benefits to more retirees during the 108th Congress.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the concurrent receipt of military retirement pay and disability compensation.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 8, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 22)

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 Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Idaho National Engineering and Environmental Laboratory is the largest employer in Eastern Idaho and one of the largest in the state of Idaho; and

WHEREAS, the Idaho National Engineering and Environmental Laboratory has provided support to our nation's security, by manufacturing tank armor that protects our troops, testing materials for the nuclear Navy to make better warships, developing instrumentation that allows our law enforcement agencies and the military to detect chemical or radiological

hazards safely, and developing instruments and processes that help us maintain and protect our critical infrastructure such as information, communications and information systems; and

WHEREAS, the Idaho National Engineering and Environmental Laboratory is the United States Department of Energy's leader in the development of nuclear energy, particularly in the next generation of nuclear reactors that will be cleaner, safer, more efficient and more proliferation resistant; and

WHEREAS, the Idaho National Engineering and Environmental Laboratory and Argonne National Laboratory-West will be joined in 2005 to form the Idaho National Laboratory, which the United States Department of Energy intends to develop into the preeminent nuclear research, development and demonstration lab within ten years and the Idaho National Laboratory will also establish itself as a center for national security technology development and demonstration; and

WHEREAS, the Idaho National Laboratory will foster new government, industry, academic and international collaborations to produce the investment, programs and expertise to assure this vision is realized; and

WHEREAS, the Idaho National Laboratory will offer new opportunities to Idaho small business and industry, universities and communities to become involved in developing this world class laboratory.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request the President and Congress to vigorously support and expand the Idaho National Laboratory as it develops a world class, multiprogram laboratory that attracts and retains exceptional scientific, technical and business talent to accomplish its 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 March 5, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 23, As Amended)

A JOINT MEMORIAL

TO THE GOVERNOR OF THE STATE OF IDAHO, THE ATTORNEY GENERAL OF THE STATE OF IDAHO, THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, THE DIRECTOR OF THE IDAHO DEPARTMENT OF FISH AND GAME, THE OFFICE OF SPECIES CONSERVATION FOR THE STATE OF IDAHO, THE COUNCIL MEMBERS REPRESENTING THE STATE OF IDAHO ON THE NORTHWEST POWER AND CONSERVATION COUNCIL, THE COMMISSIONER OF THE BUREAU OF RECLAMATION, NOAA FISHERIES, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on January 16, 2004, several conservation and fishing groups filed a complaint in the federal district court in Oregon in the case of American Rivers v. NOAA Fisheries, Civ. No. 04-CV-0061-RE, alleging that the biological opinions issued by NOAA Fisheries in 2001 and 2002 regarding operation of the Bureau of Reclamation projects in the Upper Snake River Basin are arbitrary and capricious, and otherwise contrary to law, and should be set aside by the court; and

WHEREAS, the complaint also alleges that the current federal program of sending up to 427,000 acre-feet of water downstream for flow augmentation, under a willing-seller program that must comply with state law, is insufficient for the needs of the listed species; and

WHEREAS, the complaint contends that sufficient water needs to be sent downstream from the Upper Snake River projects to meet arbitrary and unrealistic flow targets that have been established downstream by NOAA Fisheries; and

WHEREAS, providing water downstream to meet the flow targets would require sending millions of acre-feet of water out of Idaho, thereby devastating its agricultural economy and significantly affecting supplies for municipalities, recreation, resident fisheries, ground water recharge and spring flows; and

WHEREAS, Idaho has been in the midst of a severe drought over the past several years; and

WHEREAS, the downstream flow targets are not hard constraints, as previously determined by the federal district court in Oregon and by NOAA Fisheries; and

WHEREAS, flow augmentation using water from the Upper Snake River projects has been demonstrated to be a failed experiment by virtue of the fact that it does not decrease travel time or provide temperature benefits for the listed species; and

WHEREAS, the Idaho State Legislature has made plain its intent, in Section 42-1763B, Idaho Code, to repeal the temporary legislative authorization for the Bureau to release storage water for flow augmentation in the event that the 2002 biological opinion is set aside by a court; and

WHEREAS, the conservation and fishing groups have made clear that their primary motivation for filing the complaint includes placing pressure upon the state of Idaho, water users, and other citizens of the state to support removal or breaching of the four federal dams on the Lower Snake River.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature opposes efforts to release large amounts of storage water for flow augmentation, contrary to the laws of the state of Idaho, and also opposes removal or breaching of the four Lower Snake River dams.

BE IT FURTHER RESOLVED that the Idaho State Legislature supports the efforts of the state of Idaho, by and through the offices of the Governor and the Attorney General, to intervene in the current legal proceedings to protect the sovereignty of Idaho's water.

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 Governor of the State of Idaho, the Attorney General of the State of Idaho, the Director of the Idaho Department of Water Resources, the Director of the Idaho Department of Fish and Game, the Office of Species Conservation for the State of Idaho, the council members representing the state of Idaho on the Northwest Power and Conservation Council, the Commissioner of the Bureau of Reclamation, NOAA Fisheries, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 12, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 24)

A JOINT MEMORIAL

TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF THE INTERIOR, THE COMMISSIONER OF THE BUREAU OF RECLAMATION, THE UNITED STATES ARMY CORPS OF ENGINEERS, THE GOVERNOR OF THE STATE OF IDAHO, THE MEMBERS OF THE IDAHO WATER RESOURCE BOARD, THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Secretary of the United States Department of the Interior's "Water 2025" Initiative has appropriately recognized the need to identify solutions for water supply problems at the state and local level, in order to avoid conflicts like those that have occurred in the Klamath Basin and the Rio Grande Basin in recent years; and

WHEREAS, Idaho is an arid state and is in the midst of a prolonged drought; and

WHEREAS, Idaho is a rapidly growing state, with emerging water supply needs for municipalities, urban development, industries and commercial enterprises, as well as continued agricultural demands; and

WHEREAS, additional water supplies are desired to help address conjunctive administration issues involving the legal and hydrologic relationship between surface and ground water needs; and

WHEREAS, listings of fish and other aquatic species under the Endangered Species Act, lawsuits, and other demands for water continue to perplex our state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the identification and development of additional water supply enhancement projects including, but not limited to, on-stream and off-stream storage, increased capacity at existing storage facilities, ground water storage, recharge of aquifer supplies and pressurized irrigation systems.

BE IT FURTHER RESOLVED that we encourage the Bureau of Reclamation, the United States Army Corps of Engineers, the Idaho Water Resource

Board, the Idaho Department of Water Resources, and other federal and state agencies to cooperate with the citizens of the state of Idaho in identifying and developing such water supply projects as are necessary to address the growing needs and demands of the state.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the Secretary of the United States Department of the Interior, the Commissioner of the Bureau of Reclamation, the United States Army Corps of Engineers, the Governor of the State of Idaho, the members of the Idaho Water Resource Board, the director of the Idaho Department of Water Resources, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 12, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 25)

A JOINT MEMORIAL
TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, many skilled nursing facilities in the state of Idaho have elected to participate in an independent national accreditation program for long-term care and additional inspections are costly and unnecessarily duplicative; and

WHEREAS, an independent accreditation process is designed to assist skilled nursing facilities integrate quality improvement principles in their daily operations and improve resident health outcomes; and

WHEREAS, an independent survey process by recognized national accrediting organizations is designed to be consultative and not punitive; and

WHEREAS, costs for the current nursing facility survey system are approximately twice the cost of an independent accreditation process and it is in the best interests of the facilities, the Medicare program and the welfare of individuals receiving care under the program, and the United States federal government that unnecessary waste be eliminated whenever possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 Congress of the United States to attempt to secure a waiver or exemption from the Centers for Medicare and Medicaid Services (CMS) to allow an approved national accrediting body, at the request of the skilled nursing facility, to conduct survey and certification reviews for Medicare and Medicaid participation. If the nursing facility is unable to receive appropriate accreditation, the current survey and cer-

tification process will be utilized. The nursing facility requesting accreditation will be responsible for payment of all costs associated with the accreditation process and these costs prorated to the Medicare program for purposes of cost reimbursement.

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 congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 12, 2004
Adopted by the Senate March 18, 2004

(H.J.M. No. 27)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF THE DEPARTMENT 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 Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the majority of energy required by the Pacific Northwest is produced by hydropower; and

WHEREAS, spill for fish should be managed according to the most biologically effective level at each hydro project; and

WHEREAS, spilling to the maximum gas supersaturation levels of one hundred twenty percent may be increasing mortality at some dams when compared to what would occur at lesser volumes of spill; and

WHEREAS, the difference in survival between spillway passage and other passage methods may in some instances be minimal; and

WHEREAS, the maximum level of fish survival at each project may be different from and not necessarily correlated with the most spill; and

WHEREAS, spill may have negative effects on returning adults; and

WHEREAS, there are few fish in the river system in July and August because the majority of smolts are barged; and

WHEREAS, the 2000 Biological Opinion provides adequate latitude for spill adjustments including spill reductions; and

WHEREAS, spillway passage for migrating salmon can also be the passage method most costly to the regional power system, especially in years of low water or high market prices for energy; and

WHEREAS, the Bonneville Power Administration has estimated the cost of spill in the months of July and August by the Federal Columbia Power System to be approximately 77 million dollars; and

WHEREAS, the Northwest Power and Conservation Council has called on the federal government to conduct an evaluation of the biological effectiveness and costs of spillway passage at each project.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representa-

tives and the Senate concurring therein, that we request the United States government to conduct salmon survival evaluations in the 2004 spill year, the goal of which should be to determine if it is possible to achieve the same or greater levels of survival and biological benefit to migrating fish as is currently achieved while reducing the amount of water spilled, thus decreasing the adverse impacts on the region's power supply.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the Secretary of the United States Department of Interior, 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 19, 2004
Adopted by the Senate March 20, 2004

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 118)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING FEBRUARY SIXTH AS "GO RED FOR WOMEN DAY."

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

WHEREAS, cardiovascular diseases are the nation's leading cause of death, and stroke is the third leading cause of death;

WHEREAS, cardiovascular diseases claim the lives of more than half a million American women each year;

WHEREAS, each year 53.5% of women die from cardiovascular diseases as compared to 46.5% of men, and 40,000 more women than men have a stroke;

WHEREAS, the cost of cardiovascular diseases and stroke in the United States is estimated at $352 billion;

WHEREAS, coronary heart disease rates in women after menopause are two to three times higher than those of women the same age before menopause;

WHEREAS, 63% of women who die suddenly of coronary heart disease have no previous symptoms of this disease;

WHEREAS, February is designated as American Heart Month;

WHEREAS, the American Heart Association is launching a new campaign, designed to raise women's awareness of the magnitude of cardiovascular diseases and to encourage women to make positive changes in their lives that could help reduce their risk of cardiovascular diseases and stroke;

WHEREAS, this new campaign is known as the "Go Red for Women" campaign.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we join in designation of February 6 in recognition of the "Go Red for Women" campaign and urge all citizens to recognize the critical importance of knowing the risk factors and the warning signs of heart attack and stroke by wearing the color red to commemorate this day. By increasing awareness of both heart attack and stroke, we can save thousands of lives each year.

Adopted by the Senate January 26, 2004
Adopted by the House February 6, 2004

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING CERTAIN ADMINISTRATIVE RULES OF THE IDAHO DEPARTMENT OF AGRICULTURE THAT IMPOSE A FEE OR CHARGE, CONCERNING RULES FOR WEIGHTS AND MEASURES, AND PROVIDING THAT THOSE RULES SHALL BECOME EFFECTIVE UPON FINAL ADOPTION OF THIS RESOLUTION.

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 Idaho Department of Agriculture that impose a fee or charge, concerning rules for weights and measures, need to be approved expeditiously in order to adequately fund the Department of Agriculture's licensing of weighing and measuring instruments, thereby making it advisable to consider the pending rules separately for approval by both houses of the Legislature by concurrent resolution; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that certain administrative rules of the Idaho Department of Agriculture that impose a fee or charge, concerning licensing of weighing and measuring instruments, IDAPA 02.02.14, relating to rules for weights and measures, adopted as pending fee rules under Docket Number 02-0214-0301, 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 2004 legislative session, be, and the same are approved, and shall become final and effective upon final adoption of this resolution.

Adopted by the Senate January 27, 2004
Adopted by the House February 10, 2004

(S.C.R. No. 120)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN.

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 Health and Welfare relating to eligibility for Medicaid for families and children are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 16.03.01, Sections 346, 347, 348 and 349, rules of the Department of Health and Welfare relating to eligibility for Medicaid for families and children, adopted as pending rules under Docket Number 16-0301-0302, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate January 28, 2004
Adopted by the House March 8, 2004

(S.C.R. No. 122)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO THE MEDICAL ASSISTANCE PROGRAM.

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 Health and Welfare relating to the Medical Assistance Program concerning investigation and audits and suspension of payments pending investigation, are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 16.03.09, Section 204 pertaining to the surveillance and utilization review committee, and Section 210 pertaining to appeals of immediate actions, rules of the Department of Health and Welfare relating to the Medical Assistance Program, adopted as pending rules under Docket Number 16-0309-0308, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 16, 2004
Adopted by the House March 4, 2004

(S.C.R. No. 123)

A CONCURRENT RESOLUTION

EXTENDING SINCERE APPRECIATION AND CONGRATULATIONS TO THE FAMILY OF D.L. EVANS AND THE EMPLOYEES OF D.L. EVANS BANK FOR ACHIEVEMENT OF THEIR CENTENNIAL ANNIVERSARY CELEBRATING ONE HUNDRED YEARS OF SERVICE WITHIN IDAHO AND ACKNOWLEDGMENT OF THE SERVICES THE BANK HAS PROVIDED TO IDAHO FAMILIES.

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

WHEREAS, it is fitting and appropriate that the Senate and the House of Representatives, acting on behalf of the people of the state of Idaho extend sincere appreciation and congratulations to the D.L. Evans Bank on the achievement of its landmark "Centennial Anniversary"; and

WHEREAS, on September 15, 1904, State Senator D.L. Evans, who served in the Idaho Senate in 1903-04 and 1923-24, opened his first bank in a one-story frame building in Albion, Idaho, to create a small, independent bank to serve the financial needs of pioneer families and businesses settling the vast sagebrush covered western desert; and

WHEREAS, the institution that D.L. Evans created has been inherited by five family generations, with former Governor John V. Evans Sr. as its current president, John V. Evans Jr. as its chief executive officer, and other members of the Evans family as employees and members of the Board of Directors; and

WHEREAS, John V. Evans Sr., in addition to serving as Governor of Idaho, also served the people of Idaho as Mayor of Malad City, State Senator and Majority and Minority Leader of the Idaho Senate, and Lieutenant Governor; and

WHEREAS, the D.L. Evans Bank has provided Idaho's farmers, businesses and consumers with a secure, local financial institution for loans, savings, deposits, real estate mortgages and other financial needs and has been steadfast in its service despite floods, fires, droughts, and other natural disasters that through time have threatened their customers' financial assets; and

WHEREAS, the D.L. Evans Bank is continuing to successfully expand its business into other Idaho cities like Meridian, Ketchum and Boise; and

WHEREAS, the D.L. Evans Bank is the second largest community bank headquartered in southern Idaho with $388 million in assets and $345 million in deposits; and

WHEREAS, Senator Evans' initial investment of $25,000 has grown substantially during the one hundred years and now has twelve offices in the Magic, Treasure and Wood River Valleys of southern Idaho embracing D.L. Evans' philosophy that "...if the Bank provided its customers close, friendly personal customer service, they would be customers for life"; and

WHEREAS, the political, community and financial contributions to the state of Idaho by the Evans family over more than five generations have served as an example to all Idahoans whether in public service or the private sector; and

WHEREAS, the impact of Senator D.L. Evans and his family has been positive and appreciated by the residents of the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we extend appreciation and congratulations to the family of D.L. Evans and the employees of the D.L. Evans Bank for one hundred years of service within Idaho and we acknowledge the services to the families of Idaho.

Adopted by the Senate February 20, 2004
Adopted by the House March 1, 2004

(S.C.R. No. 127)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF AGRICULTURE RELATING TO LIVESTOCK MARKETING.

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 Department of Agriculture relating to livestock marketing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 02.04.26, rules of the Department of Agriculture governing livestock marketing, the entire rulemaking docket, adopted as a pending rule under Docket Number 02-0426-0301, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 25, 2004
Adopted by the House March 19, 2004

(S.C.R. No. 128)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF AGRICULTURE RELATING TO TUBERCULOSIS AND THE PRIVATE FEEDING OF BIG GAME ANIMALS.

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 Agriculture relating to tuberculosis and the private feeding of big game animals are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 02.04.24, Section 022, Subsection 02, rules of the Department of Agriculture governing tuberculosis and inspections, adopted as a pending rule under Docket Number 02-0424-0301, and IDAPA 02.04.25, rules of the Department of Agriculture governing the private feeding of big game animals, the entire rulemaking docket, adopted as a pending rule under Docket Number 02-0425-0301, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 25, 2004
Adopted by the House March 19, 2004

(S.C.R. No. 129)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO FISH AND GAME COMMISSION RELATING TO COMMERCIAL FISHING.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Fish and Game Commission relating to commercial fishing are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.12, rules of the Idaho Fish and Game Commission governing commercial fishing in the state of Idaho, the entire rulemaking docket, adopted as a pending rule under Docket Number 13-0112-0301, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 25, 2004
Adopted by the House March 15, 2004

(S.C.R. No. 130)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH AN EXCEPTION, 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 sections of Rules of the Division of Building Safety relating to installation of heating, ventilation, and air conditioning systems 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 Second 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 2004 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 07.07.01, Section 024 concerning HVAC apprentice requirements for registration, Section 061 concerning HVAC installation permit and inspection fees prior to commencement of work, and Section 062 concerning HVAC installation permit and inspection fees after commencement of work, Rules of the Division of Building Safety relating to installation of heating, ventilation, and air conditioning systems, adopted as pending fee rules under Docket Number 07-0701-0301, the above enumerated sections only.

BE IT FURTHER RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.07.01, Section 024 concerning HVAC apprentice requirements for registration, Section 061 concerning HVAC installation permit and inspection fees prior to commencement of work, and Section 062 concerning HVAC installation permit and inspection fees after commencement of work, Rules of the Division of Building Safety relating to installation of heating, ventilation, and air conditioning systems, adopted as pending fee rules under Docket Number 07-0701-0301, the above enumerated sections only, be, and the same are hereby rejected and not approved, and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the Second 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

or 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 1, 2004
Adopted by the House March 11, 2004

(S.C.R. No. 131)

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 Second 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 2004 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 rules:

IDAPA 57.01.01, the entire rulemaking docket, related to rules governing the Sexual Offender Classification Board, rules of the Sexual Offender Classification Board, adopted as temporary rules under Docket Number 57-0101-0401.

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 First Regular Session of the Fifty-eighth 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 dur-

ing the 2004 legislative session shall expire by operation of statute upon adjournment of the Second 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 1, 2004
Adopted by the House March 11, 2004

(S.C.R. No. 132)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF PUBLIC TRANSPORTATION AND RELATED AIR QUALITY ISSUES IN IDAHO.

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

WHEREAS, public transportation currently is a significant component of Idaho's transportation system in both urban and rural areas; and

WHEREAS, six metropolitan areas in Idaho were designated urbanized by the U.S. Census Bureau following the 2000 Census, making them eligible for federal transit funds; and

WHEREAS, substantial population growth in several of these metropolitan areas has resulted in an increase in the use of motor vehicles in such areas so that the air quality in such areas may be deteriorating, including deterioration resulting in the potential for the federal government to designate such areas as nonattainment areas pursuant to the federal Clean Air Act; and

WHEREAS, nonattainment designation could result in a substantial reduction in federal transportation funds as well as significantly reducing economic development opportunities in areas so designated; and

WHEREAS, public transportation necessarily will play a more significant role in the future because it can significantly alleviate congestion on roadways, providing for more efficient use of energy, extending the useful life of roadways, and reducing air quality problems associated with an increase in the number of private vehicles traveling on roadways; and

WHEREAS, existing public transportation systems within the state may not be adequate to meet existing and future demand; and

WHEREAS, there is a need to analyze both the wide variety of methods to coordinate and enhance public transportation as well as the methods to protect and enhance air quality in various regions of the state; and

WHEREAS, there is a need to examine the various federal programs and related funding sources designed to support public transportation as well as to protect and enhance air quality; and

WHEREAS, the Second Regular Session of the Fifty-seventh Idaho Legislature considered legislation to require motor vehicle emissions control programs in densely-populated counties where emissions from all sources, including vehicles, threaten to exceed ambient air quality standards; and

WHEREAS, the Idaho Task Force on Public Transportation provided to the Second Regular Session of the Fifty-seventh Idaho Legislature a comprehensive report that:

(1) Documents private and all public, federal, state and local funds expended on public transportation in Idaho; and

(2) Documents an inventory of existing public transportation services; and

(3) Recommends strategies for methods to coordinate public transportation services; and

(4) Recommends strategies for providing private and public funding of public transportation services; and

WHEREAS, there is a need for the Legislature to further study and analyze these issues during the interim between sessions of the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 public transportation and related air quality issues. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the legislature.

BE IT FURTHER RESOLVED that the committee will:

(1) Review the report of the Idaho Task Force on Public Transportation;

(2) Identify transportation links such as park and ride, rail, transit, commuter services and air services, within the state of Idaho;

(3) Identify overlapping and duplicative public transportation services;

(4) Recommend strategies for methods to coordinate public transportation services;

(5) Recommend strategies for providing private and public funding of public transportation services;

(6) Recommend strategies for maintaining and enhancing air quality in the regions of the state of Idaho threatened by potential federal Clean Air Act nonattainment designations; and

(7) Develop any legislation related to these matters as the committee deems appropriate.

BE IT FURTHER RESOLVED that the committee shall request that the Idaho Transportation Department, the Idaho Department of Health and Welfare, the Idaho Department of Environmental Quality, the Idaho Commission on Aging and all other state agencies necessary for completion of the committee's assignments assist the committee as requested.

BE IT FURTHER RESOLVED that the committee shall request that the Interagency Working Group on Public Transportation created in Section 40-514, Idaho Code, be a collaborator with the committee to provide input and advice. The committee will not duplicate the duties or obligations of the Interagency Working Group.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the Senate March 4, 2004
Adopted by the House March 19, 2004

(S.C.R. No. 134)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING APPROVAL FOR THE DEPARTMENT OF ADMINISTRATION AND THE EASTERN IDAHO TECHNICAL COLLEGE TO ENTER INTO AN AGREEMENT WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND DEVELOP A SPECIFIED FACILITY.

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

WHEREAS, the First Regular Session of the Fifty-seventh Idaho Legislature passed House Concurrent Resolution No. 30 authorizing eight state bodies and community college districts, including the Eastern Idaho Technical College located in Idaho Falls, to enter into agreements with the Idaho State Building Authority to finance and develop or renovate specified facilities located throughout Idaho; and

WHEREAS, due to unresolved issues relating to U.S. Department of Commerce Economic Development Administration grant terms, the Idaho State Building Authority has been unable to issue funding to the Eastern Idaho Technical College; and

WHEREAS, the Eastern Idaho Technical College wishes to help meet the need for trained health care professionals in the Idaho Falls area and seeks to construct a new health care education building in accordance with policies of the State Board of Education; and

WHEREAS, the Legislature recognizes the significant immediate economic stimulus that would be provided by proceeding with construction on this project; and

WHEREAS, the amount of appropriated and available funds for the Eastern Idaho Technical College is not sufficient to cover the estimated design and construction costs of $9,860,000 associated with this facility in a timely manner; and

WHEREAS, it is in the best interest of the state and the Eastern Idaho Technical College for this alternative authorization to be provided for the financing of a new facility for use by the Eastern Idaho Technical College.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Administration and the Eastern Idaho Technical College to enter into an agreement 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 Health Care Education Building located in Idaho Falls, Idaho.

BE IT FURTHER RESOLVED that this resolution constitutes authorization to enter into an agreement required by the provisions of Section 67-6410, Idaho Code, and with respect to the State Board of Education and State Board for Professional-Technical Education, this resolution constitutes the approval required by the provisions of Section 33-3805A, Idaho Code.

Adopted by the Senate March 18, 2004
Adopted by the House March 20, 2004

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 34)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-seventh Idaho Legislature in the Chamber of the House of Representatives at 7 p.m. on Monday, January 12, 2004.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 Monday, January 12, 2004, at 7 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 12, 2004
Adopted by the Senate January 12, 2004

(H.C.R. No. 36)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND RECOGNIZING FEBRUARY 6 AS RONALD REAGAN DAY IN IDAHO.

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

WHEREAS, President Ronald Wilson Reagan, a man of humble background, worked throughout his life serving freedom and advancing the public good, having been employed as an entertainer, union leader, corporate spokesman, Governor of California and President of the United States; and

WHEREAS, Ronald Reagan served with honor and distinction for two terms as the fortieth President of the United States of America, the second of which he earned the confidence of three-fifths of the elector-

ate and was victorious in forty-nine of the fifty states in the general election -- a record unsurpassed in the history of American presidential elections; and

WHEREAS, in 1981, when Ronald Reagan was inaugurated President, he inherited a disillusioned nation shackled by rampant inflation and high unemployment; and

WHEREAS, during Mr. Reagan's presidency he worked in a bipartisan manner to enact his bold agenda of restoring accountability and common sense to government, which led to an unprecedented economic expansion and opportunity for millions of Americans; and

WHEREAS, Mr. Reagan's commitment to an active social policy agenda for the nation's children helped lower crime and drug use in our neighborhoods; and

WHEREAS, President Reagan's commitment to our armed forces contributed to the restoration of pride in America, her values and those cherished by the free world and prepared America's armed forces to meet twenty-first century challenges; and

WHEREAS, President Reagan's vision of "peace through strength" led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people; and

WHEREAS, on February 6, 2004, Ronald Reagan will have reached the age of ninety-three years.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature hereby recognizes February 6, 2004, and subsequent yearly anniversaries thereafter as "Ronald Reagan Day."

Adopted by the House February 4, 2004
Adopted by the Senate February 6, 2004

(H.C.R. No. 39)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND EXPRESSING SUPPORT AND ENCOURAGEMENT FOR THE EFFORTS OF THE PULASKI PROJECT IN ACCOMPLISHING ITS IMPORTANT MISSION IN TRIBUTE TO EDWARD PULASKI AND IN ACKNOWLEDGMENT OF THE DEDICATED SERVICE OF ALL PAST, PRESENT AND FUTURE WILDFIRE FIGHTERS.

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

WHEREAS, on August 20, 1910, in the beautiful mountains and forests of northern Idaho and western Montana, known as the "high lonesome," the worst forest fire in American history erupted, burning three million acres of timberland over the course of two days, causing many to believe the fire heralded the end of the world; and

WHEREAS, although in July of 1910, thousands of wildfires were sparked during the driest year in memory, by August 19, 1910, most of the fires were under control until hurricane force winds, blowing up to 80 miles per hour, swept into Idaho and coaxed the remaining fires together, creating a firestorm; and

WHEREAS, firefighters battled the blaze, from which smoke could be seen as far away as Denver, and which spanned from eastern Washington, across Idaho and into Montana; and

WHEREAS, the devastating fire ultimately claimed the lives of eighty-six people; and

WHEREAS, during the afternoon of August 20, 1910, just outside of Wallace, Idaho, Edward Pulaski, a district ranger with the recently created U.S. Forest Service, realized that he and his crew were trapped in the fire and that they could only try to save their lives; and

WHEREAS, being the only one familiar with the backcountry trails, Pulaski led his 45-man crew through fire and smoky darkness to safety in the abandoned Nicholson Mine, now commonly known as the Pulaski Tunnel; and

WHEREAS, in leading the men to safety, Pulaski ordered them to lay face down to keep from suffocating from gas and smoke from the fire and, in the midst of some of the men succumbing to panic, he prevented any of them from leaving the mine, and from certain death, by holding them at bay with his pistol; and

WHEREAS, as timbers at the entrance of the mine caught fire, Pulaski beat out the flames with horse blankets and water from the mine floor that he gathered with his hat; and

WHEREAS, many of the men, including Pulaski, eventually lost consciousness from the heat, smoke and gas, but, in the morning, all but five of the men emerged from the tunnel and hiked back to Wallace, their lives having been spared; and

WHEREAS, Pulaski, who had emerged from the fire a hero, was hospitalized for nearly two months with blindness and pneumonia and carried scars of the firestorm on his hands and face for the rest of his life; and

WHEREAS, in 1984, the U.S. Forest Service placed a monument, dedicated to those who lost their lives in the fire and to Edward Pulaski, on Moon Pass Road near the trail to the Pulaski Tunnel; and

WHEREAS, because over the course of time the trail and adit of the mine have fallen into severe disrepair, a dedicated group launched the Pulaski Project in 2002, in an effort to preserve this important piece of Idaho's history and the history of this country; and

WHEREAS, in addition to serving as a tribute to Edward Pulaski, the Pulaski Project serves as an acknowledgment of the dedicated service despite hardship, peril, and sacrifice, of all past, present and future wildfire fighters; and

WHEREAS, the Pulaski Project focuses on four primary goals: (1) the upgrading of the mine adit and trail that Pulaski and his men used to survive and escape the fire; (2) the creation of a National Wildfire Education Center and Museum in Silverton/Wallace, whose purpose is to elevate the priority of wildfire and forest management in the region and the nation, as well as to educate the public regarding the shift away from the 100% suppression paradigm that was launched by the great 1910 fire; (3) the upgrading of two collective U.S. Forest Service gravesites at Nine Mile Cemetery; and, finally, (4) the ongoing development of both a web page (see www.pulaski-project.org) and an online discussion group for the furtherance of enlightened and serious discussion of the issues that divide the nation regarding wildfire and forest management today; and

WHEREAS, the Pulaski Project's goals serve the people of Idaho and the nation by commemorating the historical significance of the 1910 fire, and by addressing the importance across Idaho, the northwest, and the nation, regarding wildfires and forest management.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature herein expresses support and encouragement to the Pulaski Project in accomplishing its important mission in tribute to Edward Pulaski and in acknowledgment of the dedicated service of all past, present and future wildfire fighters.

Adopted by the House February 23, 2004
Adopted by the Senate March 9, 2004

(H.C.R. No. 40)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING IDAHO CITIZENS TO REDUCE, REUSE AND RECYCLE HOUSEHOLD HAZARDOUS WASTE AND ELECTRONIC WASTE.

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

WHEREAS, one of Idaho's greatest treasures is the exceptional environment that we share; and

WHEREAS, the proper management of waste is key to preserving our environment and strengthening our economy; and

WHEREAS, the proper management of household hazardous waste containing heavy metals and manmade constituents can help protect water supplies and our environment; and

WHEREAS, a U.S. Environmental Protection Agency report dated May 11, 2001, states that approximately 3.2 million tons of electronic waste ends up in United States landfills each year, and that 250 million computers will become obsolete in the next five years; and

WHEREAS, reducing and recycling household hazardous waste and electronic waste can conserve our nation's resources; and

WHEREAS, proper waste diversion can conserve Idaho's landfill space.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that all Idaho citizens are hereby encouraged to reduce, reuse and recycle household hazardous waste and electronic waste.

Adopted by the House February 25, 2004
Adopted by the Senate March 9, 2004

(H.C.R. No. 43)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors relating to professional responsibility are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 10.01.02, rules of the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors relating to professional responsibility, the entire rulemaking docket, adopted as pending rules under Docket Number 10-0102-0301, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 23, 2004
Adopted by the Senate March 1, 2004

(H.C.R. No. 44)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING THAT THE DEPARTMENT OF ADMINISTRATION, UPON APPROPRIATION OF ITS BUDGET REQUEST RELATED TO THE BORAH POST OFFICE, SHOULD TAKE THE NECESSARY STEPS TO FACILITATE AND COMPLETE THE ACQUISITION OF THE BORAH POST OFFICE IN THE NAME OF THE STATE OF IDAHO AND MAKE IT AVAILABLE FOR THE USE OF THE STATE.

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

WHEREAS, real property located at 304 North 8th Street, and commonly known as the Borah Post Office, is currently available to the state of Idaho, without monetary consideration, through the United States as federal surplus property for use pursuant to Section 203(k)(3) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(k)(3)), and in accordance with the rules and regulations of the United States Department of the Interior; and

WHEREAS, the property is comprised of approximately 1.40 acres with a four-story building, plus basement, and consists of approximately 79,879 square feet (64,472 net rentable square feet) and 34 total parking spaces; and

WHEREAS, the Department of Administration has submitted the required application papers to acquire the property and has specifically conditioned such application on the approval of the Legislature of the acquisition, specifically the appropriation required for operation, maintenance and repair; and

WHEREAS, if acquired, it is anticipated that the state could relocate state agencies into the Borah Post Office, both in the currently available space (approximately 26,400 square feet) and as current leases expire and would eventually utilize most of the space in the Borah Post Office for the functions of government and to meet the state's office space needs; and

WHEREAS, the state's long-term space needs would be efficiently and cost-effectively served by the availability of the Borah Post Office.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Department of Administration, upon appropriation of its budget request related to the Borah Post Office, should take the necessary steps to facilitate and complete the acquisition of the Borah Post Office in the name of the state of Idaho and make it available for the use of the state.

Adopted by the House February 25, 2004
Adopted by the Senate March 15, 2004

(H.C.R. No. 45)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND URGING SUPPORT OF THE IDAHO EMPLOYER SUPPORT OF THE GUARD AND RESERVE.

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

WHEREAS, Americans understand and deeply appreciate the strategic and military value of our National Guard and Reserve which comprise approximately forty-six percent of our total available military manpower; and

WHEREAS, since September 11, 2001, more than 309,000 National Guard and Reserve personnel have been mobilized for the war on terrorism, some for one to two years; and

WHEREAS, Idaho National Guard and Reserve personnel work for public agencies and private businesses; and

WHEREAS, public and private employers of America's National Guard and Reserve members have become inextricably linked to a strong national defense; and

WHEREAS, the United States Department of Defense chartered the National Committee for Employer Support of the Guard and Reserve (ESGR) in 1972 to promote both public and private employer understanding of the National Guard and Reserve in order to gain employer and community support through programs and personnel policies and practices that encourage employee and citizen participation in National Guard and Reserve programs; and

WHEREAS, today, nearly 4,500 volunteer executives, senior government

representatives, educators, and military personnel serve on local ESGR committees and conduct employer support programs, including Bosslifts, Briefings with the Boss, Mission One, Ombudsmen Services, and recognition of employers whose policies support or encourage participation in the National Guard and Reserve; and

WHEREAS, the Idaho Employer Support of the Guard and Reserve promotes the development of a positive relationship between employers and those employees who serve in the guard and reserve, and serves as a resource for information related to the United States Department of Labor's Uniformed Services Employment and Reemployment Rights Act.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge renewed and continuing support of the Idaho Employer Support of the Guard and Reserve.

Adopted by the House February 23, 2004
Adopted by the Senate March 9, 2004

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Human Resources and Personnel Commission relating to nepotism is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 15.04.01, Section 025, rules of the Division of Human Resources and Personnel Commission relating to nepotism, adopted as a pending rule under Docket Number 15-0401-0301, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 25, 2004
Adopted by the Senate March 11, 2004

(H.C.R. No. 47)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, ADOPTING A STATE EMPLOYEE COMPENSATION POLICY, ADOPTING FUNDING RECOMMENDATIONS, STATING POLICY TOWARD SALARY SAVINGS REGARDING PAY POLICIES FOR STATE EMPLOYEES AND DIRECTING MANAGEMENT OF COMPENSATION AND FUNDING POLICIES.

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

WHEREAS, the Legislature has by law provided that the Governor and the Division of Human Resources report to the Legislature their recommendations for proposed pay policies, together with the estimated cost thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 12, 2004, and the report of the Division of Human Resources dated October 1, 2003; and

WHEREAS, it is the mission of the Idaho State Government to provide a high level of responsive service in meeting the needs of its citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

(1) It is the policy of the state of Idaho to provide a total compensation system that attracts, retains and recognizes state employees for their valuable service. The foundation of this system is to pay competitive job market average salaries and to reward performance with a merit based compensation philosophy.

(2) The Joint Finance-Appropriations Committee is directed to provide funding for the following specific compensation measures:

(a) Funding of $10,923,900 from the General Fund for benefit cost increases for health insurance, Public Employee Retirement System rate changes, and various other salary based benefits as recommended in the Governor's report;

(b) Funding of $10,002,100 from the General Fund for 2% salary increases for state employees as recommended in the Governor's report; and

(c) One-time contingency funding of $5,001,000 in General Funds, for an additional temporary salary increase of 1%. This increase shall be contingent upon General Fund revenues exceeding the fiscal year 2004 revenue projection used by the Joint Finance-Appropriations Committee by a minimum of $5,001,000. The Joint Finance-Appropriations Committee shall design a surplus eliminator appropriation to provide this temporary salary increase, should available funds in excess of the revenue projection become available.

(3) For those agencies funded in total or in part from non-General Fund money, the Joint Finance-Appropriations Committee is directed to appropriate in as nearly as possible the same manner as agencies funded by the General Fund.

(4) The Legislature recognizes that no specific funding for salary increases for state agencies and institutions has been provided for the last two fiscal years. As such, state agency directors and institution executives are encouraged to allocate agency salary savings to provide for employee salary needs before other operational budget priorities are considered. One-time salary increases should be given if the salary savings are one-time in nature. Ongoing salary increases may be given if the salary savings are expected to be ongoing in nature and, where applicable, particular emphasis should be placed on those employees in occupational groups with significant market pay lag and turnover rates.

(5) The Division of Human Resources and the Division of Financial Management shall ensure that agency and institution compensation policies are managed consistent with the policies contained herein.

(6) The effective date of implementation of these salary adjustments shall be June 6, 2004.

BE IT FURTHER RESOLVED that appropriations measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the House February 25, 2004
Adopted by the Senate March 8, 2004

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING OVERSIGHT PROCESSES IN ASSISTED LIVING FACILITIES AND DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO UNDERTAKE CHANGES NECESSARY TO ACCOMPLISH GOALS STATED.

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

WHEREAS, the Department of Health and Welfare finds it increasingly difficult to meet statutory requirements for annual surveys in assisted living facilities; and

WHEREAS, the state of Idaho has contracted with the federal Medical Assistance Program and has guaranteed appropriate oversight of assisted living facilities, including compliance with Idaho statutes in exchange for Medicaid matching funds for services provided to clients in assisted living served through the Aged and Disabled Waiver; and

WHEREAS, the number of assisted living clients grows each year with exponential growth projected as baby boomers reach an age when they require assistance in daily living; and

WHEREAS, the cost of long-term health care options in the state of Idaho increases each year both for persons paying for their own care and those using Medicaid dollars; and

WHEREAS, state General Fund dollars for medical assistance are more limited each year; and

WHEREAS, the present survey process has reached a point of limited effectiveness.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Department of Health and Welfare, in conjunction with assisted living stakeholders, advocates and clients, is directed to develop the statutory and rules changes as necessary to allow for a transformed oversight process in assisted living that allows for:

(1) An equitable definition of substantial compliance;

(2) Outcome based, measurable standards of care;

(3) Person-centered outcomes measured by the terms of the Negotiated Service Agreement (NSA) negotiated by the resident and/or guardian and the assisted living residence as to the resident's rights, needs and choices of care;

(4) Quality assurance measures implemented by the Division of Medicaid to ensure surveys are performed in an appropriate and equitable manner;

(5) Use of new technologies, i.e. e-mail, teleconferencing, facsimile, software and web-based documentation management systems to increase efficiency of the oversight process and communications process whenever possible and reduced disruption of a resident's home and trauma to the resident;

(6) Focus on education and cooperation in compliance, as well as enforcement;

(7) A regulatory system that does not adversely affect residents and does not result in dislocation of residents when other avenues are available;

(8) Increased training that is specific to assisted living and improved protocol for staff performing surveys;

(9) Development of an equitable dispute resolution process involving not only the oversight agency, but also industry peers, ombudsmen, consumers and health care providers knowledgeable about assisted living; and

(10) Improved communication between providers and department staff regarding the substance of rules proposed for promulgation as well as the proposed effective dates of such proposed rules.

Adopted by the House March 4, 2004
Adopted by the Senate March 11, 2004

(H.C.R. No. 50)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE GUARDIANSHIP AND CONSERVATORSHIP SYSTEM IN IDAHO.

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

WHEREAS, today there are approximately 150,000 Idahoans who are age 65 or older, and by the year 2020, it is anticipated that there will be nearly 240,000 Idahoans over the age of 65 who will face issues related to elder care; and

WHEREAS, guardianship and conservatorship arrangements are important for Idaho families facing the potential incapacity of a family member;

WHEREAS, a number of states have expressed great interest in the guardianship and conservatorship process, frequently following allegations of inappropriate activity on the part of fiduciaries appointed to represent incapacitated persons; and

WHEREAS, little data exists regarding the effectiveness of guardianships or conservatorships within Idaho or in other states, and less information is available about how the system actually affects the individuals involved; and

WHEREAS, model educational curricula for guardians and conservators and improved monitoring of current inventory and accounting practices should be developed at the state level; and

WHEREAS, research should be undertaken to review current elder care laws and to examine how the guardianship and conservatorship process is enhancing the well-being of persons with diminished capacity.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 the guardianship and conservatorship system in Idaho, taking into account recent efforts undertaken by the federal government and other states. The Legislative Council shall appoint up to eight legislators, four from the Senate and four from the House of Representatives, and shall authorize the committee to receive input, advice and assistance from interested and affected parties.

BE IT FURTHER RESOLVED, that the committee shall include additional members to be appointed by the cochairs of the committee who are appointed by the Legislative Council. Such nonlegislative members may include, but are not limited to, the following: one member of the staff of Idaho's congressional delegation, one representative of the Office of the Governor, one representative of the Office of the Attorney General, one representative of the Department of Finance, two representatives of the Idaho judiciary, one representative of the Taxation, Probate and Trust Law Section of the Idaho State Bar, one representative of the Idaho Commission on Aging, one representative of AARP and one administrator of a county guardianship monitoring program.

BE IT FURTHER RESOLVED that nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-eighth Idaho Legislature, to the Office of the Governor, and to the Idaho Supreme Court.

Adopted by the House March 5, 2004
Adopted by the Senate March 19, 2004

(H.C.R. No. 51)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS.

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 Health and Welfare relating to food safety and sanitation standards for food establishments are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representa-

tives and the Senate concurring therein, that IDAPA 16.02.19, rules of the Department of Health and Welfare governing food safety and sanitation standards for food establishments, adopted as pending rules under Docket Number 16-0219-0301, the entire rulemaking docket, and IDAPA 16.02.19, rules of the Department of Health and Welfare relating to food safety and sanitation standards for food establishments, adopted as pending rules under Docket Number 16-0219-0302, the entire rulemaking docket, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 1, 2004
Adopted by the Senate March 8, 2004

(H.C.R. No. 53)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ACKNOWLEDGING THE RECORD OF ACCOMPLISHMENT AND THE PROMISE FOR THE FUTURE OF THE INSTITUTIONS OF HIGHER EDUCATION IN THE STATE OF IDAHO.

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

WHEREAS, the people of the state of Idaho are justifiably proud of our rich tradition of quality institutions of higher education; and

WHEREAS, the University of Idaho was created in 1889 by the 15th Territorial Legislature and is a publicly supported comprehensive land-grant institution; and

WHEREAS, the University maintains a record of excellence in research and instructional programs; and

WHEREAS, Idaho State University, founded in 1901 as the Academy of Idaho, advanced to status as a university in 1963, and is a leader in Idaho in health professions as well as an inclusive university curriculum; and

WHEREAS, Boise State University was founded in 1932, attained its current university status in 1974, and is now central to all-encompassing educational and cultural opportunities in the state's capitol city; and

WHEREAS, the College of Southern Idaho, Eastern Idaho Technical College, Lewis-Clark State College and North Idaho College further enhance delivery of higher educational opportunities in Idaho; and

WHEREAS, recent exemplary contributions of Acting-President Gary Michael and the selection of Timothy White portend a luminous and exciting future for the University of Idaho; and

WHEREAS, Boise State University President Robert Kustra, also newly arrived in Idaho, and Idaho State University President Richard Bowen, who continues his dedicated service, and the leaders of each of the institutions in Idaho contribute to the health of the system of higher education with ideas and innovations which continue to invigorate the system and improve the programs available to students in Idaho; and

WHEREAS, it is appropriate to recognize and commend these institutions and their leaders at this time as there are changes and innovations which will continue to advance the itinerary of higher education

in Idaho, where continued cooperation will compliment individual efforts, and where achievements will redound to the benefit of all Idahoans.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we extend our acknowledgement of the record of accomplishment and the promise for the future of the institutions of higher education in the state of Idaho. We pledge our continued interest and support of these programs and welcome the opportunity which is ours to invigorate the system with an infusion of new ideas.

Adopted by the House February 27, 2004
Adopted by the Senate February 27, 2004

(H.C.R. No. 54)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND COMMENDING THE DEPARTMENT OF ENERGY'S IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY FOR ITS FIFTY-FIVE YEARS OF SERVICE TO IDAHO AND THE UNITED STATES OF AMERICA.

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

WHEREAS, fifty-five years ago, the fledgling Atomic Energy Commission selected a site in Idaho over twenty other potential locations across the nation to become the home of the country's one and only National Reactor Testing Station; and

WHEREAS, Idaho's National Reactor Testing Station played a key role in carrying out President Eisenhower's landmark Atoms for Peace Initiative by generating the world's first usable amounts of electricity from nuclear power, giving Arco, Idaho, the distinction of being the first American city to be powered by nuclear-generated electricity, and designing and building a total of fifty-two, mostly first of their kind, nuclear reactors; and

WHEREAS, Idaho's national laboratory has served so nobly in enhancing our national defense through the development of United States naval nuclear propulsion systems, the training of U.S. Navy nuclear personnel and the development and manufacture of protective armor packages and numerous other technologies to enhance the safety and efficiency of U.S. military forces; and

WHEREAS, scientists and engineers at Idaho's national laboratory have labored tirelessly to advance Idaho and national interests with their contributions in alternative and renewable energy systems, neutron capture therapy, subsurface science, biotechnology and many other areas as befits a multiprogram national laboratory; and

WHEREAS, Idaho's national laboratory has become a key and respected partner with state government, regional universities and industry in advancing Idaho's Science and Technology Strategic Plan and helping secure Idaho's place in the knowledge-based economy of the twenty-first century; and

WHEREAS, the Idaho Legislature and the people of the state of Idaho

fully appreciate the tremendous scientific and economic asset the Idaho National Engineering and Environmental Laboratory is to Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and commend the Idaho National Engineering and Environmental Laboratory in this, the fifty-fifth year of its service to America and express our support for this Idaho-based national asset so that it can continue its contributions to national science and technology excellence for many years to come.

Adopted by the House March 5, 2004
Adopted by the Senate March 18, 2004

(H.C.R. No. 55)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO LICENSED RESIDENTIAL AND ASSISTED LIVING 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 Health and Welfare relating to licensed residential and assisted living facilities are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 16.03.22, rules of the Department of Health and Welfare governing licensed residential and assisted living facilities, section 428, subsection 01, concerning Medication Policy, and subsection 02, concerning Medication Distribution System, adopted as pending rules under Docket Number 16-0322-0301, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 8, 2004
Adopted by the Senate March 15, 2004

(H.C.R. No. 56)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO EXPAND THE MEMBERSHIP AND SCOPE OF THE COMMITTEE APPOINTED TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

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

WHEREAS, the First Regular Session of the Fifty-seventh Idaho Legislature adopted Senate Concurrent Resolution No. 103 in 2003, which authorized the Legislative Council to appoint a committee to undertake and complete a study of natural resource issues and to make a report detailing its findings, recommendations and proposed legislation to the First Regular Session of the Fifty-eighth Idaho Legislature; and

WHEREAS, the committee has been studying water quality, endangered species act activities and reserved water right tribal issues and the Legislature believes that the membership of this committee needs to be expanded and the scope of their investigation and study needs to be broadened as well; and

WHEREAS, aquifers in many areas of Idaho continue long-term declines, threatening economic well-being and creating legal conflicts; and

WHEREAS, delay in seeking means to bring long-term stability creates unacceptable risks to the well-being of our citizens; and

WHEREAS, the decline in water supplies of the Eastern Snake Plain Aquifer and the Thousand Springs is causing conflicts between water users; and

WHEREAS, on March 15, 2004, water users and the state reached an agreement to suspend pending conflicts and to provide a one-year period for the committee to develop and make recommendations to the First Regular Session of the Fifty-eighth Idaho Legislature for implementation of long-term restoration and recovery solutions for the Eastern Snake Plain Aquifer and the Thousand Springs water supplies; and

WHEREAS, it is the desire of the Legislature that the committee study and evaluate ways to stabilize the water distribution system in Idaho and that various interests and people in the water supply arena be allowed to give input and testimony to the committee; and

WHEREAS, the Legislature desires that the committee involve persons with technical expertise in hydrology, engineering, economics and law in its deliberation and at a minimum conduct a study regarding water supply and management issues in the Moscow, Rathdrum Prairie and Snake River Plain Aquifers and the Bear River Drainage.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to expand the membership of the committee which is undertaking and completing a study of natural resource issues and that the cochairmen of the committee are authorized to appoint advisors with technical expertise in the water supply arena and are expected to receive input from stakeholders in the water rights system of Idaho to attempt to stabilize the water delivery system in this state.

BE IT FURTHER RESOLVED that any advisors to the committee who are not legislative members 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 and proposed legislation.

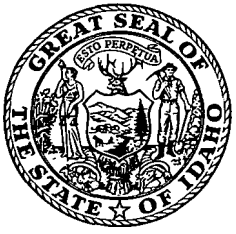
BE IT FURTHER RESOLVED that the committee will ensure in conjunction with the executive branch that all state commitments set forth in the March 15, 2004, agreement between water users and the state of Idaho are fulfilled.

Adopted by the House March 19, 2004
Adopted by the Senate March 20, 2004

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, Second Regular Session thereof, which convened January 12, 2004, and which adjourned on March 20, 2004, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this twenty-eighth day of April, 2004.

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.

EXECUTIVE ORDERS

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2003-02

TRANSFERRING THE FUNCTIONS OF THE DISABILITY DETERMINATIONS SERVICE TO THE DEPARTMENT OF LABOR, REPEALING AND REPLACING EXECUTIVE ORDER NO. 99-10

WHEREAS, a Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Unit; and

WHEREAS, in order to be in compliance with the federal government's nomenclature, it is deemed appropriate to rename this office to be the Disability Determinations Service; and

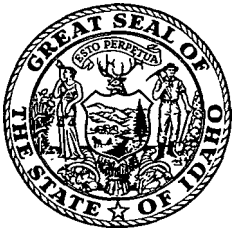
WHEREAS, the 2020 Blue Ribbon Taskforce recommended that the Disability Determinations Service (DDS) be transferred and consolidated within the Idaho Department of Labor; and

WHEREAS, the Director of the Department of Labor has served as interim Director of the DDS since July, 2002, which has resulted in cost savings and administrative efficiencies; and

WHEREAS, the transfer of the DDS to the Idaho Department of Labor will further streamline state government and provide more efficient state services to the people of Idaho.

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 transfer the Disability Determinations Service to the Idaho Department of Labor.

This Executive Order repeals and replaces Executive Order No. 99-10



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 June 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 thirteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-03

ESTABLISHING THE SCHEDULE FOR FLYING THE POW/MIA FLAG OVER THE CAPITOL

WHEREAS, the State of Idaho owes a lasting debt of gratitude to all heroic members of our Armed Forces who have risked their safety to defend the lives and liberty of others; and

WHEREAS, the State will not forget our Nation's prisoners of war and those missing in action (POWs/MIAs) and the devoted service they have bravely rendered to our country, and neither will the State of Idaho fail to meet its obligation to their families; and

WHEREAS, Idaho remembers those Americans who remain missing and unaccounted for as an expression of our State's determination to keep faith with those who have so faithfully served and defended the United States; and

WHEREAS, Idaho recognizes the profound suffering of those who continue to await word of the fate of their loved ones, and the State is determined to help them gain the peace and consolation that word will bring; and

WHEREAS, the POW/MIA flag symbolizes Idaho's firm and united commitment to securing the release of any Americans who may still be held against their will, to obtaining the fullest possible accounting for the missing, and to repatriation of all recoverable American remains.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

The POW/MIA flag shall be flown over the Idaho State Capitol Building on Memorial Day, Veterans Day, POW/MIA Recognition Day, Armed Forces Day, July 4th and Flag Day each year throughout the duration of my term as governor, as a symbol of the gratitude of the citizens of this state to all the men and women who are listed as missing in action, or who are or have been forcibly detained as prisoners of war by our enemies. These persons have sacrificed and suffered much for their country while fighting for the cause of freedom.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this first day of May 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 thirteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-04

CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION, REPLACING EXECUTIVE ORDER NO. 99-11

WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and

WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birth weight babies, and infant deaths is significantly higher for adolescent mothers; and

WHEREAS, in 1997, approximately 2,789 Idaho females aged 10 to 19 became pregnant, at a rate of 54 pregnancies per week; and

WHEREAS, twenty-eight percent of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents, and
2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.

The Council shall be limited to no more that 19 members appointed by the Governor.

The members shall serve two-year terms. A chair of the Council shall be appointed annually by the Governor.

The Council members shall include persons representing:

Public health/welfare
Education
Clergy
Private business
Parents
Adolescents
Local elected officials
Health care providers
Media

The Department of Health and Welfare will provide administrative support to the Council.

This Order replaces Executive Order No. 99-11.

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 eighth day of July in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-05

ESTABLISHING THE IDAHO COUNCIL ON CHILDREN'S MENTAL HEALTH REPEALING AND REPLACING EXECUTIVE ORDER 2001-15

WHEREAS, children with serious emotional disturbances have unique abilities, concerns and diverse needs; and

WHEREAS, serious emotional disturbances interfere with the vital development and maturation of our state's most important resource - its children; and

WHEREAS, the appropriate treatment of children and youth with serious emotional disturbances is cost-effective because it enhances productivity, reduces utilization of more costly and invasive service, lessens social dependence and family disruption; and

WHEREAS, the State of Idaho desires to establish a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and

WHEREAS, these families would benefit from individualized services which are acceptable and accountable to them and others in the communities where they live; and

WHEREAS, children and youth with serious emotional disturbances and their families have the right to, and responsibility for, ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and

WHEREAS, the Idaho Legislature has set forth its policy for the provision of these services in the Idaho Children's Mental Health Services Act; and

WHEREAS, the implementation plan formulated from the recommendations of "The Needs Assessment of Idaho's Children with Serious Emotional Disturbances and Their Families" proposes that the Idaho Council on Children's Mental Health be established to provide state level leadership in the development of an integrated system of care for children with mental health needs.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Idaho Council on Children's Mental Health.

The Council's responsibilities shall be:

To oversee the implementation of the plan and the legislative policy for the provision of access to treatment, prevention, and rehabilitation

services for children with serious emotional disturbances;

To serve as a vehicle for inter- and intra-agency policy and program development;

To establish local level councils according to resources, population, need and geographic considerations;

To define the specific key duties, powers, goals, and outcomes to be achieved by the local councils;

To provide leadership through the development of standards, provision of technical assistance, monitoring, evaluating and reporting on the progress of the local councils; and

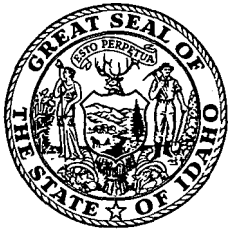
To evaluate and make recommendations regarding the funding and delivery of children's mental health services statewide.

Council membership shall be composed of representatives from the following:

The Office of the Governor;
The Legislative branch;
The Judicial branch;
The Department of Health and Welfare;
The Department of Juvenile Corrections;
The Department of Education;
The State Planning Council on Mental Health;
A parent representative or advocate;
A parent;
A representative of providers of children's mental health services;
A county commissioner;
A Tribal representative;
A representative of the Hispanic community; and
A representative of the statewide regions of the Idaho Council on Children's Health.

This Executive Order shall cease to be in effect four years after its entry into force.

Council members shall serve a term of two (2) years. The members may serve additional terms. The Governor shall appoint the Lieutenant Governor to serve as the Chairman of the Council. Staff for the Council will be provided by the Department of Health and Welfare. The Council may establish subcommittees at its discretion.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-third day of June 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 thirteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-06

PROHIBITION OF THE USE OF STATE FUNDS FOR MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS BY STATE EMPLOYEES

WHEREAS, there is need for a uniform state policy regarding the payment of professional dues, fees, and memberships for state employees. I find it is prudent to continue the policy for all state employees in the Executive Department that was promulgated by Executive Order No. 81-11.

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:

No state money shall be used to pay for any kind of professional, occupational, or trade license, certificate, permit, or occupational registration for any state employee or officer; nor shall any state monies be used to pay for any kind of dues to any professional, occupational, or trade association in which membership is restricted to persons who are licensed, certified, or registered under Idaho law. This policy does not preclude the state or state departments from paying dues to organizations relating to their responsibilities in state government, or where such dues are part of a requirement of employment.

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 June 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 thirteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-07

ESTABLISHMENT OF THE STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL

WHEREAS, the public safety of all Idahoans is of paramount importance; and

WHEREAS, public safety communications provide a critical role protecting the lives and property of the citizens of Idaho; and

WHEREAS, the State's public safety communications infrastructure is rapidly becoming outdated; and

WHEREAS, the Federal Communications Commission is adopting changes that will affect the ability of public safety communications systems to interoperate with one another, due to new technology and shifts in standards; and

WHEREAS, the effectiveness of public safety communications between jurisdictions to cooperate and coordinate voice and data information is critical to the mission of public safety; and

WHEREAS, state agencies along with federal, local, tribal, and private entities with similar communications requirements should work cooperatively and identify approaches to promote and enhance statewide interoperability; and

WHEREAS, the Idaho Legislature annually appropriates a significant amount of state funds for agency wireless radio communications which could benefit from coordination; and

WHEREAS, there exist opportunities to assist in the promotion of coordination and cooperation of a statewide interoperability goal, which is an ongoing and long-term effort.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by authority vested in me by the Constitution and laws of the State of Idaho, do hereby order:

1. There is hereby created the Statewide Interoperability Executive Council (SIEC).
2. The purpose of the SIEC shall be to provide policy level direction and promote efficient and effective use of resources for matters related to public safety wireless radio interoperability. To that end it shall:
   a. Develop a statewide vision for interoperable communications;
   b. Develop standards for public safety communications;
   c. Promote cooperation among state, federal, tribal, and local public safety agencies in addressing statewide radio interoperability needs in Idaho;
   d. Review priorities for statewide radio interoperability needs and assist in the development of projects, plans, policies, standards, priorities and guidelines for radio interoperability;
   e. Ensure adequate wireless spectrum to accommodate all users;
   f. Facilitate cooperative and contract arrangements to develop a statewide interoperable radio communications system infrastructure;
   g. Research best practices of other states; and
   h. Provide recommendations to the Governor and the Legislature, when appropriate, concerning issues related to statewide interoperable radio communications for public safety in Idaho.
3. The SIEC shall receive administrative staff support from the state agencies represented on the Council.
4. The SIEC will meet no less than four times annually.
5. The SIEC will appoint sub-committees consistent with the needs of the Council to address issues including, but not limited to: technical support and education issues regarding interoperable communications in Idaho; Federal funding availability; and, outreach and liaison with Federal and other Statewide Interoperable Executive Councils in other states working on interoperable communications solutions.
6. The SIEC shall prepare and present a report to the Information Technology Resource Management Council by December 30 of each

year describing the Council's activities and achievements of the previous year.

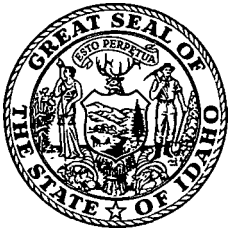
7. A Chair person and Vice-Chair person shall be selected at that first meeting of the SIEC by the members present during that meeting. The term of office for the Chair and Vice-Chair shall be two years. The Chair and Vice-Chair may succeed themselves if approved by the Council.

8. The SIEC shall be composed of the following member agencies with knowledge of and interest in the field of public safety radio communications technology with minimum representation consisting of:

One (1) representative from the Idaho State Police;
One (1) representative from the Idaho Transportation Department;
One (1) representative from the Idaho Sheriff's Association;
One (1) representative from the Idaho Chiefs of Police Association;
One (1) representative from the Idaho Fire Chiefs Association;
One (1) representative from the Idaho Association of Counties;
One (1) representative of the Association of Idaho Cities;
Two (2) representatives from the Military Division;
One (1) representative from the Idaho Department of Administration;
One (1) representative from Federal Law Enforcement;
One (1) representative from the U.S. Department of the Interior;
One (1) representative from the National Interagency Fire Center;
One (1) representative from the Idaho Department of Correction;
One (1) representative from the Department of Lands;
One (1) representative from the Idaho Department of Fish and Game;
One (1) representative from the Idaho Department of Health and Welfare; and
One (1) representative from Tribal Government.

The SIEC may add additional member agencies as deemed appropriate.

The SIEC's membership shall be selected by the groups they represent and approved by the Governor.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of August in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-08

ESTABLISHMENT OF THE IDAHO HOMELAND SECURITY COUNCIL

WHEREAS, the Constitution of the State of Idaho requires that government provide for the public safety and security; and

WHEREAS, enemies of the United States, through acts of terrorism, have already attacked this nation's citizens and critical infrastructure; and

WHEREAS, those enemies have demonstrated a continuing desire to overthrow this nation's government, its military, and the economic base of this nation and each of its sovereign states.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state hereby establish an Idaho Homeland Security Council for the purpose of conducting planning and information sharing between executive level representatives of private sector critical infrastructure and representatives of state, tribal, local, and special districts of governmental agencies charged with maintaining the public health, safety, and security of the people of the State of Idaho.

It is the policy of the State of Idaho to strategically prepare its citizens and local communities, including private sector entities, within the budgetary and legal constraints imposed by the Legislature, to respond to, and recover from, the debilitating impact of both natural and man-caused disasters including paramilitary acts of terrorism and the potential use of weapons of mass destruction. Principal among those preparedness strategies is the protection of the state's critical infrastructure, upon which society depends to meet the basic essentials required for the preservation of life and economic survival. Critical Infrastructure is defined as "those systems and assets, physical or virtual, so vital to the well-being of the citizens of Idaho, that severely reduced capacity or destruction would have a debilitating impact on public health, safety, security and/or the state and local economy."

It shall be the mission of the Council to share information and planning resources in a protected environment under Section 9-340B, Idaho Code, to improve the capability of the public and private sectors to mitigate, prepare, respond, and recover from major disasters, including acts of terrorism and the use of weapons of mass destruction. The Council will, through the Council Chairman, make recommendations and periodically report its findings to the Governor.

The Council shall establish and maintain, through the Idaho Bureau of Disaster Services, a system for exchanging meaningful threat information to executives of critical infrastructure organizations, first responders, local government, state agencies and those private nonprofit organizations that are critical to the health and well-being of the citizens of the State of Idaho.

The Council shall develop recommendations that outline appropriate measures that could be implemented to assist public and private sector organizations with the protection of the state's critical infrastructure when credible threat information has been gathered from any source, and when there is a likelihood of attack on those assets and systems. Recommendations shall include measures for the operation of critical infrastructure when systems and assets are under duress as a result of threats, actual attacks of terrorism, or when the infrastructure is

affected by major emergencies and natural or man-caused disasters.

The Council shall develop recommendations to improve preparedness planning, including economic recovery initiatives that are mutually inclusive and compatible with local, tribal, state, and federal response and recovery plans.

The Council shall be comprised of representatives of the following agencies and organizations:

Chairperson. In accordance with Section 46-1006, Idaho Code, the Adjutant General of the State of Idaho is the Governor's authorized representative for emergency planning, preparedness, response, and recovery from all hazards including paramilitary acts, such as terrorism and the use of weapons of mass destruction. The Adjutant General is hereby appointed as chair of the Idaho Homeland Security Council.

The Adjutant General shall recommend to the Governor the names of private and public sector executives to be appointed to the Idaho Homeland Security Council. Council members will be appointed by the Governor. Each appointed Council member shall chair a committee that will further reach out to those local, tribal, state and federal agencies and private organizations that are necessary to adequately plan and prepare for a successful response and recovery from acts of terrorism. The Adjutant General, acting on behalf of the Governor, may appoint private and public sector personnel to committees of the Council. All state agencies may be called upon by the Adjutant General to assist in planning and preparing for terrorism and the potential use of weapons of mass destruction.

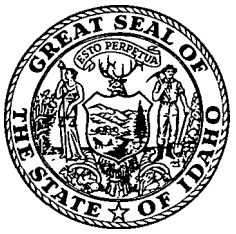
Consolidation of State Terrorism Planning Activities:

To ensure that all state agency terrorism-preparedness objectives are compatible, directors of state agencies and heads of self-governing state agencies will submit agency terrorism preparedness plans to the Adjutant General through the Bureau of Disaster Services.

The Lieutenant Governor's Bioterrorism Planning Committee is, effective immediately, reformed under the Health Care and Medical Services Committee of the Idaho Homeland Security Council, chaired by the Director, Idaho Department of Health and Welfare. Council and committee members will serve without remuneration or reimbursement for expenses, including related travel and per diem to attend council and committee meetings and other related Council functions.

Nothing in this Executive Order changes practices established by existing laws or previously established Executive Orders concerning preparedness for natural or man-caused disasters. Rather, this Executive Order establishes a central body for the review of terrorism plans and a preparedness activity at the state level that provides an avenue for private sector input and information sharing for the purpose of improving the survivability and operation of critical infrastructure in a terrorist environment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of August in



the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-09

FLYING THE POW/MIA FLAG OVER THE CAPITOL

WHEREAS, the State of Idaho owes a lasting debt of gratitude to all heroic members of our Armed Forces who have risked their safety to defend the lives and liberty of others; and

WHEREAS, the State will not forget our Nation's prisoners of war and those missing in action (POWs/MIAs) and the devoted service they have bravely rendered to our country, and neither will the State of Idaho fail to meet its obligation to their families; and

WHEREAS, Idaho remembers those Americans who remain missing and unaccounted for; and

WHEREAS, our State is determined to keep faith with those who have so faithfully served and defended the United States; and

WHEREAS, Idaho recognizes the profound suffering of those who continue to await word of the fate of their loved ones, and the State is determined to help them gain the peace and consolation that word will bring; and

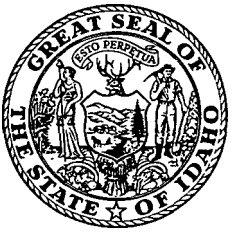
WHEREAS, the POW/MIA flag symbolizes Idaho's firm and united commitment to securing the release of any Americans who may still be held against their will, to obtaining the fullest possible accounting for the missing, and to repatriation of all recoverable American remains; and

WHEREAS, Executive Order 2003-03 establishes a schedule for flying the POW/MIA flag over the Idaho State Capitol Building, independent of this Executive Order.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

The POW/MIA flag shall be flown over the Idaho State Capitol Building from November 11, 2003, Veterans Day, until the opening of the Idaho State Veterans Cemetery, at which time it will be transferred to and permanently flown at the cemetery. The POW/MIA flag is a symbol of the gratitude of the citizens of this state to all the men and women who are listed as missing in action, or who are or have been forcibly detained as prisoners of war by our enemies. These persons have sacrificed and suffered much for their country while fighting for the cause of freedom.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol



in Boise on this eleventh day of November in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-10

FORMATION OF A BUREAU OF HOMELAND SECURITY
(Replaced with Executive Order No. 2003-11)

EXECUTIVE ORDER NO. 2003-11

CONSOLIDATION OF PREPAREDNESS, RESPONSE, RECOVERY AND MITIGATION FUNCTIONS CURRENTLY VESTED IN THE DIVISION OF MILITARY, BUREAU OF HAZARDOUS MATERIALS AND BUREAU OF DISASTER SERVICES.
FORMATION OF A BUREAU OF HOMELAND SECURITY.
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2003-10

WHEREAS, widespread disaster resulting from floods, fire, storms, earthquakes, hazardous materials, tornados, landslides, mudslides, drought, explosions, riot, hostile military actions, the potential terrorist use of chemical, biological, radiological, nuclear and explosive Weapons of Mass Destruction, or other catastrophe is an ever present possibility in the State; and

WHEREAS, Chapter 10, Title 46, Idaho Code, requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster emergency or threat that might conceivably confront the state; and

WHEREAS, Chapter 71, Title 39, Idaho Code, provides for the prompt response and containment of releases of hazardous materials; and

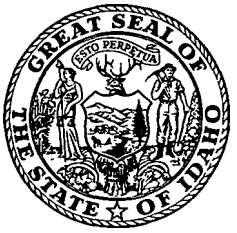
WHEREAS, the United States Government has taken steps to organize federal agencies to plan, train and respond to domestic and foreign terrorist attacks; and

WHEREAS, the United States Congress has appropriated funding to allow local, regional, state, and federal agencies to prepare for and respond to such crises; and

WHEREAS, centralized coordination and communication among preparedness and response entities at the local, state, regional, and federal levels are paramount to ensuring the safety of our citizens.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Chapter 10, Title 46 and Chapter 71, Title 39, Idaho Code, do hereby direct:

1. That a Bureau of Homeland Security be formed in the Office of the Governor, Division of Military.
2. That the Bureau of Homeland Security shall manage the Bureau of Disaster Services and the Bureau of Hazardous Materials.
3. That the Office of Adjutant General act as Chief, Idaho Bureau of Homeland Security and appoint a director of the bureau in consultation with the Office of the Governor and who shall act as director of the Bureau of Disaster Services and the Bureau of Hazardous Materials.
4. That the Division of Military recommend to the Office of the Governor the necessary statutory changes to render permanent the contents of this executive order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourteenth day of November in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-12

ALLOTMENT MANAGEMENT PLANS
IDAHO STATE DEPARTMENT OF AGRICULTURE AS LEAD AGENCY

WHEREAS, Section 8 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514; Stat. 1803) provides for, among other things, careful and considered consultation, cooperation, and coordination between the Forest Service, Bureau of Land Management, federal grazing permittees and lessees, and any state having lands within areas to be included in allotment management plans; and

WHEREAS, the Idaho State Department of Agriculture has signed Memoranda of Understanding (MOUs) with the U.S. Forest Service, the Bureau of Land Management, and the University of Idaho to coordinate and implement the congressional intent of the aforementioned act;

NOW, THEREFORE, I, 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 Department of Agriculture to serve as the lead agency to consult, cooperate, and coordinate with the parties involved in matters relating to the development, implementation, and revision of allotment management plans; to provide a process for dispute resolution; and to receive and expend such monies as are available for these purposes. Further, I hereby direct all state

agencies to cooperate fully with, and provide assistance to, the Idaho State Department of Agriculture in carrying out its responsibilities under this order.

This Executive Order shall cease to be effective four years after its entry into force.

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 fourteenth day of November in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-13

AUTHORIZING THE RE-ESTABLISHMENT OF A STATE SCIENCE AND TECHNOLOGY ADVISORY COUNCIL AND THE REAPPOINTMENT OF A SCIENCE AND TECHNOLOGY ADVISOR

WHEREAS, Idaho has experienced a decade of rapid economic expansion led by growth in new technology industries; and

WHEREAS, the health and expansion of Idaho's future economy will depend on taking full advantage of research and technology; and

WHEREAS, Idaho has impressive resources for technology-based growth, internationally recognized university research programs, globally competitive technology companies, and the Idaho National Engineering and Environmental Laboratory; and

WHEREAS, the State Science and Technology Advisory Council recommends the reappointment of a Science and Technology Advisor, re-establishment of a State Science and Technology Advisory Council, and the implementation of the State Science and Technology Strategic Plan.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, do hereby re-establish the Science and Technology Advisory Council and the position of Science and Technology Advisor.

The Council shall:

Advise the Idaho State Department of Commerce, the State Board of Education, Idaho's colleges and universities, and other state, local, federal and private sector agencies and organizations on science and technology interests and potentials;

Support the development and publishing of information on the conditions and importance of science and technology to the state's economy;

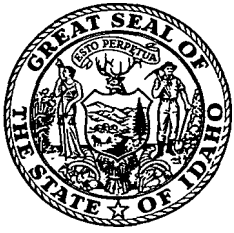
Assist with the implementation of the State Strategic Plan for Science and Technology; and

Assist with the coordination of local, state and federal interests to increase the positive economic impact of Idaho's science and technology resources.

The Science and Technology Advisor shall serve as Chairperson of the Council. The Council shall have regular meetings as determined by the Advisor and an Executive Committee of the Council. Members of the Council shall serve without compensation.

The Council shall be appointed by and serve at the pleasure of the Governor. The membership of the Council shall include individuals knowledgeable and experienced in science and technology issues. The Council shall also include representation from the Idaho State Department of Commerce, Office of the State Board of Education and the Office of the Governor. Representatives from the Idaho State Department of Commerce, the Office of the State Board of Education and the Office of the Governor shall serve as the Executive Committee. The Council shall be staffed and supported by the Idaho State Department of Commerce.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourteenth day of November in the year of our Lord two thousand and three, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-14

AIR QUALITY IN THE TREASURE VALLEY

WHEREAS, scientific data and discussion at a recent Governor's Conference on Air Quality in the Treasure Valley established that continued degradation of air quality in the Treasure Valley will jeopardize the health of our citizens, and could severely impact the economy and development of the region; and

WHEREAS, the State of Idaho can lead by example in the efforts to improve and protect air quality in the Treasure Valley; and

WHEREAS, exhaust emissions from motor vehicles are a source of air pollution in the Treasure Valley and, in performing their duties and servicing the residents of the State of Idaho, the executive agencies

and employees of the State of Idaho own or lease a significant fleet of motor vehicles and operate other sources of air pollution.

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 effective immediately that:

1. In consultation with the Department of Environmental Quality, each executive department director shall:
   a. Develop, adopt and implement a response plan to reduce air emissions from agency operations and employee commuting practices during times of elevated levels of air pollution in the Treasure Valley; and
   b. Adopt policies and practices which ensure that vehicles and other emissions sources purchased and operated by the agency and its employees in the Treasure Valley produce the least amount of emissions possible given the agency's operating, business and customer needs.
2. Working with other agencies and the private sector, within six months from the date of this Executive Order, the Idaho Department of Water Resources, Energy Division shall develop an implementation strategy to assess and enhance the use of appropriate alternative fuel supplies as a means of air quality improvement and protection in the Treasure Valley.
3. The Department of Administration shall:
   a. Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order; and
   b. Develop statewide contracts for low emission vehicles to be purchased by state agencies in the Treasure Valley.
4. The faculty and researchers of the universities of the State of Idaho are encouraged to continue their efforts to better quantify and understand the sources, atmospheric dispersion and chemistry of air pollution in the Treasure Valley, and to improve the body of knowledge with regard to technical and management solutions available (or which can be made available) to address air quality issues in the Treasure Valley.
5. Each executive department director or other appointing authority shall be responsible for ensuring that his or her agency is complying with the above directive.
6. All Idaho businesses, governments and citizens are encouraged to participate in efforts consistent with this Executive Order.
7. Annually, the Department of Environmental Quality shall review and report to the Office of the Governor on the actions taken by the executive departments to comply with the directives, purpose and intent of this Executive Order.

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 fourteenth day of November in the year of our Lord two thousand and three, and of the Independence of the

United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2003-15

AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, in April of 2002, in Disaster Proclamation ID-2002-001 DIRK KEMPTHORNE, Governor of the State of Idaho declared a state of disaster emergency in Valley County, Idaho in accordance with Section 46-1008, Idaho Code; and

WHEREAS, tremendous financial obligations and expenses have been incurred by various departments, agencies, and Valley County in responding to and assisting in efforts to deal with the extreme peril to public safety, health, property and the environment; and

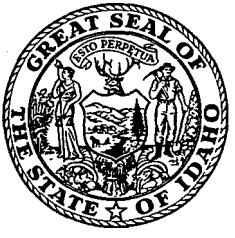
WHEREAS, all funds in the Disaster Emergency Account created by Section 46-1005A, Idaho Code, have or soon will be expended; and

WHEREAS, funds in the General Fund are available to transfer to the Disaster Emergency Account under the requirements set forth in Section 46-1005A(2)(b), Idaho Code; and

WHEREAS, it is my judgment, as Governor of the State of Idaho, that any moneys transferred from the General Fund up to the limits provided below would not be required to support the current year's appropriation of these funds.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order as follows:

1. The State Controller is directed to transfer moneys in the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than one hundred twenty-five thousand dollars ($125,000) be transferred from the General Fund to the Disaster Emergency Account during the current fiscal year.
2. In no event may the revenues made available under this Executive Order exceed, during any fiscal year, one percent (1%) of the annual appropriation of the General Account moneys for the fiscal year.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-fourth day of November in the year of our Lord two thousand and three, and of the Independence of

the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-01

EARLY CARE AND LEARNING CROSS-SYSTEMS TASK FORCE

WHEREAS, the advancement of early care and learning has had a positive impact on Idaho families and children; and

WHEREAS, through these initiatives, children are healthier and better prepared to enter Idaho's school systems; and

WHEREAS, the coordination of early care and learning initiatives, both public and private, is a priority of the State of Idaho; and

WHEREAS, many of these initiatives may have similar or identical missions; and

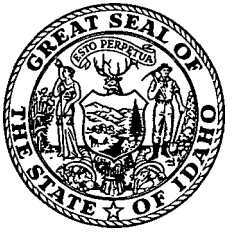
WHEREAS, greater coordination will allow for an accurate inventory of existing initiatives along with an increased understanding of the services available for families and children.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order as follows:

1. There is created within the Office of the Governor the "Early Care and Learning Cross-Systems Task Force."
2. The Task Force shall be responsible for developing a sustainable and coordinated statewide plan to achieve mutually defined goals for early care and learning with evidence-based outcomes and approval and support from stakeholders, as well as the Governor, and will:
   a. Facilitate the activities of the Early Care and Learning Cross-Systems Task Force which will establish an ongoing communication network between state agencies, policymakers, families, stakeholders and communities for the purpose of planning and implementation of a coordinated system of early care and learning in Idaho;
   b. Develop multiagency state partnerships among critical stakeholders;
   c. Compile resources and identify information on the current best practices in early childhood system building;
   d. Provide a comprehensive statewide mapping of existing early care and learning programs and resources, as well as existing gaps;
   e. Support partnerships to align current initiatives in the support of a comprehensive system of early childhood professional development;

f. Increase public awareness of quality early care and learning programs as a critical part of the foundation to promote healthy families and communities;
g. Align policy and funding systems to develop and support integrated early care and learning system development.

3. Once the statewide plan is completed the Task Force will be responsible for ensuring implementation of the plan.



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 sixth day of February in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-02

IMMEDIATE GROUND AND SURFACE WATER ACTIONS AND LONG-TERM CONJUNCTIVE MANAGEMENT ON THE EASTERN SNAKE PLAIN AQUIFER

WHEREAS, water in Idaho represents the lifeblood of our State's economy, particularly agriculture in southern Idaho and the aquaculture industry in the Thousand Springs area; and

WHEREAS, the water supply of the Eastern Snake Plain Aquifer (ESPA) is hydraulically connected to the Snake River and tributary surface water sources; and

WHEREAS, discharges from the Thousand Springs area have diminished and are expected to be further diminished primarily because of significant reductions in incidental recharge of the ESPA and the last four consecutive years of drought; and

WHEREAS, conjunctive administration of water rights from the ESPA and hydraulically-connected surface water sources must be achieved in a manner consistent with Idaho law implementing the prior appropriation doctrine; and

WHEREAS, the State of Idaho has dedicated significant resources and has made continual progress over the past two decades toward the goal of achieving full conjunctive administration of rights to the use of interconnected surface and ground waters within the Eastern Snake Plain consistent with Idaho law and available information; and

WHEREAS, the progress includes issuance of partial decrees for a substantial number of the previously unadjudicated water rights claimed in the pending Snake River Basin Adjudication; the formation of ground water districts pursuant to Chapter 52, Title 42, Idaho Code; the forma-

tion and operation of water districts pursuant to Chapter 6, Title 42, Idaho Code, to administer rights to the use of ground water; and reformulation of the computer model used to simulate the effects of ground water withdrawals from the Eastern Snake Plain Aquifer upon hydraulically-connected reaches of the Snake River and other investigations; and

WHEREAS, the health and stability of the ESPA is essential for the state's municipalities, agricultural community and the economic vitality of southern Idaho; and

WHEREAS, on March 20, 2004, a one-year agreement containing significant immediate actions to address declining surface water supplies dependent on the ESPA was reached with the Governor, the Idaho State Legislature, the surface and ground water users, the aquaculture interests and other important water users, aimed at avoiding significant curtailment of water use for a one-year period from March 15, 2004 through March 15, 2005; and

WHEREAS, in order to implement the actions called for in the agreement and in House Bills 836, 843, and 848 as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature and signed into law on this day, the Executive Branch must clearly set forth its commitment for immediate and long-term planning to provide certainty for the economy in southern Idaho.

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 effective immediately that:

1. The Director of the Department of Water Resources hereby continue, until further notice, the amended moratorium on ground water development dated April 30, 1993, as it applies to the ESPA; and
2. The Department of Water Resources, in consultation with the Governor, develop a long-term management strategy for conjunctive management of surface and ground water sources, which plan shall:
    a. Seek funding through the Department of Interior's 2025 Grant Program and other federal funding sources;
    b. Explore constructing additional storage for surface water, including bonding through the Idaho Water Resource Board, to be provided by increasing the height of Minidoka Dam in cooperation with the Bureau of Reclamation;
    c. Effectuate land exchanges or acquisition of federal lands suitable for recharge from federal agencies, specifically the Bureau of Land Management;
    d. Seek assistance and support from the federal government to ensure appropriate recharge of the ESPA;
    e. Initiate a negotiated rulemaking for review and modification of the existing conjunctive management rules, as determined to be needed and appropriate;
    f. Coordinate and consult with the Governor's Office and other appropriate executive branch agencies on all aspects of these actions, including expenditures; and
    g. Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.
3. The Department of Commerce, in consultation with the Governor, shall immediately:

a. Develop a project selection process for dispensing grant moneys dedicated to developing water management and conservation infrastructure with the objective of promoting a more stable supply of spring flows from the ESPA for water quality dependent uses;

b. Strategize and consult with businesses that may have projects that would increase the collection of spring flows for fish production and develop an approach to review business practices to reduce costs of production, or other efficiencies of operations, that would help offset the lack of spring flows; and

c. Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.

4. The Department of Agriculture, in consultation with the Governor, shall immediately:

a. Provide assistance by developing marketing strategies for the aquaculture industry; and

b. Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.

5. The Department of Agriculture, the Department of Commerce and the Department of Water Resources shall jointly report to the Governor in 60-day increments on the progress of implementation of the above-described actions and on the actions taken by the executive departments to comply with the directives, purpose and intent of this Executive Order; and

6. All Idaho businesses, governments and citizens are encouraged to participate in efforts consistent with this Executive Order.

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 in the City of Twin Falls on this twenty-sixth day of March in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

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SECOND 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
(A) = Adopted
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30-1407	Repealed	Ch. 45 - 170
30-1408	Repealed	Ch. 45 - 170
30-1409	Repealed	Ch. 45 - 170
30-1410	Repealed	Ch. 45 - 170
30-1411	Repealed	Ch. 45 - 170
30-1412	Repealed	Ch. 45 - 170
30-1413	Repealed	Ch. 45 - 170
30-1414	Repealed	Ch. 45 - 170
30-1415	Repealed	Ch. 45 - 170
30-1416	Repealed	Ch. 45 - 170
30-1417	Repealed	Ch. 45 - 170
30-1418	Repealed	Ch. 45 - 170
30-1419	Repealed	Ch. 45 - 170
30-1420	Repealed	Ch. 45 - 170
30-1421	Repealed	Ch. 45 - 170
30-1422	Repealed	Ch. 45 - 170
30-1423	Repealed	Ch. 45 - 170
30-1425	Repealed	Ch. 45 - 170
30-1426	Repealed	Ch. 45 - 170
30-1427	Repealed	Ch. 45 - 170
30-1428	Repealed	Ch. 45 - 170
30-1429	Repealed	Ch. 45 - 170
30-1430	Repealed	Ch. 45 - 170

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30-1432	Repealed	Ch. 45	170
30-1433	Repealed	Ch. 45	170
30-1433A	Repealed	Ch. 45	170
30-1434	Repealed	Ch. 45	170
30-1435	Repealed	Ch. 45	170
30-1435A	Repealed	Ch. 45	170
30-1436	Repealed	Ch. 45	170
30-1437	Repealed	Ch. 45	170
30-1438	Repealed	Ch. 45	170
30-1438A	Repealed	Ch. 45	170
30-1439	Repealed	Ch. 45	170
30-1440	Repealed	Ch. 45	170
30-1441	Repealed	Ch. 45	170
30-1442	Repealed	Ch. 45	170
30-1443	Repealed	Ch. 45	170
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30-1449	Repealed	Ch. 45	170
30-1450	Repealed	Ch. 45	170
30-1450A	Repealed	Ch. 45	170
30-1451	Repealed	Ch. 45	170
30-1452	Repealed	Ch. 45	170
30-1453	Repealed	Ch. 45	170
30-1454	Repealed	Ch. 45	170
30-1455	Repealed	Ch. 45	170
30-1456	Repealed	Ch. 45	170
30-1457	Repealed	Ch. 45	170
30-1458	Repealed	Ch. 45	170
TITLE 31			
31-110	Amended	Ch.246	712
31-808	Amended	Ch.318	895
31-3201E	Amended	Ch.249	715
Ch.35	Referred to	Ch.199	613
31-3502	Amended	Ch.300	837
31-3505	Amended	Ch.300	839
31-A3504	Amended	Ch.300	840
31-4004	Amended	Ch.111	385
31-4403	Amended	Ch.144	474
31-4801	Amended	Ch.325	973
31-4815	New Section Added	Ch.325	974
31-4816	New Section Added	Ch.325	975
31-4817	New Section Added	Ch.325	975
31-4818	New Section Added	Ch.325	976
TITLE 32			
32-1009	New Section Added	Ch.274	764
32-1406	New Section Added	Ch.322	905
32-1601	Redesignated from 56-203F	Ch.213	640
32-1602	New Section Added	Ch.213	642
32-1603	New Section Added	Ch.213	643

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32-1604	New Section Added	Ch.213 - 643
32-1605	New Section Added	Ch.213 - 643
32-1606	New Section Added	Ch.213 - 644
32-1607	New Section Added	Ch.213 - 644
32-1608	New Section Added	Ch.213 - 645
32-1609	New Section Added	Ch.213 - 645
32-1610	New Section Added	Ch.213 - 645
32-1611	New Section Added	Ch.213 - 646
32-1612	New Section Added	Ch.213 - 646
32-1613	New Section Added	Ch.213 - 646
32-1614	New Section Added	Ch.213 - 646

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33-105	Referred to	Ch.371 - 1112
33-107A	Referred to	Ch.294 - 821
33-107B	Referred to	Ch.294 - 821
33-207	Amended	Ch. 23 - 28
33-432	Amended	Ch.252 - 724
33-502B	Amended	Ch. 26 - 43
33-520	New Section Added	Ch.336 - 1007
33-601	Amended	Ch.219 - 655
33-601	Referred to	Ch.254 - 726
33-701	Referred to	Ch.371 - 1111
33-802	Referred to	Ch.104 - 375
33-804A	Referred to	Ch.198 - 611
33-905	Referred to	Ch.344 - 1024
33-906	Amended	Ch.198 - 610
33-906	Referred to	Ch.344 - 1024
33-1002D	Referred to	Ch.104 - 375
33-1002D	Referred to	Ch.342 - 1020
33-1004A	Amended	Ch.341 - 1016
33-1004E	Amended	Ch.342 - 1020
33-1004E	Amended	Ch.341 - 1017
33-1004E	Referred to	Ch.341 - 1018
33-1004F	Referred to	Ch.340 - 1015
33-1006	Amended	Ch.370 - 1095
33-1006	Referred to	Ch.388 - 1166
33-1017	Referred to	Ch.198 - 611
33-1017	Referred to	Ch.344 - 1025
33-1018	Referred to	Ch.342 - 1020
33-1207A	Referred to	Ch.343 - 1023
33-1207A	Referred to	Ch.363 - 1084
33-1208	Amended	Ch.222 - 662
33-1209	Amended	Ch.221 - 659
33-1213	New Section Added	Ch.372 - 1113
33-1216	Amended	Ch.253 - 724
33-1404	Amended	Ch. 23 - 28
33-1406	Amended	Ch. 23 - 29
33-1509	Amended	Ch.218 - 653
33-1510	Amended	Ch.254 - 725
33-1510	Amended	Ch.136 - 462
33-1511	Amended	Ch.135 - 461
33-1513	New Section Added	Ch.301 - 841
33-1513	New Section Added	Ch.388 - 1166

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33-1614	Referred to	Ch.343 - 1023
33-1615	Referred to	Ch.343 - 1023
33-1617	New Section Added	Ch.349 - 1042
33-1702	Amended	Ch.223 - 664
33-1707	Amended	Ch. 57 - 267
33-2115	Amended	Ch.381 - 1143
33-3409	Referred to	Ch.288 - 811
33-3719	Amended	Ch. 60 - 278
33-3805A	Referred to	SCR134 - 1204
33-4303	Referred to	Ch.365 - 1088
33-4304	Referred to	Ch.365 - 1088
33-4305	Referred to	Ch.365 - 1088
33-4306	Referred to	Ch.365 - 1088
33-4307	Amended	Ch.355 - 1061
33-4307	Referred to	Ch.365 - 1088
33-4308	Referred to	Ch.365 - 1088
33-4309	Referred to	Ch.365 - 1088
33-4310	Referred to	Ch.365 - 1088
33-4311	Referred to	Ch.365 - 1088
33-4312	Referred to	Ch.365 - 1088
33-4313	Referred to	Ch.365 - 1088
33-5202	Amended	Ch.371 - 1100
33-5202A	New Section Added	Ch.370 - 1097
33-5202A	New Section Added	Ch.371 - 1100
33-5203	Amended	Ch.371 - 1101
33-5204	Amended	Ch.371 - 1102
33-5204A	New Section Added	Ch.371 - 1104
33-5205	Amended	Ch.375 - 1117
33-5205	Amended	Ch.371 - 1104
33-5206	Amended	Ch.220 - 658
33-5206	Amended	Ch.376 - 1120
33-5206	Amended	Ch.371 - 1107
33-5207	Amended	Ch.371 - 1108
33-5208	Amended	Ch.374 - 1116
33-5208	Amended	Ch.370 - 1097
33-5209	Amended	Ch.371 - 1110
33-5210	Amended	Ch.371 - 1111
33-5211	Amended	Ch.371 - 1111
33-5213	New Section Added	Ch.371 - 1112
Ch.55	Referred to	Ch.343 - 1024

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34-106	Referred to	Ch. 79 - 304
34-303	Amended	Ch.113 - 386
34-308	New Section Added	Ch.165 - 541
34-416	Amended	Ch.163 - 533
34-602	Amended	Ch.112 - 385
34-1009	Amended	Ch.248 - 714
34-1704	Amended	Ch.164 - 533
34-1705	Amended	Ch.164 - 534
34-1706	Amended	Ch.164 - 535
34-1707	Amended	Ch.164 - 537
34-1711	Amended	Ch.164 - 539

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34-1713 Amended ..... Ch.164 - 539
34-1715 Amended ..... Ch.164 - 540
34-1807 Referred to ..... Ch.164 - 535
34-2308 Amended ..... Ch. 48 - 233
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36-104 Amended ..... Ch. 17 - 16
36-106 Amended ..... Ch.176 - 555
36-114 Amended ..... Ch.189 - 588
36-115 Amended ..... Ch.189 - 590
36-416 Amended ..... Ch.236 - 698
36-701 Amended ..... Ch.182 - 571
36-1108 Amended ..... Ch.189 - 593
36-1109 Amended ..... Ch.189 - 596
36-2108 Amended ..... Ch.158 - 509
36-2204 Amended ..... Ch. 18 - 20
36-2205 Amended ..... Ch. 18 - 20
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37-117A New Section Added ..... Ch.333 - 993
Ch.27 Referred to ..... Ch.333 - 993
37-2705 Amended ..... Ch.302 - 845
37-2732 Amended ..... Ch.242 - 705
37-2738 Amended ..... Ch. 22 - 24
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38-131 Referred to ..... Ch. 2 - 3
38-131A Referred to ..... Ch. 2 - 3
38-1305 Amended ..... Ch.264 - 743
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39-105 Amended ..... Ch.335 - 1002
39-270 Amended ..... Ch. 23 - 29
Ch.11 Referred to ..... Ch.270 - 756
Ch.13 Referred to ..... Ch.333 - 993
39-1325a Amended ..... Ch.263 - 742
39-1325a Redesignated 39-1325A ..... Ch.263 - 742
39-1325A Redesignated from 39-1325a ..... Ch.263 - 742
39-1325B New Section Added ..... Ch.263 - 743
39-1325C New Section Added ..... Ch.263 - 743
39-1392a Amended ..... Ch.134 - 455
39-1392b Amended ..... Ch.134 - 456
39-1392e Amended ..... Ch.134 - 457
39-1393 Amended ..... Ch.134 - 458
39-1395 Amended ..... Ch.133 - 453
39-1443 Amended ..... Ch.382 - 1143
39-1452 Amended ..... Ch. 45 - 227
39-1602 Amended ..... Ch.185 - 576
39-3129 Amended ..... Ch.354 - 1058
39-3130 Amended ..... Ch.354 - 1059
39-3131 Amended ..... Ch.354 - 1059
39-3132 Amended ..... Ch.354 - 1060
39-3134A New Section Added ..... Ch.354 - 1060
39-3413 Amended ..... Ch.383 - 1145
39-3413A Amended ..... Ch.383 - 1146
39-3523 New Section Added ..... Ch.329 - 985
39-3626 Amended ..... Ch. 61 - 279

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39-3630	Referred to	Ch. 2 - 3
39-3630	Referred to	Ch.150 - 485
39-3630	Referred to	Ch.208 - 635
39-4103	Amended	Ch.250 - 716
39-4103	Amended	Ch.272 - 758
39-4104	Amended	Ch.272 - 759
39-4105	Amended	Ch.250 - 717
39-4107	Amended	Ch.250 - 718
39-4109	Amended	Ch.359 - 1074
39-4109	Amended	Ch.272 - 759
39-4116	Amended	Ch.272 - 760
39-4427	Amended	Ch.117 - 391
39-4504	Amended	Ch. 56 - 259
39-4505	Amended	Ch. 56 - 261
39-4507	Amended	Ch. 56 - 265
39-5501	Amended	Ch.389 - 1166
39-5502	Amended	Ch.389 - 1167
39-5503	Amended	Ch.389 - 1168
39-5504	Repealed	Ch.389 - 1169
39-5506	Amended	Ch.389 - 1169
39-5507	Amended	Ch.389 - 1169
39-5511	New Section Added	Ch.389 - 1170
39-5702	Amended	Ch.318 - 897
39-6101	New Section Added	Ch.128 - 437
39-6102	New Section Added	Ch.128 - 437
39-6103	New Section Added	Ch.128 - 437
39-6104	New Section Added	Ch.128 - 437
39-6105	New Section Added	Ch.128 - 438
39-6106	New Section Added	Ch.128 - 439
39-6107	New Section Added	Ch.128 - 440
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39-6110	New Section Added	Ch.128 - 442
39-6111	New Section Added	Ch.128 - 442
39-6112	New Section Added	Ch.128 - 443
39-6113	New Section Added	Ch.128 - 444
39-6114	New Section Added	Ch.128 - 444
39-6115	New Section Added	Ch.128 - 445
39-6116	New Section Added	Ch.128 - 445
39-6117	New Section Added	Ch.128 - 447
39-6118	New Section Added	Ch.128 - 447
39-6303	Referred to	Ch.337 - 1009
39-7103	Amended	Ch. 58 - 268
39-7104	Amended	Ch. 58 - 270
39-7110	Referred to	Ch. 2 - 4
39-7112	Amended	Ch.181 - 568
Ch.84	Heading Amended	Ch.318 - 898
Ch.84	Heading Redesignated Ch.85	Ch.318 - 898
39-8401	Amended	Ch.318 - 898
39-8401	Redesignated 39-8501	Ch.318 - 898
39-8402	Amended	Ch.318 - 898
39-8402	Redesignated 39-8502	Ch.318 - 898
39-8403	Amended	Ch.318 - 899

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39-8403	Redesignated 39-8503	Ch.318 - 899
39-8404	Amended	Ch.318 - 899
39-8404	Redesignated 39-8504	Ch.318 - 899
Ch.85	Heading Redesignated from Ch.84	Ch.318 - 898
39-8501	Redesignated from 39-8401	Ch.318 - 898
39-8502	Redesignated from 39-8402	Ch.318 - 898
39-8503	Redesignated from 39-8403	Ch.318 - 899
39-8504	Redesignated from 39-8404	Ch.318 - 899
39-8601	New Section Added	Ch.359 - 1067
39-8602	New Section Added	Ch.359 - 1067
39-8603	New Section Added	Ch.359 - 1068
39-8604	New Section Added	Ch.359 - 1069
39-8605	New Section Added	Ch.359 - 1069
39-8606	New Section Added	Ch.359 - 1069
39-8607	New Section Added	Ch.359 - 1070
39-8608	New Section Added	Ch.359 - 1070
39-8609	New Section Added	Ch.359 - 1070
39-8610	New Section Added	Ch.359 - 1070
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39-8616	New Section Added	Ch.359 - 1072
39-8617	New Section Added	Ch.359 - 1073
39-8618	New Section Added	Ch.359 - 1073
39-8619	New Section Added	Ch.359 - 1073
39-8620	New Section Added	Ch.359 - 1073
39-8621	New Section Added	Ch.359 - 1074
39-8622	New Section Added	Ch.359 - 1074
39-8701	New Section Added	Ch.380 - 1141
39-8702	New Section Added	Ch.380 - 1141
39-8703	New Section Added	Ch.380 - 1141
39-8704	New Section Added	Ch.380 - 1141
39-8705	New Section Added	Ch.380 - 1142
39-8706	New Section Added	Ch.380 - 1142

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40-514	Referred to	SCR132 - 1202
40-902	Amended	Ch.233 - 685
40-1418	New Section Added	Ch.361 - 1081
40-1801	Amended	Ch.361 - 1082
40-2113	Amended	Ch.152 - 487

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41-210	Amended	Ch.238 - 701
41-261	Amended	Ch.266 - 748
Ch.3	Referred to	Ch.324 - 935
41-311	Amended	Ch. 91 - 331
41-316	Amended	Ch. 90 - 325
41-317	Repealed	Ch. 90 - 327
41-319	Amended	Ch. 89 - 324
41-319	Amended	Ch. 90 - 327
41-329	Amended	Ch. 88 - 323
41-335	Amended	Ch. 93 - 338

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41-402	Amended	Ch.356 - 1063
41-402	Referred to	Ch.241 - 704
41-403	Amended	Ch.356 - 1064
41-403	Repealed	Ch.356 - 1065
41-802	Amended	Ch. 90 - 328
41-803	Amended	Ch. 90 - 328
41-804	Amended	Ch. 90 - 329
41-810	Amended	Ch. 90 - 330
41-1004	Amended	Ch. 45 - 227
41-1217	Amended	Ch. 87 - 322
41-1229	Amended	Ch.387 - 1163
41-1233	Amended	Ch.387 - 1164
41-1336	Amended	Ch.318 - 899
41-1336	Redesignated 41-1337	Ch.318 - 899
41-1337	Redesignated from 41-1336	Ch.318 - 899
Ch.18	Referred to	Ch.283 - 800
41-1846	New Section Added	Ch.283 - 798
41-1927A	Amended	Ch. 92 - 332
41-2003	Amended	Ch.256 - 728
41-2004	Amended	Ch.256 - 729
41-2007	Amended	Ch.256 - 729
41-2009	Amended	Ch.256 - 730
Ch.28	Referred to	Ch.324 - 935
41-2804	Referred to	Ch. 89 - 324
41-2826	Amended	Ch.239 - 702
41-3616	Amended	Ch.241 - 704
41-3821	Amended	Ch. 30 - 53
41-3821	Amended	Ch. 45 - 228
41-3903	Amended	Ch.283 - 799
41-3903	Referred to	Ch.283 - 798
41-4003	Amended	Ch. 86 - 321
41-4706	Amended	Ch.360 - 1076
41-4904	Amended	Ch.175 - 553
41-4934	Amended	Ch.175 - 554
41-4945	Amended	Ch.175 - 554
41-4946	Amended	Ch.175 - 554
41-5203	Amended	Ch.285 - 802
41-5206	Amended	Ch.360 - 1079
41-5208	Amended	Ch.332 - 988
41-5208	Amended	Ch.285 - 804
41-5208	Referred to	Ch.332 - 992
41-5401	Amended	Ch.255 - 726
41-5501	Amended	Ch.332 - 990
41-5501	Amended	Ch.285 - 806
41-5510	Amended	Ch.332 - 992
41-5510	Amended	Ch.285 - 808
41-5601	New Section Added	Ch.290 - 812
41-5602	New Section Added	Ch.290 - 813
41-5603	New Section Added	Ch.290 - 814
41-5604	New Section Added	Ch.290 - 814
41-5605	New Section Added	Ch.290 - 814
41-5606	New Section Added	Ch.290 - 815

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42-110	Amended	Ch.191 - 601
42-202B	Amended	Ch.258 - 733
42-222	Amended	Ch. 62 - 280
42-223	Amended	Ch.178 - 560
Ch.6	Referred to	Ch.352 - 1052
42-603	Referred to	Ch.178 - 561
42-1102	Amended	Ch.179 - 562
42-1208	Amended	Ch.179 - 563
42-1209	New Section Added	Ch.179 - 563
42-1310	New Section Added	Ch.147 - 477
42-1711	Amended	Ch.180 - 564
42-1712	Amended	Ch.180 - 566
42-1713	Amended	Ch.169 - 548
42-1717	Amended	Ch.168 - 546
42-1752	Referred to	Ch.351 - 1050
42-1763B	Referred to	HJM 23 - 1188
42-3802	Amended	Ch.191 - 601
42-3806	Amended	Ch.191 - 602
42-4005	Amended	Ch. 63 - 284
Ch.52	Referred to	Ch.352 - 1052
42-5259	Referred to	Ch.352 - 1052

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44-2101	Amended	Ch.313 - 879
44-2101A	Amended	Ch.313 - 879
44-2102	Amended	Ch.243 - 708
44-2102	Amended	Ch.313 - 880
44-2103	Amended	Ch.313 - 881
44-2106	Amended	Ch.313 - 881

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45-525	Amended	Ch.225 - 667

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46-409	Amended	Ch. 59 - 277
46-1001	Amended	Ch. 58 - 271
46-1002	Amended	Ch. 58 - 271
46-1003	Amended	Ch. 58 - 271
46-1004	Amended	Ch. 58 - 272
46-1006	Amended	Ch. 58 - 272
46-1007	Amended	Ch.373 - 1114
46-1008	Amended	Ch. 58 - 274
46-1009	Amended	Ch.373 - 1115
46-1013	Amended	Ch. 58 - 276
46-1017	Amended	Ch. 58 - 276
46-1019	Repealed	Ch. 58 - 276
46-1025	Amended	Ch. 58 - 276

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Ch.7	Referred to	Ch.155 - 494
47-701	Amended	Ch. 13 - 10
47-711	Amended	Ch. 13 - 11
47-711	Amended	Ch.271 - 757
47-712	Amended	Ch. 13 - 11

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48-1002	Amended	Ch.102 - 358

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48-1003A Amended ..... Ch.102 - 360
48-1003B Amended ..... Ch.102 - 361
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49-123 Referred to ..... Ch.170 - 549
49-202 Amended ..... Ch.234 - 687
49-301 Amended ..... Ch.126 - 430
49-305 Amended ..... Ch.297 - 827
49-315 Amended ..... Ch.297 - 828
49-319 Amended ..... Ch.126 - 431
49-319 Amended ..... Ch.297 - 829
49-319 Amended ..... Ch.339 - 1012
49-324 Amended ..... Ch.126 - 433
49-326 Amended ..... Ch.126 - 433
Ch.4 Referred to ..... Ch.235 - 696
49-402 Amended ..... Ch. 81 - 307
49-402 Amended ..... Ch. 78 - 300
49-402 Amended ..... Ch.301 - 841
49-402C Amended ..... Ch.301 - 843
49-416A New Section Added ..... Ch. 81 - 308
49-417C Amended ..... Ch.188 - 587
49-418D New Section Added ..... Ch. 78 - 302
49-419D New Section Added ..... Ch.301 - 844
49-439 Amended ..... Ch.234 - 691
49-512A New Section Added ..... Ch.247 - 713
49-619 Amended ..... Ch.174 - 552
49-811 New Section Added ..... Ch.170 - 549
49-916 Referred to ..... Ch.174 - 552
49-2101 Amended ..... Ch.223 - 665
49-2102 Amended ..... Ch.223 - 665
49-2103 Amended ..... Ch.223 - 665
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50-344 Amended ..... Ch.144 - 474
50-477 Amended ..... Ch. 14 - 12
50-477 Amended ..... Ch.177 - 559
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Ch.2 Referred to ..... Ch. 45 - 174
54-401 Amended ..... Ch.385 - 1148
54-402 Amended ..... Ch.385 - 1148
54-403 Amended ..... Ch.385 - 1151
54-405 Amended ..... Ch.385 - 1152
54-406 Amended ..... Ch.385 - 1152
54-407 Amended ..... Ch.385 - 1154
54-407 New Section Added ..... Ch.385 - 1153
54-407 Redesignated 54-408 ..... Ch.385 - 1154
54-408 Amended ..... Ch.385 - 1155
54-408 Redesignated from 54-407 ..... Ch.385 - 1154
54-408 Redesignated 54-410 ..... Ch.385 - 1154
54-409 Amended ..... Ch.385 - 1155
54-409 New Section Added ..... Ch.385 - 1155
54-409 Redesignated 54-411 ..... Ch.385 - 1155
54-410 Amended ..... Ch.385 - 1157
54-410 Redesignated from 54-408 ..... Ch.385 - 1154
54-410 Redesignated 54-413 ..... Ch.385 - 1157

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54-411	Redesignated from 54-409	Ch.385 - 1155
54-411	Repealed	Ch.385 - 1148
54-412	Amended	Ch.385 - 1157
54-412	New Section Added	Ch.385 - 1157
54-412	Redesignated 54-414	Ch.385 - 1157
54-413	Amended	Ch.385 - 1158
54-413	Redesignated from 54-410	Ch.385 - 1157
54-413	Redesignated 54-415	Ch.385 - 1158
54-414	Amended	Ch.385 - 1158
54-414	Redesignated from 54-412	Ch.385 - 1157
54-414	Redesignated 54-416	Ch.385 - 1158
54-415	Amended	Ch.385 - 1159
54-415	Redesignated from 54-413	Ch.385 - 1158
54-415	Redesignated 54-417	Ch.385 - 1159
54-416	Amended	Ch.385 - 1159
54-416	Redesignated from 54-414	Ch.385 - 1158
54-416	Redesignated 54-418	Ch.385 - 1159
54-417	Amended	Ch.385 - 1159
54-417	Redesignated from 54-415	Ch.385 - 1159
54-417	Redesignated 54-419	Ch.385 - 1159
54-418	Amended	Ch.385 - 1160
54-418	Redesignated from 54-416	Ch.385 - 1159
54-418	Redesignated 54-420	Ch.385 - 1160
54-419	Redesignated from 54-417	Ch.385 - 1149
54-419	Repealed	Ch.385 - 1148
54-420	Amended	Ch.385 - 1161
54-420	Redesignated from 54-418	Ch.385 - 1160
54-420	Redesignated 54-421	Ch.385 - 1161
54-421	Amended	Ch.385 - 1161
54-421	Redesignated from 54-420	Ch.385 - 1161
54-421	Redesignated 54-422	Ch.385 - 1161
54-422	Redesignated from 54-421	Ch.385 - 1161
54-422	Repealed	Ch.385 - 1148
54-805	Amended	Ch. 82 - 309
54-828	Amended	Ch.326 - 976
54-831	Amended	Ch.326 - 977
54-832	Amended	Ch.326 - 977
54-903	Amended	Ch.214 - 647
54-903	Amended	Ch.217 - 652
54-904	Amended	Ch.214 - 648
54-935	New Section Added	Ch.215 - 648
Ch.10	Referred to	Ch.272 - 758
54-1001D	New Section Added	Ch.250 - 719
54-1005	Amended	Ch.250 - 719
54-1007	Amended	Ch.245 - 711
54-1016	Amended	Ch.250 - 720
54-1212	Amended	Ch. 84 - 313
54-1213	Amended	Ch. 84 - 317
54-1220	Amended	Ch. 84 - 318
54-1236	New Section Added	Ch. 84 - 319
54-1401	Amended	Ch.268 - 751
54-1402	Amended	Ch.262 - 739
54-1411	Amended	Ch.262 - 741

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Ch.18	Referred to	Ch.333 - 993
54-2018	Amended	Ch.120 - 403
54-2023	Amended	Ch.120 - 405
54-2026	Amended	Ch.120 - 407
54-2033	Amended	Ch.120 - 408
54-2059	Amended	Ch.121 - 409
54-2083	Amended	Ch.119 - 396
54-2084	Amended	Ch.119 - 397
54-2085	Amended	Ch.119 - 398
54-2087	Amended	Ch.119 - 399
54-2088	Amended	Ch.119 - 400
54-2090	Amended	Ch.119 - 402
54-2303	Amended	Ch.323 - 906
54-2309	Amended	Ch.109 - 383
54-2401	New Section Added	Ch.335 - 996
54-2402	New Section Added	Ch.335 - 996
54-2403	New Section Added	Ch.335 - 997
54-2404	New Section Added	Ch.335 - 998
54-2405	New Section Added	Ch.335 - 999
54-2406	New Section Added	Ch.335 - 999
54-2407	New Section Added	Ch.335 - 999
54-2408	New Section Added	Ch.335 - 999
54-2409	New Section Added	Ch.335 - 1000
54-2410	New Section Added	Ch.335 - 1001
54-2411	New Section Added	Ch.335 - 1001
54-2412	New Section Added	Ch.335 - 1001
54-2413	New Section Added	Ch.335 - 1001
54-2414	New Section Added	Ch.335 - 1002
54-2602	Amended	Ch.250 - 720
54-2606	Amended	Ch.311 - 872
54-2607	Amended	Ch.311 - 873
54-2607	Amended	Ch.250 - 721
54-2614A	New Section Added	Ch.244 - 710
54-2616	Amended	Ch.244 - 710
54-2617	Amended	Ch.244 - 710
54-2618	Amended	Ch.311 - 874
54-2622A	New Section Added	Ch.250 - 722
54-3203	Amended	Ch.110 - 384
54-3209	Amended	Ch.116 - 390
54-3404	Amended	Ch.312 - 875
54-3405A	Repealed	Ch.323 - 907
54-3405C	Amended	Ch.312 - 875
54-4105	Amended	Ch. 85 - 319
Ch.50	Referred to	Ch.272 - 758
54-5001	Amended	Ch.272 - 760
54-5003	Amended	Ch.308 - 859
54-5005	Amended	Ch.308 - 860
54-5006	Amended	Ch.308 - 861
54-5007	Amended	Ch.308 - 861
54-5009	Amended	Ch.308 - 862
54-5012	Amended	Ch.308 - 862
54-5013	Amended	Ch.308 - 863
54-5013A	New Section Added	Ch.308 - 863

TITLE 54 (Continued)
54-5014 Amended ..... Ch.308 - 863
54-5015 Amended ..... Ch.308 - 864
54-5016 Amended ..... Ch.308 - 864
54-5017 Amended ..... Ch.308 - 864
54-5022 Amended ..... Ch.308 - 866
TITLE 55
55-1008 Referred to ..... Ch.213 - 646
55-1010 New Section Added ..... Ch.131 - 450
55-1010 Repealed ..... Ch.123 - 415
55-1010 Repealed ..... Ch.131 - 450
55-1902 Amended ..... Ch. 83 - 311
55-1906 Amended ..... Ch. 83 - 312
55-2010 Amended ..... Ch.276 - 766
TITLE 56
56-202 Amended ..... Ch.257 - 732
56-203F Amended ..... Ch.213 - 640
56-203F Redesignated to 32-1601 ..... Ch.213 - 640
56-209m New Section Added ..... Ch.269 - 752
56-218 Amended ..... Ch.216 - 650
56-218 Referred to ..... Ch.131 - 450
Ch.10 Referred to ..... Ch.129 - 448
56-1011 Referred to ..... Ch.134 - 455
56-1017 Amended ..... Ch.362 - 1082
56-1020 Amended ..... Ch. 56 - 265
56-1021 Amended ..... Ch. 56 - 265
56-1021 Amended ..... Ch.228 - 671
56-1026 Amended ..... Ch. 56 - 266
56-1026 Amended ..... Ch.228 - 672
56-1027 Amended ..... Ch. 56 - 266
56-1029 Amended ..... Ch. 56 - 266
56-1035 Amended ..... Ch.228 - 672
56-1201 New Section Added ..... Ch.261 - 737
56-1201 New Section Added ..... Ch.327 - 978
56-1202 New Section Added ..... Ch.261 - 737
56-1202 New Section Added ..... Ch.327 - 978
56-1203 New Section Added ..... Ch.261 - 737
56-1203 New Section Added ..... Ch.327 - 979
56-1204 New Section Added ..... Ch.261 - 738
56-1204 New Section Added ..... Ch.327 - 979
56-1205 New Section Added ..... Ch.261 - 738
56-1205 New Section Added ..... Ch.327 - 979
56-1206 New Section Added ..... Ch.261 - 738
56-1206 New Section Added ..... Ch.327 - 979
TITLE 57
57-718 Referred to ..... Ch.240 - 702
57-720 Amended ..... Ch. 96 - 341
57-720 Amended ..... Ch.132 - 451
57-724 Amended ..... Ch.132 - 451
57-724A Amended ..... Ch.132 - 453
57-1702 Referred to ..... Ch.230 - 676
TITLE 58
58-104 Amended ..... Ch.154 - 489
58-122 Amended ..... Ch.184 - 575

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Ch.3 Referred to ..... Ch.271 - 757
58-307 Amended ..... Ch.155 - 491
58-335 Amended ..... Ch.331 - 987
TITLE 59
Ch.2 Referred to ..... Ch.371 - 1102
59-502 Amended ..... Ch.306 - 857
59-509 Referred to ..... Ch.172 - 550
59-509 Referred to ..... Ch.173 - 551
59-509 Referred to ..... Ch.325 - 975
59-509 Referred to ..... Ch.335 - 999
59-509 Referred to ..... Ch.371 - 1113
59-509 Referred to ..... Ch.385 - 1151
Ch.7 Referred to ..... Ch.371 - 1102
59-704A Referred to ..... Ch.371 - 1104
59-904 Amended ..... Ch.346 - 1033
Ch.13 Referred to ..... Ch.327 - 978
59-1302 Amended ..... Ch.294 - 818
59-1302 Amended ..... Ch.232 - 679
59-1311 Referred to ..... Ch. 36 - 71
59-1319 Amended ..... Ch.212 - 638
59-1319 Amended ..... Ch.328 - 980
59-1320 Amended ..... Ch.328 - 981
59-1351 Amended ..... Ch.328 - 983
59-1361 Amended ..... Ch.211 - 637
59-1607 Amended ..... Ch.299 - 834
TITLE 61
61-215 Amended ..... Ch.281 - 775
61-337 New Section Added ..... Ch.161 - 528
TITLE 63
63-102 Amended ..... Ch.281 - 775
63-206 Referred to ..... Ch.190 - 600
63-217 Amended ..... Ch. 28 - 45
63-303 Amended ..... Ch. 27 - 44
63-317 Amended ..... Ch.260 - 735
63-405 Amended ..... Ch.105 - 379
63-602DD New Section Added ..... Ch. 27 - 44
63-602DD Repealed ..... Ch. 27 - 44
63-602EE Referred to ..... Ch.104 - 374
63-602G Amended ..... Ch.156 - 495
63-602G Amended ..... Ch.190 - 597
63-602K Amended ..... Ch. 27 - 44
63-701 Amended ..... Ch.156 - 497
63-701 Referred to ..... Ch. 30 - 60
63-701 Referred to ..... Ch.123 - 413
63-702 Amended ..... Ch.156 - 501
63-703 Amended ..... Ch.156 - 501
63-703 Referred to ..... Ch.156 - 496
63-707 Amended ..... Ch.156 - 503
63-709 Amended ..... Ch.156 - 504
63-710 Amended ..... Ch.156 - 505
63-802 Referred to ..... Ch.204 - 623
63-903 Referred to ..... Ch.190 - 600
63-1703 Amended ..... Ch.183 - 573

TITLE 63 (Continued)

63-2401	Amended	Ch.235 - 694
63-2401	Amended	Ch.265 - 745
63-2410	Amended	Ch.235 - 696
63-2412	Referred to	Ch. 64 - 287
63-2423	Amended	Ch.265 - 747
63-2430	Referred to	Ch.152 - 487
63-2506	Referred to	Ch.343 - 1023
63-2552A	Referred to	Ch.343 - 1023
63-3004	Amended	Ch. 20 - 22
63-3022	Amended	Ch. 30 - 57
63-3022A	Amended	Ch. 30 - 59
63-3022D	Amended	Ch. 30 - 61
63-3022N	Amended	Ch. 30 - 61
63-3022O	Amended	Ch. 20 - 23
63-3022Q	Amended	Ch.358 - 1066
63-3029B	Amended	Ch.204 - 621
63-3029C	Amended	Ch. 80 - 305
63-3029C	Amended	Ch.193 - 603
63-3029E	Amended	Ch.318 - 900
63-3029F	Amended	Ch.347 - 1038
63-3029G	Amended	Ch.345 - 1025
63-3029I	Amended	Ch.345 - 1027
63-3035	Amended	Ch.103 - 364
63-3035A	Amended	Ch. 30 - 61
63-3045	Amended	Ch. 28 - 46
63-3045	Referred to	Ch.234 - 692
63-3045B	Referred to	Ch.234 - 692
63-3047	Referred to	Ch.234 - 692
63-3048	Referred to	Ch.234 - 692
63-3049	Referred to	Ch.234 - 692
63-3056	Amended	Ch. 28 - 47
63-3060	Amended	Ch. 28 - 48
63-3061	Amended	Ch. 28 - 48
63-3062	Amended	Ch. 28 - 49
63-3067	Amended	Ch.104 - 370
63-3201	Referred to	Ch.137 - 465
63-3202	Referred to	Ch.137 - 465
63-3203	Referred to	Ch.137 - 465
63-3204	Referred to	Ch.137 - 465
63-3622O	Amended	Ch.115 - 387
63-3638	Amended	Ch.104 - 372
63-3811	Amended	Ch. 94 - 339
63-3812	Amended	Ch. 95 - 339
63-4105	Referred to	Ch.263 - 743
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65-202	Amended	Ch.318 - 901
TITLE 66		
66-317	Amended	Ch.315 - 885
66-318	Amended	Ch. 23 - 30
66-319	Amended	Ch. 23 - 30
66-320	Amended	Ch. 23 - 31
66-338	Amended	Ch. 23 - 31
66-346	Amended	Ch.315 - 886

TITLE 67

67-1211	Amended	Ch.171 - 550
67-1223	Amended	Ch.292 - 816
67-1223	Referred to	Ch.293 - 818
67-1610	Amended	Ch. 25 - 41
67-1611	Amended	Ch. 25 - 42
67-2342	Amended	Ch.101 - 357
67-2402	Amended	Ch.346 - 1035
67-2402	Referred to	Ch.327 - 978
67-2406	Amended	Ch.346 - 1036
67-2601	Amended	Ch.313 - 882
67-2601	Amended	Ch.335 - 1004
67-2601	Amended	Ch.350 - 1047
67-2605	Referred to	Ch.335 - 999
67-2609 thru 67-2614	Referred to	Ch.335 - 1000
Ch.27	Referred to	Ch.350 - 1045
67-2907	Amended	Ch. 23 - 32
Ch.35	Referred to	Ch.137 - 465
67-3511	Referred to	Ch.208 - 636
67-3511	Referred to	Ch.209 - 636
67-3516	Referred to	Ch.137 - 465
67-3516	Referred to	Ch.379 - 1139
67-3531	Referred to	Ch.140 - 469
67-3531	Referred to	Ch.201 - 618
Ch.36	Referred to	Ch.137 - 465
67-4001	Referred to	Ch.146 - 477
67-4212	Amended	Ch.348 - 1039
Ch.45	Heading Amended	Ch.384 - 1147
67-4512	New Section Added	Ch.384 - 1147
Ch.47	Heading Amended	Ch.346 - 1030
67-4701	Amended	Ch.346 - 1030
67-4702	Redesignated from 72-1333	Ch.346 - 1030
67-4702	Repealed	Ch.346 - 1030
67-4703	Amended	Ch.346 - 1031
67-4704	Amended	Ch.346 - 1032
67-4708	Amended	Ch.346 - 1033
Ch.52	Referred to	Ch. 45 - 184
Ch.52	Referred to	Ch.231 - 678
Ch.52	Referred to	Ch.233 - 686
Ch.52	Referred to	Ch.250 - 719
Ch.52	Referred to	Ch.275 - 765
Ch.52	Referred to	Ch.308 - 863
Ch.52	Referred to	Ch.327 - 979
Ch.52	Referred to	Ch.359 - 1071
67-5201	Referred to	Ch.184 - 575
67-5201	Referred to	Ch.275 - 765
67-5240	Referred to	Ch.184 - 575
67-5241	Referred to	Ch.184 - 575
67-5242	Referred to	Ch.184 - 575
67-5242	Referred to	Ch.371 - 1108
67-5243	Referred to	Ch.184 - 575
67-5243	Referred to	Ch.213 - 646

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67-5244 thru 67-5271	Referred to	Ch.184 - 575
67-5291	Referred to	Ch.275 - 765
67-5292	Referred to	Ch.275 - 765
Ch.53	Referred to	Ch.327 - 978
67-5302	Referred to	Ch.299 - 834
67-5309A	Amended	Ch.319 - 902
67-5309B	Amended	Ch.319 - 903
67-5329	Amended	Ch.299 - 835
67-5330	Amended	Ch.299 - 836
67-5601	Amended	Ch.231 - 677
67-5602	Amended	Ch.231 - 677
67-5604	Amended	Ch.231 - 678
67-5605	Amended	Ch.231 - 678
67-5606	Amended	Ch.231 - 678
67-5607	Amended	Ch.231 - 679
67-5608	Repealed	Ch.231 - 679
67-5711	Referred to	Ch.137 - 465
67-5711D	Amended	Ch. 15 - 12
67-6410	Referred to	SCR134 - 1204
Ch.65	Referred to	Ch.180 - 567
67-6602	Amended	Ch.277 - 768
67-6608	Amended	Ch.284 - 801
67-6610A	Amended	Ch. 19 - 21
67-6610B	New Section Added	Ch.277 - 767
67-6610C	Amended	Ch.277 - 767
67-6611	Amended	Ch.148 - 478
Ch.71	Referred to	Ch.235 - 696
67-7101	Referred to	Ch.235 - 695
67-7428	Referred to	Ch. 69 - 293
67-7439	Referred to	Ch.343 - 1023
67-8801	New Section Added	Ch.367 - 1089
67-8802	New Section Added	Ch.367 - 1089
67-8803	New Section Added	Ch.367 - 1090
67-8804	New Section Added	Ch.367 - 1090
67-8805	New Section Added	Ch.367 - 1090

TITLE 69

69-213A	New Section Added	Ch.146 - 476
69-261	Amended	Ch.172 - 550

TITLE 70

70-2201	New Section Added	Ch.353 - 1053
70-2202	New Section Added	Ch.353 - 1053
70-2203	New Section Added	Ch.353 - 1054
70-2204	New Section Added	Ch.353 - 1054
70-2205	New Section Added	Ch.353 - 1054
70-2206	New Section Added	Ch.353 - 1054
70-2207	New Section Added	Ch.353 - 1055
70-2208	New Section Added	Ch.353 - 1055
70-2209	New Section Added	Ch.353 - 1055
70-2210	New Section Added	Ch.353 - 1056
70-2211	New Section Added	Ch.353 - 1056
70-2212	New Section Added	Ch.353 - 1057
70-2213	New Section Added	Ch.353 - 1058

TITLE 72

72-102	Amended	Ch.149 - 479
72-503	Amended	Ch.281 - 776
72-720	Amended	Ch.359 - 1075
72-914	Amended	Ch.237 - 700
72-1316	Amended	Ch. 24 - 32
72-1318	Amended	Ch.346 - 1036
72-1333	Amended	Ch.346 - 1030
72-1333	Redesignated 67-4702	Ch.346 - 1030
72-1346	Amended	Ch. 24 - 34
72-1347B	Amended	Ch.346 - 1036
72-1348	Amended	Ch. 24 - 36
72-1349A	Referred to	Ch.341 - 1018
72-1351	Amended	Ch. 24 - 37
72-1431	Amended	Ch.295 - 825
72-1432	Amended	Ch.295 - 825
72-1717	New Section Added	Ch.224 - 666

IDAHO CONSTITUTION

Article IV, Sec. 20	Referred to	Ch. 327 - 978
Article VIII, Sec. 3	Referred to	Ch. 353 - 1056
Article VIII, Sec. 3B	Referred to	Ch. 353 - 1056
Article IX, Sec. 7	Referred to	Ch. 184 - 575
Article IX, Sec. 8	Referred to	Ch. 184 - 575

LAWS OF 1994

Ch. 47, Sec.2	Referred to	Ch.137 - 464
Ch. 73, Sec.1	Referred to	Ch.182 - 570,571
Ch.200, Sec.1	Referred to	Ch.137 - 464
Ch.385, Sec.2	Referred to	Ch.137 - 464

LAWS OF 1995

Ch.200, Sec.1	Referred to	Ch.351 - 1051
Ch.310, Sec.2	Referred to	Ch.137 - 464

LAWS OF 1996

Ch.412, Sec.3	Referred to	Ch.137 - 464

LAWS OF 1997

Ch.303, Sec.2	Amended	Ch.100 - 357

LAWS OF 1999

Ch.197, Sec.1	Referred to	Ch.100 - 357
Ch.262, Sec.1	Referred to	Ch.137 - 464
Ch.363, Sec.2	Repealed	Ch. 16 - 16
H.C.R.8	Referred to	SJM110 - 1177

LAWS OF 2000

Ch.465, Sec.1	Referred to	Ch.137 - 464

LAWS OF 2001

Ch.356, Sec.2	Referred to	Ch.104 - 374,378

LAWS OF 2002

Ch.125, Sec.1	Referred to	Ch. 84 - 315
H.C.R.58	Referred to	Ch.386 - 1163

LAWS OF 2003

Ch. 15, Sec.2	Referred to	Ch. 84 - 315
Ch. 85, Sec.1	Referred to	Ch.318 - 899
Ch.169, Sec.1	Referred to	Ch. 3 - 4
Ch.169, Sec.2	Referred to	Ch. 3 - 4
Ch.191, Sec.2	Referred to	Ch.279 - 772
Ch.195, Sec.1	Referred to	Ch.209 - 636
Ch.211, Sec.1	Referred to	Ch. 7 - 6
Ch.226, Sec.1	Referred to	Ch.386 - 1163
Ch.229, Sec.1	Referred to	Ch.351 - 1049
Ch.229, Sec.3	Referred to	Ch.351 - 1050
Ch.231, Sec.1	Referred to	Ch.318 - 898,899
Ch.274, Sec.1	Referred to	Ch. 12 - 9
Ch.274, Sec.2	Referred to	Ch. 12 - 9
Ch.291, Sec.2	Referred to	Ch.318 - 893
Ch.292, Sec.1	Referred to	Ch. 10 - 8
Ch.292, Sec.2	Referred to	Ch. 10 - 8
Ch.296, Sec.1	Referred to	Ch.103 - 366
Ch.318, Sec.4	Referred to	Ch.104 - 372
Ch.318, Sec.9	Referred to	Ch.104 - 375
Ch.319, Sec.1	Referred to	Ch.139 - 467
Ch.323, Sec.1	Referred to	Ch. 4 - 5
Ch.323, Sec.3	Referred to	Ch. 4 - 5
Ch.324, Sec.1	Referred to	Ch. 1 - 3
Ch.324, Sec.1	Referred to	Ch.351 - 1050
Ch.324, Sec.2	Referred to	Ch.351 - 1050
Ch.333, Sec.1	Referred to	Ch. 9 - 7
Ch.336, Sec.1	Referred to	Ch.364 - 1086
Ch.346, Sec.1	Referred to	Ch.288 - 811
Ch.347, Sec.1	Referred to	Ch. 6 - 6
Ch.347, Sec.3	Referred to	Ch.338 - 1011
Ch.347, Sec.4	Referred to	Ch.338 - 1012
Ch.348, Sec.10	Referred to	Ch.279 - 772
Ch.352, Sec.1	Referred to	Ch. 11 - 8
Ch.352, Sec.6	Repealed	Ch. 11 - 9
Ch.355, Sec.1	Referred to	Ch. 5 - 5
Ch.356, Sec.1	Referred to	Ch.379 - 1139
Ch.358, Sec.1	Referred to	Ch. 8 - 7
Ch.365, Sec.1	Referred to	Ch.141 - 470

LAWS OF 2003 (Continued)

Ch.367, Sec.1	Referred to	Ch.363 - 1084
Ch.368, Sec.1	Referred to	Ch.142 - 472
Ch.380, Sec.2	Referred to	Ch.209 - 636
H.C.R.30	Referred to	SCR134 - 1203
S.C.R.103	Referred to	HCR 56 - 1219

LAWS OF 2004

H.B.510, Sec. 2	Referred to	Ch.271 - 757
H.B.762, Sec. 2	Referred to	Ch.334 - 995
H.B.762, Sec. 3	Referred to	Ch.338 - 1011
H.B.762, Sec. 4	Referred to	Ch.334 - 995
H.B.762, Sec. 4	Referred to	Ch.338 - 1011
H.B.763, Sec. 1	Referred to	Ch.210 - 636
H.B.789, Sec. 1	Referred to	Ch.293 - 818
H.B.792, Sec. 1	Referred to	Ch.291 - 815
H.B.822, Sec. 1	Referred to	Ch.388 - 1165
H.B.822, Sec. 2	Referred to	Ch.388 - 1165
H.C.R.44	Referred to	Ch.280 - 774
H.C.R.47	Referred to	Ch.282 - 776
S.B.1405, Sec. 1	Referred to	Ch.351 - 1050
S.B.1405, Sec. 2	Referred to	Ch.351 - 1051
S.B.1415, Sec. 1	Referred to	Ch.351 - 1051
S.B.1415, Sec. 2	Referred to	Ch.351 - 1051

RULES

Agriculture, Department of		
IDAPA 02.02.14	Approved	SCR119 - 1194
IDAPA 02.04.24		
Sec. 022		
Subsection 02	Rejected	SCR128 - 1198
IDAPA 02.04.25	Rejected	SCR128 - 1198
IDAPA 02.04.26	Rejected	SCR127 - 1197
Building Safety, Division of		
IDAPA 07.07.01		
Sec. 024	Rejected	SCR130 - 1199
Sec. 061	Rejected	SCR130 - 1199
Sec. 062	Rejected	SCR130 - 1199
Fish and Game Commission		
IDAPA 13.01.12	Rejected	SCR129 - 1198

RULES (Continued)

Health and Welfare, Department of
IDAPA 16.02.19 Rejected ..... HCR 51 - 1216
IDAPA 16.03.01
Sec. 346 Rejected ..... SCR120 - 1195
Sec. 347 Rejected ..... SCR120 - 1195
Sec. 348 Rejected ..... SCR120 - 1195
Sec. 349 Rejected ..... SCR120 - 1195
IDAPA 16.03.09
Sec. 204 Rejected ..... SCR122 - 1195
Sec. 210 Rejected ..... SCR122 - 1195
IDAPA 16.03.22
Sec. 428
Subsection 01 Rejected ..... HCR 55 - 1218
Subsection 02 Rejected ..... HCR 55 - 1218
Human Resources and Personnel Commission, Division of
IDAPA 15.04.01
Sec. 025 Rejected ..... HCR 46 - 1211
Registration of Professional Engineers and
Professional Land Surveyors, Board of
IDAPA 10.01.02 Rejected ..... HCR 43 - 1209
Sexual Offender Classification Board
IDAPA 57.01.01 Rejected ..... SCR131 - 1200

ACTS

Drinking Water and Wastewater Professionals Licensing Act
Referred to ..... Ch.335 - 995
Elevator Safety Code Act
Referred to ..... Ch.359 - 1067
Idaho Commonsense Consumption Act
Referred to ..... Ch.380 - 1141
Idaho Conrad J-1 Visa Waiver Program
Referred to ..... Ch.128 - 437
Idaho Homeland Security Act of 2004
Referred to ..... Ch. 58 - 268
Interstate Compact for Juveniles
Referred to ..... Ch. 97 - 341
Model State Administrative Procedures Act
Referred to ..... Ch. 97 - 349
Standard Appropriation Act of 1945
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16-ADA COUNTY

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17-ADA COUNTY

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18-ADA COUNTY

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19-ADA COUNTY

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20-ADA COUNTY

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21-ADA COUNTY

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22-BOISE & ELMORE COUNTIES

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23-OWYHEE & TWIN FALLS COUNTIES

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24-TWIN FALLS COUNTY

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25-BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

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26-JEROME & MINIDOKA COUNTIES

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27-BINGHAM, CASSIA, ONEIDA & POWER COUNTIES

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28-BINGHAM COUNTY

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29-BANNOCK COUNTY

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30-BANNOCK COUNTY

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31-BEAR LAKE, BONNEVILLE, CARIBOU, FRANKLIN & TETON COUNTIES

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32-BONNEVILLE COUNTY

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33-BONNEVILLE COUNTY

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34-FREMONT & MADISON COUNTIES

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35-BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON & LEMHI COUNTIES

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