

Legislative Session Summary



*2004
Sine Die Report*

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Introduction: Key Actions

While state finances and appropriations were expected to hold center stage, the Second Regular Session of the 57th Idaho Legislature may be remembered for the enormous variety of legislation considered. Legislators dealt with issues such as telephone line price deregulation, whether to ask voters to ban gay marriages, DNA testing for felons, auto emission standards, Eastern Snake Plain Aquifer water rights, prohibiting smoking in restaurants, ethics and campaign finance laws, charter schools, and property tax relief for seniors. They debated proposed legislation dealing with victim impact statements, "video voyeurism," bans on tattoos and piercings for kids, Ten Commandments monuments, Sunday liquor sales, safe routes to school, and whether to prevent lawsuits from people who get too fat from eating out. There were bills to start school sooner (mandatory kindergarten), and to quit school later (raising the drop-out age to 17) -- both failed. There was a bill to keep some criminals in prison longer (tougher stalking penalties -- it passed), and a bill to let some inmates out more quickly (earned time reductions -- it didn't). When the 69-day session adjourned, legislators had:

- < Amended the Clean Indoor Air Act to prohibit smoking in restaurants, hotel common areas and other public places (but not bars or bowling alleys), to help protect against exposure to second-hand smoke. (SB 1283)
- < Said that courts should be able to hear from the families of crime victims in murder cases, and provided guidelines for such testimony. (HB 609)
- < Struck a one-year compromise to avoid an April shutoff of water from hundreds of wells pumping water from the Eastern Snake Plain Aquifer that would have affected millions of acres of farmland and related businesses, forcing a shutdown of farms, dairies, processing plants and municipal water supplies, to meet demands of senior water users. Legislators:
 - appropriated nearly \$2 million to develop alternative programs to pump or recharge water back into the aquifer, for grants to spring users to improve infrastructure of spring water supplies, to rent water for recharge efforts, to fund a state loan to water users, and to develop plans to reduce the strain on the aquifer (HB 843);
 - stated the Legislature's intent that holders of certain junior priority ground water rights on the Eastern Snake River Plain be required to provide mitigation to the holders of senior priority water rights from hydraulically connected surface water sources for material injury caused by ground water withdrawal and use (HB 848);
 - established the Idaho Aquaculture Commission to conduct research, promote the sale of aquaculture products, and represent producers, processors, and related industries (HB 836); and
 - expanded a legislative interim study committee to seek a long-term solution to managing ground and surface water distribution (HCR 56).

- < Adopted sweeping amendments to Idaho's charter school laws that would let a new, seven-person, charter school commission create public virtual schools, approve creation of new charter schools, and take appeals of charters that have been denied; have the State Board of Education hear appeals from charters revoked by a school board; provide a 10 percent limit on enrollment of children of charter school founders, require public notice of open enrollment and require an annual lottery list for vacancies; limit new charter schools to six per year, and one per school district; apply public ethics standards to charter directors and employees; and prohibit charter directors from having a pecuniary interest in charter school contracts or transactions. (SB 1444)
- < Helped out the financially struggling Idaho Virtual Academy by providing reimbursement for transportation expenses and revising the classroom funding formula. (SB 1443)
- < Merged the Labor and Commerce departments into the Idaho Commerce and Labor Department. (HB 607)
- < Embraced a federal tax break allowing small businesses to write off up to \$100,000 in the first year of an equipment purchase. (HB 720)
- < Agreed to participate in a federally backed program to attract foreign doctors to work in Idaho's under-served rural communities. (SB 1291)
- < Made it a crime to secretly videotape or photograph, in an intimate way, someone who has a reasonable expectation of privacy. (SB 1243)
- < Took steps to protect children from child predators by prohibiting registered adult and juvenile sex offenders from being employed in day care centers. (HB 727)
- < Authorized the state to take over ownership of the historic Borah Post Office federal building from the federal government. (HCR 44)
- < Lowered the population threshold to 5,000 residents or more, to require mayoral and city council candidates in small Idaho towns to report who contributes to their campaigns. (SB 1214)
- < Extended the extra 3 percent tax credit for companies that expand broadband technology or promote research and development of new technologies. (HB 536)
- < Passed several bills dealing with election laws, exempting some voter registration information from the public records law (HB 558); setting a time limit of 75 days to circulate recall petitions (HB 559); letting Idaho's smallest precincts abandon polling sites for mail-in ballots only (HB 560); and letting each precinct hire two 17-year-old poll workers. (HB 562)
- < Sought to help stop serial rapes and murders, by extending mandatory DNA testing to people convicted of burglary and felony domestic violence, and allowing courts to require offenders to pay for part of the cost of DNA analysis. (HB 520)

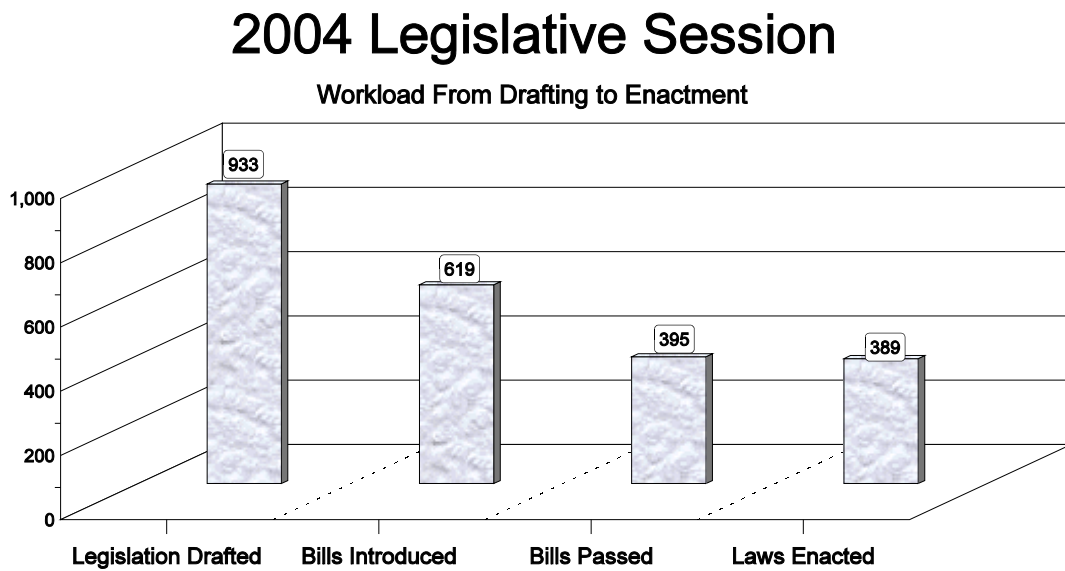
- < Banned tattoos, branding and piercings (except piercings in earlobes) for all children under age 14, and required parental consent for all youth age 14 to 18. (SB 1281)
- < Applied campaign expenditure reporting to elections on citywide measures. (HB 625)
- < Said that Idaho wineries and vintners do not need a license to sell wine by the glass to conduct wine tasting at their facilities. (HB 691)
- < OK'ed a bill that would let county commissioners or voters decide whether to allow Sunday liquor sales by state liquor and contract stores in their counties. (SB 1264)
- < Endorsed Shoshone County's Pulaski Project, a memorial and historical information center devoted to firefighter Ed Pulaski and the wildfires of 1910 that devastated northern Idaho. (HCR 39)
- < Took steps to reduce the likelihood that contestants in "Toughman"-type competitions will suffer serious injury or death by placing such bouts under regulation by Idaho Athletic Commission. (HB 770)
- < Tasked the State Board of Education to develop statewide, research-based education goals for students in Idaho who are just learning English. (HB 787)
- < Closed a loophole to keep defendants who avoid arrest for six months from trying to have their charges dismissed for lack of a speedy trial. (SB 1394)
- < Closed a campaign finance loophole that lets contributors give to incumbents in excess of the state's \$5,000 contribution limit. (HB 777)
- < Approved a measure to make elected statewide officials report their campaign finance donations and expenditures every six months instead of every twelve months. (HB 811)
- < Redirected Capitol land trust receipts into the Capitol Permanent Endowment Fund, to increase the long-term dedicated funds for repairs and maintenance of Idaho's Capitol building. (SB 1238)
- < Eliminated a two-tiered system of premium taxes that required out-of-state insurance companies and their clients to pay more for state premium taxes than their in-state counterparts. (HB 724)
- < Ended a three-year freeze for state employees, by giving them a 2 percent pay increase, with the possibility of another 1 percent temporary increase, if the state ended the year with a sufficient funds cushion. (HCR 47)
- < Made it harder to dissolve the Ada County Highway District, by requiring 10 percent of highway subdistrict voters to sign a petition before calling an election. (HB 654)
- < Approved a jobs tax credit, allowing employers to take a \$1,000 tax credit for each employee hired into a newly created position that pays at least \$15.50 an hour and is eligible to receive health insurance. (HB 651)

- < Sanctioned steps toward curbing obesity and related health costs by letting the Department of Health and Welfare start a pilot three-year project of weight-control therapies for up to 100 obese Idahoans on Medicaid. (HB 696)
- < Sought to protect consumers by establishing licensing and educational requirements for persons who originate or help to obtain residential mortgage loans. (SB 1389)
- < Boosted the pay for starting teachers from \$25,000 to \$27,500. (SB 1431)
- < Allowed taxpayers to deduct the total amount (rather than half) of the premiums they pay on long-term care insurance. (HB 567)
- < Required employers to report if a health care worker is fired for drug adulteration and provided for the transmission of this information to prospective employers. (HB 815)
- < Prevented large employers from evading unemployment insurance taxes by "dumping" their poor unemployment experience ratings onto shell companies. (SB 1226)
- < Allowed juveniles a shorter, one-year, waiting period to expunge misdemeanor convictions, to allow them to enter military service. (HB 531)
- < Upped the distribution of funds to public schools to help cover the increasing costs of driver education programs. (SB 1255)
- < Created the Idaho Law Enforcement and Firefighting Medal of Honor to recognize the sacrifices and bravery of Idaho firefighters and law enforcement. (SB 1260)
- < Set up the Idaho Long-Term Care Partnership Program to offset the spiraling cost of long-term care through adjustments in Medicare assistance formulas. (HB 658)
- < Instituted the Idaho Emergency Communications Commission, consisting of local government agencies, law enforcement and emergency medical services providers, to recommend guidelines and funding for consolidated emergency communications systems. (HB 692)
- < Strengthened efforts to combat stalking with tougher, felony sentences. (HB 668)
- < Modernized Idaho's business laws by substantially updating regulation of security sales, tracking the Uniform Securities Act (SB 1277), updating sections of the Uniform Commercial Code (SB 1227 and SB 1228), and bringing the state into conformity with the Revised Model Business Corporation Act. (HB 671)
- < Agreed to be part of the Interstate Compact for Juveniles to help compel the return of juveniles who have run away from home or escaped from supervision. (HB 518)
- < Directed the State Board of Education to adopt standards for technology proficiency for teachers. (HB 728)
- < Adopted the "Idaho Commonsense Consumption Act," which bans civil lawsuits against the restaurant and food processing industry for obesity and obesity-related health problems. (HB 590)

- < Set up time limits for insurance companies that provide health insurance to pay covered claims, with civil penalties for delays, to speed up health insurance payments. (HB 835)
- < Increased the annual amount of the Robert R. Lee Promise Category B Scholarship for students in Idaho colleges. (SB 1322)
- < Required written permission from irrigation right-of-way owners for encroachments on the right-of-way. (HB 634)
- < Enabled nurse practitioners and similar "advanced practice" health professionals to work without the supervision of a doctor. (HB 659)
- < Agreed to finance repairs to the Statehouse, including skylight, Capitol dome and exterior stone repair work. (SB 1411)
- < Gave grandparents and other "de facto" custodians parental legal standing in child custody cases. (SB 1302)
- < At the urging of elementary school students from Peregrine Elementary School in Meridian and St. Joseph's School in Boise, designated the peregrine falcon as the state raptor. (HB 712)

Volume of Legislation and Length of Session

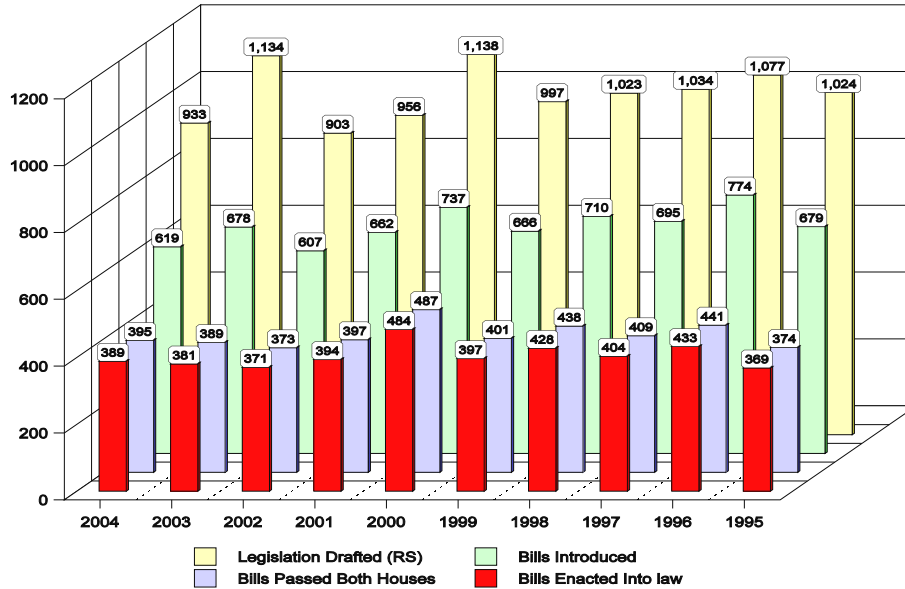
During the 2004 legislative session, 933 proposed pieces of legislation were prepared for legislative committees and individual legislators. From that initial group of draft proposals, 619 bills were actually introduced, along with another 76 various resolutions, memorials and proclamations.



By the end of the session, 395 bills had been passed by both houses. Six bills were vetoed by the Governor. Following his review, 63 percent of introduced bills entered the law books. In all, 389 bills became law, the majority of which become effective on July 1, 2004.

From Drafting to Enactment

Ten-Year Comparison



Length of Session

When the Legislature adjourned sine die on March 20, the 2004 session had lasted 69 days, one of the shorter sessions in the last decade, and of considerably shorter duration than last year's 118-day record longest session.

Length of Recent Legislative Sessions

<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>	<u>1999</u>	<u>1998</u>	<u>1997</u>	<u>1996</u>	<u>1995</u>
69	118	68	82	87	68	71	73	68	68

Rules Review

During the first few weeks of each legislative session, the Legislature conducts a structured review of rules adopted by state agencies under the Administrative Procedure Act. This little-noticed activity allows legislative committees to hear public testimony from agencies and interested parties on the impact of state agency rules. Under Idaho law, the Legislature has the power to reject agency rules that do not reflect legislative intent, thereby performing an important oversight function in the rulemaking process.

During the 2004 legislative session, standing committees in the Senate and House of Representatives reviewed 425 separate dockets or collections of rules totaling approximately 4,200 pages of text — an increase from last session's 253 dockets, but a 700-page decrease in total pages.

While the bulk of agency rules met with legislative approval, a number of concurrent resolutions to reject agency rules were adopted following legislative committee review:

- < Rules of the Board of Registration of Professional Engineers and Land Surveyors relating to professional responsibility. (HCR 43)
- < A Division of Human Resources and Personnel Commission rule relating to nepotism. (HCR 46)
- < Food safety and sanitation standards for food establishments. (HCR 51)
- < Health and Welfare Department rules for licensed residential and assisted living facilities. (HCR 55)
- < Eligibility for Medicaid for families and children. (SCR 120)
- < Investigation of audits of the Medical Assistance Program. (SCR 122)
- < Department of Agriculture rules concerning livestock marketing (SCR 127), and tuberculosis and the private feeding of big game animals. (SCR 128)
- < Fish and Game Commission rules dealing with commercial fishing. (SCR 129)
- < Division of Building Safety rules involving installation of heating, ventilation, and air conditioning systems. (SCR 130)
- < The rules of the Sexual Offender Classification Board. (SCR 131)

2004 Legislative Action on Major Issues

Idaho legislators dealt with questions vital to every Idaho citizen during the 2004 legislative session. The following summary includes legislation passed this session by the Idaho Legislature on major issues:

Agriculture

- < Required domestic cervidae farms and ranches to register with the Division of Animal Industries, required the identification of all domestic cervidae located on such farms and ranches with two types of official permanent identification, and outlined steps that farms and ranches are required to take to prevent and respond to the escape of domestic cervidae. (HB 653)
- < Authorized the Division of Animal Industries of the Idaho State Department of Agriculture to promulgate rules for the identification of livestock, poultry or fish and also authorized the Division to register premises where the animals and fish are held. This authority was granted to provide for disease control and increased traceability of infected or exposed animals. Data and information collected by the Division relating to such identification and registration will not be considered a public record and will be exempt from public disclosure. (HB 806)
- < Created the Idaho Aquaculture Commission which will function in the same general manner as other agricultural commissions. (HB 836)
- < Prohibited actual, or attempted, knowing transfer, damage, vandalism or poisoning of the products or facilities of posted commercial aquaculture operations. (SB 1232)
- < Required licensed warehousemen, beginning in the year 2005, to send yearly notification to record owners of agricultural commodities stored in their warehouse for thirty-six months or more, and to owners that have an interest in any open credit sales contract related to agricultural commodities with the warehouseman, to ensure owners are aware they have such assets. Ware

housemen are also required to maintain copies of the names and addresses to whom notification was sent. (SB 1313)

Commercial Transactions

- < Revised the Idaho Business Corporation Act to bring the Act into conformity with the Revised Model Business Corporation Act. (HB 671)
- < Updated Article 1 (general provisions) and Article 7 (documents of title) of the Uniform Commercial Code. (SB 1227, 1228, 1440)
- < Updated the Uniform Securities Act to, among other things, increase criminal penalties in cases of fraud against elderly and vulnerable adults and to promote consistency with other states and the Securities and Exchange Commission. (SB 1277)

Courts

- < Enacted the Idaho Commonsense Consumption Act to limit civil liability of providers of food and beverages in cases in which liability is based upon an obesity-related health condition. (HB 590)
- < Allowed for the vacation of a child support order based upon a finding of paternity fraud. (HB 771)
- < Established an interim committee to study the guardianship and conservatorship system in Idaho. (HCR 50)
- < Defined "defacto custodian" to include any person, including a grandparent, who is the primary caregiver for, and financial supporter of, a child who has resided with the grandparent for a specified period of time. (SB 1302)

Criminal Justice & Corrections

- < Updated the Interstate Compact for Juveniles which, upon adoption, will enable the state to cooperate with other states in returning juveniles when their return is sought and in taking all measures to initiate proceedings for the return of juveniles. (HB 518)
- < Allowed courts to order restitution for costs law enforcement agencies incur in investigating misdemeanor violations of the Uniform Controlled Substances Act. (HB 519)
- < Required persons convicted of burglary or felony domestic violence to provide to the Idaho state police a DNA sample for purposes of the Idaho DNA database and allowed the court to order restitution for the expense of such DNA analysis. (HB 520)
- < Revised the Juvenile Corrections Act to provide that juveniles who have committed only misdemeanor offenses may have their records expunged one year after release from probation or at age 18. (HB 531)
- < Revised provisions relating to drug court participation fees to provide that individuals who fail to complete the drug court treatment and supervision program may be required to pay for the expense of the program. (HB 571)
- < Specified that victim impact information is admissible at the sentencing phase of a capital case and provided guidelines for the content of such testimony. (HB 609)
- < Revised criminal provisions related to stalking to create first- and second-degree stalking and set forth penalties. (HB 668)
- < Prohibited the employment of adult and juvenile sex offenders at day care facilities. (HB 727)
- < Enhanced misdemeanor penalties for offenders who unlawfully provide alcoholic beverages to persons under the age of 21 years. (HB 751)
- < Enhanced penalties for the crime of domestic violence. (SB 1234)

Legislative Council Interim Study Committees

Two interim committees were authorized during the 2004 legislative session:

HCR 50 – Guardianship/Conservatorship

SCR 132 – Public Transportation and Air Quality

One existing committee was expanded:

HCR 56 – Natural Resources

- < Defined the crime of video voyeurism to prohibit certain conduct and required persons convicted of video voyeurism to register as sex offenders. (SB 1243)

Education, Colleges and Universities

- < Extended the education protections of the Militia Civil Relief Act to National Guard members who are ordered to active duty for longer than 30 days. (SB 1268)
- < Authorized the boards of trustees of community college districts to cooperate with county commissioners, mayors, city councils and school district boards of trustees, and permitted the use of community college equipment and facilities for county, city and school district purposes. (HB 631)
- < Increased the amount of the Robert R. Lee Category B Promise Scholarship for students in Idaho colleges from \$500 to \$600 per year. (SB 1322)

Education, Public Schools

- < Adopted substantial revisions to Idaho's charter school laws that would let a new, seven-person charter school commission create public virtual schools, approve creation of new charter schools, and take appeals of charters that have been denied; have the State Board of Education hear

appeals from charters revoked by a school board; provide a 10 percent limit on enrollment of children of charter school founders, require public notice of open enrollment and require an annual lottery list for vacancies; limit new charter schools to six per year and one per school district; apply public ethics standards to charter directors and employees; and prohibit charter directors from having a pecuniary interest in charter school contracts or transactions. (SB 1444)

- < Revised the calculation of state support for virtual charter schools to provide transportation reimbursement, and revised the computation of support units for charter schools formed by conversion of an existing traditional public school. (SB 1443)
- < Required the State Board of Education and the State Department of Education to develop statewide goals for students who are Limited-English Proficient (LEP), and charged each school district board of trustees to develop a local plan and report progress annually. (HB 787)
- < Required that a model contract developed by the State Department of Education for school transportation programs be used by local districts, with provisions for meeting special local conditions; required that contracts be approved by the State Superintendent within a time specified; and permitted appeal to the State Board of Education when a contract is not approved. (SB 1344)
- < Authorized the State Board of Education to conduct necessary reviews and audits to assure the appropriate use of state funds for school transportation programs; required reporting by school districts; and authorized withholding a portion of a district's pupil transportation reimbursement funding for extended violations. (SB 1331)
- < Authorized the board of trustees of a school district to renew a contract for school transportation with an existing contractor once for an additional five-year period without requiring further bids; and required notice of this provision to be included in the invitation

for bids on a transportation contract. (HB 603)

- < Amended law relating to teachers' certificates; allowed additional grounds for denial, revocation, suspension or placing reasonable conditions on a teaching certificate; and expanded options for professional sanctions and discipline available to the Professional Standards Commission. (SB 1350, SB 1351)
- < Provided that the school board of trustees of each school district shall adopt a policy governing medical inhalers and self-administration of medication. (HB 632)
- < Required that a waiver process be provided for teacher technology proficiency. A waiver would be limited in duration and issued only once, with a teacher required to demonstrate competence to meet state attendance and grade reporting requirements. (HB 728)
- < Provided standards for granting medical waivers for school bus drivers with insulin dependent diabetes mellitus. (SB 1323)
- < Expressed the Legislature's support for amendments to the No Child Left Behind Act to allow determinations of "adequate yearly progress" to be made on the basis of individual student growth from year to year, to target options for choice and supplemental services to specific subgroups, and to more reasonable rules for English Language Learners. (SJM 108)

Elections

- < Allowed county commissioners to designate a precinct having no more than 125 registered electors at the previous general election to be a mail ballot precinct, and provided procedures. (HB 560)
- < Authorized county clerks to appoint up to two high school students per precinct to serve under the direct supervision of election board members. (HB 562)
- < Applied campaign expenditure reporting to elections on citywide measures in cities of 5,000 or more population, and provided that

the city attorney shall stand in place of the attorney general when the campaign reporting law applies to city elections. (HB 625)

- < Brought the contribution limits for county central committees during elections in line with the contribution limits for state central committees. (SB 1253)
- < Reduced the population requirement from 16,000 to 5,000 for the application of the campaign expenditures reporting law to certain city elections. (SB 1214)
- < Provided for 10 percent or more of the qualified electors in each of the single countywide highway district commissioner's subdistricts to petition the county commissioners for dissolution of the single countywide highway district, and provided for the election to be held at the next general election following the hearing on the dissolution. (HB 654)
- < Clarified the appeal process of election recounts by providing that all involved parties, including the prevailing candidate in the election, would be presented with the appeal and given the opportunity to present their case to the court. (HB 500)
- < Protected registered voters from identity theft by holding the personal information contained on voter registration cards confidential while allowing certain information in the voter registration database to be available to candidates for campaign purposes. (HB 558)

Government, Local

- < Authorized and set limitations for wine tasting on retail premises not licensed to sell wine by the drink. (HB 691)
- < Revised time requirements for the publication of notice inviting bids for counties by requiring the first publication of notice at least two weeks before the date for opening bids and requiring that notices be published at least twice, not less than one week apart. (HB 554)
- < Deleted obsolete language from the Idaho

Code pertaining to duties of the sheriff in regard to keeping of jails. The repealed statutes, all enacted in the 19th century, have no application to modern correctional practices. (HB 588)

- < Adopted the 2003 International Building Code, Energy Conservation Code and the 2003 International Mechanical and Fuel Gas Codes, and required local governments that adopt building codes to enforce all provisions of the Idaho Building Code Act (Chapter 41, Title 39, Idaho Code) that govern application by local governments. (HB 756)
- < Required the collaboration, cooperation and communication between regional mental health boards, substance abuse authorities and children's mental health councils in order to increase efficiency and avoid duplication of efforts and services. (SB 1293)
- < Provided for immunity under the tort claims act under certain circumstances for a governmental entity or employees from a claim arising from an injury to a person or property when the person is being supervised as part of a court imposed drug court program. (SB 1416)
- < Provided that only the Board of Professional Engineers and Land Surveyors can issue licenses for the practice of engineering or land surveying and prohibited local jurisdictions from requiring licenses or fees to engage in these professions. (HB 485)
- < Encouraged tourism and economic development in Idaho's smaller communities by allowing the mayor and city council of cities with a population of 5,000 or less to approve the issuance of a nontransferable liquor license in exchange for a \$15 million or greater taxable investment in newly constructed lodging and hospitality facilities. (SB 1252)
- < Allowed state liquor and contract stores, through a local county option, to sell distilled spirits on Sundays. (SB 1264)
- < Permitted merit increases or promotions to an employee of a governmental entity hold-

ing a position prior to the election of a local government official who is related within the second degree. (HB 586)

- < Corrected a discrepancy in Ada and Boise County boundaries that has existed for many years and clarified the boundary descriptions. (HB 532)
- < Provided for the cooperation of counties in county-based intermodal commerce authorities. (SB 1439)
- < Clarified legislative intent to continue to allow counties and cities to maintain and operate solid waste systems by exclusive or nonexclusive means. (SB 1298)

Government, State

- < Merged the Department of Commerce and the Department of Labor into a single department, the Idaho Department of Commerce and Labor. This merger formalizes a long-standing partnership between these two departments and will ensure that the functions of economic development and workforce development are directly linked. (HB 607)
- < Defined the term "public entity," and provided that a public entity may utilize the state's procedure for bidding performance contracts for the installation or purchase of cost-savings energy measures in buildings occupied by and for public entities. (SB 1222)
- < Sent Capitol Building timber and land receipts directly to the Capitol Permanent Endowment Fund and allowed for retention of interest earnings. The Capitol Endowment Income Fund would receive annual deposits from the Capitol Permanent Endowment Fund, in an amount calculated to preserve the corpus of the Capitol Permanent Endowment Fund and increase its market value over time. (SB 1238)
- < Established the Bureau of Homeland Security in the Military Division of the Office of the Governor, combining the functions of the Bureau of Disaster Services and the Bureau of Hazardous Materials. (SB 1266)

- < To help the state more closely mirror the federal Fair Labor Standards Act, enabled executive level state employees to report actual hours worked and bank compensatory time for hours worked in excess of 40 per week. Compensatory time earned would be limited to 240 hours. (SB 1282)
- < Amended the open meeting law to provide that participation by a member of the governing body through telecommunications devices constitutes presence in person if at least one member of the governing body, the director of the public agency or the chief administrative officer of the public agency is physically present at the location designated in the meeting notice. (HB 534)
- < Authorized the Division of Human Resources to conduct an annual benefit survey in conjunction with the salary survey and provided for a later date for the results to be reported to the Governor. (HB 638)
- < Revised Idaho's "Do Not Call List" law to bring it into conformance with recently enacted federal regulations. (HB 535)
- < Exempted the State Board of Land Commissioners from contested cases and hearings under the Administrative Procedure Act when the board is exercising its fiduciary trust duties in making management decisions concerning endowment lands. (HB 669)
- < Created an Idaho Emergency Communications Commission; defined the purposes and responsibilities of the commission, including a review of the existing structure, need for upgrades, recommendations for funding and management of grant funds for 911 purposes; established a mediation role for the commission when conflicts occur between local government entities over governance and other issues related to 911 service; and created an emergency communications fund that allows the collection of grants and funds from all sources of funding for 911 communications. (HB 692)
- < Clarified authority of the Idaho Athletic Commission, which is responsible for the

oversight of professional boxing, professional wrestling and other similar events. (HB 770)

- < Defined the term "unpaid debt," provided procedures for political committees to retire unpaid debt, revised what the amounts received by a candidate as contributions that are in excess of amounts necessary to defray the candidate's expenditures may be used for, and prohibited the conversion of contributions to any personal use. (HB 777)
- < Increased by 2 percent the salaries for members of the Public Utilities Commission, the State Tax Commission and the Industrial Commission, effective July 1, 2004. (HB 802)
- < Required the political treasurer of a statewide candidate to file semiannual reports on January 31 and July 31, if the candidate has an unexpended balance of contributions or an expenditure deficit. (HB 811)
- < Directed the Department of Administration, upon appropriation of its budget request relating to the Borah Post Office in Boise, to take necessary steps to facilitate and acquire the Borah Post Office in the name of the state and to make it available for state use. (HCR 44)
- < Funded a permanent 2 percent merit based salary increase for state employees, funded benefit cost increases at the Governor's recommended level, and provided for an additional temporary 1 percent salary increase contingent upon revenues exceeding the current year estimate. (HCR 47)

Health and Insurance

- < Established the Idaho Long-term Care Partnership Program to control Medicaid costs of long-term care and to provide an incentive for all Idahoans to purchase long-term care insurance. (HB 658)
- < Required all applicants for nursing licenses to submit to criminal background checks. (HB 694)
- < Directed the Department of Health and

Welfare to apply for federal waivers to conduct a three-year pilot project that would provide reimbursement for weight control therapies, including diet and exercise counseling, in the state Medicaid drug program. (HB 696)

- < Adjusted the premium tax paid by insurance companies to provide for a single premium tax rate for all insurance carriers. (HB 724, HB 828)
- < Revised the Idaho Individual High Risk Reinsurance Pool in order to qualify the plan for purposes of the federal tax credit provided by the Federal Trade Act of 2002. (HB 803)
- < Required employers of health care providers to report to licensing boards if an employee is terminated based upon the employee's adulteration of a controlled substance. (HB 815)
- < Required health insurance companies to pay claims for covered services within a certain time period if the health care provider promptly submits a claim for payment. (HB 835)
- < Required parental consent for tattooing and body piercing of minors and prohibited tattooing or body piercing of children under the age of 14 years. (SB 1281)
- < Prohibited smoking in public places and set forth exceptions to the smoking ban for some public places such as bars and bowling alleys. (SB 1283)
- < Created a "volunteer license" for retired dentists who satisfy applicable licensure qualifications in order to increase access to dental care among Idaho's underserved populations. (SB 1289)
- < Authorized the Department of Health and Welfare to obtain financial account information of parents delinquent in paying child support, and to attach the financial accounts to pay child support debts. This process replaces the garnishment process, which has proven cumbersome and ineffective, and can also be used across state

lines without requirements for court action. (SB 1280)

- < Clarified that medical assistance may be recovered, as authorized by state and federal law, against a spouse whether or not the spouse survives the recipient, and that the statute of limitations runs from the date the state discovers or reasonably could have discovered a prohibited transfer took place. (SB 1290)
- < Revised procedures relating to medical indigency that specify the time and manner of filing an application, and clarified that the delayed application allowed by the law is intended to encourage providers to seek other sources of reimbursement before seeking county assistance. (SB 1301)
- < Authorized continuation of a Department of Health and Welfare program to provide welfare assistance to drug dependent individuals in compliance with probation and parole requirements. (HB 627)
- < Stated findings of the Legislature and urged 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 a facility is accredited by an independent organization, the Department of Health and Welfare would not have to perform licensure inspections. (HJM 25)

Natural Resources

- < Authorized the State Board of Land Commissioners to include minerals with the sale of state lands when the surface estate is identified as having the potential highest and best use for development purposes, such as residential, commercial or industrial purposes. To maximize income to the endowments, lands will now be able to be sold without a mineral reservation so that the development can proceed without the risk

of mineral development decreasing the value of the property. (HB 510)

- < Authorized the state to sell mineral rights lying under a surface estate previously sold by the state, if the highest and best use of the land is for development purposes and if the rights are sold for their appraised value. (HB 755)
- < Authorized the State Board of Land Commissioners to lease state endowment lands for a period of up to 49 years for commercial and industrial development purposes to help ensure the management of endowment lands will secure the maximum long-term financial return for the beneficiary. (HB 515)
- < Allowed electric utility companies, cooperatives and municipalities furnishing electric services to provide customers information in bills about the percentage of costs utilized for fish and wildlife mitigation, and required utilities to post annual statements on their Web sites detailing the recipients and amounts of such mitigation funds. (HB 539)
- < Clarified that a water right is not subject to forfeiture for nonuse if it is being used for mitigation purposes as approved by the director of the Department of Water Resources. (HB 633)
- < Prohibited encroachments upon rights-of-way and easements necessary for delivery of water without the written permission of the owner of the right-of-way, or the irrigation district, Carey Act operating company, nonprofit irrigation entity, lateral ditch association or drainage district owning the easement or right-of-way, to ensure that an encroachment will not unreasonably or materially interfere with the use and enjoyment of the right-of-way; and clarified that easements and rights-of-way of irrigation districts, Carey Act operating companies, nonprofit irrigation entities, lateral ditch associations or drainage districts are not subject to adverse possession. (HB 634)
- < Clarified the meaning and role of "consump-

tive use" as it relates to water rights, to provide that a water right entitles the owner to make any use authorized by the right, without applying for approval of a transfer; and clarified that when a water right owner seeks to change an element of the right, the consumptive use authorized by the right is retained. (HB 636)

- < Increased the initial depredation damage payments to claimants by the Department of Fish and Game to one-half of the claim amount and authorized either the owner or lessee of land subject to depredation, or the department, to retain the services of an independent certified insurance adjuster to view the affected property and determine the amount of damages. (HB 700)
- < Designated the peregrine falcon as the state raptor. (HB 712)
- < Funded the Legislature's commitment to a stipulated water agreement. That commitment was to develop a long-term solution to address declines in spring flows discharging from the Eastern Snake Plain Aquifer. The bill came after a series of negotiations that halted the shutoff of more than 1,000 wells that draw water from the aquifer. The combined fiscal years 2004 and 2005 impact was \$1,684,400 on the General Fund and \$300,000 on dedicated funds, for a total of \$1,984,400. (HB 843)
- < Required that the holders of certain junior priority ground water rights on the Eastern Snake River Plain be subject to administration within water districts created pursuant to Chapter 6, Title 42, Idaho Code; and provided 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. (HB 848) Authorized the Legislative Council to expand the membership and scope of the Natural Resources Interim Committee to study and evaluate ways to stabilize the water distribution system in the state of Idaho, including water supply and management issues in the Moscow, Rathdrum

Prairie and Snake River Plain Aquifers and the Bear River Drainage. (HCR 56)

- < Provided that the director of the Department of Water Resources shall not issue permits for any geothermal resource well or injection well if he finds that the operation of the well would decrease ground water available for prior water rights in any aquifer or other ground water source of water for beneficial uses, unless the applicant also has obtained a permit to appropriate ground water as provided by law. (SB 1296)
- < Supported the efforts of the state of Idaho, through the offices of the Governor and the Attorney General, to intervene in federal litigation filed by several conservation and fishing groups alleging that the biological opinion for the Bureau of Reclamation projects in the Upper Snake River Basin is illegal and should be set aside, and rejected efforts to release large amounts of storage water for flow augmentation, contrary to state law, or to remove or breach dams on the Lower Snake River. (HJM 23)

Taxation

- < Clarified when refunds are payable on fuel used in all-terrain vehicles not required to be licensed or to have a recreational permit. This eliminates the difference between three- and four-wheel ATVs. Currently fuel used in three-wheel ATVs is taxable but tax on fuel used in four-wheel ATVs (if not licensed) can be refunded. (HB 475)
- < Deleted the method of assessment for and exempted from taxation certain manufactured homes under a dealer's plate or as a sheep and cow camp; directed the State Tax Commission to promulgate rules specifying procedures to establish average crop prices and capitalization rates, and procedures for the publication of crop prices and of the discount rate to determine the capitalization rate used in calculating the exemption of the speculative portion of the value of agricultural land. (HB 477)

- < Clarified the exclusion under state income tax law for certain dividends payable to a mutual insurance stock holding company or intermediate holding company; provided changes in retirement age under the Social Security Act; provided a definition of disabled; clarified that to qualify for the deduction for certain expenses for household and dependent care, services must be paid by the individual maintaining the household; and updated the income tax withholding rate applicable to lottery winnings. (HB 481)
- < Clarified that the procedure to file an appeal in district court for property tax appeals from the Board of Tax Appeals would be in accordance with Rule 84 of the Idaho Rules of Civil Procedure. (HB 506)
- < Clarified procedures for submitting, reviewing and finalizing claims for property tax relief under the state's "circuit breaker" law. (HB 516)
- < Removed the sunset provisions on two income tax credits: for qualified research and development expense and for qualified broadband equipment. Both credit provisions, which were scheduled to sunset on December 31, 2005, will become permanent. (HB 536)
- < Provided that moneys for replacement of property tax revenues for the agricultural equipment tax exemption will be paid from the Sales Tax Account instead of the Refund Fund. (HB 538)
- < Removed the limitation on the amount of long-term care insurance premiums that qualify for credit against income taxes; all the premiums can be credited. (HB 567)
- < Exempted the Blind Services Foundation, Inc. from state sales and use taxes. (HB 601)
- < Provided a state income tax credit for contributions made to Children's Village, Inc. or its foundation. (HB 610)
- < Gave employers a tax credit of \$1,000 per new employee who earns an average of \$15.50 per hour and is eligible for employer provided health and accident coverage. (HB 651)
- < Defined "idling" and provided that no refund of special fuels tax will be paid on special fuels used while idling a registered motor vehicle. (HB 684)
- < Conformed the Idaho income tax to changes made to the Internal Revenue Code after January 1, 2003, including the federal "Jobs and Growth Tax Relief Act of 2003"; provided that no Idaho deduction will be allowed relating to the increased (from 30% to 50%) special allowance for first year "bonus depreciation" permitted by subsection (k) of section 168 of the IRC for computing Idaho taxable income; modified the adjusted basis of depreciable property and capital gains or losses to reflect the disallowance of the federal bonus depreciation and any necessary adjustments to basis due to nonconformity with the bonus depreciation may be made during the lifetime of the property; and provided that no deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under Section 62(a)(2) (D) of the Internal Revenue Code. (HB 720)
- < Provided an incentive to locate thermal power plants owned by electric utilities close to electric load by giving an incentive to cities to permit a power plant to locate within or near a city, by providing that the property taxes from such a plant are "apportioned based on the physical location of the plant." (HB 542)
- < Provided authority and procedures for determination and collection of homeowners' exemptions from property tax in situations where the exemption is improperly claimed and allowed as a result of misstatement, misunderstanding or error. (HB 739)
- < Made the election for a property tax exemption in lieu of investment tax credit available for qualified property placed into service in calendar year 2003; excluded

taxpayers whose rates of return are regulated according to federal or state law; provided for the recapture of the property tax benefit of property ceasing to qualify for the investment tax credit or for the election; provided that all moneys collected by the State Tax Commission for an erroneously taken investment tax credit would be remitted to the county where the property was located; and provided for distribution of moneys to taxing districts within the county and application of these moneys to the 3 percent property tax cap. (HB 799)

Transportation

Driver's Licenses, ID Cards and Registration

- < Provided 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 expired while the person was on active duty in the armed forces of the United States or is a member of the immediate family accompanying such person. (HB 752)
- < Required sheriffs to provide written notification of sex-offender registration requirements to out-of-state applicants for identification cards, and authorized licensed physicians assistants and licensed advanced-practice nurses to certify permanent disability for driver's license purposes. (SB 1274)
- < Required motor vehicle drivers applying 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; and required either proof of US citizenship or of lawful, permanent United States residence and a valid Bureau of Citizenship and Immigration Services alien registration number. (SB 1275)
- < Transferred the Idaho Transportation Department's Motor Carrier Services Audit Unit to the State Tax Commission, beginning with fiscal year 2005, to replace the

current practice of using memorandums of understanding for fiscal year 2004; transferred four auditors and one half-time clerical position to the State Tax Commission, as well as the appropriation for related operating expenses; and aligned the appeal and collection processes of the two departments. (HB 474)

License Plates

- < Established a Historic Lewiston special motor vehicle license plate program with revenues to be used by the Lewiston Historic Preservation Commission to demonstrate commitment, through substantial educational, economic and outreach programs, to the preservation and interpretation of Idaho history and Lewiston's role as Idaho's first territorial capital. (HB 480)
- < Established a special Military Veteran motorcycle license plate program, with revenues to be used for the operation and maintenance of the state veterans cemetery. (SB 1224)
- < Established the Idaho School Transportation Safety Awareness license plate program, and created the Pupil Transportation Support Program Fund, with revenues from the fund continuously appropriated to the State Department of Education to be used for educational programs promoting school transportation safety and awareness. (SB 1311)

Vehicles, Traffic & Modes of Transportation

- < Clarified the operation of slow moving vehicles on public highways to allow newer, more modern agricultural equipment to travel at speeds faster than 25 mph if they are so designed, and to make clear that these vehicles may not exceed the maximum posted speed limit or be driven by nonlicensed drivers. (HB 616)
- < Prevented the unauthorized use of electronic "optical strobe light" devices to override traffic signal controls and prescribed misdemeanor penalties for violations. (HB 604)

Bills Vetoed by the Governor

- < **HB 544** – Watershed advisory groups
- < **HB 760** – Income tax credit, alternative energy capital and equipment
- < **HB 761** – Income tax credit, alternative energy generation of electricity
- < **HB 807** – Idaho Beef Council members, size and duties
- < **HB 816** – Cattle imported from Canada
- < **SB 1269** – Intracity light rail systems

STATE OF IDAHO - 2004 LEGISLATIVE SESSION
GENERAL FUND BUDGET UPDATE
Prepared by Legislative Services Office, Budget & Policy Analysis

FISCAL YEAR 2004

REVENUES

Beginning Balance	\$ 15,745,000
FY 2004 Baseline Executive Revenue Estimate (4.4%)	1,814,810,900
HB 400a (2003 session) Increase Sales Tax from 5% to 6%	170,460,000
HB 264a (2003 session) Increase Cigarette Tax from \$0.28 to \$0.59	22,150,000
Federal Flexible Grants	50,000,000
All other legislation (2003 session) impacting the General Fund	5,203,000
HB 720 - IRS conformity, depreciation bonus	(1,500,000)
Transfer to Disaster Emergency Fund (Executive Order 2003-15)	(125,000)
Transfer to Water Management Fund (HB 843)	(520,000)
Transfers out for Deficiency Warrants (HB 504)	(11,920,600)
TOTAL REVENUES	2,064,303,300

APPROPRIATIONS

Original Appropriations	2,004,053,000
Reappropriations	2,061,100
Supplemental Appropriations	4,180,200
Rescissions	(18,500,000)
TOTAL APPROPRIATIONS	1,991,794,300

ESTIMATED ENDING BALANCE

\$ 72,509,000

FISCAL YEAR 2005

REVENUES

Beginning Balance	\$ 72,509,000
FY 2005 Baseline EORAC Revenue Percent Increase (5.4%)	1,912,811,700
HB 400a (2003 session) Increase Sales Tax from 5% to 6%	177,710,000
All other legislation (2003 session) impacting the General Fund	(1,200,000)
HB 512a - Deduct assessments from Insurance Premium Tax	(630,000)
HB 567 - Deduct 100% of long-term care insurance premiums	(500,000)
HB 601 - Sales Tax exemption for Blind Service Foundation	(6,600)
HB 610 - Children's Village income tax checkoff	(12,000)
HB 651a - Tax credit for creation of high paying jobs w/benefits	(300,000)
HB 720 - IRS conformity, depreciation bonus	(1,800,000)
HB 724 - Insurance Premium Tax, single rate phase-in	(1,262,600)
HB 753 - Tax credit, donations to Women's/Children's Alliance	(50,000)
Transfer to Revolving Development Fund (HB 843)	(500,000)
Transfer to Budget Stabilization Fund	(20,731,400)
TOTAL REVENUES	2,136,038,100

APPROPRIATIONS

TOTAL APPROPRIATIONS	2,082,138,300
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ESTIMATED ENDING BALANCE

\$ 53,899,800

Budget Highlights

Fiscal Year 2004

The Legislature made its final adjustments to the current fiscal year based on a 4.4 percent revenue estimate that was augmented by \$50 million in one-time federal funds and a \$30 million Medicaid match rate reduction. Overall, the General Fund budget for fiscal year 2004, after mid-year adjustments for supplemental appropriations and budget rescissions (reductions), totaled \$1,991,794,300, which is a 2.2 percent increase over the fiscal year 2003 appropriation. The key factor in the Legislature's approach to the budget was to maximize the ending balance to carry over into fiscal year 2005, and ultimately, carry over a large ending balance into fiscal year 2006 to help off-set the impact of the sunset of the temporary one cent sales tax increase authorized last year. Toward that end, the Legislature approved a spending plan that will leave an estimated year-end balance of \$72.5 million.

Fiscal Year 2005

The fiscal year 2005 General Fund budget is based on a revenue estimate of 5.4 percent, which is the median estimate of the Economic Outlook and Revenue Assessment Committee. This is also the second and final year of the temporary one cent sales tax increase. The sunset will reduce General Fund revenues about \$180 million in fiscal year 2006. With this in mind, the Legislature put a spending plan in place that would leave the largest ending balance possible to help off-set that impact.

The Governor's budget recommendation, for the most part, provided a spending blueprint, and the Legislature followed that plan with some exceptions for public schools, catastrophic health and Medicaid. In the end, the approved budget included some basic "maintenance-level" costs for personnel cost roll-ups (health insurance and retirement), medical inflation for selected health care institutions, a 2 percent Change in Employee Compensation package, a contingency appropriation for an additional, temporary 1 percent increase (see CEC explanation, p. 27), and formula increases for public schools, along with some salary and operational improvements.

Overall, the General Fund appropriation increased 4.5 percent over the final fiscal year 2004 appropriation, for an additional \$90.3 million in General Funds. It is noteworthy that over half of the new spending, \$46.7 million, went to the Department of Health and Welfare, which, in total, represents only 19.6 percent of the total General Fund. This spending plan leaves an estimated ending balance of \$53.9 million. Key areas in the state budget are summarized below.

Department of Health and Welfare

The General Fund appropriation for the Department of Health and Welfare increased from \$375.8 million in fiscal year 2004 to \$407.6 million in fiscal year 2005. This level of funding represents an increase of \$31.8 million, or 8.4 percent, over the department's fiscal year 2004 original appropriation.

In addition, full-time equivalent positions increased by 3.1 percent, from 2,805 authorized by the Legislature in fiscal year 2004 to 2,893. This represents an increase of 88 positions. Of this number, about 78 positions were authorized by the Governor during the current fiscal year to improve reported service levels and to enhance customer service to the department's clients. The cost of adding these approved positions was covered by federal grants

and salary savings generated through vacancies. The remaining positions were added as a result of expanding Medicaid to include a new Children's Health Insurance Program (CHIP) Plan B and Access Card program, which is scheduled for July 2004 implementation.

Employment services, comprised of work services and community supported employment, were transferred from the Department of Health and Welfare to the Division of Vocational Rehabilitation for fiscal year 2005. The program is designed to provide remunerative work and support for adults with developmental disabilities or mental illness who lack the skills and experience to obtain and maintain employment in the competitive labor market.

The Legislature provided funding to purchase more contracted services provided by the private sector to bring the Infant and Toddler program back into compliance with federal law. The department is charged with identifying infants and toddlers who may be eligible for services under the program. Over the past few years, the population growth and increasing awareness about brain development and the critical importance of the first three years of life have resulted in increased referrals of children who would benefit from early intervention services. The number of children served has increased by almost 46 percent during the past five years.

Another area tackled by the Legislature this year is related to foster care reimbursement. Idaho has continually struggled with recruitment and retention issues because of inadequate reimbursement rates for foster parents. As a result, Health and Welfare received a 5 percent increase to bring reimbursement rates closer to the regional average.

The fiscal year 2004 appropriation for Medicaid was reduced by a total of \$57.5 million. Of this amount, \$15 million was from the General Fund. This one-time savings was possible due to an unanticipated increase in federal matching funds for the last quarter of fiscal year 2003 and all of fiscal year 2004.

For fiscal year 2005, Medicaid received additional staff and resources from the Idaho Insurance Premium Tax, along with associated federal matching funds, to implement a new CHIP Plan B and Access Card program. In addition, resources were provided to modify the department's automated systems for accommodating future cost sharing and co-payments for certain Medicaid clients. Other adjustments to the Medicaid budget assumed cost savings or cost avoidance as a result of implementing managed care, disease management and preferred drug list programs.

Finally, the number of Division of Welfare eligibility staff was increased by five to deal with significant increases in caseload over the past few years and anticipated increases in workload as a result of the CHIP expansion. This is 15 fewer employees than the division estimated its requirements to be.

Public Schools

The General Fund appropriation for public schools increased 2.3 percent for fiscal year 2005, going from \$943 million to \$964.7 million. Key legislation this year centered on ***charter schools' governance and finance***. SB 1444 tightened ethics standards for charter schools, limited to six the number of new charters that may be authorized annually and created the Public Charter School Commission as an alternative chartering entity for those charter petitioners who are unable to satisfactorily resolve issues with a local school board within 30 days. SB 1443 made changes to the way public virtual schools are funded. For fiscal years 2004 and 2005, such schools will receive no higher than the median formula

divisor for average daily attendance. For fiscal years 2006 and 2007, no higher than the 2nd highest divisor is used, and such schools can become eligible to receive state pupil transportation funds for 85 percent of the cost of transporting the education program to children, subject to the same statewide average cost per student cap to which all school districts are subject. For fiscal year 2008 and after, virtual schools can continue receiving transportation funds, but will receive their actual divisor from the table of divisors in Section 33-1002, Idaho Code.

In terms of the five divisions in the public schools budget, the following highlights summarize the key issues provided in appropriation bills:

- < Administrators: General Fund increase of 0.7 percent. Funded statutory increases for enrollment growth and PERSI rate increase. (SB 1430)
- < Teachers: General Fund increase of 3.1 percent. Fully funded a 10 percent increase in the statewide minimum teacher salary, from \$25,000 to \$27,500. The previous \$25,000 minimum mandate was not fully funded by the state. Funded an increase in the experience/education index for instructional staff to account for teachers earning additional education credits in fiscal years 2004 and 2005. Once these index funds reach school districts they are allocated to teachers as the school district sees fit. Funded statutory increases for enrollment growth and PERSI rate increase. (SB 1431)
- < Operations: General Fund increase of 0.5 percent. Provided the full amount of technology money requested by the Superintendent of Public Instruction (\$8.4 million). Funded a 1 percent base salary increase for classified staff. Maintained the current level of total discretionary funding at \$24,450 per classroom. Funded statutory increases for enrollment growth and PERSI rate increase. (SB 1432)
- < Children's Programs: General Fund increase of 6.6 percent. Ratified recent decisions of the State Board of Education to direct that the board utilize its appropriation of federal funds to develop a computer-based program of tutoring and assistance for students failing to achieve proficiency in at least one area of the Idaho Standards Achievement Test (ISAT). (SB 1433)
- < Facilities: Funded entirely by State Lottery proceeds. Provided funding for Bond Levy Equalization, the final payment (to the Whitepine School Districts) under the School Safety and Health Revolving Loan and Grant Fund program and general facilities assistance to local school districts. The amount of general facilities funds provided is \$8,922,500, or a 5.9 percent increase over the \$8,425,000 provided in fiscal year 2004. (SB 1434)

College and Universities

The fiscal year 2005 appropriation for the general education programs at the four-year higher educational institutions (Boise State University, Idaho State University, the University of Idaho and Lewis-Clark State College) totaled \$341,294,500 (HB 768). Of that amount, \$223 million or 65 percent comes from the General Fund, \$108 million or 32 percent from student fees and the remaining \$10 million or 3 percent from endowment funds.

The budget reflects the Governor's recommendation, providing a 2.5 percent General Fund increase over fiscal year 2004, an 8 percent dedicated fund increase and a 4.3 percent increase in all funds. The Governor's budget did not recommend funding the requested fund

shift to off-set student fee increases, which was a break from precedent. Unlike the Governor's recommendation, however, the Joint Finance-Appropriations Committee (JFAC) set the budget as a lump-sum appropriation, containing only the increases of \$5,366,200 in General Fund money and \$8,755,900 in dedicated funds, with no additional expenditure detail. The Legislature's intent was to provide maximum flexibility to the State Board of Education and the four institutions to use the new money for their most pressing needs, such as the 2 percent pay raise and increased state employee health insurance costs that were funded in all other agency appropriations.

The \$8,755,900 increase in dedicated funds is the result of student fee increases. The State Board of Education took a new approach to fee setting and approved increases to student fees in January. In prior years, the board set fees in April, in part to respond to legislative appropriations. The board approved an average student fee increase of 8.2 percent for the coming academic year. The new fees are projected to generate an additional \$10.7 million. That amount was included in this appropriation. However, due to poor market performance, the five endowment funds that benefit higher education have lost 16 percent of their value over the past year. In response, the State Board of Land Commissioners voted to distribute \$1.9 million less to higher education for the coming fiscal year. That means that instead of the \$12 million received this year, higher education will only be getting \$10 million next year. The request to have those endowment losses covered with new General Fund money was neither recommended by the Governor nor funded by the Legislature.

Office of the State Board of Education

The fiscal year 2005 appropriation for the Office of the State Board of Education totaled \$9,460,800 (HB 801). This is a 19.1 percent or \$970,400 General Fund decrease from fiscal year 2004. However, a large federal fund increase due to new No Child Left Behind (NCLB) money results in an overall increase in board funding of 77 percent or \$4,114,200. The large General Fund decrease is due to a one-time General Fund rescission of \$1,500,000 for fiscal year 2004. Those General Fund moneys have been replaced with federal funds to cover a large portion of the State Board of Education's contract for achievement standards assessment. Likewise, the fiscal year 2005 appropriation begins with a \$1,000,000 General Fund base reduction. Of that amount, \$611,700 is one-time and \$388,300 is ongoing. Again, these are savings due to federal funds replacing a portion of the General Fund money appropriated for the achievement standards assessment contract.

JFAC provided \$5,114,800 in federal fund spending authority for an enhancement related to the State Board of Education assuming State Education Agency (SEA) responsibilities from the State Department of Education. Most of that money is for state assessments required by NCLB, with portions also going for teacher quality and language acquisition activities in the public schools. Three new full-time equivalent positions will help the board with the additional SEA workload.

Intent language is also included to allow the board to share some narrowly defined administrative resources with the Division of Professional-Technical Education and the Division of Vocational Rehabilitation, provided that doing so does not impair the agencies' ability to fulfill their individual missions.

Department of Correction

Acting on the Governor's recommendation, JFAC rescinded \$1 million of a General Fund Department of Correction contingency appropriation at the beginning of the session. This action was taken as a result of a slower inmate population growth rate than funding was provided for in the original fiscal year 2004 appropriation. The contingency had been provided in case the growth was in excess of the forecast.

The General Fund appropriation for the Department of Correction reflects a 1.4 percent increase from fiscal year 2004 to fiscal year 2005, and a 1.6 percent increase in total funds. New General Fund moneys were appropriated for contractual increases to the private providers of medical care and the operator of the Idaho Correctional Center. Contract inflation of \$346,600 will be paid to Prison Health Services for medical care, and \$474,700 to Corrections Corporation of America for per diem increases at the privately operated prison. The department did receive \$291,300 in one-time funds to hire temporary correctional officers to manually unlock doors at the Idaho Maximum Security Institution and the Idaho Correctional Institution at Orofino while malfunctioning electronic locking systems are replaced. In addition to the Governor's recommendation, the Legislature was able to accommodate the anticipated growth in probation and parole by appropriating Parole Supervision Funds to add eight probation and parole officers throughout the fiscal year.

- < Inmate Growth – The *revised* forecast for prison growth in fiscal year 2004 was 247. The inmate population, projected to total 6,005 by the end of March, is right on target. When the fiscal year 2004 original appropriation was set during the 2003 session, the forecasted annual growth was 488 inmates, and the Legislature responded by appropriating funds for community treatment for 400 offenders, hoping that the growth could be mitigated. Growth is now matching the lowered revised forecast.
- < Capacity/County Jail Legislative Intent – In light of the Governor's recommendation not to open 175 new prison beds due for completion in fiscal year 2005, intent language was included in the appropriation bill that requested the Department of Correction to maximize the use of funded state beds, followed by county jail space and then, if necessary and by permission of the Governor, to open new unfunded state beds before pursuing out-of-state beds for offenders.

Endowment Funds

Although the focus of the budget committee continued to be on the state's General Fund, dedicated and federal funds played an important role in the overall state budget. Endowment funds are dedicated funds generated from the investment of revenues earned from lands granted to Idaho by the federal government upon statehood. Changes to the Idaho Constitution allowed for the investment of these revenues in the stock market beginning in 2000. Unfortunately, the investments suffered severe losses resulting in the necessity to reduce distributions to public schools and other beneficiaries.

For fiscal year 2005, the public school endowment appropriation decreased 39 percent from \$37.8 million to \$23 million or by \$14.8 million. About 20 percent of the reduction was due to the declining value of the permanent fund's three-year moving average. The other 80 percent of the reduction was due to the decision of the State Board of Land Commissions to change the distribution policy for public schools from 7.5 percent to 5 percent of the three-year moving average.

The other programs impacted by declining endowment revenues included the Agricultural College, 21 percent decrease; Charitable Institutions, 18 percent decrease; Idaho State Uni-

versity College of Education and Lewis-Clark State College, 14 percent decrease; state penitentiary, 7 percent decrease; University of Idaho School of Science, 17 percent decrease; State Hospital South, 10 percent decrease; and the University of Idaho endowment, 15 percent decrease. About 50 percent of the reduction for these pooled beneficiaries was due to the declining value of the permanent fund's three-year moving average. The other 50 percent of the reduction was due to the Land decision of the State Board of Land Commissioners to change the distribution policy for these pooled beneficiaries from 7.5 percent to 7 percent of the three-year moving average.

Overall, the fiscal year 2005 budget set by JFAC included a 32 percent or \$17.4 million decrease in endowment appropriations compared to those for the current fiscal year.

Change in Employee Compensation

HCR 47 states that the policy of the state of Idaho is to provide a total compensation system for state employees that includes paying competitive job market average salaries and rewarding performance with a merit-based compensation philosophy. The resolution recommends funding benefit cost increases at the level recommended by the Governor and a permanent 2 percent merit-based salary increase. Funding for an additional temporary 1 percent salary increase is contingent upon revenues exceeding the current year estimate. Finally, HCR 47 provides agencies guidance on the use of one-time and ongoing salary savings to address salary increases, and directs the Division of Human Resources and the Division of Financial Management to ensure that agency and institution compensation policies are managed consistently with the policies stated in the resolution.

The General Fund fiscal impact of HCR 47 is as follows:

- < Benefit cost increases: \$10,923,900.
- < Permanent salary increase: \$10,002,100
- < 1 percent temporary salary increase (contingent upon receipt of revenues exceeding estimates): \$5,001,000

Borah Post Office

The Department of Administration's fiscal year 2005 budget includes \$650,000 in spending authority for operating costs for the Borah Post Office. The Legislature, through HCR 44, authorized the department to acquire the Borah Post Office from the federal government for the state of Idaho. The state acquired the facility for a nominal fee and will use the building to house certain state agencies currently renting space elsewhere in Ada County.

Permanent Building Fund Projects

During fiscal year 2005, the Permanent Building Fund will be used primarily to address building maintenance projects. Of the \$21,337,700 appropriated for Permanent Building Fund projects, \$16,037,700 or 75.2 percent was allocated for maintenance projects. In addition to maintenance projects, two other projects were authorized:

- < \$4.6 million was appropriated for the State Historical Society's Idaho History Center, Phase 2. This had been the first priority for the Historical Society for a number of years. Furthermore, the project was approved by the Legislature in fiscal year 2001 and then canceled in fiscal 2003 as part of the Legislature's efforts to balance the state's General Fund budget.

- < \$700,000 was appropriated for the purchase of the Department of Labor's (DOL) portion of the Idaho Falls State Office Building, currently occupied by DOL's Job Service Office. Federal rules permit DOL to use the proceeds from this sale to reinvest in another facility in the same region of the state, as long as the new structure is used by the state's Employment Services Program. The Department of Labor will use these proceeds along with other department funds for a new and larger Job Service Office in the Idaho Falls area.

Idaho Millennium Fund

The appropriation from the Millennium Fund is \$1,939,700 for fiscal year 2005. The fund will receive the annual payment, which is estimated to be \$22.4 million, from the tobacco settlement agreement on April 15.

Water Agreement

HB 843 funded the Legislature's commitment to a stipulated water settlement to develop a long-term solution to address the declines in spring flows discharging from the Eastern Snake Plain Aquifer. The bill came after a series of negotiations that halted the shutoff of more than 1,000 wells that draw water from the aquifer.

The first part of the bill addresses fiscal year 2004 and includes one additional position for the Department of Commerce and one for the Department of Water Resources for the remaining three months of the current fiscal year. The position in the Department of Commerce will assist water users affected by the decline in flows from springs below the Eastern Snake River Plain. The position in the Department of Water Resources will assist watermasters and assist with the identification of alternatives to improve the management and use of available spring flows. The bill includes the transfer of \$520,000 from the General Fund to the Water Management Fund for the Water Board to rent 40,000 acre feet of water on a one-time basis. The fiscal year 2004 impact is \$544,500, all from the General Fund.

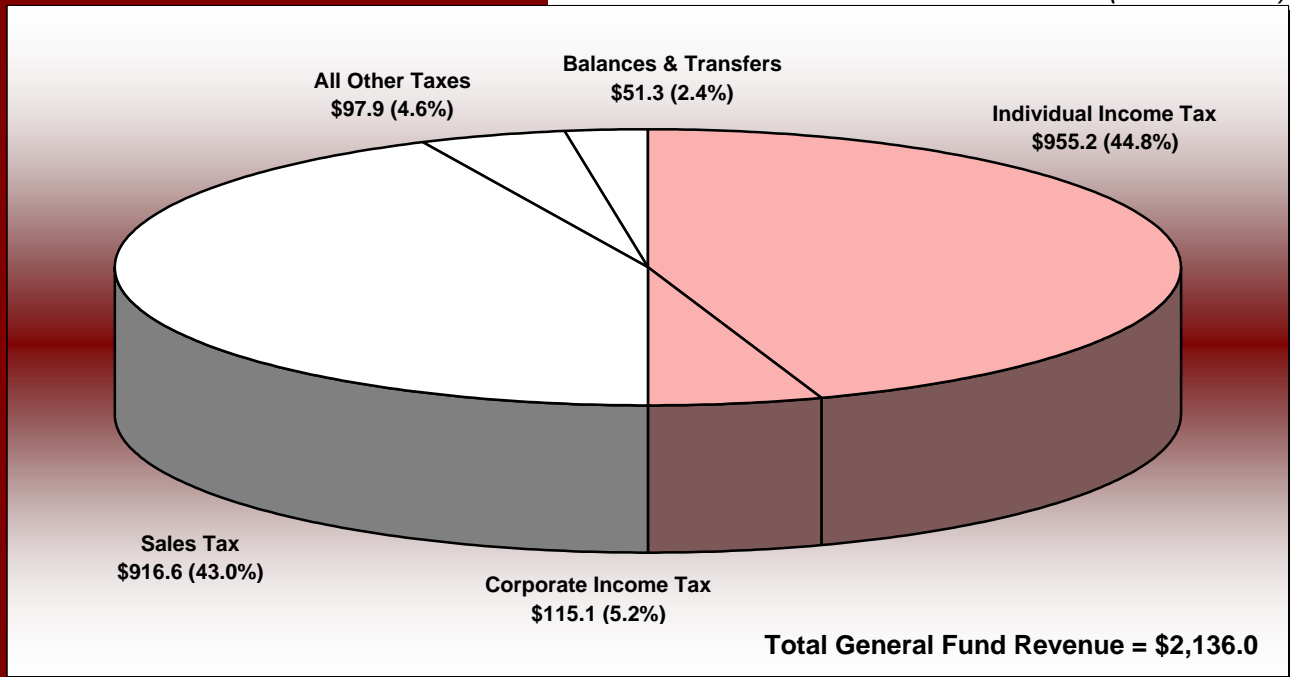
The second part of the bill provides full-year funding for the same one position in the Department of Commerce and the same one position in the Department of Water Resources, totaling \$139,900. Then it appropriates \$500,000 to the Department of Commerce for grants to affected spring users to implement infrastructure improvements. Next, the bill includes \$500,000 to be transferred to the Revolving Development Fund for the Water Board to make loans to the North Snake and Magic Valley ground water districts. These loans are to be used to pay for out-of-priority diversions. Finally, the bill includes \$300,000 in dedicated spending authority to develop and implement a long-term aquifer management plan. The source of the dedicated funds is from the cancellation of encumbrances made on legislative appropriations authorized for aquifer recharge in 1995. The fiscal year 2005 impact is \$1,139,900 from the General Fund and \$300,000 from the Miscellaneous Revenue Fund for a total of \$1,439,900.

The combined fiscal years 2004 and 2005 impact is \$1,684,400 on the General Fund and \$300,000 on dedicated funds for a total of \$1,984,400. All of the funding in the bill is one-time except the \$139,900 for the two ongoing positions.

FY 2005 General Fund Revenue & Appropriations

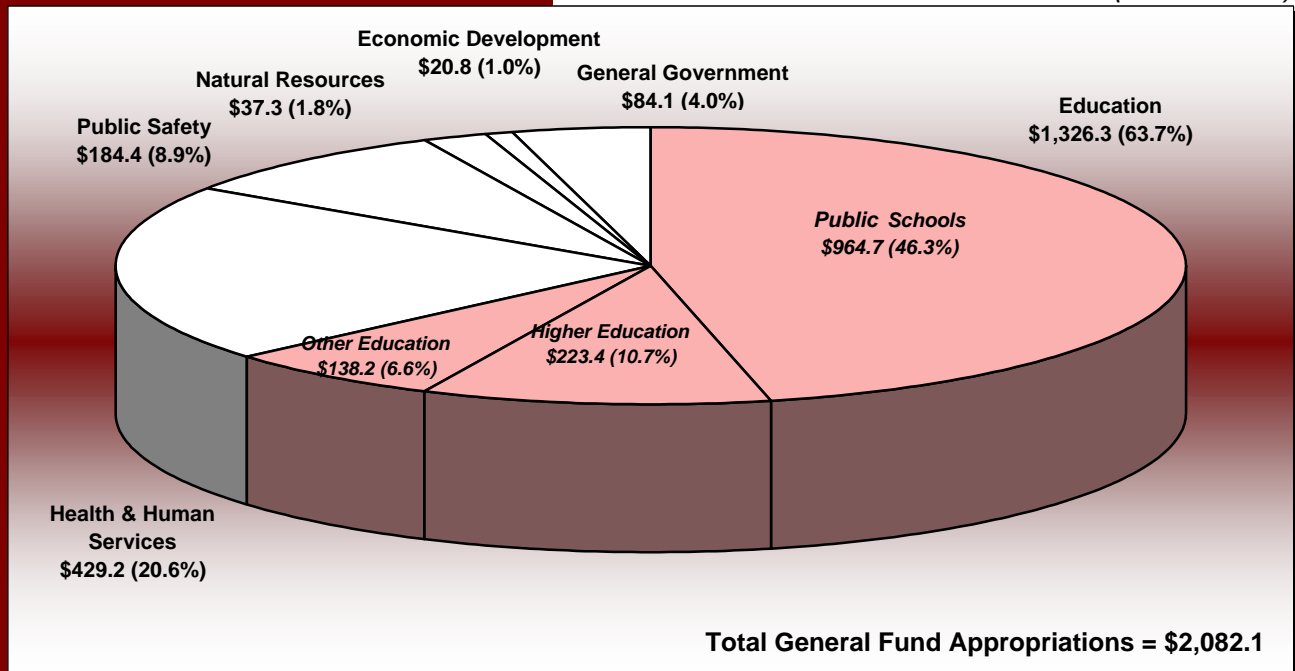
"Where the money comes from . . ."

Dollars In Millions (Percent of Total)



"Where the money goes . . ."

Dollars In Millions (Percent of Total)



(Revenue less Appropriations = \$49.2 million)

General Fund Comparison by Agency

	FY 2002 Actual Expenditures	FY 2003 Original Approp.	Negative Supplemental	FY 2003 Final Approp.*	FY 2004 JFAC Action	Percent Change from Orig
1 Education						
Public School Support	909,645,600	920,000,000	0	920,000,000	943,000,800	2.5%
Agric. Research and Extension	23,983,500	23,316,400	0	23,316,400	23,816,600	2.1%
College and Universities	228,925,300	213,558,800	0	213,558,800	218,000,000	2.1%
Community Colleges	19,861,000	18,821,600	0	18,821,600	19,223,900	2.1%
Deaf and Blind, Idaho School	6,995,700	7,051,500	0	7,051,500	7,183,600	1.9%
Education, Office of State Bd.	2,495,500	5,438,000	(190,300)	5,247,700	5,067,500	(6.8%)
Health Education Programs	6,637,500	7,223,400	0	7,223,400	7,525,700	4.2%
Historical Society	2,370,500	1,907,100	(66,700)	1,840,400	1,923,700	0.9%
Library, State	2,787,500	2,439,300	(64,400)	2,374,900	2,418,600	(0.8%)
Professional-Technical Educ.	45,810,000	43,292,200	0	43,292,200	44,219,700	2.1%
Public Broadcasting System	7,603,200	1,929,700	(67,500)	1,862,200	1,528,200	(20.8%)
Special Programs	8,645,400	9,683,300	0	9,683,300	9,628,300	(0.6%)
Superintendent of Public Instr.	5,505,200	5,477,000	(191,700)	5,285,300	5,130,900	(6.3%)
Vocational Rehabilitation	3,939,500	3,819,100	(133,700)	3,685,400	3,673,000	(3.8%)
Total Education	\$1,275,205,400	\$1,263,957,400	(\$714,300)	\$1,263,243,100	\$1,292,340,500	2.2%
2 Health and Human Services						
Catastrophic Health Care	9,600,000	8,748,600	(306,200)	10,442,400	8,126,700	(7.1%)
Health and Welfare, Dept. of	344,886,800	359,646,300	(6,738,100)	353,208,200	375,810,800	4.5%
Public Health Districts	10,134,100	9,779,800	(342,300)	9,437,500	9,166,300	(6.3%)
Total Health & Human Services	\$364,620,900	\$378,174,700	(\$7,386,600)	\$373,088,100	\$393,103,800	3.9%
3 Public Safety						
Correction, Department of	108,291,900	112,236,100	(3,928,300)	105,994,300	109,000,000	(2.9%)
Judicial Branch	25,385,100	25,688,800	(899,100)	24,789,700	24,474,000	(4.7%)
Juvenile Corrections, Dept. of	32,480,900	32,793,300	(1,147,800)	31,528,300	31,648,200	(3.5%)
Police, Idaho State	18,965,100	18,152,800	(635,300)	17,517,500	16,978,400	(6.5%)
Total Public Safety	\$185,123,000	\$188,871,000	(\$6,610,500)	\$179,829,800	\$182,100,600	(3.6%)
4 Natural Resources						
Environmental Quality, Dept. of	18,718,600	15,668,300	(548,400)	15,119,900	15,146,000	(3.3%)
Fish and Game, Dept. of	0	0	0	0	0	
Land, Board of Commissioners	4,729,400	4,766,900	(166,800)	4,600,100	4,773,000	0.1%
Parks and Recreation, Dept. of	8,833,700	8,622,700	(301,800)	9,633,000	6,642,500	(23.0%)
Water Resources, Dept. of	11,015,900	10,060,600	(352,100)	9,708,500	9,919,200	(1.4%)
Total Natural Resources	\$43,297,600	\$39,118,500	(\$1,369,100)	\$39,061,500	\$36,480,700	(6.7%)
5 Economic Development						
Agriculture, Department of	10,645,000	9,892,000	(346,200)	9,545,800	9,357,400	(5.4%)
Commerce, Department of	7,037,900	6,687,900	(234,100)	6,453,800	6,242,500	(6.7%)
Finance, Department of	0	0	0	0	0	
Industrial Commission	0	0	0	0	0	
Insurance, Department of	0	0	0	0	0	
Labor, Department of	471,100	546,200	(19,100)	527,100	435,800	(20.2%)
Public Utilities Commission	0	0	0	0	0	
Self-Governing Agencies	4,682,600	3,463,800	(121,300)	3,342,500	3,421,700	(1.2%)
Transportation Dept., Idaho	321,700	0	0	0	0	
Total Economic Development	\$23,158,300	\$20,589,900	(\$720,700)	\$19,869,200	\$19,457,400	(5.5%)
6 General Government						
Administration, Department of	4,408,900	3,107,500	(108,800)	2,998,700	8,814,700	183.7%
Building Fund Advisory Council	0	0	0	0	0	
Attorney General	16,939,000	14,112,300	(493,900)	13,618,400	13,891,400	(1.6%)
Controller, State	5,975,400	5,540,400	(193,900)	5,346,500	5,046,900	(8.9%)
Governor, Executive Office of	15,611,400	15,611,400	(525,700)	15,085,700	15,875,200	1.7%
Legislative Branch	9,959,000	9,833,100	(344,200)	9,593,000	9,186,000	(6.6%)
Lieutenant Governor	131,600	121,300	(4,200)	117,100	114,500	(5.6%)
Revenue & Taxation, Dept. of	30,802,200	24,403,400	(849,100)	23,554,300	24,470,700	0.3%
Secretary of State	2,975,900	3,209,700	(112,300)	3,097,400	1,983,700	(38.2%)
Treasurer, State	1,235,400	1,244,800	(43,600)	1,281,200	1,186,900	(4.7%)
Total General Government	\$88,038,800	\$77,183,900	(\$2,675,700)	\$74,692,300	\$80,570,000	4.4%
Statewide Total	\$1,979,444,000	\$1,967,895,400	(\$19,476,900)	\$1,949,784,000	\$2,004,053,000	1.8%

* Final Appropriation also includes Carryover and Supplementals