

**SIXTEENTH LEGISLATIVE DAY
TUESDAY, JANUARY 24, 2006**

House of Representatives

The House convened at 11:30 a.m., the Speaker in the Chair.

Roll call showed 69 members present.
Absent and excused -- Barraclough. Total -- 1.
Total -- 70.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Tiffani Sessions, Page.

Approval of Journal

January 24, 2006

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Fifteenth Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

January 23, 2006

Mr. Speaker:

I transmit herewith enrolled S 1263 for the signature of the Speaker.

WOOD, Secretary

The Speaker announced he was about to sign enrolled S 1263 and, when so signed, ordered it returned to the Senate.

Report of Standing Committees

January 24, 2006

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed H 434, H 435, H 436, H 437, H 438, H 439, H 440, H 441, H 442, H 443, H 444, and H 445.

FIELD(18), Chairman

H 434, H 435, and H 436 were referred to the State Affairs Committee.

H 437, H 438, H 439, H 441, H 442, H 443, H 444, and H 445 were referred to the Revenue and Taxation Committee.

H 440 was filed for second reading.

There being no objection, the House advanced to the Eighth

Order of Business.

**Introduction, First Reading, and Reference
of Bills and Joint Resolutions**

**HOUSE BILL NO. 446
BY BUSINESS COMMITTEE
AN ACT**

RELATING TO BORROWED SURPLUS OF STOCK AND MUTUAL INSURERS; AMENDING SECTION 41-2841, IDAHO CODE, TO PROVIDE THAT A COMMISSION OR PROMOTION EXPENSE MAY BE PAID IN CONNECTION WITH ISSUANCE OF A LOAN UPON APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND TO MAKE A TECHNICAL CORRECTION.

**HOUSE BILL NO. 447
BY BUSINESS COMMITTEE
AN ACT**

RELATING TO INVESTMENTS BY INSURANCE COMPANIES; AMENDING SECTION 41-721, IDAHO CODE, TO DELETE PROVISIONS LIMITING THE PERMISSIBLE AMOUNT OF, OR LOAN TO VALUE RATIO OF, CERTAIN LOANS MADE BY IDAHO DOMICILED INSURANCE COMPANIES; AND AMENDING SECTION 41-722, IDAHO CODE, TO DELETE PROVISIONS LIMITING THE PERMISSIBLE LOAN TO VALUE RATIO OF COMMERCIAL LOANS TO SEVENTY-FIVE PERCENT OF THE FAIR VALUE OF THE PROPERTY, TO PROVIDE THAT THE PERMISSIBLE LOAN TO VALUE RATIO OF EIGHTY PERCENT APPLIES TO COMMERCIAL MORTGAGE LOANS MADE BY IDAHO DOMICILED INSURANCE COMPANIES, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

**HOUSE BILL NO. 448
BY BUSINESS COMMITTEE
AN ACT**

RELATING TO INVESTMENTS BY INSURANCE COMPANIES; AMENDING SECTION 41-713, IDAHO CODE, TO DELETE AUTHORITY FOR INVESTMENT IN GUARANTEED STOCKS, TO ALLOW AN INSURER TO INVEST FUNDS IN PREFERRED STOCKS OR SHARES OF THE GOVERNMENT OF CANADA OR ANY OF ITS PROVINCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-714, IDAHO CODE, TO ALLOW AN INSURER TO INVEST IN COMMON SHARES OF STOCK OF ANY SOLVENT INSTITUTION EXISTING UNDER THE LAWS OF THE GOVERNMENT OF CANADA OR ANY OF ITS PROVINCES, AND TO REMOVE AUTHORITY FOR INVESTMENT IN A FOREIGN CORPORATION PUBLICLY TRADED ON UNITED STATES STOCK EXCHANGES; REPEALING SECTION 41-727, IDAHO CODE; AND AMENDING CHAPTER 7, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-727, IDAHO CODE, TO PROVIDE FOR INVESTMENT OF FUNDS BY INSURANCE COMPANIES IN FOREIGN

SECURITIES AND TO PROVIDE DEFINITIONS.

HOUSE BILL NO. 449
BY BUSINESS COMMITTEE
AN ACT

RELATING TO INSURANCE TRADE PRACTICES AND FRAUD; AMENDING SECTION 41-1314, IDAHO CODE, TO PROVIDE THAT AN INSURER OR INSURANCE PROVIDER SHALL NOT BE PROHIBITED FROM PROVIDING TO A POLICYHOLDER OR PROSPECTIVE POLICYHOLDER INDUCEMENTS OF AN AGGREGATE VALUE OF FIFTY DOLLARS OR LESS AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 450
BY JUDICIARY, RULES, AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2902, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO SET FORTH THE PURPOSE OF BAIL; AND AMENDING SECTION 19-2927, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE FORFEITURE OF BAIL.

HOUSE BILL NO. 451
BY COMMERCE AND HUMAN RESOURCES
COMMITTEE
AN ACT

RELATING TO THE FIREMEN'S RETIREMENT FUND; AMENDING SECTION 59-1320, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO APPROVED DOMESTIC RETIREMENT ORDERS; AMENDING SECTION 72-1422, IDAHO CODE, TO PROVIDE THAT CERTAIN BENEFITS MAY BE TRANSFERRED PURSUANT TO AN APPROVED DOMESTIC RETIREMENT ORDER; AMENDING SECTION 72-1461, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SPOUSES AND SURVIVING CHILDREN OF FIREFIGHTERS KILLED IN PERFORMANCE OF DUTY; AMENDING SECTION 72-1462, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SPOUSES OF RETIRED FIREFIGHTERS; AMENDING SECTION 72-1463, IDAHO CODE, TO CLARIFY THE BENEFIT PAID TO A RETIRED FIREFIGHTER'S CHILDREN UPON THE DEATH OF THE SURVIVING SPOUSE; AMENDING SECTION 72-1464, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SURVIVING SPOUSES AND CHILDREN OF CERTAIN FIREFIGHTERS AFTER FIVE YEARS OF SERVICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1465, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SURVIVING SPOUSES AND CHILDREN OF CERTAIN FIREFIGHTERS AFTER TWENTY-FIVE YEARS OF SERVICE AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE APPLICABILITY.

HOUSE BILL NO. 452
BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE DIVISION OF PURCHASING; AMENDING SECTION 67-5725, IDAHO CODE, TO PROVIDE THAT WHEN AN INVITATION TO BID OR A REQUEST FOR PROPOSALS IS CANCELED PRIOR TO AWARD OF A PURCHASE ORDER OR CONTRACT, THE ADMINISTRATOR OF THE DIVISION OF PURCHASING SHALL IMMEDIATELY RETURN ALL BIDS OR PROPOSALS TO THE SUBMITTING VENDOR AND THOSE BIDS OR PROPOSALS SHALL NOT BE SUBJECT TO DISCLOSURE UNDER CHAPTER 3, TITLE 9, IDAHO CODE.

HOUSE BILL NO. 453
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION; AMENDING CHAPTER 36, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3611, IDAHO CODE, TO PROVIDE ANY GROWER OR PRODUCER THE ALTERNATIVE TO OPT OUT OF APPLICATION OF ALL PROVISIONS OF CHAPTER 36, TITLE 54, IDAHO CODE.

HOUSE BILL NO. 454
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO THE DIRECT TO CONSUMER SALE AND SHIPMENT OF WINE BY WINERIES; AMENDING SECTION 23-1309A, IDAHO CODE, TO PROVIDE THAT WINERIES THAT SELL AND SHIP TO IDAHO RESIDENTS MUST OBTAIN A PERMIT, PAY TAXES AND COMPLY WITH SPECIFIED SHIPPING REQUIREMENTS AND TO PROVIDE FOR PROCEDURES AND RULES AND THE EXCHANGE OF INFORMATION BETWEEN THE STATE POLICE AND THE STATE TAX COMMISSION; AND AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE FOR IMPOSITION OF THE EXCISE TAX UPON ALL WINES SOLD AND SHIPPED DIRECTLY TO IDAHO STATE RESIDENTS BY AN OUT-OF-STATE WINE MANUFACTURER HOLDING A WINE DIRECT SHIPPER PERMIT AND TO MAKE A TECHNICAL CORRECTION.

HOUSE BILL NO. 455
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO PROPERTY TAX; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602JJ, IDAHO CODE, TO EXEMPT FROM THE PROPERTY TAX ANY INCREASE IN THE NET TAXABLE VALUE OF REAL PROPERTY OF A TAXPAYER IN EXCESS OF FIVE PERCENT PER YEAR, TO PROVIDE THE PROPERTY INCLUDED IN THE CALCULATION OF THE EXEMPTION SHALL INCLUDE EACH PARCEL OF REAL PROPERTY OWNED BY THE TAXPAYER, TO PROVIDE THAT THE EXEMPTION DOES NOT APPLY TO FOREST LANDS, TO PROVIDE THAT THE LEGISLATURE DECLARES THE EXEMPTION NECESSARY AND JUST AND TO PROVIDE FOR RULES; DECLARING AN

EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE BILL NO. 456
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE THAT THE FIRST ONE HUNDRED THOUSAND DOLLARS OF THE MARKET VALUE FOR ASSESSMENT PURPOSES OF THE HOMESTEAD OR FIFTY PERCENT OF THE MARKET VALUE FOR ASSESSMENT PURPOSES OF THE HOMESTEAD, WHICHEVER IS THE LESSER, SHALL BE EXEMPT FROM PROPERTY TAXATION, TO DEFINE "HOMESTEAD," TO PROVIDE FOR CERTAIN ANNUAL ADJUSTMENTS TO THE MAXIMUM AMOUNT SUBJECT TO PROPERTY TAX EXEMPTION, TO PROVIDE FOR PUBLICATION AND DISSEMINATION OF ADJUSTMENTS, TO PROVIDE THAT THE PUBLICATION OF ADJUSTMENTS SHALL BE EXEMPT FROM THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE BILL NO. 457
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3013, IDAHO CODE, TO EXCLUDE FROM THE DEFINITION OF "RESIDENT" A PERSON WHO IS A NONRESIDENT ALIEN UNDER THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE BILL NO. 458
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3620, IDAHO CODE, TO REVISE THE PENALTY FOR DOING BUSINESS WITHOUT A REQUIRED SELLER'S PERMIT FROM A CRIMINAL MISDEMEANOR TO A CIVIL PENALTY, TO LIMIT THE PENALTY TO PERSONS WHO ARE RESPONSIBLE PERSONS OF A CORPORATION OR OTHER BUSINESS ENTITY AND TO PROVIDE FOR ASSESSMENT OF THE PENALTY AS A DEFICIENCY.

HOUSE BILL NO. 459
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO TAX LICENSES, PERMITS AND ACCOUNTS; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2427C, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCATION AND SUSPENSION OF LICENSES OF MOTOR FUEL DEALERS AND TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A

REQUIRED LICENSE; AMENDING SECTION 63-2503, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCATION AND SUSPENSION OF PERMITS OF CIGARETTE WHOLESALERS, TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A REQUIRED PERMIT AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 63-2518, IDAHO CODE, RELATING TO REVOCATION OF CIGARETTE WHOLESALERS' PERMITS; AMENDING SECTION 63-2512, IDAHO CODE, TO DELETE PROVISIONS IMPOSING CIVIL PENALTIES FOR FAILURE TO POSSESS A VALID CIGARETTE PERMIT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035C, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCATION AND SUSPENSION OF INCOME TAX WITHHOLDING ACCOUNTS AND TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A REQUIRED INCOME TAX WITHHOLDING ACCOUNT; AND AMENDING SECTION 63-2510A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

HOUSE BILL NO. 460
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO THE WITHHOLDING TAX FOR STATE INCOME TAX PURPOSES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035C, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE INCOME TAX WITHHOLDING ON REAL ESTATE SALES BY NONRESIDENTS AND PERSONS WITHOUT A PERMANENT PLACE OF BUSINESS IN IDAHO AND TO PROVIDE PROCEDURES.

HOUSE BILL NO. 461
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO TECHNICAL CORRECTIONS TO THE PROPERTY TAX LAWS; AMENDING SECTION 63-602HH, IDAHO CODE, TO PROVIDE THAT EXEMPTED SIGNIFICANT CAPITAL IMPROVEMENTS SHALL NOT BE INCLUDED ON A NEW CONSTRUCTION ROLL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-710, IDAHO CODE, TO DELETE LANGUAGE REQUIRING A PERCENTAGE REDUCTION OF STATE MONEY UNDER THE CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM; AMENDING SECTION 63-2909, IDAHO CODE, TO DELETE THE REQUIREMENT THAT EXEMPTED PROPERTY BE INCLUDED ON ANY NEW CONSTRUCTION ROLL; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE JOINT RESOLUTION NO. 2
BY STATE AFFAIRS COMMITTEE
A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE III OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 28, ARTICLE III, TO PROVIDE THAT A MARRIAGE BETWEEN A MAN AND A WOMAN IS THE ONLY DOMESTIC LEGAL UNION THAT

SHALL BE VALID OR RECOGNIZED IN THIS STATE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

ATTEST:

PAMM JUKER, Chief Clerk

H 446, H 447, H 448, H 449, H 450, H 451, H 452, H 453, H 454, H 455, H 456, H 457, H 458, H 459, H 460, H 461, and **HJR 2** were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House advanced to the Eleventh Order of Business.

Third Reading of Bills and Joint Resolutions

H 409 was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mrs. Bell to open debate.

The question being, "Shall **H 409** pass?"

Roll call resulted as follows:

AYES -- Anderson, Andrus, Barrett, Bastian, Bayer, Bedke, Bell, Bilbao, Black, Block, Boe, Bolz, Brackett, Bradford, Cannon, Chadderdon, Clark, Collins, Crow, Deal, Denney, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Garrett, Hart, Harwood, Henbest, Henderson, Jaquet, Kemp, Lake, LeFavour, Loertscher, Martinez, Mathews, McGeachin, McKague, Miller, Mitchell(Chavez), Moyle, Nielsen, Nonini, Pasley-Stuart, Pence, Raybould, Ring, Ringo, Roberts, Rusche, Rydalch, Sali, Saylor, Shepherd(2), Shepherd(8), Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Stevenson, Trail, Wills, Wood, Mr. Speaker. Total -- 68.

NAYS -- Schaefer. Total -- 1.

Absent and excused -- Barraclough. Total -- 1.

Total -- 70.

Whereupon the Speaker declared **H 409** passed the House. Title was approved and the bill was ordered transmitted to the Senate.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 11:30 a.m., Wednesday, January 25, 2006. Seconded by Mr. Saylor. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:51 a.m.

BRUCE NEWCOMB, Speaker