

IN THE SENATE

SENATE BILL NO. 1168

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO GROUND WATER RECHARGE; AMENDING SECTION 42-234,
 2 IDAHO CODE, TO REFERENCE PERMITS AND LICENSES, TO REVISE A
 3 LEGISLATIVE FINDING, TO REVISE A LEGISLATIVE DECLARATION RELATING
 4 TO BENEFICIAL USE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT
 5 OF WATER RESOURCES TO ISSUE CERTAIN PERMITS AND LICENSES, TO
 6 DELETE REFERENCE TO CERTAIN PRIORITY AND DEPLETION PROVISIONS,
 7 TO PROVIDE THAT THE DIRECTOR MAY REGULATE THE EXERCISE OF
 8 WATER RIGHTS FOR RECHARGE PURPOSES AND TO AUTHORIZE THE
 9 DIRECTOR TO APPROVE, DISAPPROVE OR REQUIRE ALTERATIONS IN
 10 METHODS EMPLOYED TO IMPLEMENT GROUND WATER RECHARGE;
 11 AND REPEALING SECTION 42-4201A, IDAHO CODE, RELATING TO THE
 12 DIRECTOR'S AUTHORITY TO ISSUE PERMITS AND LICENSES RELATING TO
 13 THE RECHARGE OF GROUND WATER BASINS.
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15 Be It Enacted by the Legislature of the State of Idaho:

16 SECTION 1. That Section 42-234, Idaho Code, be, and the same is hereby amended to
 17 read as follows:

18 42-234. GROUND WATER RECHARGE ~~PROJECTS~~ – AUTHORITY OF
 19 DEPARTMENT TO GRANT PERMITS AND LICENSES. (1) It is the policy of the
 20 state of Idaho to promote and encourage the optimum development and augmentation of the
 21 water resources of this state. The legislature deems it essential, therefore, that water projects
 22 designed to advance this policy be given maximum support. The legislature finds that the
 23 ~~projects~~ use of water to recharge ground water basins in accordance with Idaho law and the
 24 state water plan may enhance the full realization of our water resource potential by furthering
 25 water conservation and increasing the water available for beneficial use.

26 (2) The legislature hereby declares that the appropriation ~~and underground storage~~
 27 of water for purposes of ground water recharge shall constitute a beneficial use ~~and hereby~~
 28 ~~authorizes~~ of water. The director of the department of water resources is authorized to issue
 29 a permits and licenses for the ~~appropriation and underground storage of unappropriated waters~~
 30 ~~in an area~~ purpose of ground water recharge, pursuant to the provisions of this chapter and
 31 in compliance with other applicable Idaho law and the state water plan. ~~The rights acquired~~
 32 ~~pursuant to any permit and license obtained as herein authorized shall be secondary to all prior~~
 33 ~~perfected water rights, including those water rights for power purposes that may otherwise be~~
 34 ~~subordinated by contract entered into by the governor and Idaho power company on October~~
 35 ~~25, 1984, and ratified by the legislature pursuant to section 42-203B, Idaho Code. Any right so~~
 36 ~~granted shall be subject to depletion for surface storage or direct uses after a period of years~~
 37 ~~sufficient to amortize the investment of the appropriator.~~

1 (3) The director of the department of water resources may regulate the exercise of
2 water rights for recharge purposes to ensure that senior priority water rights are not injured
3 thereby. The director of the department of water resources shall have the authority to approve,
4 disapprove or require alterations in the methods employed to implement ground water recharge
5 in order to achieve optimum development of water resources in the public interest.

6 (4) The legislature further recognizes that incidental ground water recharge benefits are
7 often obtained from the diversion and use of water for various beneficial purposes. However,
8 such incidental recharge may not be used as the basis for claim of a separate or expanded water
9 right. Incidental recharge of aquifers which occurs as a result of water diversion and use that
10 does not exceed the vested water right of water right holders is in the public interest. The
11 values of such incidental recharge shall be considered in the management of the state's water
12 resources.

13 SECTION 2. That Section [42-4201A](#), Idaho Code, be, and the same is hereby repealed.