

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 576

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE SOIL CONSERVATION DISTRICT LAW; AMENDING SECTION 22-2716,
2 IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING
3 SECTION 22-2717, IDAHO CODE, TO DEFINE A TERM, TO REMOVE DEFINITIONS,
4 TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL
5 CORRECTIONS; AMENDING SECTION 22-2718, IDAHO CODE, TO REVISE THE
6 NAME OF A CERTAIN COMMISSION, TO REVISE REQUIREMENTS RELATING TO THE
7 QUALIFICATIONS AND APPOINTMENT OF SUCH COMMISSION MEMBERS, TO DELETE
8 REFERENCE TO THE IDAHO ASSOCIATION OF SOIL CONSERVATION DISTRICTS, TO
9 REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF SUCH COMMISSION
10 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2719, IDAHO
11 CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL
12 CORRECTIONS; AMENDING SECTION 22-2720, IDAHO CODE, TO REVISE THE
13 NAME OF A CERTAIN COMMISSION, TO PROVIDE REQUIREMENTS FOR DISTRICTS
14 FORMED BY CONSOLIDATION, TO PROVIDE FOR THE ALLOCATION OF FUNDS TO
15 DISTRICTS FORMED BY CONSOLIDATION AND TO MAKE TECHNICAL CORRECTIONS;
16 AMENDING SECTION 22-2721, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN
17 COMMISSION, TO REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT
18 SUPERVISORS ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS;
19 AMENDING SECTION 22-2721, IDAHO CODE, AS AMENDED BY SECTION 4, CHAPTER
20 341, LAWS OF 2009, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO
21 REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT SUPERVISORS
22 ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
23 SECTION 22-2723, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING
24 SECTION 22-2724, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING
25 SECTION 22-2725, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION
26 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2725, IDAHO
27 CODE, AS AMENDED BY SECTION 5, CHAPTER 341, LAWS OF 2009, TO REVISE
28 THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS;
29 AMENDING SECTION 22-2727, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN
30 COMMISSION, TO INCREASE THE MAXIMUM ALLOCATION OF FUNDS TO DISTRICTS,
31 TO SPECIFY THAT CERTAIN ALLOCATIONS TO DISTRICTS ARE BASED UPON A
32 PREVIOUS FISCAL YEAR ALLOCATION, TO PROVIDE THAT A DISTRICT ALLOCATION
33 SHALL NOT EXCEED A CERTAIN AMOUNT IN A FISCAL YEAR AND TO MAKE TECHNICAL
34 CORRECTIONS; AMENDING SECTION 22-2730, IDAHO CODE, TO REVISE THE NAME
35 OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING
36 SECTION 22-2731, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION
37 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2732, IDAHO
38 CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REQUIRE SOIL
39 CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVATION
40 COMMISSION TO KEEP EACH OTHER INFORMED OF LOAN APPLICATIONS RECEIVED
41 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2733, IDAHO
42 CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL
43 CORRECTIONS; AMENDING SECTION 22-2734, IDAHO CODE, TO REVISE THE NAME
44 OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
45

1 SECTION 22-2735, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION,
2 TO REQUIRE THAT CERTAIN VOUCHERS BE APPROVED BY THE CHAIRMAN AND THE
3 ADMINISTRATOR OF THE STATE SOIL AND WATER CONSERVATION COMMISSION AND
4 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-5201, IDAHO CODE,
5 TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5202,
6 IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION
7 22-5203, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION;
8 AMENDING SECTION 22-5205, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN
9 COMMISSION; AMENDING SECTION 22-5206, IDAHO CODE, TO REVISE THE NAME
10 OF A CERTAIN COMMISSION; AMENDING SECTION 36-2404, IDAHO CODE, TO
11 REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 39-3602,
12 IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING
13 SECTION 39-6407, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION
14 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-6609, IDAHO
15 CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL
16 CORRECTIONS; AMENDING SECTION 42-3703, IDAHO CODE, TO REVISE THE NAME
17 OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING
18 SECTION 42-3705, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION;
19 AMENDING SECTION 42-3706, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN
20 COMMISSION; AMENDING SECTION 42-3707, IDAHO CODE, TO REVISE THE NAME
21 OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
22 SECTION 42-3717, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION
23 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-818, IDAHO
24 CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AND PROVIDING AN
25 EFFECTIVE DATE.

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

27 SECTION 1. That Section 22-2716, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It
30 is the determination of the state of Idaho that:

31 (a) Forest lands, rangelands and agricultural lands maintained in
32 a healthy condition are a legitimate land use contributing to the
33 economic, social and environmental well-being of the state and its
34 citizens;

35 (b) It is essential to the general welfare of all citizens of this state
36 that multiple use conservation improvements be implemented on a broader
37 scale on both public and private lands;

38 (c) Due to numerous economic and practical issues relating to the
39 improvements of individual tracts of land, both public and private
40 resource conservation improvements, projects and programs of the
41 nature contemplated by this chapter would enhance the economic
42 productivity and environmental quality of the state; and

43 (d) It is sound public policy for the state of Idaho to provide
44 for accounts to finance loans, grants, cost-share funding and tax
45 incentives to the end that forest lands, rangelands and agricultural
46 lands within the state can provide the greatest benefit to all
47 concerned.

1 (2) It is the intent of the state of Idaho to provide a means by which
2 funds, including federal, state, private and other moneys, can be obtained
3 and utilized for the accelerated development of water quality programs,
4 multiple use forest land, rangeland, and agricultural land conservation
5 improvements in the state, and to provide that these improvements, projects
6 and programs be locally planned, coordinated and implemented through
7 statutory provisions pertaining to soil conservation districts, the state
8 soil and water conservation commission, appropriate state and federal
9 agencies, and the owners and operators of privately owned lands.

10 (3) It is in the best interest of the state of Idaho:

11 (a) To emphasize nonregulatory, science-based technical assistance,
12 incentive-based financial programs and informational and educational
13 programs at the local level;

14 (b) To maintain, preserve, conserve and rehabilitate forest lands,
15 rangelands and agricultural lands to assure the protection and
16 productivity of the state's natural resources;

17 (c) That soil conservation districts, as governmental subdivisions,
18 and the state soil and water conservation commission, as a state agency,
19 are the primary entities to provide assistance to private landowners
20 and land users in the conservation, sustainment, improvement and
21 enhancement of Idaho's natural resources;

22 (d) To establish policies for cooperative working relationships
23 between local soil conservation districts, the state soil and water
24 conservation commission, local, state and federal agencies and public
25 and private groups to plan, develop and implement conservation goals
26 and initiatives with local landowners and land users;

27 (e) That soil conservation districts and the state soil and water
28 conservation commission lead nonregulatory efforts to conserve,
29 sustain, improve and enhance Idaho's private and state lands and
30 to provide assistance to private landowners and land users to plan,
31 develop and implement conservation plans addressing soil, water, air,
32 plant and animal resources. Technical, financial and educational
33 assistance to landowners and land users is vital to that effort; and

34 (f) That the state soil and water conservation commission provide
35 support to soil conservation districts in the wise use and enhancement
36 of soil, water and related resources.

37 (4) It is the policy of the state of Idaho:

38 (a) To provide appropriate tax policies and program mechanisms that
39 provide incentives for private landowners and land users to voluntarily
40 manage forest lands, rangelands and agricultural lands in a manner that
41 promotes conservation;

42 (b) That the health, safety and general welfare of the people of this
43 state can be greatly enhanced by providing nonregulatory opportunities
44 to landowners and land users in order to increase the ability of such
45 landowners and land users to readily understand and plan for local,
46 state and federal natural resource requirements and opportunities
47 through technological innovation and processes;

48 (c) To enhance natural resource productivity in order to promote a
49 strong natural resource sector, reduce unintended adverse effects of

1 resource development and use, protect individual and community health
2 and safety and encourage stewardship;

3 (d) That conservation plan implementation shall include best
4 management practices implemented according to the standards
5 and specifications developed by the United States department of
6 agriculture natural resources conservation service (NRCS) as
7 designated by the agricultural pollution abatement plan. Those
8 practices shall include, but not be limited to: irrigation water
9 management systems; prescribed grazing; forest stand improvement;
10 establishment of grass, trees and shrubs to reduce wind and water
11 erosion; promotion of sound community development; protection of water
12 and air resources from agricultural nonpoint sources of impairment;
13 maintenance, restoration or enhancement of wetlands and fish and
14 wildlife habitat; protection of upstream watersheds from flood
15 risk; and protection of watersheds from the effects of chronic water
16 shortages and risks; and

17 (e) That all conservation programs authorized pursuant to this
18 chapter shall deliver services fairly and equitably, strengthen the
19 conservation district delivery system, provide timely science-based
20 information and provide conservation information and educational
21 programs and experiences to youth and adults.

22 SECTION 2. That Section 22-2717, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 22-2717. DEFINITIONS. Whenever used or referred to in this chapter,
25 unless a different meaning clearly appears from the context:

26 (1) "Administrator" means the administrator for the Idaho state soil
27 and water conservation commission.

28 (2) "Agency of this state" includes the government of this state and
29 any subdivision, agency, or instrumentality, corporate or otherwise, of the
30 government of this state.

31 ~~(23)~~ "Agricultural pollution abatement plan" or "ag plan" means the
32 document developed by the state soil and water conservation commission and
33 approved by the commission and the department of environmental quality,
34 that provides appropriate technical, programmatic, informational and
35 educational processes, guidelines and policies for addressing agricultural
36 pollution.

37 ~~(3) "Agriculture" or "department of agriculture" means an executive~~
38 ~~department of state government created in section 22-101, Idaho Code.~~

39 (4) "Best management practices" or "BMPs" means practices, techniques,
40 or measures developed or identified by the designated agency and identified
41 in the state water quality management plan which are determined to be a
42 cost-effective and practicable means of preventing or reducing pollutants
43 generated from nonpoint sources to a level compatible with water quality
44 goals.

45 (5) "Commission" or "state soil and water conservation commission"
46 means the agency created in section 22-2718, Idaho Code.

47 (6) "Conservation plan" means a description of identified natural
48 resource issues and a specific schedule of implementation of component

1 practices necessary to resolve those specific resource issues as agreed upon
2 by the landowner.

3 (7) "Designated agency" is as defined in section 39-3602, Idaho Code.

4 (8) "District," "conservation district," "soil conservation
5 district," or "soil and water conservation district" means a governmental
6 subdivision(s) of this state, and a public body corporate and politic,
7 organized in accordance with the provisions of this ~~act~~ chapter, for the
8 purposes, with the powers~~7~~ and subject to the restrictions hereinafter set
9 forth.

10 (9) "Due notice" means notice published at least twice, with an
11 interval of at least seven (7) days between the two (2) publication dates,
12 in a newspaper or other publication of general circulation within the
13 appropriate area, or if no such publication of general circulation be
14 available, by posting at a reasonable number of conspicuous places within
15 the appropriate area, such posting to include, where possible, posting at
16 public places where it may be customary to post notices concerning county or
17 municipal affairs generally. At any hearing held pursuant to such notice,
18 at the time and place designated in such notice, adjournment may be made
19 from time to time without the necessity of renewing such notice for such
20 adjournment dates.

21 (10) "Eligible applicant" means an individual agricultural owner,
22 operator, partnership, corporation, conservation district, irrigation
23 district, canal company or other agricultural or grazing interest.

24 (11) "Government" or "governmental" includes the government of this
25 state, the government of the United States, and any subdivisions, agency, or
26 instrumentality, corporate or otherwise, of either of them.

27 ~~(12) "Idaho association of soil conservation districts (IASCD)" means~~
28 ~~an incorporated, nongovernmental entity representing all soil conservation~~
29 ~~districts in Idaho.~~

30 ~~(13)~~ "Idaho OnePlan" means a computer-based system for improving
31 efficiency and effectiveness of natural resource planning by landowners and
32 land users.

33 (14~~3~~) "Landowner" or "owner" includes any person, firm, or corporation
34 who shall hold title to any lands lying within a district organized under the
35 provisions of this chapter. A buyer on contract, who is the occupier of land,
36 shall be construed as landowner.

37 (15~~4~~) "Land user" means any entity with a lease, permit or similar
38 business agreement with a landowner to implement, manage or utilize such
39 land for activities related to use of the land.

40 (16~~5~~) "Natural resources conservation service" or "NRCS" means the
41 agency governed by the provisions of 16 U.S.C. sections 590a through 590d and
42 590f.

43 (17~~6~~) "Nominating petition" means a petition filed under the provisions
44 of section 22-2721, Idaho Code, to nominate candidates for the office of
45 supervisor of a soil conservation district.

46 (18~~7~~) "Participant" means an individual agricultural owner, operator,
47 partnership, private corporation, conservation district, irrigation
48 district, canal company, or other agricultural or grazing interest
49 approved by the commission or an individual agricultural owner, operator,
50 partnership, or private corporation approved for implementation of

1 conservation improvements, projects, or the water quality program for
2 agriculture.

3 (198) "Petition" means a petition filed under the provisions of
4 subsection A. (1) of section 22-2719, Idaho Code, for the creation of a
5 district.

6 (2019) "Project sponsor" means a conservation district, irrigation
7 district, canal company, or other agricultural or grazing interest, as
8 determined appropriate by the commission, that enters into a conservation
9 improvement or water quality project agreement with the commission.

10 (210) "Qualified elector" means any person who is qualified to vote
11 pursuant to the requirements of section 34-104, Idaho Code.

12 (221) "Riparian land" means the beds of streams, the adjacent
13 vegetation communities and the land thereunder, which are predominately
14 influenced by their association with water and are privately owned.

15 (232) "Specifications" means the materials, operations and procedures
16 necessary to obtain the desired standards of construction and installation.

17 (243) "Standards" means the minimum limits of technical excellence of a
18 component practice for its planning, design and construction.

19 (254) "State" means the state of Idaho.

20 (265) "Supervisor" means one (1) of the members of the governing body of
21 a district elected or appointed in accordance with the provisions of this ~~act~~
22 chapter.

23 (276) "Total maximum daily load" is as defined in section 39-3602, Idaho
24 Code.

25 (287) "United States" or "agencies of the United States" includes
26 the United States of America, the natural resources conservation service
27 of the United States department of agriculture, and any other agency or
28 instrumentality, corporate or otherwise, of the United States of America.

29 SECTION 3. That Section 22-2718, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1)
32 There is hereby established and created in the department of agriculture of
33 the state of Idaho the Idaho state soil and water conservation commission
34 which shall ~~in cooperation with the director of the department of~~
35 ~~agriculture~~ perform all functions conferred upon it by this chapter.
36 ~~The soil conservation commission and~~ shall be a nonregulatory agency. The
37 commission shall consist of five (5) members appointed by the governor, ~~but~~
38 ~~no more than three (3) members shall be a member of the same political party.~~
39 In appointing commission members, the governor shall give consideration
40 to geographic representation. Commission members shall be chosen with
41 due regard to their demonstrated expertise including, but not limited
42 to, knowledge of and interest in water quality and other natural resource
43 issues, production agriculture, banking or other similar financial
44 experience or experience as a county commissioner. The soil and water
45 conservation districts may submit to the governor a list of up to three
46 (3) names for each vacancy on the commission and the governor may, in his
47 discretion, consider any such submission in the appointment of commission
48 members. The term of office of each commission member shall be five (5)
49 years; except that upon July 1, ~~1967~~ 2010, the governor shall appoint one (1)

1 member for a term of one (1) year, one (1) member for a term of two (2) years,
 2 one (1) member for a term of three (3) years, one (1) member for a term of four
 3 (4) years and one (1) member for a term of five (5) years. From and after the
 4 initial appointment the governor shall appoint a member of the commission to
 5 serve in office for a term of five (5) years commencing upon July 1 of that
 6 year. A vacancy which occurs in an unexpired term shall be filled for its
 7 remainder by the governor's appointment. ~~Any commissioner may be removed~~
 8 ~~during his term of office by the governor. Any commissioner so removed shall~~
 9 ~~have notice of the same in writing, specifying the reasons for the removal.~~
 10 Each vacancy on the commission shall be filled by appointment by the
 11 governor. Such appointments shall be confirmed by the senate. Commission
 12 members shall serve at the pleasure of the governor. The commission
 13 may invite the state conservationist of the United States department of
 14 agriculture natural resources conservation service, ~~the president of the~~
 15 ~~Idaho association of soil conservation~~ a representative from a district or
 16 districts and the dean of the college of agriculture of the university of
 17 Idaho or his designated representative, or any other person or entity as the
 18 commission deems appropriate, to serve as nonvoting advisory members of the
 19 commission. The commission shall keep a record of its official actions,
 20 shall adopt a seal, which seal shall be judicially noticed, and may perform
 21 such acts, hold such public hearings, and promulgate such rules as may be
 22 necessary for the execution of its functions under this chapter.

23 (2) ~~The director of the department of agriculture~~ state soil and water
 24 conservation commission shall appoint the administrator of the state soil
 25 and water conservation commission ~~from persons recommended by the soil~~
 26 ~~conservation commission.~~ The state soil and water conservation commission
 27 may employ such technical experts and such other agents and employees,
 28 permanent and temporary, as it may require, and shall determine their
 29 qualifications, duties and compensation. The commission may call upon the
 30 attorney general of the state for such legal services as it may require.
 31 It shall have authority to delegate to its chairman, to one (1) or more
 32 of its members, or to one (1) or more agents or employees, such powers and
 33 duties as it may deem proper. ~~It shall be supplied with suitable office~~
 34 ~~accommodations, and shall be furnished with the necessary supplies and~~
 35 ~~equipment~~ The commission may establish offices, incur expenses, enter into
 36 contracts and acquire services and personal property as may be reasonable
 37 for the proper administration and enforcement of this chapter. Upon request
 38 of the commission, for the purpose of carrying out any of its functions,
 39 the supervising officer of any state agency, or of any state institution of
 40 learning, shall insofar as may be possible under available appropriation,
 41 and having due regard to the needs of the agency to which the request
 42 is directed, assign or detail to the commission members of the staff or
 43 personnel of such agency or institution of learning, and make such special
 44 reports, surveys, or studies as the commission may request.

45 (3) The commission shall designate its chairman, and may from time
 46 to time, change such designation. A majority of the commission shall
 47 constitute a quorum, and the concurrency of a majority in any matter within
 48 their duties shall be required for its determination. The chairman and
 49 members of the commission shall be compensated as provided by section
 50 59-509(h), Idaho Code. The commission shall provide for the execution of

1 surety bonds for all employees and officers who shall be entrusted with
2 funds or property; shall provide for the keeping of a full and accurate
3 record of all proceedings and of all resolutions, and orders issued or
4 adopted; and shall provide for an annual audit of the accounts of receipts
5 and disbursements.

6 (4) In addition to the duties and powers hereinafter conferred upon the
7 state soil and water conservation commission, it shall have the following
8 responsibilities:

9 (a) To offer such assistance as may be appropriate to the supervisors of
10 soil conservation districts, ~~organized as provided hereinafter,~~ in the
11 carrying out of any of their powers and programs.

12 (b) To keep the supervisors of each of the several soil conservation
13 districts ~~organized under the provisions of this chapter~~ informed of
14 the activities and experience of all other soil conservation districts
15 ~~organized hereunder,~~ and to facilitate an interchange of advice and
16 experience between such districts and cooperation between them.

17 (c) To coordinate the progress of the several soil conservation
18 districts ~~organized hereunder~~ so far as this may be done by advice and
19 consultation.

20 (d) To secure the cooperation and assistance of the United States and
21 any of its agencies, and of agencies of this state, in the work of such
22 districts.

23 (e) To disseminate information throughout the state concerning the
24 activities and programs of the soil conservation districts in areas
25 where their organization is desirable.

26 (f) To provide for the establishment and encouragement of the "Idaho
27 OnePlan" as a primary computer-based conservation planning process for
28 all natural resource concerns. Establishment and encouragement will
29 be accomplished through an executive group and steering committee both
30 containing private, state and federal representation. The information
31 provided by those using the "Idaho OnePlan" shall be deemed to be trade
32 secrets, production records or other proprietary information and shall
33 be kept confidential and shall be exempt from disclosure pursuant to
34 section 9-340D, Idaho Code.

35 (5) In addition to other powers, functions and duties of soil
36 conservation districts and the state soil and water conservation commission
37 provided in this chapter, the commission shall have the following additional
38 powers, functions and duties:

39 (a) The commission shall conduct, in cooperation with appropriate
40 federal and state agencies and the owners and operators of privately
41 owned forest lands, rangelands and agricultural lands in this state,
42 conservation improvements on or in respect to these lands for the
43 purposes of implementing conservation systems to conserve and improve
44 natural resource conditions;

45 (b) The commission shall assist and advise soil conservation districts
46 and other entities in implementing the conservation improvements,
47 projects, ~~and~~ the water quality program for agriculture. To the
48 extent that there are available general funds, the commission
49 shall provide for grants and cost-share opportunities and, as
50 legislatively designated, utilize the resource conservation and

1 rangeland development fund for loans for conservation improvements.
 2 Provided however, that the commission shall determine whether general
 3 or resource conservation and rangeland development funds are available
 4 before approving any conservation improvements, projects, and
 5 cost-share opportunities and, after having made such determination,
 6 shall enter into the necessary contracts for implementation;

7 (c) The ~~state soil conservation~~ commission shall be the agency
 8 responsible for the administration of funds accruing to the resource
 9 conservation and rangeland development fund and for all general funds
 10 appropriated as a separate and distinct action of the legislature
 11 to implement the powers, functions and duties of soil conservation
 12 districts and the commission; ~~and~~

13 (d) On or before February 1 of each year, the commission shall report on
 14 the cooperation between the commission and the districts to the senate
 15 agricultural affairs committee and the house agricultural affairs
 16 committee; and

17 (e) The commission shall promulgate such rules as are necessary to
 18 carry out the purposes of this chapter.

19 SECTION 4. That Section 22-2719, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. ~~A.~~ (1) Any
 22 twenty-five (25) owners of land lying within the limits of the territory
 23 proposed to be organized into a district may file a petition with the state
 24 soil and water conservation commission asking that a soil conservation
 25 district be organized to function in the territory described in the
 26 petition. Such petition shall set forth:

27 (1a) The proposed name of said district;

28 (2b) That there is need, in the interest of the public health, safety,
 29 and welfare, for a soil conservation district to function in the
 30 territory described in the petition;

31 (3c) A description of the territory proposed to be organized as a
 32 district, which description shall not be required to be given by metes
 33 and bounds or by legal subdivisions, but shall be deemed sufficient if
 34 generally accurate;

35 (4d) A request that the state soil and water conservation commission
 36 duly define the boundaries for such district; that a referendum be held
 37 within the territory so defined on the question of the creation of a
 38 soil conservation district in such territory; and that the commission
 39 determine that such a district be created.

40 Where more than one (1) petition is filed covering parts of the same
 41 territory, the state soil and water conservation commission may consolidate
 42 all of any such petitions.

43 ~~B.~~ (2) Within thirty (30) days after such petition has been filed with
 44 the state soil and water conservation commission, it shall cause due notice
 45 to be given of a proposed hearing upon the question of the desirability and
 46 necessity, in the interest of the public health, safety, and welfare, of the
 47 creation of such district, upon the question of the appropriate boundaries
 48 to be assigned to such district, upon the propriety of the petition and
 49 other proceedings taken under this chapter, and upon all questions relevant

1 to such inquiries. All owners of land within the limits of the territory
2 described in the petition, and of lands within any territory considered for
3 addition to such described territory, and all other interested parties,
4 shall have the right to attend such hearings and to be heard. If it shall
5 appear upon the hearing that it may be desirable to include within the
6 proposed district territory outside of the area within which due notice of
7 the hearing has been given the hearing shall be adjourned and the due notice
8 of further hearing shall be given throughout the entire area considered
9 for inclusion in the district, and such further hearing held. After such
10 hearing, if the commission shall determine upon the facts presented at
11 such hearing and upon such other relevant facts and information as may be
12 available, that there is need in the interest of the public health, safety
13 and welfare, for a soil conservation district to function in the territory
14 considered at the hearing, it shall make and record such determination, and
15 shall define by metes and bounds or by legal subdivisions, the boundaries
16 of such district. In making such determination and in defining such
17 boundaries, the commission shall give due weight and consideration to the
18 topography of the area considered and of the state, the composition of soils
19 therein, the distribution of erosion, the prevailing land use practices,
20 the desirability and necessity of including within the boundaries the
21 particular lands under consideration and the benefits such lands may receive
22 from being included within such boundaries, the relation of the proposed
23 area to the existing watersheds and agricultural regions, and to other soil
24 conservation districts already organized or proposed for organization under
25 the provisions of this chapter, and such other physical, geographical,
26 and economic factors as are relevant, having due regard to the legislature
27 determinations set forth in section 22-2716, Idaho Code. The territory to be
28 included within such boundaries need not be contiguous. If the commission
29 ~~shall~~ determines after such hearing, after due consideration of the said
30 relevant facts, that there is no need for a soil conservation district
31 to function in the territory considered at the hearing, it shall make and
32 record such determination and shall deny the petition. After six (6) months
33 shall have expired from the date of the denial of such petition, subsequent
34 petitions covering the same or substantially the same territory may be filed
35 as aforesaid and new hearings held and determinations made thereon.

36 6.(3) After the commission has made and recorded a determination
37 that there is need, in the interest of the public health, safety, and
38 welfare, for the organization of a district in a particular territory and
39 has defined the boundaries thereof, it shall consider the question whether
40 the operation of a district within such boundaries with the powers conferred
41 upon soil conservation districts in this chapter is administratively
42 practicable and feasible. To assist the commission in the determination of
43 such administrative practicability and feasibility, it shall be the duty
44 of the commission, at the next election held after entry of the finding
45 that there is need for the organization of the proposed district and the
46 determination of the boundaries thereof, to hold a referendum, subject to
47 the provisions of section 34-106, Idaho Code, within the proposed district
48 upon the proposition of the creation of the district, and to cause notice of
49 such election to be given as provided in section 34-1406, Idaho Code. The
50 question shall be submitted by ballots upon which the words "For creation of

1 a soil conservation district of the lands below described and lying in the
2 county(ies) of and" and "Against creation of a soil conservation
3 district of the lands below described and lying in the county(ies) of
4 and" shall appear, with a square before each proposition and a direction
5 to insert an X mark in the square before one or the other of said propositions
6 as the voter may favor or oppose creation of such district. The ballot
7 shall set forth the boundaries of such proposed district as determined by
8 the commission. All qualified electors who own lands or reside within the
9 proposed district shall be eligible to vote in said referendum.

10 ~~D.~~ (4) The commission shall pay all expenses for the issuance of such
11 notice and the conduct of such hearings and election, and shall supervise
12 the conduct of such hearings and election. It shall issue appropriate
13 regulations governing the conduct of such hearings and election. No
14 informalities in the conduct of the election or in any matter relating
15 thereto shall invalidate the election or the result thereof if notice
16 thereof shall have been given substantially as herein provided and the
17 election shall have been fairly conducted.

18 ~~E.~~ (5) The commission shall publish the result of the election and shall
19 thereafter consider and determine whether the operation of the district
20 within the defined boundaries is administratively practicable and feasible.
21 If the commission ~~shall~~ determines that the operation of such district
22 is not administratively practicable and feasible, it shall record such
23 determination and deny the petition. If the commission ~~shall~~ determines
24 that the operation of such district is administratively practicable and
25 feasible, it shall record such determination and shall proceed with the
26 organization of the district in the manner hereinafter provided. In making
27 such determination the commission shall give due regard and weight to
28 the attitudes of the owners of lands lying within the defined boundaries,
29 the number of landowners and qualified electors eligible to vote in the
30 election who shall have voted, the proportion of the votes cast in the
31 election in favor of the creation of the district to the total number of votes
32 cast, the approximate wealth and income of the landowners of the proposed
33 district, the probable expense of carrying on erosion control and other
34 conservation operations within such district, and such other economic and
35 social factors as may be relevant to such determination, having due regard
36 to the legislative determination set forth in section 22-2716, Idaho Code;
37 provided, however, ~~that~~ the commission shall not have authority to determine
38 that the operation of the proposed district within the defined boundaries is
39 administratively practicable and feasible unless at least a majority of the
40 votes cast in the election upon the proposition of creation of the district
41 shall have been cast in favor of the creation of such district.

42 ~~F.~~ (6) If the commission ~~shall~~ determines that the operation of the
43 proposed district within the defined boundaries is administratively
44 practicable and feasible, it shall appoint two (2) supervisors to act, with
45 the three (3) supervisors elected as provided hereinafter, as the governing
46 body of the district. Such district shall be a governmental subdivision of
47 this state and a public body corporate and politic, upon the taking of the
48 following proceedings:

49 (a) The two (2) appointed supervisors shall present to the secretary
50 of state an application signed by them which shall set forth (and such

1 application need contain no detail other than the mere recitals): (~~4~~i)
2 that a petition for the creation of the district was filed with the state
3 soil and water conservation commission pursuant to the provisions of
4 this chapter~~7~~ and that the proceedings specified in this chapter were
5 taken pursuant to such petition; that the application is being filed in
6 order to complete the organization of the district as a governmental
7 subdivision and a public body, corporate and politic, under this
8 chapter; and that the commission has appointed them as supervisors;
9 (~~2~~ii) the name and official residence of each of the supervisors,
10 together with a certified copy of the appointments evidencing their
11 right to office; (~~3~~iii) the term of office of each of the supervisors;
12 (~~4~~iv) the name which is proposed for the district; and (~~5~~v) the
13 location of the principal office of the supervisors of the district.
14 The application shall be subscribed and sworn to by each of the said
15 supervisors before an officer authorized by the laws of this state to
16 take and certify oaths, who shall certify upon the application that he
17 personally knows the supervisors and knows them to be the officers as
18 affirmed in the application, and that each has subscribed thereto in the
19 officer's presence.

20 (b) The application shall be accompanied by a statement by the state
21 soil and water conservation commission, which shall certify (and such
22 statement need contain no detail other than the mere recitals) that a
23 petition was filed, notice issued~~7~~ and hearing held as aforesaid; that
24 the commission did duly determine that there is need, in the interest of
25 the public health, safety and welfare, for a soil conservation district
26 to function in the proposed territory and did define the boundaries
27 thereof; that notice was given and an election held on the question
28 of the creation of such district, and that the result of the election
29 showed a sixty ~~per cent~~ percent (60%) majority of the votes cast in the
30 election to be in favor of the creation of the district; that thereafter
31 the commission did duly determine that the operation of the proposed
32 district is administratively practicable and feasible. The said
33 statement shall set forth the boundaries of the district as they have
34 been defined by the commission.

35 (c) The secretary of state shall examine the application and statement
36 and, if he finds that the name proposed for the district is not identical
37 with that of any other soil conservation district of this state or so
38 nearly similar as to lead to confusion or uncertainty, he shall receive
39 and file them and shall record them in an appropriate book of record in
40 his office.

41 (d) If the secretary of state ~~shall~~ finds that the name proposed for
42 the district is identical with that of any other soil conservation
43 district of this state, or so nearly similar as to lead to confusion
44 and uncertainty, he shall certify such fact to the state soil and water
45 conservation commission which shall thereupon submit to the secretary
46 of state a new name for the said district, which shall not be subject
47 to such defects. Upon receipt of such new name free of such defects,
48 the secretary of state shall record the application and statement with
49 the name so modified, in an appropriate book of record in his office.
50 When the application and statement have been made, filed~~7~~ and recorded,

1 as herein provided, the district shall constitute a governmental
 2 subdivision of this state and a public body corporate and politic.
 3 The secretary of state shall make and issue to the said supervisors a
 4 certificate under the seal of the state, of the due organization of the
 5 said district, and shall record such certificate with the application
 6 and statement. The boundaries of such district shall include the
 7 territory as determined by the state soil and water conservation
 8 commission as aforesaid, but in no event shall they include any area
 9 included within the boundaries of another soil conservation district
 10 organized under the provisions of this ~~act~~ chapter except as provided in
 11 section 22-2720, Idaho Code.

12 ~~G.~~(7) After six (6) months shall have expired from the date of entry
 13 of a determination by the state soil and water conservation commission
 14 that operation of a proposed district is not administratively practicable
 15 and feasible, and denial of a petition pursuant to such determination,
 16 subsequent petitions may be filed as aforesaid, and action taken thereon in
 17 accordance with the provisions of this chapter.

18 ~~H.~~(8) Petitions for including additional territory within an existing
 19 district may be filed with the state soil and water conservation commission
 20 and the proceedings herein provided for in the case of petitions to organize
 21 a district shall be observed in the case of petitions for such inclusion.
 22 The commission shall prescribe the form for such petitions, which shall be
 23 as nearly as may be in the form prescribed in this chapter for petitions
 24 to organize a district. Where the total number of landowners in the area
 25 proposed for inclusion ~~shall be~~ is less than twenty-five (25), the petition
 26 may be filed when signed by a two-thirds (2/3) majority of the owners of such
 27 area, and in such case no election need be held. In elections upon petitions
 28 for such inclusion, all owners of land and qualified electors lying within
 29 the proposed additional area shall be eligible to vote.

30 ~~I.~~(9) Incorporated cities, not already included within a district,
 31 may be included by presentation of a request of the district approved by
 32 the governing body along with a request of the city approved by the mayor
 33 and council, to the state soil and water conservation commission. The
 34 commission shall consider and act on such joint request at the earliest
 35 convenience. If the joint request is denied, the commission shall so notify
 36 the district and city in writing and state the reasons for such denial.
 37 After six (6) months shall have expired from the date of denial of such joint
 38 request, a subsequent joint request may again be made. If the joint request
 39 is approved, the commission shall then cause the necessary papers to be filed
 40 with the secretary of state. This shall include an amended legal description
 41 of the boundaries of the total district.

42 SECTION 5. That Section 22-2720, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR
 45 EXISTING DISTRICTS. ~~(1-)~~ Petitions for consolidating two (2) or more
 46 existing districts or for deleting territory from one (1) or more existing
 47 districts and adding the deleted territory to one (1) or more existing
 48 districts or incorporating the deleted territory into a new district or
 49 districts may be filed with the state soil and water conservation commission

1 on such forms as may be prescribed by the state soil and water conservation
2 commission.

3 (2-) The petitions provided for in subsection (1) of this section
4 shall be signed by twenty-five (25) landowners in the area proposed to
5 be consolidated or the area proposed to be deleted plus the district or
6 districts to which it is to be added or the territory which is to be included
7 in a new district or districts, as the case may be. Provided, ~~however, that~~
8 if two-thirds (2/3) of the landowners of all such territory total less than
9 twenty-five (25), then, ~~in that event,~~ such lesser number of signatures will
10 suffice for the petition.

11 (3-) Within thirty (30) days after receipt of such a petition, the state
12 soil and water conservation commission shall cause due notice of hearing on
13 the matter to be given in all of the areas concerned.

14 (4-) At the close of the hearing ~~hereinbefore provided for,~~ the state
15 soil and water conservation commission ~~must~~ shall make and record the
16 following determinations:

17 (a-) Whether or not, in the opinion of the commission, the proposal set
18 forth by the petition would serve the public health, safety and welfare.

19 (b-) Whether or not, in the opinion of the commission, the proposal set
20 forth by the petition is administratively practicable and feasible.

21 (5-) If either or both of the determinations made under subsection
22 (4) of this section are in the negative, the matter is closed. Provided,
23 however, ~~that~~ after six (6) months have expired from the date of such
24 determination, a new petition may be filed involving substantially the same
25 proposals.

26 (6-) If both of the determinations made under subsection (4) of
27 this section are in the affirmative and if the proposal involves the
28 consolidation of two (2) or more existing districts or if the proposal
29 involves the deletion of territory from one (1) or more districts and the
30 addition of that territory to another existing district or districts, then
31 the commission shall proceed to effect the change as per the commission's
32 determinations hereinbefore referred to. The state soil and water
33 conservation commission shall effect the change ~~here referred to~~ by filing
34 with the secretary of state a sworn statement of a member of the commission
35 stating:

36 (a-) The name of the district or districts which are consolidated, if
37 any τi

38 (b-) The name of the district or districts from which the territory is
39 deleted or added, if any τi and

40 (c-) A description of the boundaries of the consolidated district or
41 of the territory remaining in the district or districts deleted from
42 and the district or districts added to, according to the commission's
43 determination ~~hereinbefore referred to~~.

44 From and after the time of filing of such statement with the secretary of
45 state, the changes will be effective. If the name of a district formed by
46 the consolidation of two (2) or more existing districts differs from that of
47 either of the consolidated districts, the secretary of state shall issue and
48 record a new certificate of organization of said district.

49 (7-) Within ten (10) days after the filing of a statement providing
50 for the formation of a consolidated district as prescribed in subsection

1 (6) of this section, the supervisors of each district involved in the
 2 consolidation shall meet and, from their number, shall designate a chairman
 3 of the consolidated district. Incumbent supervisors of districts involved
 4 in a consolidation may serve until any such supervisor's term expires. Any
 5 vacancy on the governing body of a district formed by consolidation shall not
 6 be filled until only five (5) supervisors, or seven (7) upon written request
 7 pursuant to section 22-2721, Idaho Code, remain on the governing body of such
 8 district. Thereafter, vacancies shall be filled consistent with procedures
 9 prescribed in section 22-2721, Idaho Code.

10 (8) A district formed by the consolidation of two (2) or more districts
 11 shall receive a sum not to exceed eight thousand five hundred dollars
 12 (\$8,500) for each district involved in the formation of the consolidated
 13 district for a period of three (3) years after the formation of such
 14 district. The maximum allocation of fifty thousand dollars (\$50,000) per
 15 district set forth in section 22-2727, Idaho Code, shall not apply to a
 16 district formed by consolidation for a period of three (3) years following
 17 the formation of such district. Upon expiration of the three (3) year time
 18 period, a district formed by consolidation shall be treated as one (1)
 19 district and shall be subject to all provisions of section 22-2727, Idaho
 20 Code.

21 (9) The office of any district supervisor is hereby declared to be
 22 vacant, when, after the deletion of territory, such district supervisor is
 23 no longer a landowner within the district deleted from.

24 ~~(8-10)~~ If both of the determinations made under subsection (4) of this
 25 section are in the affirmative and if the proposal involves the addition
 26 of territory ~~deleted~~ deleted from one (1) or more existing districts to
 27 other territory thus forming a new district, a referendum shall be held and
 28 other procedures followed as in cases involving the original formation of a
 29 district where no existing district is involved. In such a case, due notice
 30 shall be given in the area which may comprise the new district.

31 ~~(9-11)~~ If a new district is formed under the procedure prescribed in
 32 subsection ~~(8-10)~~ of this section, part of the area which is composed of an
 33 old district, the state soil and water conservation commission shall cause
 34 to be filed with the secretary of state a sworn statement of a member of the
 35 commission stating:

36 ~~(a-)~~ The name of the district or districts deleted from, ~~i~~ and

37 ~~(b-)~~ A description of the boundaries of the territory remaining in the
 38 district or districts deleted from.

39 From and after the time of filing of such statement with the secretary of
 40 state, the change in the boundaries of the existing districts shall be
 41 effective.

42 SECTION 6. That Section 22-2721, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
 45 SUPERVISORS. (1) The governing body of the district shall consist of five (5)
 46 supervisors, elected or appointed as provided in this chapter. Elections
 47 shall be conducted pursuant to the provisions of this section and the uniform
 48 district election law, chapter 14, title 34, Idaho Code. If at any time the
 49 supervisors of a district deem it necessary, they may request permission

1 from the state soil and water conservation commission to increase the number
2 of supervisors to seven (7). Upon receipt of such a request in writing,
3 signed by all five (5) supervisors, stating a valid reason for such need, the
4 commission shall grant permission. The additional supervisors shall then
5 be appointed as outlined in ~~subparagraph C.~~ subsection (5) of this section
6 until such time as regular district elections for two (2) supervisors in
7 each district. At that time those districts having seven (7) supervisors
8 shall then elect four (4) supervisors for four (4) year terms. The two (2)
9 supervisors appointed by the commission shall be persons who are by training
10 and experience qualified to perform the specialized services which will be
11 required of them in the performance of their duties. All supervisors shall
12 be landowners or farmers of the district where they are elected or appointed.

13 ~~A.~~ (2) Within thirty (30) days after the date of issuance by the
14 secretary of state of a certificate of organization of a soil conservation
15 district, nominating petitions may be filed with the state soil and water
16 conservation commission to nominate candidates for supervisors of each
17 district. The state soil and water conservation commission, unless it has
18 contracted with the county clerk to conduct the election, shall designate
19 an individual to act as the election official. If contracted to do so, the
20 county clerk shall act as the election official. The election official
21 shall have authority to extend the time within which nominating petitions
22 may be filed. No such nominating petition shall be accepted by the election
23 official unless it shall be subscribed by not less than five (5) persons
24 who are qualified electors owning land or residing within the boundaries of
25 the district. The election official shall give due notice of an election
26 to be held, subject to the provisions of section 34-106, Idaho Code, for
27 the election of three (3) supervisors for the district. The names of all
28 nominees on behalf of whom such nominating petitions have been filed within
29 the time herein designated, shall appear arranged in the alphabetical order
30 of the surnames, upon ballots, with a square before each name and directions
31 to insert a mark in the square before any three (3) names to indicate the
32 voter's preference. The three (3) candidates who shall receive the largest
33 number, respectively, of the votes cast in such election shall be the elected
34 supervisors for such district. The commission shall pay all the expenses
35 of such election, which shall be supervised and conducted by the election
36 official.

37 ~~B.~~ (3) All elections in districts, excluding the first election as
38 provided in ~~subparagraph A.~~ subsection (2) of this section, shall be
39 conducted by the district supervisors of the districts involved who shall
40 designate an individual to be the election official, or the county clerk
41 if contracted for that purpose. Such election shall be held on the first
42 Tuesday succeeding the first Monday of November in each even-numbered year.
43 Such elections shall be in compliance with the provisions of chapter 14,
44 title 34, Idaho Code, and shall be supervised and conducted by the election
45 official. The cost of conducting such elections shall be borne by the
46 district involved. The election official shall certify to the state soil
47 and water conservation commission the names of the elected supervisors. The
48 state soil and water conservation commission shall issue certificates of
49 election to each elected supervisor so certified. The state soil and water
50 conservation commission may authorize each district to contract with the

1 county clerk or county clerks of the county or counties in which the district
2 is located to conduct the election for the soil conservation district. If
3 a district election is conducted by a county clerk, the county clerk must
4 provide a ballot for the district election, and must provide a process that
5 allows only qualified electors of the district to vote in that district's
6 election.

7 (4) In any election for supervisor, if after the deadline for filing a
8 declaration of intent as a write-in candidate, it appears that the number
9 of qualified candidates who have been nominated is equal to the number of
10 supervisors to be elected, it shall not be necessary for the candidates
11 to stand for election, and the board of supervisors shall declare such
12 candidates elected as supervisors, and the state soil and water conservation
13 commission shall immediately make and deliver to such persons certificates
14 of election.

15 ~~C.~~ (5) In any election for supervisors of a soil conservation district,
16 if after the expiration of the date for filing written nominations it appears
17 that only one (1) qualified candidate has been nominated for each position to
18 be filled and no declaration of intent has been filed by a write-in candidate
19 as provided in ~~subparagraph D.~~ subsection (6) of this section, it shall not
20 be necessary to hold an election, and the election official shall, no later
21 than seven (7) days before the scheduled date of the election, declare such
22 candidate elected as supervisor, and the state soil and water conservation
23 commission shall immediately make and deliver to such person a certificate
24 of election.

25 ~~D.~~ (6) No write-in vote for supervisor shall be counted unless a
26 declaration of intent has been filed with the election official indicating
27 that the person making the declaration desires the office and is legally
28 qualified to assume the duties of supervisor if elected as a write-in
29 candidate. The declaration of intent shall be filed not later than
30 twenty-five (25) days before the day of election.

31 ~~E.~~ (7) The supervisors shall designate a chairman and may, from time
32 to time, change such designation. The term of office of each supervisor
33 shall be four (4) years commencing on the first day of January next following
34 election, except that the two (2) supervisors who are first appointed shall
35 be designated to serve for terms of two (2) years. A supervisor shall hold
36 office until a qualified successor has been elected or appointed. Vacancies
37 shall be filled for the unexpired term. The selection of successors to fill
38 an unexpired term, or for a full term shall be made by a vote of the majority
39 of the supervisors duly qualified and acting at the time the vacancy shall
40 arise and the supervisors shall certify the name of the appointed supervisor
41 to the state soil and water conservation commission ~~who~~ which shall issue a
42 certificate of such appointment.

43 ~~F.~~ (8) A majority of the supervisors shall constitute a quorum and
44 the concurrence of a majority in any matter within their duties shall be
45 required for its determination. A supervisor shall be entitled to expenses,
46 including travel expense, necessarily incurred in the discharge of duties.
47 A supervisor shall receive no compensation for services from regular
48 district funds, county funds authorized in section 22-2726, Idaho Code, or
49 state funds authorized in section 22-2727, Idaho Code.

1 (9) In the event the district has a special project, approved
 2 by the state soil and water conservation commission, making project
 3 funds available from federal or other sources, a supervisor may receive
 4 compensation not to exceed thirty-five dollars (\$35.00) per day plus actual
 5 and necessary expenses from project funds for services directly related to
 6 the project.

7 (10) The supervisors may employ a secretary, technical experts, and
 8 such other officers, agents, and employees, permanent and temporary as
 9 they may require, and shall determine their qualifications, duties and
 10 compensation. The supervisors may call upon the attorney general of the
 11 state for such legal services as they may require or may employ their own
 12 counsel and legal staff. The supervisors may delegate to their chairman, to
 13 one (1) or more supervisors, or to one (1) or more agents, or employees, such
 14 powers and duties as they may deem proper. The supervisors shall furnish
 15 to the state soil and water conservation commission, upon request, copies
 16 of such ordinances, rules, orders, contracts, forms and other documents as
 17 they shall adopt or employ, and such other information concerning ~~their~~ the
 18 supervisors' activities as ~~it~~ the commission may require in the performance
 19 of ~~its~~ the commission's duties under this chapter.

20 (11) The supervisors shall provide for the execution of surety bonds for
 21 all employees and officers who shall be entrusted with funds or property;
 22 they shall provide for the keeping of a full and accurate record of all
 23 proceedings and of all resolutions, and orders issued or adopted; and shall
 24 provide for independent financial audits in accordance with the provisions
 25 of section 67-450B, Idaho Code, ~~with the exception of the provisions of~~
 26 ~~subsection (2) (d) of section 67-450B, Idaho Code. The governing body of a~~
 27 ~~district whose annual budget from all sources does not exceed fifty thousand~~
 28 ~~dollars (\$50,000) may elect to have its financial statements reviewed on a~~
 29 ~~biennial basis. Biennial reports of review shall include a review of each~~
 30 ~~fiscal year since the previous review report. Any supervisors may shall be~~
 31 ~~removed by the state soil conservation commission upon notice and hearing,~~
 32 ~~for neglect of duty or malfeasance in office, but for no other reason subject~~
 33 ~~to recall in accordance with the provisions of chapter 17, title 34, Idaho~~
 34 Code.

35 (12) The supervisors may invite the legislative body of a municipality
 36 or county located near the territory comprised within the district to
 37 designate a representative to advise and consult with the supervisors of
 38 the district on all questions of program and policy which may affect the
 39 property, water supply, or other interests of such municipality or county.

40 SECTION 7. That Section 22-2721, Idaho Code, as amended by Section
 41 4, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
 42 follows:

43 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
 44 SUPERVISORS. (1) The governing body of the district shall consist of five (5)
 45 supervisors, elected or appointed as provided in this chapter. Elections
 46 shall be conducted pursuant to the provisions of this section and the uniform
 47 district election law, chapter 14, title 34, Idaho Code. If at any time the
 48 supervisors of a district deem it necessary, they may request permission
 49 from the state soil and water conservation commission to increase the number

1 of supervisors to seven (7). Upon receipt of such a request in writing,
2 signed by all five (5) supervisors, stating a valid reason for such need, the
3 commission shall grant permission. The additional supervisors shall then be
4 appointed as outlined in subsection ~~C.~~ (5) of this section until such time as
5 regular district elections for two (2) supervisors in each district. At that
6 time those districts having seven (7) supervisors shall then elect four (4)
7 supervisors for four (4) year terms. The two (2) supervisors appointed by
8 the commission shall be persons who are by training and experience qualified
9 to perform the specialized services which will be required of them in the
10 performance of their duties. All supervisors shall be landowners or farmers
11 of the district where they are elected or appointed.

12 ~~A.~~(2) Within thirty (30) days after the date of issuance by the
13 secretary of state of a certificate of organization of a soil conservation
14 district, nominating petitions may be filed with the state soil and water
15 conservation commission to nominate candidates for supervisors of each
16 district. The county clerk shall conduct the election for the district
17 and shall be the election official for the district. The election official
18 shall have authority to extend the time within which nominating petitions
19 may be filed. No such nominating petition shall be accepted by the election
20 official unless it shall be subscribed by not less than five (5) persons
21 who are qualified electors owning land or residing within the boundaries of
22 the district. The election official shall give due notice of an election
23 to be held, subject to the provisions of section 34-106, Idaho Code, for
24 the election of three (3) supervisors for the district. The names of all
25 nominees on behalf of whom such nominating petitions have been filed within
26 the time herein designated, shall appear upon ballots, with directions to
27 choose three (3) names to indicate the voter's preference. The three (3)
28 candidates who shall receive the largest number, respectively, of the votes
29 cast in such election shall be the elected supervisors for such district.
30 The commission shall pay all the expenses of such election, which shall be
31 supervised and conducted by the election official.

32 ~~B.~~(3) All elections in districts shall be conducted by the county
33 clerk. Such election shall be held on the first Tuesday succeeding the
34 first Monday of November in each even-numbered year. Such elections shall
35 be in compliance with the provisions of chapter 14, title 34, Idaho Code,
36 and shall be supervised and conducted by the county clerk. The cost of
37 conducting such elections shall be borne by the county that conducted
38 the election. The county clerk shall certify to the state soil and water
39 conservation commission the names of the elected supervisors. The state
40 soil and water conservation commission shall issue certificates of election
41 to each elected supervisor so certified. The county clerk or county clerks
42 of the county or counties in which the district is located shall conduct
43 the election for the soil conservation district, and the county clerk must
44 provide a ballot for the district election, and must provide a process that
45 allows only qualified electors of the district to vote in that district's
46 election.

47 (4) In any election for supervisor, if after the deadline for filing a
48 declaration of intent as a write-in candidate, it appears that the number
49 of qualified candidates who have been nominated is equal to the number of
50 supervisors to be elected, it shall not be necessary for the candidates

1 to stand for election, and the board of supervisors shall declare such
2 candidates elected as supervisors, and the state soil and water conservation
3 commission shall immediately make and deliver to such persons certificates
4 of election.

5 ~~C.~~(5) In any election for supervisors of a soil conservation district,
6 if after the expiration of the date for filing written nominations it appears
7 that only one (1) qualified candidate has been nominated for each position to
8 be filled and no declaration of intent has been filed by a write-in candidate
9 as provided in subsection ~~D.~~ (6) of this section, it shall not be necessary
10 to hold an election, and the county clerk shall, no later than seven (7) days
11 before the scheduled date of the election, declare such candidate elected
12 as supervisor, and the state soil and water conservation commission shall
13 immediately make and deliver to such person a certificate of election.

14 ~~D.~~(6) No write-in vote for supervisor shall be counted unless a
15 declaration of intent has been filed with the county clerk indicating
16 that the person making the declaration desires the office and is legally
17 qualified to assume the duties of supervisor if elected as a write-in
18 candidate. The declaration of intent shall be filed not later than
19 twenty-five (25) days before the day of election.

20 ~~E.~~(7) The supervisors shall designate a chairman and may, from time
21 to time, change such designation. The term of office of each supervisor
22 shall be four (4) years commencing on the first day of January next following
23 election, except that the two (2) supervisors who are first appointed shall
24 be designated to serve for terms of two (2) years. A supervisor shall hold
25 office until a qualified successor has been elected or appointed. Vacancies
26 shall be filled for the unexpired term. The selection of successors to fill
27 an unexpired term, or for a full term shall be made by a vote of the majority
28 of the supervisors duly qualified and acting at the time the vacancy shall
29 arise and the supervisors shall certify the name of the appointed supervisor
30 to the state soil and water conservation commission ~~who~~ which shall issue a
31 certificate of such appointment.

32 ~~F.~~(8) A majority of the supervisors shall constitute a quorum and
33 the concurrence of a majority in any matter within their duties shall be
34 required for its determination. A supervisor shall be entitled to expenses,
35 including travel expense, necessarily incurred in the discharge of duties.
36 A supervisor shall receive no compensation for services from regular
37 district funds, county funds authorized in section 22-2726, Idaho Code, or
38 state funds authorized in section 22-2727, Idaho Code.

39 (9) In the event the district has a special project, approved
40 by the state soil and water conservation commission, making project
41 funds available from federal or other sources, a supervisor may receive
42 compensation not to exceed thirty-five dollars (\$35.00) per day plus actual
43 and necessary expenses from project funds for services directly related to
44 the project.

45 (10) The supervisors may employ a secretary, technical experts, and
46 such other officers, agents, and employees, permanent and temporary as
47 they may require, and shall determine their qualifications, duties and
48 compensation. The supervisors may call upon the attorney general of the
49 state for such legal services as they may require or may employ their own
50 counsel and legal staff. The supervisors may delegate to their chairman, to

1 one (1) or more supervisors, or to one (1) or more agents, or employees, such
 2 powers and duties as they may deem proper. The supervisors shall furnish
 3 to the state soil and water conservation commission, upon request, copies
 4 of such ordinances, rules, orders, contracts, forms and other documents as
 5 they shall adopt or employ, and such other information concerning ~~their~~ the
 6 supervisors' activities as ~~it~~ the commission may require in the performance
 7 of ~~its~~ the commission's duties under this chapter.

8 (11) The supervisors shall provide for the execution of surety bonds for
 9 all employees and officers who shall be entrusted with funds or property;
 10 they shall provide for the keeping of a full and accurate record of all
 11 proceedings and of all resolutions, and orders issued or adopted; and shall
 12 provide for independent financial audits in accordance with the provisions
 13 of section 67-450B, Idaho Code, ~~with the exception of the provisions of~~
 14 ~~subsection (2) (d) of section 67 450B, Idaho Code. The governing body of a~~
 15 ~~district whose annual budget from all sources does not exceed fifty thousand~~
 16 ~~dollars (\$50,000) may elect to have its financial statements reviewed on a~~
 17 ~~biennial basis. Biennial reports of review shall include a review of each~~
 18 ~~fiscal year since the previous review report. Any sSupervisors may shall~~
 19 ~~be removed by the state soil conservation commission upon notice and hearing,~~
 20 ~~for neglect of duty or malfeasance in office, but for no other reason~~ subject
 21 to recall in accordance with the provisions of chapter 17, title 34, Idaho
 22 Code.

23 (12) The supervisors may invite the legislative body of a municipality
 24 or county located near the territory comprised within the district to
 25 designate a representative to advise and consult with the supervisors of
 26 the district on all questions of program and policy which may affect the
 27 property, water supply, or other interests of such municipality or county.

28 SECTION 8. That Section 22-2723, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 22-2723. COOPERATION BETWEEN DISTRICTS. The supervisors of any
 31 two (2) or more districts ~~organized under the provisions of this act~~ may
 32 cooperate with one another in the exercise of any or all powers conferred in
 33 this ~~act~~ chapter.

34 SECTION 9. That Section 22-2724, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 22-2724. STATE AGENCIES TO COOPERATE. Agencies of this state which
 37 shall have jurisdiction over, or be charged with the administration of, any
 38 state-owned lands, and of any county, or other governmental subdivision
 39 of the state, which shall have jurisdiction over, or charged with the
 40 administration of, any county-owned or other publicly owned lands, lying
 41 within the boundaries of any district ~~organized hereunder~~, shall cooperate
 42 to the fullest extent with the supervisors of such districts in the
 43 effectuation of programs and operations undertaken by the supervisors under
 44 the provisions of this ~~act~~ chapter. The supervisors of such district shall
 45 be given free access to enter and perform work upon such publicly owned
 46 lands.

1 SECTION 10. That Section 22-2725, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five (5)
4 years after the organization of a district under the provisions of this
5 chapter, any twenty-five (25) owners of land lying within the boundaries of
6 such district may file a petition with the state soil and water conservation
7 commission ~~praying~~ requesting that the operations of the district be
8 terminated and the existence of the district discontinued. The commission
9 may conduct such public meetings, and public hearings upon such petition as
10 may be necessary to assist it in the consideration thereof. Within sixty
11 (60) days after such petition has been received by the commission it shall
12 give due notice of the holding of an election, subject to the provisions
13 of section 34-106, Idaho Code, and shall supervise the election, and issue
14 appropriate regulations governing such election as are consistent with
15 chapter 14, title 34, Idaho Code, the question to be submitted by ballots
16 upon which the words "For terminating the existence of the (name of
17 the soil conservation district to be here inserted)" shall appear, with a
18 square before each proposition and a direction to insert an X mark in the
19 square before one or the other of said propositions as the voter may favor
20 or oppose discontinuance of such district. All qualified electors who own
21 land or reside within the proposed district shall be eligible to vote in said
22 election. No informalities in the conduct of the election or in any matters
23 relating thereto shall invalidate the election or the result thereof if
24 notice thereof shall have been given substantially as herein provided and
25 the election shall have been fairly conducted.

26 (2) The commission shall publish the result of the election and shall
27 thereafter consider and determine whether the continued operation of the
28 district within the defined boundaries is administratively practicable
29 and feasible. If the commission ~~shall~~ determines that the continued
30 operation of such district is administratively practicable and feasible,
31 it shall record such determination and deny ~~this~~ the petition. If the
32 commission ~~shall~~ determines that the continued operation of such district
33 is not administratively practicable and feasible, it shall record such
34 determination and shall certify such determination to the supervisors of
35 the district. In making such determination the commission shall give due
36 regard and weight to the attitudes of the owners of lands lying within the
37 district, the number of landowners eligible to vote in the election who
38 shall have voted, the proportion of the votes cast in the election in favor
39 of the discontinuance of the district to the total number of votes cast,
40 the approximate wealth and income of the landowners of the district, the
41 probable expense of carrying on such erosion-control operations within such
42 district, and such other economic and social factors as may be relevant to
43 such determination, having due regard to the legislative findings set forth
44 in section 22-2716, Idaho Code, provided, however, ~~that~~ the commission
45 shall not have authority to determine that the continued operation of the
46 district is administratively practicable and feasible unless at least a
47 majority of the votes cast in the election shall have been cast in favor of
48 the continuance of such district.

1 (3) Upon receipt from the state soil and water conservation commission
 2 of a certificate that the commission has determined that the continued
 3 operation of the district is not administratively practicable and feasible,
 4 pursuant to the provisions of this section, the supervisors shall forthwith
 5 proceed to terminate the affairs of the district. The supervisors shall
 6 dispose of all property belonging to the district at public auction and shall
 7 pay over the proceeds of such sale to be covered into the state treasury.
 8 The supervisors shall thereupon file an application duly verified, with
 9 the secretary of state for the discontinuance of such district, and shall
 10 transmit with such application the certificate of the state soil and water
 11 conservation commission setting forth the determination of the commission
 12 that the continued operation of such district is not administratively
 13 practicable and feasible. The application shall recite that the property
 14 of the district has been disposed of and the proceeds paid over as in this
 15 section provided,~~7~~ and shall set forth a full accounting of such properties
 16 and proceeds of the sale. The secretary of state shall issue to the
 17 supervisors a certificate of dissolution and shall record such certificate
 18 in an appropriate book of record in his office.

19 (4) Upon issuance of a certificate of dissolution under the provisions
 20 of this section, all contracts theretofore entered into, to which the
 21 district or supervisors are parties, shall remain in force and effect for the
 22 period provided in such contracts. The state soil and water conservation
 23 commission shall be substituted for the district or supervisors as party to
 24 such contracts.

25 (5) The state soil and water conservation commission shall not
 26 entertain petitions for the discontinuance of any district nor conduct
 27 elections upon such petitions nor make determinations pursuant to such
 28 petitions in accordance with the provisions of this chapter, more often than
 29 once in five (5) years.

30 SECTION 11. That Section 22-2725, Idaho Code, as amended by Section
 31 5, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
 32 follows:

33 22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five
 34 (5) years after the organization of a district under the provisions of this
 35 chapter, any twenty-five (25) owners of land lying within the boundaries of
 36 such district may file a petition with the state soil and water conservation
 37 commission ~~praying~~ requesting that the operations of the district be
 38 terminated and the existence of the district discontinued. The commission
 39 may conduct such public meetings,~~7~~ and public hearings upon such petition
 40 as may be necessary to assist it in the consideration thereof. Within
 41 sixty (60) days after such petition has been received by the commission,
 42 it shall give due notice to the county clerk of the holding of an election,
 43 subject to the provisions of section 34-106, Idaho Code, and the county clerk
 44 shall supervise the election, and issue appropriate regulations governing
 45 such election as are consistent with chapter 14, title 34, Idaho Code, the
 46 question to be submitted by ballots upon which the words "For terminating
 47 the existence of the (name of the soil conservation district to be
 48 here inserted)" shall appear, with a square before each proposition and a
 49 direction to mark the ballot as the voter may favor or oppose discontinuance

1 of such district. All qualified electors who reside within the proposed
2 district shall be eligible to vote in said election. No informalities in the
3 conduct of the election or in any matters relating thereto shall invalidate
4 the election or the result thereof if notice thereof shall have been given
5 substantially as herein provided and the election shall have been fairly
6 conducted.

7 (2) The commission shall publish the result of the election and shall
8 thereafter consider and determine whether the continued operation of the
9 district within the defined boundaries is administratively practicable
10 and feasible. If the commission ~~shall~~ determines that the continued
11 operation of such district is administratively practicable and feasible,
12 it shall record such determination and deny ~~this~~ the petition. If the
13 commission ~~shall~~ determines that the continued operation of such district
14 is not administratively practicable and feasible, it shall record such
15 determination and shall certify such determination to the supervisors of
16 the district. In making such determination the commission shall give due
17 regard and weight to the attitudes of the owners of lands lying within the
18 district, the number of residents eligible to vote in the election who
19 shall have voted, the proportion of the votes cast in the election in favor
20 of the discontinuance of the district to the total number of votes cast,
21 the approximate wealth and income of the landowners of the district, the
22 probable expense of carrying on such erosion-control operations within such
23 district, and such other economic and social factors as may be relevant to
24 such determination, having due regard to the legislative findings set forth
25 in section 22-2716, Idaho Code, provided, however, that the commission
26 shall not have authority to determine that the continued operation of the
27 district is administratively practicable and feasible unless at least a
28 majority of the votes cast in the election shall have been cast in favor of
29 the continuance of such district.

30 (3) Upon receipt from the state soil and water conservation commission
31 of a certificate that the commission has determined that the continued
32 operation of the district is not administratively practicable and feasible,
33 pursuant to the provisions of this section, the supervisors shall forthwith
34 proceed to terminate the affairs of the district. The supervisors shall
35 dispose of all property belonging to the district at public auction and shall
36 pay over the proceeds of such sale to be covered into the state treasury.
37 The supervisors shall thereupon file an application duly verified, with
38 the secretary of state for the discontinuance of such district, and shall
39 transmit with such application the certificate of the state soil and water
40 conservation commission setting forth the determination of the commission
41 that the continued operation of such district is not administratively
42 practicable and feasible. The application shall recite that the property
43 of the district has been disposed of and the proceeds paid over as in this
44 section provided, and shall set forth a full accounting of such properties
45 and proceeds of the sale. The secretary of state shall issue to the
46 supervisors a certificate of dissolution and shall record such certificate
47 in an appropriate book of record in his office.

48 (4) Upon issuance of a certificate of dissolution under the provisions
49 of this section, all contracts theretofore entered into, to which the
50 district or supervisors are parties, shall remain in force and effect for the

1 period provided in such contracts. The state soil and water conservation
 2 commission shall be substituted for the district or supervisors as party to
 3 such contracts.

4 (5) The state soil and water conservation commission shall not
 5 entertain petitions for the discontinuance of any district nor conduct
 6 elections upon such petitions nor make determinations pursuant to such
 7 petitions in accordance with the provisions of this chapter, more often than
 8 once in five (5) years.

9 SECTION 12. That Section 22-2727, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall
 12 be held by the ~~Idaho~~ state soil and water conservation commission on or
 13 before June 15 of each year and twenty (20) days' written notice of such
 14 hearing shall be given to each ~~Idaho~~ soil conservation district and to all
 15 other persons requesting notice of such hearing. At the hearing the ~~Idaho~~
 16 state soil and water conservation commission shall consider the needs of
 17 each ~~Idaho~~ soil conservation district and shall base its request for state
 18 funds for the ~~Idaho~~ soil conservation districts upon the budgets, budget
 19 requests, district programs and work plans, and work load analysis of the
 20 various soil conservation districts.

21 (2) All funds appropriated by the state for the various ~~Idaho~~ soil
 22 conservation districts shall be appropriated to the Idaho state soil and
 23 water conservation commission and shall be allocated by the commission
 24 equally to the various ~~Idaho~~ soil conservation districts on the basis of
 25 the criteria established in ~~the preceding paragraph~~ subsection (1) of this
 26 section.

27 (3) Funds appropriated to the ~~Idaho~~ state soil and water conservation
 28 commission for distribution to soil conservation districts shall be
 29 allocated by the commission equally to the various soil conservation
 30 districts in a sum not to exceed five eight thousand five hundred dollars
 31 (~~\$58,0500~~) per district. All funds appropriated to the state soil and water
 32 conservation commission for distribution to soil conservation districts in
 33 excess of five eight thousand five hundred dollars (~~\$58,0500~~) per district
 34 shall be allocated by the commission to the various soil conservation
 35 districts in a sum not to exceed twice the amount of funds or services
 36 allocated to each district by the county commissioners in the previous
 37 fiscal year and funds or services allocated to each district by authorized
 38 officials or other local units of government or organizations in the
 39 previous fiscal year, provided that any such allocation by the commission
 40 shall not exceed fifty thousand dollars (\$50,000) to any one (1) district in
 41 a fiscal year.

42 (4) The ~~Idaho~~ state soil and water conservation commission shall
 43 adopt ~~all rules and regulations~~ necessary to carry out the purposes of this
 44 section.

45 SECTION 13. That Section 22-2730, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND
 2 CREATED. (1) There is hereby created in the state treasury a fund to be
 3 known as the Idaho resource conservation and rangeland development fund,
 4 which shall consist of all moneys which may be appropriated to it by the
 5 legislature or made available to it from federal, private, or other sources.
 6 The state treasurer is directed to invest all unobligated moneys in the fund.
 7 All interest and other income accruing from such investments shall accrue
 8 to the fund. The state soil and water conservation commission may expend
 9 from the fund such sums as it shall deem necessary for any of the conservation
 10 improvements, projects and programs provided for under this chapter under
 11 such terms and conditions provided for in ~~its~~ the commission's rules and the
 12 water quality program for agriculture.

13 (2) The state soil and water conservation commission shall establish a
 14 priority list for conservation improvements, projects and the water quality
 15 program for agriculture. The priority list shall be used as the method for
 16 allocation of funds loaned under this chapter.

17 SECTION 14. That Section 22-2731, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 22-2731. ALLOCATION OF FUND. The Idaho resource conservation and
 20 rangeland development fund shall be allocated for use by the state soil and
 21 water conservation commission:

22 (1) ~~By the state soil conservation commission~~ To eligible applicants
 23 for conservation improvements which it deems to be "in the public interest"
 24 in such amounts as are necessary for the implementation of conservation
 25 measures identified in a conservation plan;

26 (2) ~~By the commission~~ To eligible applicants for the purpose of
 27 conservation improvements on rangelands, agricultural lands, and riparian
 28 lands, which will provide environmental enhancement to soil, water,
 29 wildlife, and related resources;

30 (3) ~~By the commission~~ For the purpose of implementing conservation
 31 improvements, projects and the water quality program for agriculture.

32 SECTION 15. That Section 22-2732, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. ~~(a)~~
 35 Eligible applicants may file an application with the local soil conservation
 36 district or the state soil and water conservation commission for a loan from
 37 the fund for the purpose of financing conservation improvement cost. Such
 38 application shall be filed in such a manner, and shall be in such form, and
 39 be accompanied by such information as may be prescribed by the commission.
 40 Any such application filed with the district or the commission under the
 41 provisions of this ~~act~~ chapter shall:

42 ~~(1a)~~ Describe the nature and purposes of the improvements or projects;

43 ~~(2b)~~ Set forth or be accompanied by a conservation plan approved by the
 44 local soil conservation district or the commission that identifies the
 45 conservation improvements, or projects, together with such technical
 46 and economic feasibility data and estimated costs as may be required by
 47 the commission;

1 (~~3c~~) State whether money other than that for which application is made
2 under this ~~act~~ chapter will be used for improvement costs, and whether
3 such money is available or has been sought for this purpose~~;~~;

4 (~~4d~~) Show that the applicant holds or can acquire title to all lands or
5 has necessary easements and rights-of-way for the improvements~~;~~ and

6 (~~5e~~) Show the proposed project is feasible from a technical standpoint
7 and economically justified.

8 (~~b2~~) The local soil conservation districts and the commission shall
9 keep each other informed of applications received. Within sixty (60) days
10 of receipt of an application, the local soil conservation district or the
11 commission shall review and evaluate, and if it deems necessary, investigate
12 aspects of the proposed improvements. As part of such investigation, the
13 district or the commission shall determine whether the plan for development
14 of the conservation improvements is satisfactory. If the district or
15 the commission determines the plan is unsatisfactory, it shall return
16 the application to the applicant and may make such recommendations to the
17 applicant as are considered necessary to make the plan satisfactory. If
18 the district or the commission determines the plan and application are
19 satisfactory, it shall be considered for funding.

20 (~~e3~~) The commission may approve a loan for conservation improvements if
21 after review, evaluation~~;~~ and investigation if necessary, it finds that:

22 (~~1a~~) The applicant is qualified and responsible;

23 (~~2b~~) There is reasonable assurance that the borrower can repay the
24 loan; and

25 (~~3c~~) That money in the resource conservation and rangeland development
26 fund is available for the loan.

27 (~~d4~~) If the commission approves a loan, the applicant shall execute
28 a promissory note for repayment to the account of money loaned therefrom,
29 together with interest not to exceed six percent (6%) annually as determined
30 by the commission. The note shall further provide that repayment of the
31 loan, together with interest thereon, shall commence not later than two (2)
32 full years from the date the note is signed. Repayment shall be completed
33 within the time period specified by the commission not to exceed fifteen (15)
34 years, except that the commission may extend the time for making repayment
35 in event of emergency or hardship. Such agreement shall also provide for
36 such assurance of, and security for, repayment of the loan as are considered
37 necessary by the commission.

38 (~~e5~~) Upon approval of the loan and securing all necessary documents,
39 the commission will make available, in approved form, project or contract
40 funding.

41 (~~f6~~) If an applicant fails to comply with the repayment contract, the
42 interest in the improvement may be conveyed to a successor upon approval by
43 the commission, which may contract with the qualified successor in interest
44 of the original obligor for repayment of the loan, together with interest
45 thereon, and for succession to its rights and obligation in any contract with
46 the commission.

47 SECTION 16. That Section 22-2733, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 22-2733. GRANTS FROM STATE SOIL AND WATER CONSERVATION COMMISSION
2 GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT. (1) Eligible
3 applicants or participants may file an application with the local soil
4 conservation district or the state soil and water conservation commission
5 for a grant from the state soil and water conservation commission general
6 fund for the purpose of financing conservation improvements, projects,
7 and implementation of the water quality program for agriculture. Such
8 application shall be filed in such a manner and shall be in such form, and
9 be accompanied by such information as may be prescribed by the commission;
10 provided, however, ~~that~~ any such application filed with the district or the
11 commission under the provisions of this section shall:

12 (a) Describe the nature and purpose of the improvements or conservation
13 plan implementation project;
14

15 (b) Set forth or be accompanied by an improvement project plan
16 approved by the local soil conservation district or the commission that
17 identifies the practices to be applied, together with such technical
18 and economic feasibility data and estimated costs as may be required by
19 the commission;

20 (c) State whether money other than that for which application is made
21 under this section will be used for improvement project or conservation
22 plan implementation costs, and whether such money is available or has
23 been sought for this purpose; and

24 (d) Show that the applicant or participant holds or can acquire title to
25 all lands or has necessary easements and rights-of-way to implement the
26 project plan.

27 (2) The commission and local soil conservation district will keep each
28 other informed of grant applications received. Within thirty (30) days
29 of receipt of an application, the local soil conservation district or the
30 commission shall review and evaluate and, if deemed necessary, investigate
31 all aspects of the proposed improvement, project or conservation plan. As
32 part of such investigation, the district or the commission shall determine
33 whether the project plan is satisfactory. If the district or the commission
34 determines that the plan is unsatisfactory, it shall return the application
35 to the applicant or participant and the district or the commission may make
36 such recommendations to the applicant or participant as are considered
37 necessary to make the plan satisfactory. If the commission determines
38 either the plan or a plan revised pursuant to recommendation of the district
39 or commission is satisfactory, it shall be considered for funding.

40 (3) The commission may approve a grant if after review, evaluation, and
41 investigation if necessary, it finds that:

42 (a) The applicant or participant is qualified and responsible;

43 (b) The improvement, project or conservation plan demonstrates public
44 benefits; and

45 (c) That money in the state soil and water conservation commission
46 general fund is available for the grant.

47 (4) If the commission approves a grant, the applicant or participant
48 shall enter into an agreement covering the grant offer and acceptance of the
49 grant for implementing the improvement, project or conservation plan. The
50 agreement shall be improvement, project or conservation plan specific. The
51 terms and conditions shall be those specified by the commission.

1 (5) Upon approval of the grant and securing all necessary documents,
2 the commission will make available, in the approved form, project or
3 contract funding.

4 SECTION 17. That Section 22-2734, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 22-2734. COST-SHARE FROM STATE SOIL AND WATER CONSERVATION COMMISSION
7 GENERAL FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants or
8 participants may file an application with the local soil conservation
9 district or the state soil and water conservation commission for a
10 cost-share contract or project from the state soil and water conservation
11 commission general fund for the purpose of financing agricultural, grazing
12 or other conservation improvements, projects or implementation of the water
13 quality program for agriculture. Such application shall be filed in such
14 a manner and shall be in such form and be accompanied by such information
15 as may be prescribed by the commission; provided however, ~~that~~ any such
16 application filed with the district or the commission under the provisions
17 of this section shall:

18 (a) Describe the nature and purposes of the improvements and projects
19 requiring cost-sharing;

20 (b) Set forth or be accompanied by a plan that identifies the
21 conservation improvements or projects, together with such technical
22 and economic feasibility data and estimated costs as may be required by
23 the commission;

24 (c) State whether money other than that for which application is made
25 under this section will be used for costs, and whether such money is
26 available or has been sought for this purpose; and

27 (d) Show the proposed project is feasible from a technical standpoint
28 and is economically justified.

29 (2) The commission and the local soil conservation district will keep
30 each other informed of cost-share applications received. Within thirty
31 (30) days of receipt of an application, the local soil conservation district
32 or the commission shall review and evaluate and, if deemed necessary,
33 investigate all aspects of the proposed contract or project. As part of
34 such investigation, the district or the commission shall determine whether
35 the plan for development of the conservation improvements or projects
36 is satisfactory. If the district or the commission determines the plan
37 is unsatisfactory, it shall return the application to the applicant or
38 participant and the district or the commission may make such recommendations
39 to the applicant or participant as are considered necessary to make the
40 application satisfactory. When the commission determines either the
41 application or an application revised pursuant to recommendation of the
42 district or commission is satisfactory, it shall be considered for funding.

43 (3) The commission may approve a cost-share contract to an applicant
44 or participant for conservation projects and improvements if, after review,
45 evaluation and investigation, it finds that:

46 (a) The applicant or participant is qualified and responsible;

47 (b) The conservation improvement or project demonstrates public
48 benefit;

1 (c) There is reasonable assurance that the applicant or participant
2 will adhere to contract terms; and

3 (d) Money is available in the state soil and water conservation
4 commission general fund for cost-share.

5 (4) Upon approval of the cost-share contract or cost-share grant,
6 and securing of all necessary documents, the commission will make funding
7 available.

8 SECTION 18. That Section 22-2735, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 22-2735. PAYMENTS BY THE STATE SOIL AND WATER CONSERVATION COMMISSION
11 -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The
12 commission may make payments not to exceed the estimated reasonable cost of
13 an eligible improvement, project, or plan.

14 (2) The commission may, in the name of the state of Idaho, enter into
15 contracts with approved applicants, and any such approved applicants may
16 enter into a contract with the commission concerning eligible improvements,
17 projects or plans. Any such contract may include such provisions as may be
18 agreed upon by the parties thereto, and shall include, in substance, the
19 following provisions:

20 (a) An estimate of the reasonable cost of the improvements, projects,
21 or plans as determined by the commission;

22 (b) The terms under which the commission may unilaterally terminate
23 the contract and/or seek repayment from the ~~application~~ applicant
24 of sums already paid pursuant to the contract for noncompliance by
25 the applicant with the terms and conditions of the contract and the
26 provisions of this chapter;

27 (c) An agreement by the applicant binding for the life of the eligible
28 improvements, projects or plans:

29 (i) To develop water quality plans for landowners and provide
30 payments to landowners for installation of best management
31 practices;

32 (ii) To determine payment rates in conjunction with the
33 commission for best management practices;

34 (iii) To establish a method for administration and provisions
35 for technical assistance to landowners in conjunction with the
36 commission;

37 (iv) To allow the state to make payments up to the estimated
38 reasonable cost for best management practices installation,
39 technical assistance and project administration of an eligible
40 project;

41 (v) To develop and to secure the approval of the commission of
42 plans for operation of the eligible project;

43 (vi) To ensure that the local matching share of the cost is
44 provided as applicable;

45 (vii) To assure an adequate level of landowner participation and
46 application of best management practices to ensure water quality
47 goals are met.

48 (3) The commission may enter into contracts to provide technical
49 assistance to applicants that have entered agreements pursuant to this

1 chapter. Any such contract may include such provisions agreed upon by the
2 parties thereto, and shall include, in substance, the following provisions:

3 (a) An estimate of the reasonable cost of technical assistance;

4 (b) The terms under which the commission may unilaterally terminate the
5 contract, and/or seek repayment of sums paid pursuant to the contract,
6 for noncompliance by the applicants with the terms and conditions of
7 the contract, the provisions of this chapter, or rules adopted pursuant
8 thereto.

9 (4) The commission may enter into contracts and establish procedures to
10 be followed in applying for eligible improvements, projects and plans herein
11 authorized as shall be necessary for the effective administration of the
12 water quality program for agriculture.

13 (5) All contracts entered into pursuant to this section shall be
14 subject to approval by the attorney general as to form. All payments by the
15 state pursuant to such contracts shall be made after audit and upon warrant
16 as provided by law on vouchers approved by the ~~the director~~ chairman and the
17 administrator of the ~~department of agriculture~~ commission.

18 (6) All grant agreements and contracts previously entered into with
19 the state board of health and welfare, soil conservation districts and
20 the commission pursuant to section 39-3627, Idaho Code, for payments and
21 administration are now to be administered and payments implemented solely by
22 the commission.

23 SECTION 19. That Section 22-5201, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 22-5201. LEGISLATIVE INTENT. Increasing levels of carbon dioxide and
26 other greenhouse gases in the atmosphere have led to growing interest in
27 national and international forums for implementing measures to slow and
28 reverse the buildup of such atmospheric constituents. Such measures may
29 potentially include the establishment of systems of trading in credits for
30 adoption of practices, technologies or other measures which decrease net
31 emissions of carbon dioxide. Improved agricultural and timber production
32 methods, soil and forest conservation practices and other methods of
33 stewardship of soil and other land resources have great potential to
34 increase carbon sequestration on agricultural and private forest lands and
35 help offset carbon dioxide emissions from other sectors of the economy.
36 It is in the interest of agricultural producers, nonindustrial private
37 forest landowners and the public in general that the Idaho state soil and
38 water conservation commission document and quantify carbon sequestration
39 and greenhouse emissions reductions associated with agricultural and
40 forestry practices, management systems and land uses occurring on cropland,
41 forest land and rangeland in Idaho. It is the intent of the legislature
42 that efforts to quantify and verify carbon sequestration on agricultural
43 and forest lands will enhance the ability of the state's agricultural and
44 nonindustrial private forest landowners to participate in any system of
45 carbon sequestration marketing or trading.

46 SECTION 20. That Section 22-5202, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED --
 2 MEMBERSHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon
 3 sequestration advisory committee is hereby created. The committee shall
 4 consist of the following nineteen (19) members, to be appointed by and serve
 5 at the pleasure of the governor:

- 6 (a) The chairman of the Idaho state soil and water conservation
 7 commission or his designee;
 8 (b) The director of the department of agriculture or his designee;
 9 (c) The director of the department of environmental quality or his
 10 designee;
 11 (d) The director of the department of lands or his designee;
 12 (e) One (1) member representing the University of Idaho college of
 13 agriculture;
 14 (f) One (1) member representing an entity which generates electrical
 15 energy;
 16 (g) Two (2) members who are producers of field crops, at least one (1)
 17 of whom actively employs a minimum tillage management system in his
 18 farming operation;
 19 (h) Two (2) members who are producers of livestock, at least one (1) of
 20 whom is actively involved in implementing a rangeland improvement plan;
 21 (i) One (1) member with expertise in carbon sequestration marketing or
 22 trading;
 23 (j) One (1) member representing soil conservation districts, as
 24 defined in section 22-2717, Idaho Code;
 25 (k) One (1) member representing the biofuels industry;
 26 (l) One (1) member representing the transportation industry;
 27 (m) One (1) member representing an environmental protection or
 28 conservation organization;
 29 (n) One (1) member representing nonindustrial private forest
 30 landowners;
 31 (o) One (1) member representing American Indian tribal interests;
 32 (p) One (1) member whose expertise is geology; and
 33 (q) One (1) member whose expertise is economics.
 34 (2) Members of the committee shall be compensated as provided in
 35 section 59-509(b), Idaho Code.

36 (3) The Idaho state soil and water conservation commission shall assist
 37 the committee with administrative support as reasonably requested by the
 38 committee.

39 SECTION 21. That Section 22-5203, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 22-5203. POWERS AND DUTIES OF THE CARBON SEQUESTRATION ADVISORY
 42 COMMITTEE. The carbon sequestration advisory committee may:

- 43 (1) Advise and assist the chairman of the Idaho state soil and water
 44 conservation commission in preparing the reports required by this chapter
 45 and in conducting the assessment pursuant to section 22-5205, Idaho Code;
 46 (2) Recommend policies or programs to enhance the ability of Idaho
 47 agricultural and nonindustrial private forest landowners to participate in
 48 systems of carbon trading. Such recommendations shall include potential
 49 policies or programs designed to optimize economic benefits to agricultural

1 producers and nonindustrial private forest landowners participating in
2 carbon trading transactions. Such policies or programs may include, but are
3 not limited to, identifying existing or the potential of creating nonprofit
4 organizations or other public or private entities capable of serving as
5 assemblers of carbon credits or as intermediaries on behalf of producers in
6 carbon trading systems;

7 (3) Encourage the production of educational and advisory materials
8 regarding carbon sequestration on agricultural and forest lands and
9 participation in systems of carbon or greenhouse emissions trading;

10 (4) Identify and recommend areas of research needed to better
11 understand and quantify the processes of carbon sequestration on
12 agricultural and forest lands; and

13 (5) Review the carbon sequestration programs and policies of other
14 states.

15 SECTION 22. That Section 22-5205, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 22-5205. POWERS AND DUTIES OF THE CHAIRMAN. (1) In consultation with
18 the carbon sequestration advisory committee, the chairman of the Idaho
19 state soil and water conservation commission shall assess agricultural
20 and private forest lands in Idaho for past carbon sequestration and future
21 carbon sequestration potential. The assessment shall seek to quantify
22 carbon sequestration associated with various agricultural and forestry
23 practices, management systems and land uses occurring on agricultural and
24 forest lands in this state. On or before March 1, 2003, the chairman shall
25 publish a report of the findings. From time to time, the chairman may update
26 the findings as advancements in understanding of the processes of carbon
27 sequestration and new data become available.

28 (2) The assessment shall be conducted in a manner that shall provide
29 a means for owners of agricultural and forest land to estimate past
30 and future net carbon sequestration resulting from agricultural and
31 forestry practices, conservation measures, management systems and land
32 uses occurring on their property. The chairman of the Idaho state soil
33 and water conservation commission may contract and cooperate with the
34 natural resources conservation service of the United States department of
35 agriculture to conduct assessment activities provided for in this section.

36 (3) The Idaho state soil and water conservation commission may apply
37 for and accept grants, gifts or other sources of public and private funds to
38 carry out the purposes of this chapter.

39 SECTION 23. That Section 22-5206, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 22-5206. CARBON SEQUESTRATION ASSESSMENT FUND CREATED. There is
42 hereby created and established in the state treasury a fund to be known as
43 the "Carbon Sequestration Assessment Fund," which shall consist of such
44 funds, grants, donations or moneys from other sources. The fund shall be
45 administered by the Idaho state soil and water conservation commission in
46 order to carry out the purposes of this chapter. Moneys in the fund may be

1 expended pursuant to appropriation. Any interest earned on the investment
2 of idle moneys in the fund shall be returned to the fund.

3 SECTION 24. That Section 36-2404, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The
6 delisting advisory team shall develop a state management plan for a
7 species in response to all notification of intent to delist the species
8 by the secretary of interior or secretary of commerce or sooner if deemed
9 appropriate. The state management plan shall provide for the management
10 and conservation of the species once it is delisted, and contain sufficient
11 safeguards to protect the health, safety, private property and economic
12 well-being of the citizens of the state of Idaho.

13 (2) The department of fish and game shall provide the delisting
14 advisory teams, the informational, technical or other needs and
15 requirements of those teams in the performance of their duties.

16 (3) In developing state delisting management plans, the delisting
17 advisory team shall consult with the appropriate state agencies,
18 commissions and boards. The appropriate state agency for wildlife
19 biological and species management issues, and for plant life biological
20 and species management issues is the department of fish and game. The
21 appropriate state agency for timber harvest activities, oil and gas
22 exploration activities and for mining activities is the department of
23 lands. The appropriate state agencies for agricultural activities are the
24 department of agriculture and the Idaho state soil and water conservation
25 commission. The appropriate state agency for public road construction
26 is the transportation department. The appropriate state agency for
27 water rights is the department of water resources. The appropriate state
28 agency for water quality is the department of environmental quality. The
29 appropriate state agency for outfitting and guiding activities is the Idaho
30 outfitters and guides licensing board.

31 SECTION 25. That Section 39-3602, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 39-3602. DEFINITIONS. Whenever used or referred to in this chapter,
34 unless a different meaning clearly appears from the context, the following
35 terms shall have the following meanings:

36 (1) "Applicable water quality standard" means those water quality
37 standards identified in the rules of the department.

38 (2) "Attainable" beneficial uses means uses that can be achieved
39 by the implementation of required effluent limits for point sources and
40 cost-effective and reasonable best management practices for nonpoint
41 sources.

42 (3) "Best management practice" means practices, techniques or measures
43 developed, or identified, by the designated agency and identified in
44 the state water quality management plan which are determined to be a
45 cost-effective and practicable means of preventing or reducing pollutants
46 generated from nonpoint sources to a level compatible with water quality
47 goals.

- 1 (4) "Board" means the board of environmental quality.
- 2 (5) "Control strategies" means cost-effective actions in TMDL
3 implementation plans to control the discharge of pollutants that can
4 reasonably be taken to improve the water quality within the physical,
5 operational, economic and other constraints that affect individual
6 enterprises and communities.
- 7 (6) "Department" means the department of environmental quality.
- 8 (7) "Designated agency" means the department of lands for timber
9 harvest activities, for oil and gas exploration and development and
10 for mining activities; the soil and water conservation commission for
11 grazing activities and for agricultural activities; the transportation
12 department for public road construction; the department of agriculture
13 for aquaculture; and the department of environmental quality for all other
14 activities.
- 15 (8) "Designated use or designated beneficial use" means those uses
16 assigned to waters as identified in the rules of the department whether or
17 not the uses are being attained. The department may adopt subcategories of
18 a use.
- 19 (9) "Director" means the director of the department of environmental
20 quality, or his or her designee.
- 21 (10) "Discharge" means any spilling, leaking, emitting, escaping,
22 leaching, or disposing of a pollutant into the waters of the state. For the
23 purposes of this chapter, discharge shall not include surface water runoff
24 from nonpoint sources or natural soil disturbing events.
- 25 (11) "Existing use" means those surface water uses actually attained
26 on or after November 28, 1975, whether or not they are designated uses.
27 Existing uses may form the basis for subcategories of designated uses.
- 28 (12) "Full protection, full support, or full maintenance of designated
29 beneficial uses of water" means compliance with those levels of water
30 quality criteria listed in the appropriate rules of the department, or where
31 there is no applicable numerical criteria, compliance with the reference
32 streams or conditions approved by the director in consultation with the
33 appropriate basin advisory group.
- 34 (13) "Lower water quality" means a measurable adverse change in
35 a chemical, physical, or biological parameter of water relevant to a
36 designated beneficial use, and which can be expressed numerically.
37 Measurable adverse change is determined by a statistically significant
38 difference between sample means using standard methods for analysis and
39 statistical interpretation appropriate to the parameter. Statistical
40 significance is defined as the ninety-five percent (95%) confidence limit
41 when significance is not otherwise defined for the parameter in standard
42 methods or practices.
- 43 (14) "National pollutant discharge elimination system (NPDES)" means
44 the point source permitting program established pursuant to section 402 of
45 the federal clean water act.
- 46 (15) "New nonpoint source activity" means a new nonpoint source
47 activity or a substantially modified existing nonpoint source activity on
48 or adversely affecting an outstanding resource water which includes, but
49 is not limited to, new silvicultural activities, new mining activities and
50 substantial modifications to an existing mining permit or approved plan,

1 new recreational activities and substantial modifications to existing
2 recreational activities, new residential or commercial development that
3 includes soil disturbing activities, new grazing activities and substantial
4 modifications to existing grazing activities, except that reissuance of
5 existing grazing permits, or grazing activities and practices authorized
6 under an existing permit, is not considered a new activity. It does not
7 include naturally occurring events such as floods, landslides, and wildfire
8 including prescribed natural fire.

9 (16) "Nonpoint source activities" includes grazing, crop production,
10 silviculture, log storage or rafting, construction, mining, recreation,
11 septic systems, runoff from storms and other weather related events and
12 other activities not subject to regulation under the federal national
13 pollutant discharge elimination system. Nonpoint source activities on
14 waters designated as outstanding resource waters do not include issuance of
15 water rights permits or licenses, allocation of water rights, operation of
16 diversions, or impoundments.

17 (17) "Nonpoint source runoff" means water which may carry pollutants
18 from nonpoint source activities into the waters of the state.

19 (18) "Outstanding resource water" means a high quality water, such
20 as water of national and state parks and wildlife refuges and water of
21 exceptional recreational or ecological significance, which has been so
22 designated by the legislature. It constitutes an outstanding national
23 or state resource that requires protection from point source and nonpoint
24 source activities that may lower water quality.

25 (19) "Person" means any individual, association, partnership, firm,
26 joint stock company, joint venture, trust, estate, political subdivision,
27 public or private corporation, state or federal governmental department,
28 agency or instrumentality, or any legal entity, which is recognized by law as
29 the subject of rights and duties.

30 (20) "Point source" means any discernible, confined, and discrete
31 conveyance including, but not limited to, any pipe, ditch, channel, tunnel,
32 conduit, well, discrete fissure, container, rolling stock, concentrated
33 animal feeding operation, or vessel or other floating craft, from which
34 pollutants are, or may be, discharged. This term does not include return
35 flows from irrigated agriculture, discharges from dams and hydroelectric
36 generating facilities or any source or activity considered a nonpoint source
37 by definition.

38 (21) "Pollutant" means dredged spoil, solid waste, incinerator
39 residue, sewage, garbage, sewage sludge, munitions, chemical waste,
40 biological materials, radioactive materials, heat, wrecked or discarded
41 equipment, rock, sand, silt, cellar dirt; and industrial, municipal and
42 agricultural waste, gases entrained in water; or other materials which, when
43 discharged or released to water in excessive quantities cause or contribute
44 to water pollution. Provided however, biological materials shall not
45 include live or occasional dead fish that may accidentally escape into the
46 waters of the state from aquaculture facilities.

47 (22) "Reference stream or condition" means one (1) of the following:

48 (a) The minimum biological, physical and chemical conditions necessary
49 to fully support the designated beneficial uses; or

1 (b) A water body representing natural conditions with few impacts from
2 human activities and which are representative of the highest level of
3 support attainable in the basin; or

4 (c) A water body representing minimum conditions necessary to fully
5 support the designated beneficial uses.

6 In highly mineralized areas or in the absence of such reference streams
7 or water bodies, the director, in consultation with the basin advisory
8 group and the technical advisers to it, may define appropriate hypothetical
9 reference conditions or may use monitoring data specific to the site in
10 question to determine conditions in which the beneficial uses are fully
11 supported.

12 (23) "Short-term or temporary activity" means an activity which is
13 limited in scope and is expected to have only minimal impact on water quality
14 as determined by the director. Short-term or temporary activities include,
15 but are not limited to, maintenance of existing structures, limited road and
16 trail reconstruction, soil stabilization measures, and habitat enhancement
17 structures.

18 (24) "Silviculture" means those activities associated with the
19 regeneration, growing and harvesting of trees and timber including, but not
20 limited to, disposal of logging slash, preparing sites for new stands of
21 trees to be either planted or allowed to regenerate through natural means,
22 road construction and road maintenance, drainage of surface water which
23 inhibits tree growth or logging operations, fertilization, application of
24 herbicides or pesticides, all logging operations, and all forest management
25 techniques employed to enhance the growth of stands of trees or timber.

26 (25) "Soil and water conservation commission" means an agency of state
27 government as created in section 22-2718, Idaho Code.

28 (26) "Soil conservation district" means an entity of state government
29 as defined in section 22-2717, Idaho Code.

30 (27) "State" means the state of Idaho.

31 (28) "State water quality management plan" means the state management
32 plan developed and updated by the department in accordance with sections
33 205, 208, and 303 of the federal clean water act.

34 (29) "Subbasin assessment" means a document that describes a watershed
35 or watersheds for which a total maximum daily load is proposed, the water
36 quality concerns, the status and attainability of designated uses and water
37 quality criteria for individual water bodies, the nature and location of
38 pollutant sources, past and ongoing pollutant control activities, and such
39 other information that the director with the advice of the local watershed
40 advisory group determines is pertinent to the analysis of water quality and
41 the development and implementation of a total maximum daily load.

42 (30) "Total maximum daily load (TMDL)" means a plan for a water body
43 not fully supporting designated beneficial uses and includes the sum of the
44 individual wasteload allocations for point sources, load allocations for
45 nonpoint sources, and natural background levels of the pollutant impacting
46 the water body. Pollutant allocations established through TMDLs shall be at
47 a level necessary to implement the applicable water quality standards for
48 the identified pollutants with seasonal variations and a margin of safety to
49 account for uncertainty concerning the relationship between the pollutant
50 loading and water quality standards.

1 (31) "Waters or water body" means all the accumulations of surface
 2 water, natural and artificial, public and private, or parts thereof which
 3 are wholly or partially within, flow through or border upon this state.
 4 For the purposes of this chapter, water bodies shall not include municipal
 5 or industrial wastewater treatment or storage structures or private
 6 reservoirs, the operation of which has no effect on waters of the state.

7 (32) "Water pollution" is such alteration of the thermal, chemical,
 8 biological or radioactive properties of any waters of the state, or such
 9 discharge or release of any contaminant into the waters of the state as
 10 will or is likely to create a nuisance or render such waters harmful or
 11 detrimental or injurious to public health, safety or welfare or to domestic,
 12 commercial, industrial, recreational, aesthetic or other legitimate uses or
 13 to livestock, wild animals, birds, fish or other aquatic life.

14 (33) "Water quality standards" are the designated uses of a water
 15 body and water quality criteria necessary to support those uses, and an
 16 antidegradation policy.

17 (34) "Watersheds" means the land area from which water flows into a
 18 stream or other body of water which drains the area. For the purposes of this
 19 chapter, the area of watersheds shall be recommended by the basin advisory
 20 group described in section 39-3613, Idaho Code.

21 SECTION 26. That Section 39-6407, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives,
 24 the council shall create a technical advisory group which may include
 25 the designated representatives of the public health district, city and
 26 county planning or engineering departments, ~~D~~department of ~~E~~environmental
 27 ~~E~~quality, ~~D~~department of ~~I~~lands, ~~D~~department of ~~F~~fish and ~~G~~game,
 28 ~~D~~department of ~~P~~arks and ~~R~~ecreation, ~~D~~department of ~~W~~water ~~R~~esources,
 29 ~~S~~state ~~S~~oil and water ~~C~~onservation ~~C~~ommission, United States ~~F~~orest
 30 ~~S~~ervice, United States ~~B~~ureau of ~~L~~and ~~M~~anagement, United States
 31 ~~A~~army ~~C~~orps of ~~E~~ngineers, United States ~~A~~gricultural ~~C~~onservation
 32 and ~~S~~tabilization ~~S~~ervices, United States ~~E~~nvironmental ~~P~~rotection
 33 ~~A~~gency, United States ~~G~~eological ~~S~~urvey or any one (1) or more of said
 34 agencies and such representatives of agriculture, conservation, forest
 35 products, sportsmen and mining interests as may be appointed by the county.
 36 Indian tribes may nominate a representative for the technical advisory group
 37 to the county for appointment to the group. Members shall serve without
 38 state compensation except such normal compensation received by members
 39 who are state employees serving in the normal course and scope of their
 40 employment.

41 SECTION 27. That Section 39-6609, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 39-6609. TECHNICAL COMMITTEE. To assist in the development of its
 44 program, the council shall create a technical committee which may include,
 45 but is not exclusively limited to, designated representatives of the public
 46 health district, city and county planning or engineering departments, the
 47 county planning and zoning commission, the McCall water and sewer district,

1 department of environmental quality, department of lands, department of
2 fish and game, department of parks and recreation, department of water
3 resources, state soil and water conservation commission, United States
4 forest service, United States army corps of engineers, United States
5 agricultural conservation and stabilization services, United States ~~soil~~
6 natural resources conservation service, United States geological survey,
7 United States environmental protection agency and representatives proposed
8 by interests in agriculture, environmental protection, forest products,
9 sporting and mining. Indian tribes may nominate a representative for the
10 technical committee. Members shall serve without state compensation except
11 such normal compensation received by members who are state, city, county,
12 district or federal employees serving in the normal course and scope of their
13 employment.

14 SECTION 28. That Section 42-3703, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 42-3703. DEFINITIONS. Whenever used or referred to in this act, unless
17 a different meaning clearly appears from the context, the following terms
18 shall have the following meanings:

19 1. "District" or "watershed improvement district" means a governmental
20 subdivision of this state and a public body corporate and politic organized
21 in accordance with the provisions of this act for the purposes, with the
22 powers, and subject to the restrictions hereinafter set forth.

23 2. "Director" means one (1) of the members of the governing body of a
24 district elected or appointed in accordance with the provisions of this act.

25 3. "Commission" or "state soil and water conservation commission"
26 means the agency created in section 22-2718, Idaho Code.

27 4. "Petition" means a petition filed under the provisions of section
28 42-3705, Idaho Code, for the creation of a district.

29 5. "Nominating petition" means a petition filed under the provisions
30 of section 42-3706, Idaho Code, to nominate a candidate for the office of
31 director of a watershed improvement district.

32 6. "State" means the state of Idaho.

33 7. "Landowner" includes any person, firm or corporation who shall hold
34 title to any lands lying within a district organized under the provisions of
35 this act. A contract purchaser who is occupying the land shall be construed
36 as a landowner.

37 8. "Qualified elector" means any natural person residing within the
38 boundaries of the state of Idaho, owning land within the boundaries of the
39 district, and qualified under the laws of this state to vote in an election
40 by the people.

41 SECTION 29. That Section 42-3705, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen
44 (15) owners of land lying within the limits of the territory proposed to be
45 organized into a watershed improvement district may file a petition with
46 the state soil and water conservation commission asking that a watershed
47 improvement district be organized to function in the territory described

1 in the petition. In the event that there are less than fifteen (15)
2 persons owning land lying within the limits of the territory proposed to be
3 organized into a district, then and in that case such petition will be deemed
4 sufficient if it contains the signatures of two-thirds (2/3) of the owners of
5 land and representing two-thirds (2/3) of the acreage of land lying within
6 the limits of the said territory. Such petition shall set forth:

7 1. A description of the territory proposed to be organized as
8 a watershed improvement district, which description shall be deemed
9 sufficient if generally accurate.

10 2. That there is need, in the interest of the public health, safety,
11 and general welfare for a watershed improvement district to function in the
12 territory described in the petition.

13 3. The proposed name of said district.

14 4. A request that the state soil and water conservation commission duly
15 define the boundaries for such district; that an election be held within
16 the territory so defined on the question of the creation of a watershed
17 improvement district in such territory.

18 After such petition has been filed with the state soil and water
19 conservation commission it shall be the duty of the commission to define by
20 metes and bounds or by legal subdivisions the boundaries of such proposed
21 district, and to hold an election, subject to the provisions of section
22 34-106, Idaho Code, within the proposed district upon the proposition of
23 the creation of the district, and to cause notice of such election to be
24 given. The question shall be submitted by ballots upon which the words "For
25 creation of a watershed improvement district of the lands below described
26 and lying in the county(ies) of, and" and "Against creation
27 of a watershed improvement district of the lands below described and lying
28 in the county(ies) of, and" shall appear with a square before
29 each proposition and a direction to insert an X mark in the square before one
30 or the other of said propositions as the voter may favor or oppose creation
31 of such district. The ballot shall set forth the boundaries of such proposed
32 district as determined by the state soil and water conservation commission.

33 All qualified electors who own land within the proposed district shall
34 be eligible to vote in the election.

35 The state soil and water conservation commission shall pay all expenses
36 of, and supervise the conduct of, such election. The commission shall
37 conduct the election as provided in chapter 14, title 34, Idaho Code. No
38 informality in the conduct of such election or in any matter relating thereto
39 shall invalidate said election or the result thereof if notice thereof shall
40 have been given substantially as herein provided, and said election shall
41 have been fairly conducted.

42 If the election shall result in a majority of votes being cast in
43 favor of the creation of such proposed district the state soil and water
44 conservation commission shall proceed with the organization of the district
45 in the manner hereinafter provided, to wit:

46 1. The state soil and water conservation commission shall appoint
47 one (1) director to act with the two (2) directors elected as hereinafter
48 provided, which said directors shall be the governing body of the district.

49 2. The state soil and water conservation commission shall present to
50 the secretary of state a certificate stating:

1 (a) That a petition for the creation of said district was filed with the
2 state soil and water conservation commission.

3 (b) The name and residence of the directors appointed by said
4 commission.

5 (c) The name which is proposed for said district.

6 (d) That an election on such petition was held, and that the majority of
7 votes cast in said election favored the formation of the district.

8 The secretary of state shall receive, file and record said certificate
9 of the state soil and water conservation commission, and when said
10 certificate shall be filed and recorded the district shall constitute a
11 governmental subdivision of this state and a public body corporate and
12 politic. The secretary of state shall make and issue to the said directors a
13 certificate of the due organization of the said district.

14 SECTION 30. That Section 42-3706, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance
17 of the secretary of state of a certificate of organization of a watershed
18 improvement district nominating petitions may be filed with the state soil
19 and water conservation commission to nominate candidates for directors
20 of such district. The state soil and water conservation commission shall
21 give notice of an election to be held, subject to the provisions of section
22 34-106, Idaho Code, for the election of two (2) directors for the district.
23 The names of all nominees on behalf of whom such nominating petitions have
24 been filed in the manner provided in section 34-1404, Idaho Code, shall
25 appear arranged in the alphabetical order of the surnames upon ballots with
26 a square before each name, and direction to insert an X mark in the square
27 before any two (2) names to designate the voter's preference. All qualified
28 electors who own land or reside within the proposed district shall be
29 eligible to vote in said election. The two (2) candidates who shall receive
30 the largest number respectively of the votes cast in such election shall be
31 elected for such district. The state soil and water conservation commission
32 shall pay all the expenses of such election, supervise the conduct thereof,
33 and publish the results thereof in accordance with the provisions of chapter
34 14, title 34, Idaho Code. All elections in existing districts following the
35 first election shall be conducted by the district directors of the district
36 involved who shall give notice of such elections and who shall bear the cost
37 thereof.

38 In any election for director, if after the deadline for filing a
39 declaration of intent as a write-in candidate, it appears that the number of
40 qualified candidates who have been nominated for director positions is equal
41 to the number of directors to be elected, it shall not be necessary for the
42 candidates to stand for election, and the board of directors shall declare
43 such candidates elected as directors, and the secretary of the district
44 shall immediately make and deliver to such persons certificates of election.

45 SECTION 31. That Section 42-3707, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The
2 governing body of the district shall consist of three (3) directors elected
3 or appointed as provided hereinabove. The director appointed by the
4 commission shall be an owner of land within the district and shall be a person
5 who by training and experience is qualified to perform the specialized
6 service which will be required in the performance of his duties hereunder.
7 The term of office of each director shall be four (4) years, except that the
8 director first appointed by the state soil and water conservation commission
9 shall be designated to serve for a term of two (2) years from the date of
10 his appointment. A director shall hold office until his successor has been
11 elected or appointed, and has qualified. Vacancies shall be filled for
12 an unexpired term by a majority of the directors duly qualified and acting
13 at the time the vacancy shall arise. A majority of the directors shall
14 constitute a quorum and the concurrence of a majority in any matter within
15 their duties shall be required for its determination. A director shall
16 receive no compensation for his service, but shall be entitled to expenses,
17 including traveling expenses necessarily incurred in the discharge of his
18 duties.

19 The directors may employ a secretary, technical experts, and such
20 other employees, permanent and temporary, as they may require, and shall
21 determine their qualifications, duties, and compensation. The directors
22 may employ their own counsel and legal staff. The directors may delegate
23 to their chairman, to one (1) or more directors, or to agents or employees
24 such powers and duties as they may deem proper and necessary. The directors
25 shall furnish to the state soil and water conservation commission, upon
26 request, copies of such documents or other information concerning ~~their~~
27 the directors' activities as said commission may require in the performance
28 of its duties under this ~~act~~ chapter. The directors shall provide for the
29 keeping of a record of all proceedings, resolutions, regulations and orders
30 issued or adopted; shall provide for an annual audit of its accounts, and
31 shall provide for the execution of surety bonds by any employee or officer
32 who shall be entrusted with funds or property of the district.

33 SECTION 32. That Section 42-3717, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3)
36 years after the organization of a district under the provisions of this
37 chapter any twenty-five (25) qualified electors or owners of land lying
38 within the boundaries of such district or, if less than twenty-five (25)
39 owners of land or qualified electors reside within the boundaries of such
40 district it would be deemed sufficient if two-thirds (2/3) of the resident
41 group, may file a petition with the state soil and water conservation
42 commission ~~praying requesting~~ that the operations of the district be
43 terminated and the existence of the district discontinued. After such
44 petition has been received by the state soil and water conservation
45 commission it shall give notice of the holding of an election, subject to
46 the provisions of section 34-106, Idaho Code, which the said commission
47 shall supervise and govern the conduct in accordance with the provisions
48 of chapter 14, title 34, Idaho Code. The question to be submitted by
49 ballots upon which the words "For terminating the existence of the (name

1 of the watershed improvement district to be here inserted)" and "Against
 2 terminating the existence of the (name of the watershed improvement district
 3 to be inserted here)" shall appear with a square before each proposition,
 4 and a direction to insert an X mark in the square before one or the other of
 5 said propositions as the voter may favor or oppose discontinuance of such
 6 district. All qualified electors who own land or reside within the proposed
 7 district shall be eligible to vote in said election. No informality in the
 8 conduct of such election or in any matters relating thereto shall invalidate
 9 said election or the result thereof if notice thereof shall have been given
 10 as herein provided, and said election shall have been fairly conducted.

11 The state soil and water conservation commission shall certify the
 12 result of such election to the directors of the district. If the state
 13 soil and water conservation commission shall certify that a majority of the
 14 votes cast in said election favor the discontinuance of the existence of the
 15 district, the directors of the district shall forthwith proceed to terminate
 16 the affairs of the district. Any moneys remaining in the treasury of said
 17 district following the winding up of the affairs of the district shall be
 18 paid by the directors into the state treasury. The directors shall file an
 19 application duly verified with the secretary of state for the discontinuance
 20 of such district which shall recite that the affairs of the district have
 21 been wound up, and shall set forth a full accounting of the winding up of
 22 the affairs of said district. The secretary of state shall issue to the
 23 directors a certificate of dissolution, and shall record said certificate in
 24 his office.

25 The state soil and water conservation commission shall not entertain
 26 petitions for the discontinuance of any district nor conduct elections upon
 27 such petitions more often than once in three (3) years.

28 SECTION 33. That Section 67-818, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED
 31 SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in
 32 the office of the governor, the "Office of Species Conservation." The
 33 administrator of the office of species conservation shall be the official in
 34 the state designated to oversee implementation of federal recovery plans,
 35 as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided
 36 by this section. The administrator shall be appointed by, and serve at the
 37 pleasure of, the governor and shall be subject to confirmation by the state
 38 senate.

39 (2) The duties of the office of species conservation shall include:
 40 (a) Coordination of all state departments and divisions with duties and
 41 responsibilities affecting endangered species, threatened species,
 42 candidate species, species petitioned to be listed, and rare and
 43 declining species as defined in section 36-2401, Idaho Code;
 44 (b) Coordinating state implementation and response to federal recovery
 45 plans, biological opinions, guidance and projects among all state and
 46 local governments in the state of Idaho;
 47 (c) Participation in regional efforts to cooperatively address
 48 endangered species, threatened species, candidate and petitioned
 49 species, and rare and declining species;

1 (d) Providing input and comment to federal and state agencies, and
2 tribes on issues relating to endangered species, threatened species,
3 candidate and petitioned species, and rare and declining species;

4 (e) Cooperating and consulting with the department of fish and game,
5 the department of lands, the department of water resources, the
6 department of agriculture, and the department of parks and recreation
7 regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C.
8 section 1535 and 16 U.S.C. section 1539;

9 (f) Negotiating agreements with federal agencies concerning
10 endangered species, threatened species, candidate species, petitioned
11 species, and rare and declining species including, but not limited to,
12 agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section
13 1539(a), other than those agreements negotiated pursuant to 16 U.S.C.
14 section 1535;

15 (g) Providing the people of the state of Idaho with an ombudsman who
16 can listen to citizens being harmed or hindered by the regulations
17 of the ESA and direct them to the appropriate state or federal agency
18 and/or speak on their behalf, as deemed appropriate by the ombudsman, to
19 address issues or concerns related to the ESA;

20 (h) Serve as a repository for agreements and plans among governmental
21 entities in the state of Idaho for the conservation of rare and
22 declining species, petitioned, candidate, threatened and endangered
23 species.

24 (3) State policy and management plans developed pursuant to this
25 section shall be developed in accordance with the following subsections:

26 (a) State policy on rare and declining, petitioned, candidate,
27 threatened, and endangered species and state management plans shall
28 be developed in consultation with the appropriate state agencies. The
29 appropriate state agency for wildlife and plant management issues is
30 the department of fish and game. The appropriate state agency for
31 timber harvest activities, oil and gas exploration activities and
32 for mining activities is the department of lands. The appropriate
33 state agencies for agricultural activities are the department of
34 agriculture and the Idaho state soil and water conservation commission.
35 The appropriate state agency for public road construction is the
36 transportation department. The appropriate state agency for water
37 rights is the department of water resources. The appropriate state
38 agency for water quality is the department of environmental quality.
39 The appropriate state agency for outfitting and guiding activities is
40 the Idaho outfitters and guides licensing board;

41 (b) State management plans shall be the policy of the state of Idaho,
42 but are subject to legislative approval, amendment or rejection by
43 concurrent resolution. State management plans shall be subject to
44 public notice and comment but shall not be subject to judicial review.

45 (4) The governor's office of species conservation shall prepare a
46 report to the legislature recommending a plan to develop state conservation
47 assessments and strategies for rare and declining species in the state of
48 Idaho and submit that report and recommendation to the legislature. The
49 report and recommendation are subject to legislative approval, amendment or
50 rejection by concurrent resolution.

1 (5) No provision of this section shall be interpreted as to supersede,
2 abrogate, injure or create rights to divert or store water and apply water to
3 beneficial uses established under section 3, article XV of the constitution
4 of the state of Idaho, and title 42, Idaho Code.

5 SECTION 34. This act shall be in full force and effect on and after
6 July 1, 2010. After July 1, 2014, but prior to January 1, 2015, the Director
7 of the Legislative Services Office shall cause to be prepared a report to
8 be submitted to both houses of the Legislature detailing the following:

9 1. Has the legislative intent of this act been achieved with the necessary
10 cooperation between the Commission and the Districts? 2. Have expenditures
11 by the Commission and the Districts followed generally accepted accounting
12 principles? and 3. Has the public been well served by the actions of the
13 Commission and the Districts in implementing this act?