AN ACT
RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE, TO PROVIDE FOR EMERGENCY ASSESSMENTS, TO PROVIDE FOR MITIGATION BY A DISTRICT DUE TO NONCOMPLIANCE OF A MEMBER AND FOR THE LEVY OF SPECIAL ASSESSMENTS, AND TO REVISE PROVISIONS REGARDING THE APPORTIONMENT OF AMOUNTS TO BE ASSESSED; AND AMENDING SECTION 42-5241, IDAHO CODE, TO PROVIDE CODE REFERENCES, TO PROVIDE A PROCEDURE ASSOCIATED WITH CERTAIN DISTRICT ASSESSMENTS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-5232, Idaho Code, be, and the same is hereby amended to read as follows:

42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be the assessor of the district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment under this chapter.

(2) At a regular meeting of the board between August 1 and November 1 of each year, the board of directors shall determine the amount necessary to be raised for payment of the annual payment on any and all indebtedness of the district for the following year. Money received in payment of such assessments shall be deposited in a separate fund to be known as the debt retirement fund.

(3) The board shall, in addition, determine the assessments necessary to pay, without limitation, the expenses of developing, operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans, or evaluation of proposed contracts. Money received in payment of such assessments shall be deposited in a separate fund to be known as the mitigation expense fund.

(4) The board shall, in addition, determine the assessments necessary to pay maintenance and operation of the district not related to mitigation plans or purposes. These operation and maintenance duties include making the assessment book, giving notice of assessments and making collections thereof, and other duties, programs or projects of the district to the extent such duties, programs or projects are not attributable to mitigation plans or purposes. Money received in payment of such assessments shall be deposited in a separate fund of the district to be known as the operating expense fund.

(5) If, after levying the regular assessments described in this section, the board determines that the money held in such fund is inadequate or prior to the next regular assessment is likely to become inadequate to pay the expenses for which such fund exists, the board may levy an emergency assessment to pay such additional expenses; provided, that the board shall, at least fourteen (14) days prior to the meeting at which the board determines...
the amount necessary to pay such expenses, mail written notice of the board's intent to levy an emergency assessment to each member of the district at the address on file with the district.

(6) If a mitigation plan has been approved and a district member fails to operate in accordance with the plan, the board may take action to mitigate such member's noncompliance and levy a special assessment against such member equal to one hundred twenty-five percent (125%) of all costs incurred by the district to mitigate such member's noncompliance. If the noncompliance constitutes excess water use, the board may alternatively levy a special assessment equal to one hundred dollars ($100) per acre-foot of excess water use.

(7) Any ground water user who becomes a member of a district for mitigation purposes shall be subject to no assessment beyond his proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the district's mitigation plans or purposes.

(8) No assessment made pursuant to this chapter shall be a lien against any municipal property.

(29) Except as otherwise provided in this chapter, each member shall pay a proportionate share of the total of all amounts to be assessed for the purposes aforementioned, which share shall be based on (a) the ratio which the quantity of water the water user member is authorized to appropriate divert under the member's ground water right(s) bears to the total quantity of water authorized for appropriation diversion under the ground water rights of all water users in members of the district, or (b) the ratio which the number of acres the water use member is authorized to irrigate under the member's ground water right bears to the total quantity of water number of acres authorized for appropriation irrigation under the ground water rights of all water users in members of the district; provided, that the board shall be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the members' respective ground water rights, other attributes of the ground water rights appurtenant to the assessed lands, and/or the benefits the member derives from a mitigation plan or other activity of the district. Any non-irrigator who is a member of a ground water district, or whose ground water rights are appurtenant to property located within a ground water district, and who has adopted and implemented a mitigation plan that has been approved by the director and that is not inconsistent with such a plan approved by the director and adopted and implemented by the ground water district, shall be entitled to an assessment credit for the contribution made by that nonirrigator's mitigation plan towards the district's mitigation obligation as determined by the director.

SECTION 2. That Section 42-5241, Idaho Code, be, and the same is hereby amended to read as follows:

42-5241. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT -- INTEREST AND PENALTIES. (1) District assessments levied pursuant to subsections (2) through (4) of section 42-5232, Idaho Code, shall be billed and collected in one (1) of the following ways:
(4a) On or before the first day of December, the treasurer of the district shall mail an assessment bill to each water user and shall publish a notice for a period of not less than two (2) weeks in a newspaper published or having general circulation in each of the counties in which any part of the district is situated, which bill and notice shall set forth the date by which assessments must be paid and the times and places at which payment may be made. Assessments collected by the ground water district shall be due and payable on or before December 31 of each year, after which date each unpaid assessment shall be delinquent; shall bear interest at the rate of interest established for money due on judgments until paid; shall entitle the district to take any appropriate action to collect the assessment, including suit and the foreclosure of liens as provided in this chapter; and, in addition, shall be subject to a penalty in the amount of fifteen dollars ($15.00) per delinquent assessment; or

(2b) The board of directors of any ground water district organized under the laws of this state desiring to provide for the collection of district assessments by the county treasurer instead of the district treasurer may do so by adopting a resolution providing for collection by the county treasurer, and furnishing a copy of the resolution to the county auditor of each county in which any of the district lands are located; provided that the county commissioners of the county or counties must first approve the ground water district resolution by a proper resolution of the board of county commissioner's commissioners adopted by a majority of the county commissioners and made and entered upon the minutes of the board or boards of county commissioners. The board of county commissioner's' resolution may provide for collection fees and for any additional fee against the ground water district for the cost of transferring records and initiating the collection process. The board of county commissioners of any county, having determined that the collection of ground water district assessments is an undue burden upon the county and shall no longer be provided, shall notify the board of directors of the ground water district by December 1 in the year preceding the year for which the action shall first be effective by providing to the board of directors a certified copy of the majority decision of the board of county commissioners.

If the ground water district board determines to issue assessments through the respective counties, the treasurer of the ground water district first shall prepare a list containing the legal description, the assessor's parcel number, the name and last known address of the owner of record, and the amount of the assessment for each parcel. The sum assessed and charged against each parcel shall be entered by the ground water district as the operation and maintenance assessment of the (name of district) ground water district. On or before the third Tuesday of July of each year, the list shall be certified by the treasurer of the ground water district to the county auditor of the county in which the lands are located, and the county treasurer shall enter the same upon the tax rolls, as provided by law for the entry of taxes, against the land of each of the persons named in the list, together with the amounts thereof; and the same shall be subject to the same interest and penalties in case of delinquency as in the case of property taxes and
shall be collected in the same manner as taxes and subject to the same right of redemption, and the lands sold for the collection of delinquency shall be subject to the same right of redemption as the sale of land for property taxes.

When a ground water district includes lands in more than one (1) county, the treasurer of the ground water district shall prepare separate lists for the county assessor for each county. When a parcel lies partly in one county and partly in another county, only the portion in a county shall be included on the list for that county. If the legal description of any parcel on any such list differs from the legal description as shown by the assessor's records, the assessor shall notify the district treasurer of the discrepancy and the district treasurer shall submit to the county assessor an addendum changing the description to conform with the assessor's records; provided, that where the discrepancy between the descriptions occurs because a portion of the parcel lies outside the district, no change in description shall be required and the district assessments shall be effective only as to the portions of any parcel that are within district boundaries.

Assessments shall be due and payable on the date specified in the county's tax notice shall be collected and accounted for by the county treasurer in the same manner as property taxes and shall be paid over to the ground water district treasurer together with any penalties or interest collected. The county shall enforce the collection of assessments in the same manner as it enforces the collection of taxes of the county, and failure to pay the assessment shall be subject to the same penalties. The collection of a ground water district's assessments by the county treasurer shall not make the district's obligations respecting any bond, contract, debt, or interest the obligation of the county.

(2) District assessments levied pursuant to subsection (5) or (6) of section 42-5232, Idaho Code, shall be billed and collected in one of the ways as provided in subsection (1) of this section, provided that assessments billed and collected pursuant to subsection (1)(a) of this section may be mailed at any time of the year and shall be due and payable within thirty (30) days after mailing.