

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 391

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE STATE DISASTER PREPAREDNESS ACT; AMENDING SECTION 46-1008,  
2 IDAHO CODE, TO REVISE A PROVISION REGARDING THE GOVERNOR'S POWERS DUR-  
3 ING A DISASTER EMERGENCY; AND DECLARING AN EMERGENCY.  
4

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

6 SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,  
9 the governor may issue executive orders, proclamations and amend or rescind  
10 them. Executive orders and proclamations have the force and effect of law.

11 (2) A disaster emergency shall be declared by executive order or  
12 proclamation of the governor if he finds a disaster has occurred or that the  
13 occurrence or the threat thereof is imminent. The state of disaster emer-  
14 gency shall continue until the governor finds that the threat or danger has  
15 passed, or the disaster has been dealt with to the extent that emergency con-  
16 ditions no longer exist, and when either or both of these events occur, the  
17 governor shall terminate the state of disaster emergency by executive order  
18 or proclamation; provided, however, that no state of disaster emergency may  
19 continue for longer than thirty (30) days unless the governor finds that it  
20 should be continued for another thirty (30) days or any part thereof. The  
21 legislature by concurrent resolution may terminate a state of disaster emer-  
22 gency at any time. Thereupon, the governor shall issue an executive order or  
23 proclamation ending the state of disaster emergency. All executive orders  
24 or proclamations issued under this subsection shall indicate the nature of  
25 the disaster, the area or areas threatened, the area subject to the proclama-  
26 tion, and the conditions which are causing the disaster. An executive order  
27 or proclamation shall be disseminated promptly by means calculated to bring  
28 its contents to the attention of the general public and unless the circum-  
29 stances attendant upon the disaster prevent or impede, be promptly filed  
30 with the Idaho office of emergency management, the office of the secretary  
31 of state and the office of the recorder of each county where the state of  
32 disaster emergency applies.

33 (3) An executive order or proclamation of a state of disaster emergency  
34 shall activate the disaster response and recovery aspects of the state, lo-  
35 cal and intergovernmental disaster emergency plans applicable to the polit-  
36 ical subdivision or area in question and be authority for the deployment and  
37 use of any forces to which the plan or plans apply and for use or distribution  
38 of any supplies, equipment, and materials and facilities assembled, stock-  
39 piled, or arranged to be made available pursuant to this act or any other pro-  
40 vision of law relating to disaster emergencies.

41 (4) During the continuance of any state of disaster emergency, the  
42 governor is commander-in-chief of the militia and may assume command of all

1 other forces available for emergency duty. To the greatest extent prac-  
2 ticable, the governor shall delegate or assign command authority by prior  
3 arrangement embodied in appropriate executive orders or regulations, but  
4 nothing herein restricts his authority to do so by orders issued at the time  
5 of the disaster emergency.

6 (5) In addition to any other powers conferred upon the governor by law,  
7 he may:

8 (a) Suspend the provisions of any regulations prescribing the proce-  
9 dures for conduct of public business that would in any way prevent, hin-  
10 der, or delay necessary action in coping with the emergency;

11 (b) Utilize all resources of the state, including, but not limited to,  
12 those sums in the disaster emergency account as he shall deem necessary  
13 to pay obligations and expenses incurred during a declared state of dis-  
14 aster emergency;

15 (c) Transfer the direction, personnel, or functions of state depart-  
16 ments and agencies or units thereof for the purpose of performing or fa-  
17 cilitating emergency services;

18 (d) Subject to any applicable requirements for compensation under sec-  
19 tion 46-1012, Idaho Code, commandeer or utilize any private property,  
20 real or personal, if he finds this necessary to cope with the disaster  
21 emergency;

22 (e) Direct and compel the evacuation of all or part of the population  
23 from any stricken or threatened area within the state if he deems this  
24 action necessary for the preservation of life or other disaster mitiga-  
25 tion, response, or recovery;

26 (f) Prescribe routes, modes of transportation, and destinations in  
27 connection with evacuation;

28 (g) Control ingress and egress to and from a disaster area, the movement  
29 of persons within the area, and the occupancy of premises therein;

30 (h) Suspend or limit the sale, dispensing or transportation of alco-  
31 holic beverages, explosives, and combustibles;

32 (i) Make provision for the availability and use of temporary emergency  
33 housing.

34 (6) Whenever an emergency or a disaster has been declared to exist in  
35 Idaho by the president under the provisions of the disaster relief act of  
36 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

37 (a) Enter into agreements with the federal government for the sharing  
38 of disaster recovery expenses involving public facilities;

39 (b) Require as a condition of state assistance that a local taxing dis-  
40 trict be responsible for paying forty percent (40%) of the nonfederal  
41 share of costs incurred by the local taxing district that have been de-  
42 termined to be eligible for reimbursement by the federal government,  
43 provided that the total local share of eligible costs for a taxing dis-  
44 trict shall not exceed ten percent (10%) of the taxing district's tax  
45 charges authorized by section 63-802, Idaho Code;

46 (c) Obligate the state to pay the balance of the nonfederal share of el-  
47 igible costs within local taxing entities qualifying for federal assis-  
48 tance; and

1 (d) Enter into agreements with the federal government for the sharing  
2 of disaster assistance expenses to include individual and family grant  
3 programs.

4 (7) During the continuance of any state of disaster emergency, neither  
5 the governor nor any agency of any governmental entity or political subdi-  
6 vision of the state shall impose or enforce any additional restrictions on  
7 the lawful manufacturing, possession, transfer, sale, transport, storage,  
8 display or use of firearms or ammunition or otherwise limit or suspend any  
9 rights guaranteed by the United States constitution or the constitution of  
10 the state of Idaho, including but not limited to the right to peaceable as-  
11 sembly or free exercise of religion.

12 SECTION 2. An emergency existing therefor, which emergency is hereby  
13 declared to exist, this act shall be in full force and effect on and after its  
14 passage and approval.