

IN THE SENATE

SENATE BILL NO. 1122

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO SOIL CONSERVATION; AMENDING THE HEADING FOR CHAPTER 27, TITLE
2 22, IDAHO CODE; AMENDING SECTION 22-2715, IDAHO CODE, TO REVISE THE
3 SHORT TITLE; AMENDING SECTION 22-2716, IDAHO CODE, TO REVISE REFERENCES
4 TO SOIL CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVA-
5 TION COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
6 22-2717, IDAHO CODE, TO REVISE AND REMOVE DEFINITIONS AND TO MAKE TECH-
7 NICAL CORRECTIONS; AMENDING SECTION 22-2718, IDAHO CODE, TO REVISE
8 REFERENCES TO SOIL CONSERVATION DISTRICTS AND THE STATE SOIL AND WA-
9 TER CONSERVATION COMMISSION, TO REMOVE PROVISIONS REGARDING THE IDAHO
10 ONEPLAN, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2719,
11 IDAHO CODE, TO REVISE REFERENCES TO SOIL CONSERVATION DISTRICTS AND THE
12 STATE SOIL AND WATER CONSERVATION COMMISSION AND TO MAKE A TECHNICAL
13 CORRECTION; AMENDING SECTION 22-2720, IDAHO CODE, TO REVISE REFERENCES
14 TO THE STATE SOIL AND WATER CONSERVATION COMMISSION; AMENDING SECTION
15 22-2721, IDAHO CODE, TO REVISE REFERENCES TO SOIL CONSERVATION DIS-
16 TRICTS AND THE STATE SOIL AND WATER CONSERVATION COMMISSION AND TO MAKE
17 A TECHNICAL CORRECTION; AMENDING SECTIONS 22-2722, 22-2725, 22-2726,
18 22-2727, 22-2730, 22-2731, 22-2732, 22-2733, 22-2734, 22-2735,
19 36-2404, 38-1306, AND 39-3601, IDAHO CODE, TO REVISE REFERENCES TO
20 SOIL CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVATION
21 COMMISSION; AMENDING SECTION 39-3602, IDAHO CODE, TO REVISE AND REMOVE
22 DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTIONS 39-6609, 42-3703,
23 42-3705, 42-3706, AND 42-3707, IDAHO CODE, TO REVISE REFERENCES TO SOIL
24 CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVATION COM-
25 MISSION; AMENDING SECTION 42-3717, IDAHO CODE, TO REVISE REFERENCES TO
26 THE STATE SOIL AND WATER CONSERVATION COMMISSION AND TO MAKE TECHNICAL
27 CORRECTIONS; AMENDING SECTION 63-36220, IDAHO CODE, TO REVISE A REFER-
28 ENCE TO A SOIL CONSERVATION DISTRICT; AMENDING SECTION 67-818, IDAHO
29 CODE, TO REVISE A REFERENCE TO THE STATE SOIL AND WATER CONSERVATION
30 COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION
31 74-108, TO REVISE A REFERENCE TO A SOIL CONSERVATION DISTRICT.
32

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

34 SECTION 1. That the Heading for Chapter 27, Title 22, Idaho Code, be,
35 and the same is hereby amended to read as follows:

36 CHAPTER 27
37 SOIL CONSERVATION DISTRICTS

38 SECTION 2. That Section 22-2715, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 22-2715. SHORT TITLE. This act may be known and cited as the soil con-
41 servation district law.

1 SECTION 3. That Section 22-2716, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It
4 is the determination of the state of Idaho that:

5 (a) Forest lands, rangelands and agricultural lands maintained in
6 a healthy condition are a legitimate land use contributing to the
7 economic, social and environmental well-being of the state and its cit-
8 izens;

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

12 (c) Due to numerous economic and practical issues relating to the
13 improvements of individual tracts of land, both public and private re-
14 source conservation improvements, projects and programs of the nature
15 contemplated by this chapter would enhance the economic productivity
16 and environmental quality of the state; and

17 (d) It is sound public policy for the state of Idaho to provide for ac-
18 counts to finance loans, grants, cost-share funding and tax incentives
19 to the end that forest lands, rangelands and agricultural lands within
20 the state can provide the greatest benefit to all concerned.

21 (2) It is the intent of the state of Idaho to provide a means by which
22 funds, including federal, state, private and other moneys, can be obtained
23 and utilized for the accelerated development of water quality programs,
24 multiple use forest land, rangeland, and agricultural land conservation
25 improvements in the state, and to provide that these improvements, projects
26 and programs be locally planned, coordinated and implemented through statu-
27 tory provisions pertaining to ~~soil~~ conservation districts, the ~~state soil~~
28 ~~and water~~ conservation commission, appropriate state and federal agencies,
29 and the owners and operators of privately owned lands.

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

31 (a) To emphasize nonregulatory, science-based technical assistance,
32 incentive-based financial programs and informational and educational
33 programs at the local level;

34 (b) To maintain, preserve, conserve and rehabilitate forest lands,
35 rangelands and agricultural lands to assure the protection and produc-
36 tivity of the state's natural resources;

37 (c) That ~~soil~~ conservation districts, as governmental subdivisions,
38 and the ~~state soil and water~~ conservation commission, as a state agency,
39 are the primary entities to provide assistance to private landowners
40 and land users in the conservation, sustainment, improvement and en-
41 hancement of Idaho's natural resources;

42 (d) To establish policies for cooperative working relationships be-
43 tween local ~~soil~~ conservation districts, the ~~state soil and water~~
44 conservation commission, local, state and federal agencies, and public
45 and private groups to plan, develop and implement conservation goals
46 and initiatives with local landowners and land users;

47 (e) That ~~soil~~ conservation districts and the ~~state soil and water~~ con-
48 servation commission lead nonregulatory efforts to conserve, sustain,
49 improve and enhance Idaho's private and state lands and to provide

1 assistance to private landowners and land users to plan, develop and
2 implement conservation plans addressing soil, water, air, plant and
3 animal resources. Technical, financial and educational assistance to
4 landowners and land users is vital to that effort; and

5 (f) That the ~~state soil and water~~ conservation commission provide sup-
6 port to ~~soil~~ conservation districts in the wise use and enhancement of
7 soil, water and related resources.

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

9 (a) To provide appropriate tax policies and program mechanisms that
10 provide incentives for private landowners and land users to voluntarily
11 manage forest lands, rangelands and agricultural lands in a manner that
12 promotes conservation;

13 (b) That the health, safety and general welfare of the people of this
14 state can be greatly enhanced by providing nonregulatory opportuni-
15 ties to landowners and land users in order to increase the ability of
16 such landowners and land users to readily understand and plan for lo-
17 cal, state and federal natural resource requirements and opportunities
18 through technological innovation and processes;

19 (c) To enhance natural resource productivity in order to promote a
20 strong natural resource sector, reduce unintended adverse effects of
21 resource development and use, protect individual and community health
22 and safety, and encourage stewardship;

23 (d) That conservation plan implementation shall include best manage-
24 ment practices implemented according to the standards and specifica-
25 tions developed by the United States department of agriculture natural
26 resources conservation service (NRCS) as designated by the agricul-
27 tural pollution abatement plan. Those practices shall include, but
28 not be limited to: irrigation water management systems; prescribed
29 grazing; forest stand improvement; establishment of grass, trees and
30 shrubs to reduce wind and water erosion; promotion of sound community
31 development; protection of water and air resources from agricultural
32 nonpoint sources of impairment; maintenance, restoration or enhance-
33 ment of wetlands and fish and wildlife habitat; protection of upstream
34 watersheds from flood risk; and protection of watersheds from the ef-
35 fects of chronic water shortages and risks; and

36 (e) That all conservation programs authorized pursuant to this chap-
37 ter shall deliver services fairly and equitably, strengthen the conser-
38 vation district delivery system, provide timely science-based informa-
39 tion and provide conservation information and educational programs and
40 experiences to youth and adults.

41 SECTION 4. That Section 22-2717, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 22-2717. DEFINITIONS. Whenever used or referred to in this chapter,
44 unless a different meaning clearly appears from the context:

45 (1) "Administrator" means the administrator for the Idaho ~~state soil~~
46 ~~and water~~ conservation commission.

47 (2) "Agency" includes the government of this state and any subdivision,
48 agency, or instrumentality, corporate or otherwise, of the government of
49 this state.

1 (3) "Agricultural pollution abatement plan" or "ag plan" means the
2 document developed by the ~~state soil and water~~ conservation commission and
3 approved by the commission and the department of environmental quality,
4 that provides appropriate technical, programmatic, informational and ed-
5 ucational processes, guidelines and policies for addressing agricultural
6 pollution.

7 (4) "Best management practices" or "BMPs" means practices, techniques,
8 or measures developed or identified by the designated agency and identified
9 in the state water quality management plan which are determined to be a cost-
10 effective and practicable means of preventing or reducing pollutants gener-
11 ated from nonpoint sources to a level compatible with water quality goals.

12 (5) "Commission" or "~~state soil and water~~ conservation commission,"
13 formerly known as the "state soil and water conservation commission" or
14 "state soil conservation commission," means the agency created in section
15 22-2718, Idaho Code.

16 (6) "Conservation plan" means a description of identified natural re-
17 source issues and a specific schedule of implementation of component prac-
18 tices necessary to resolve those specific resource issues as agreed upon by
19 the landowner.

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

21 (8) "~~District,~~ or "conservation district," "~~soil conservation dis-~~
22 ~~trict,~~" or "~~soil and water conservation district~~" means a governmental sub-
23 division(s) of this state, and a public body corporate and politic, orga-
24 nized in accordance with the provisions of this chapter, for the purposes,
25 with the powers and subject to the restrictions hereinafter set forth.

26 (9) "Due notice" means notice published at least twice, with an inter-
27 val of at least seven (7) days between the two (2) publication dates, in a
28 newspaper or other publication of general circulation within the appropri-
29 ate area, or if no such publication of general circulation be available, by
30 posting at a reasonable number of conspicuous places within the appropri-
31 ate area, such posting to include, where possible, posting at public places
32 where it may be customary to post notices concerning county or municipal af-
33 fairs generally. At any hearing held pursuant to such notice, at the time and
34 place designated in such notice, adjournment may be made from time to time
35 without the necessity of renewing such notice for such adjournment dates.

36 (10) "Eligible applicant" means an individual agricultural owner, op-
37 erator, partnership, corporation, conservation district, irrigation dis-
38 trict, canal company or other agricultural or grazing interest.

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

42 (12) "~~Idaho OnePlan~~" means ~~a computer-based system for improving effi-~~
43 ~~ciency and effectiveness of natural resource planning by landowners and land~~
44 ~~users.~~

45 ~~(13)~~ "Landowner" or "owner" includes any person, firm, or corporation
46 who shall hold title to any lands lying within a district organized under the
47 provisions of this chapter. A buyer on contract, who is the occupier of land,
48 shall be construed as landowner.

1 (143) "Land user" means any entity with a lease, permit or similar busi-
 2 ness agreement with a landowner to implement, manage or utilize such land for
 3 activities related to use of the land.

4 (154) "Natural resources conservation service" or "NRCS" means the
 5 agency governed by the provisions of 16 U.S.C. ~~sections~~ 590a through 590d and
 6 590f.

7 (165) "Nominating petition" means a petition filed under the provisions
 8 of section 22-2721, Idaho Code, to nominate candidates for the office of su-
 9 pervisor of a ~~soil~~ conservation district.

10 (176) "Participant" means an individual agricultural owner, operator,
 11 partnership, private corporation, conservation district, irrigation dis-
 12 trict, canal company, or other agricultural or grazing interest approved by
 13 the commission or an individual agricultural owner, operator, partnership,
 14 or private corporation approved for implementation of conservation improve-
 15 ments, projects, or the water quality program for agriculture.

16 (187) "Petition" means a petition filed under the provisions of subsec-
 17 tion (1) of section 22-2719, Idaho Code, for the creation of a district.

18 (198) "Project sponsor" means a conservation district, irrigation
 19 district, canal company, or other agricultural or grazing interest, as
 20 determined appropriate by the commission, that enters into a conservation
 21 improvement or water quality project agreement with the commission.

22 (2019) "Qualified elector" means any person who is qualified to vote
 23 pursuant to the requirements of section 34-104, Idaho Code.

24 (210) "Riparian land" means the beds of streams, the adjacent vegeta-
 25 tion communities and the land thereunder, which are predominately influ-
 26 enced by their association with water and are privately owned.

27 (221) "Specifications" means the materials, operations and procedures
 28 necessary to obtain the desired standards of construction and installation.

29 (232) "Standards" means the minimum limits of technical excellence of a
 30 component practice for its planning, design and construction.

31 (243) "State" means the state of Idaho.

32 (254) "Supervisor" means one (1) of the members of the governing body
 33 of a district elected or appointed in accordance with the provisions of this
 34 chapter.

35 (265) "Total maximum daily load" is as defined in section 39-3602, Idaho
 36 Code.

37 (276) "United States" or "agencies of the United States" includes the
 38 United States of America, the natural resources conservation service of the
 39 United States department of agriculture, and any other agency or instrumen-
 40 tality, corporate or otherwise, of the United States of America.

41 SECTION 5. That Section 22-2718, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 22-2718. IDAHO ~~STATE SOIL AND WATER~~ CONSERVATION COMMISSION. (1)
 44 There is hereby established and created in the department of agriculture of
 45 the state of Idaho the Idaho ~~state soil and water~~ conservation commission,
 46 which shall perform all functions conferred upon it by this chapter and shall
 47 be a nonregulatory agency. The commission shall consist of five (5) members
 48 appointed by the governor. In appointing commission members, the governor
 49 shall give consideration to geographic representation. Commission members

1 shall be chosen with due regard to their demonstrated expertise including,
2 but not limited to, knowledge of and interest in water quality and other
3 natural resource issues, production agriculture, banking or other similar
4 financial experience or experience as a county commissioner. The ~~soil and~~
5 ~~water~~ conservation districts may submit to the governor a list of up to three
6 (3) names for each vacancy on the commission and the governor may, in his
7 discretion, consider any such submission in the appointment of commission
8 members. The term of office of each commission member shall be five (5)
9 years; except that upon July 1, 2010, the governor shall appoint one (1)
10 member for a term of one (1) year, one (1) member for a term of two (2) years,
11 one (1) member for a term of three (3) years, one (1) member for a term of four
12 (4) years and one (1) member for a term of five (5) years. From and after the
13 initial appointment the governor shall appoint a member of the commission to
14 serve in office for a term of five (5) years commencing upon July 1 of that
15 year. A vacancy which occurs in an unexpired term shall be filled for its re-
16 mainder by the governor's appointment. Each vacancy on the commission shall
17 be filled by appointment by the governor. Such appointments shall be con-
18 firmed by the senate. Commission members shall serve at the pleasure of the
19 governor. The commission may invite the state conservationist of the United
20 States department of agriculture natural resources conservation service, a
21 representative from a district or districts and the dean of the college of
22 agriculture of the university of Idaho or his designated representative,
23 or any other person or entity as the commission deems appropriate, to serve
24 as nonvoting advisory members of the commission. The commission shall keep
25 a record of its official actions, shall adopt a seal, which seal shall be
26 judicially noticed, and may perform such acts, hold such public hearings and
27 promulgate such rules as may be necessary for the execution of its functions
28 under this chapter.

29 (2) The ~~state soil and water~~ conservation commission shall appoint
30 the administrator of the ~~state soil and water~~ conservation commission. The
31 ~~state soil and water~~ conservation commission may employ such technical ex-
32 perts and such other agents and employees, permanent and temporary, as it
33 may require, and shall determine their qualifications, duties and compen-
34 sation. The commission may call upon the attorney general of the state for
35 such legal services as it may require. It shall have authority to delegate to
36 its chairman, to one (1) or more of its members, or to one (1) or more agents
37 or employees, such powers and duties as it may deem proper. The commission
38 may establish offices, incur expenses, enter into contracts and acquire
39 services and personal property as may be reasonable for the proper adminis-
40 tration and enforcement of this chapter. Upon request of the commission, for
41 the purpose of carrying out any of its functions, the supervising officer of
42 any state agency, or of any state institution of learning, shall insofar as
43 may be possible under available appropriation, and having due regard to the
44 needs of the agency to which the request is directed, assign or detail to the
45 commission members of the staff or personnel of such agency or institution of
46 learning, and make such special reports, surveys or studies as the commis-
47 sion may request.

48 (3) The commission shall designate its chairman, and may from time to
49 time, change such designation. A majority of the commission shall consti-
50 tute a quorum and the concurrency of a majority in any matter within their

1 duties shall be required for its determination. The chairman and members of
 2 the commission shall be compensated as provided by section 59-509(h), Idaho
 3 Code. The commission shall provide for the execution of surety bonds for
 4 all employees and officers who shall be entrusted with funds or property;
 5 shall provide for the keeping of a full and accurate record of all proceed-
 6 ings and of all resolutions, and orders issued or adopted; and shall provide
 7 for a periodic management review of the accounts of receipts and disburse-
 8 ments as determined by the legislative auditor pursuant to section 67-702,
 9 Idaho Code.

10 (4) In addition to the duties and powers hereinafter conferred upon the
 11 ~~state soil and water~~ conservation commission, it shall have the following
 12 responsibilities:

13 (a) To offer such assistance as may be appropriate to the supervisors of
 14 ~~soil~~ conservation districts in the carrying out of any of their powers
 15 and programs.

16 (b) To keep the supervisors of each of the several ~~soil~~ conservation
 17 districts informed of the activities and experience of all other ~~soil~~
 18 conservation districts and to facilitate an interchange of advice and
 19 experience between such districts and cooperation between them.

20 (c) To coordinate the progress of the several ~~soil~~ conservation dis-
 21 tricts so far as this may be done by advice and consultation.

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

25 (e) To disseminate information throughout the state concerning the ac-
 26 tivities and programs of the ~~soil~~ conservation districts in areas where
 27 their organization is desirable.

28 ~~(f) To provide for the establishment and encouragement of the "Idaho~~
 29 ~~OnePlan" as a primary computer-based conservation planning process for~~
 30 ~~all natural resource concerns. Establishment and encouragement will~~
 31 ~~be accomplished through an executive group and steering committee both~~
 32 ~~containing private, state and federal representation. The information~~
 33 ~~provided by those using the "Idaho OnePlan" shall be deemed to be trade~~
 34 ~~secrets, production records or other proprietary information and shall~~
 35 ~~be kept confidential and shall be exempt from disclosure pursuant to~~
 36 ~~section 74-107, Idaho Code.~~

37 (5) In addition to other powers, functions and duties of ~~soil~~ conserva-
 38 tion districts and the ~~state soil and water~~ conservation commission provided
 39 in this chapter, the commission shall have the following additional powers,
 40 functions and duties:

41 (a) The commission shall conduct, in cooperation with appropriate fed-
 42 eral and state agencies and the owners and operators of privately owned
 43 forest lands, rangelands and agricultural lands in this state, conser-
 44 vation improvements on or in respect to these lands for the purposes of
 45 implementing conservation systems to conserve and improve natural re-
 46 source conditions;

47 (b) The commission shall assist and advise ~~soil~~ conservation districts
 48 and other entities in implementing the conservation improvements,
 49 projects and the water quality program for agriculture. To the extent
 50 that there are available general funds, the commission shall provide

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

9 (c) The commission shall be the agency responsible for the administra-
 10 tion of funds accruing to the resource conservation and rangeland de-
 11 velopment fund and for all general funds appropriated as a separate and
 12 distinct action of the legislature to implement the powers, functions
 13 and duties of ~~soil~~ conservation districts and the commission;

14 (d) On or before March 1 of each year, the commission shall report to the
 15 senate agricultural affairs committee and the house agricultural af-
 16 fairs committee; and

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

19 SECTION 6. 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. (1) Any twenty-
 22 five (25) owners of land lying within the limits of the territory proposed to
 23 be organized into a district may file a petition with the ~~state soil and water~~
 24 conservation commission asking that a ~~soil~~ conservation district be orga-
 25 nized to function in the territory described in the petition. Such petition
 26 shall set forth:

27 (a) The proposed name of said district;

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

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

35 (d) 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 ~~soil~~
 38 conservation district in such territory; and that the commission deter-
 39 mine that such a district be created.

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

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

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

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

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

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

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

42 (6) If the commission determines that the operation of the proposed
43 district within the defined boundaries is administratively practicable and
44 feasible, it shall appoint two (2) supervisors to act, with the three (3)
45 supervisors elected as provided hereinafter, as the governing body of the
46 district. Such district shall be a governmental subdivision of this state
47 and a public body corporate and politic, upon the taking of the following
48 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): (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 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 chap-
8 ter; and that the commission has appointed them as supervisors; (ii) the
9 name and official residence of each of the supervisors, together with
10 a certified copy of the appointments evidencing their right to office;
11 (iii) the term of office of each of the supervisors; (iv) the name which
12 is proposed for the district; and (v) the location of the principal
13 office of the supervisors of the district. The application shall be
14 subscribed and sworn to by each of the said supervisors before an offi-
15 cer authorized by the laws of this state to take and certify oaths, who
16 shall certify upon the application that he personally knows the super-
17 visors and knows them to be the officers as affirmed in the application,
18 and that each has subscribed thereto in the officer's presence.

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

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

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

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

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

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

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

40 SECTION 7. That Section 22-2720, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR EX-
43 ISTING DISTRICTS. (1) Petitions for consolidating two (2) or more existing
44 districts or for deleting territory from one (1) or more existing districts
45 and adding the deleted territory to one (1) or more existing districts or in-
46 corporating the deleted territory into a new district or districts may be
47 filed with the ~~state soil and water~~ conservation commission on such forms as
48 may be prescribed by the ~~state soil and water~~ conservation commission.

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

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

11 (4) At the close of the hearing, the ~~state soil and water~~ conservation
12 commission shall make and record the following determinations:

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

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

17 (5) If either or both of the determinations made under subsection (4)
18 of this section are in the negative, the matter is closed. Provided however,
19 after six (6) months have expired from the date of such determination, a new
20 petition may be filed involving substantially the same proposals.

21 (6) If both of the determinations made under subsection (4) of this sec-
22 tion are in the affirmative and if the proposal involves the consolidation
23 of two (2) or more existing districts or if the proposal involves the dele-
24 tion of territory from one (1) or more districts and the addition of that ter-
25 ritory to another existing district or districts, then the commission shall
26 proceed to effect the change as per the commission's determinations herein-
27 before referred to. The ~~state soil and water~~ conservation commission shall
28 effect the change by filing with the secretary of state a sworn statement of a
29 member of the commission stating:

30 (a) The name of the district or districts which are consolidated, if
31 any;

32 (b) The name of the district or districts from which the territory is
33 deleted or added, if any; and

34 (c) A description of the boundaries of the consolidated district or of
35 the territory remaining in the district or districts deleted from and
36 the district or districts added to, according to the commission's de-
37 termination.

38 From and after the time of filing of such statement with the secretary of
39 state, the changes will be effective. If the name of a district formed by the
40 consolidation of two (2) or more existing districts differs from that of ei-
41 ther of the consolidated districts, the secretary of state shall issue and
42 record a new certificate of organization of said district.

43 (7) Within ten (10) days after the filing of a statement providing for
44 the formation of a consolidated district as prescribed in subsection (6) of
45 this section, the supervisors of each district involved in the consolidation
46 shall meet and, from their number, shall designate a chairman of the consoli-
47 dated district. Incumbent supervisors of districts involved in a consolida-
48 tion may serve until any such supervisor's term expires. Any vacancy on the
49 governing body of a district formed by consolidation shall not be filled un-
50 til only five (5) supervisors, or seven (7) upon written request pursuant to

1 section 22-2721, Idaho Code, remain on the governing body of such district.
2 Thereafter, vacancies shall be filled consistent with procedures prescribed
3 in section 22-2721, Idaho Code.

4 (8) A district formed by the consolidation of two (2) or more dis-
5 tricts shall receive a sum not to exceed eight thousand five hundred dollars
6 (\$8,500) for each district involved in the formation of the consolidated
7 district for a period of three (3) years after the formation of such dis-
8 trict. The maximum allocation of fifty thousand dollars (\$50,000) per
9 district set forth in section 22-2727, Idaho Code, shall not apply to a dis-
10 trict formed by consolidation for a period of three (3) years following the
11 formation of such district. Upon expiration of the three (3) year time pe-
12 riod, a district formed by consolidation shall be treated as one (1) district
13 and shall be subject to all provisions of section 22-2727, Idaho Code.

14 (9) The office of any district supervisor is hereby declared to be va-
15 cant when, after the deletion of territory, such district supervisor is no
16 longer a landowner within the district deleted from.

17 (10) If both of the determinations made under subsection (4) of this
18 section are in the affirmative and if the proposal involves the addition of
19 territory deleted from one (1) or more existing districts to other territory
20 thus forming a new district, a referendum shall be held and other procedures
21 followed as in cases involving the original formation of a district where no
22 existing district is involved. In such a case, due notice shall be given in
23 the area which may comprise the new district.

24 (11) If a new district is formed under the procedure prescribed in sub-
25 section (10) of this section, part of the area which is composed of an old
26 district, the ~~state soil and water~~ conservation commission shall cause to be
27 filed with the secretary of state a sworn statement of a member of the commis-
28 sion stating:

29 (a) The name of the district or districts deleted from; and

30 (b) A description of the boundaries of the territory remaining in the
31 district or districts deleted from.

32 From and after the time of filing of such statement with the secretary of
33 state, the change in the boundaries of the existing districts shall be effec-
34 tive.

35 SECTION 8. That Section 22-2721, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPER-
38 VISORS. (1) The governing body of the district shall consist of five (5)
39 supervisors, elected or appointed as provided in this chapter. Elections
40 shall be conducted pursuant to the provisions of this section and the uniform
41 district election law, chapter 14, title 34, Idaho Code. If at any time the
42 supervisors of a district deem it necessary, they may request permission
43 from the ~~state soil and water~~ conservation commission to increase the num-
44 ber of supervisors to seven (7). Upon receipt of such a request in writing,
45 signed by all five (5) supervisors, stating a valid reason for such need, the
46 commission shall grant permission. The additional supervisors shall then
47 be appointed as outlined in this section until such time as regular district
48 elections for two (2) supervisors in each district. At that time those dis-
49 tricts having seven (7) supervisors shall then elect four (4) supervisors

1 for four (4) year terms. The two (2) supervisors appointed by the district
2 shall be persons who are by training and experience qualified to perform the
3 specialized services which will be required of them in the performance of
4 their duties. All supervisors shall be landowners or farmers of the district
5 where they are elected or appointed and shall be registered to vote in the
6 state of Idaho.

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

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

41 (4) In any election for supervisor, if after the deadline for filing
42 a declaration of intent as a write-in candidate, it appears that the num-
43 ber of qualified candidates who have been nominated is equal to the number
44 of supervisors to be elected, it shall not be necessary for the candidates to
45 stand for election, and the board of supervisors shall declare such candi-
46 dates elected as supervisors, and the ~~soil and water~~ conservation district
47 shall immediately make and deliver to such persons certificates of election.

48 (5) The supervisors shall designate a chairman and may, from time to
49 time, change such designation. The term of office of each supervisor shall
50 be four (4) years commencing on the first day of January next following elec-

1 tion, except that the two (2) supervisors who are first appointed shall be
2 designated to serve for terms of two (2) years. A supervisor shall hold of-
3 fice until a qualified successor has been elected or appointed. Vacancies
4 shall be filled for the unexpired term. The selection of successors to fill
5 an unexpired term, or for a full term shall be made by a vote of the majority
6 of the supervisors duly qualified and acting at the time the vacancy shall
7 arise and the supervisors shall certify the name of the appointed supervisor
8 to the ~~state soil and water~~ conservation commission. The ~~soil~~ conservation
9 district shall issue a certificate of such appointment.

10 (6) A majority of the supervisors shall constitute a quorum and the
11 concurrence of a majority in any matter within their duties shall be required
12 for its determination. A supervisor shall be entitled to expenses, in-
13 cluding travel expense, necessarily incurred in the discharge of duties. A
14 supervisor shall receive no compensation for services from regular district
15 funds, county funds authorized in section 22-2726, Idaho Code, or state
16 funds authorized in section 22-2727, Idaho Code.

17 (7) In the event the district has a special project, approved by the
18 ~~state soil and water~~ conservation commission, making project funds avail-
19 able from federal or other sources, a supervisor may receive compensation
20 not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary
21 expenses from project funds for services directly related to the project.

22 (8) The supervisors may employ a secretary, technical experts, and such
23 other officers, agents, and employees, permanent and temporary as they may
24 require, and shall determine their qualifications, duties and compensation.
25 The supervisors may call upon the attorney general of the state for such le-
26 gal services as they may require or may employ their own counsel and legal
27 staff. The supervisors may delegate to their chairman, to one (1) or more
28 supervisors, or to one (1) or more agents, or employees, such powers and du-
29 ties as they may deem proper. The supervisors shall furnish to the ~~state soil~~
30 ~~and water~~ conservation commission, upon request, copies of such ordinances,
31 rules, orders, contracts, forms and other documents as they shall adopt or
32 employ, and such other information concerning the supervisors' activities
33 as the commission may require in the performance of the commission's duties
34 under this chapter.

35 (9) The supervisors shall provide for the execution of surety bonds for
36 all employees and officers who shall be entrusted with funds or property;
37 they shall provide for the keeping of a full and accurate record of all pro-
38 ceedings and of all resolutions, and orders issued or adopted; and they shall
39 provide for independent financial audits in accordance with the provisions
40 of section 67-450B, Idaho Code. Supervisors shall be subject to recall in
41 accordance with the provisions of chapter 17, title 34, Idaho Code.

42 (10) The supervisors may invite the legislative body of a municipality
43 or county located near the territory comprised within the district to desig-
44 nate a representative to advise and consult with the supervisors of the dis-
45 trict on all questions of program and policy which may affect the property,
46 water supply, or other interests of such municipality or county.

47 SECTION 9. That Section 22-2722, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 22-2722. POWERS OF DISTRICTS AND SUPERVISORS. A ~~soil~~ conservation
2 district organized under the provisions of this chapter shall constitute
3 a governmental subdivision of this state, and a public body corporate and
4 politic, exercising public powers, and such district, and the supervisors
5 thereof, shall have the following powers, in addition to others granted in
6 other sections of this chapter:

7 (1) To conduct surveys, investigations, and research relating to the
8 character of soil erosion, floodwater and sediment damages, for the conser-
9 vation, development, utilization, and disposal of water and the prevention
10 and control measures, and works of improvement needed, to publish results of
11 such surveys, investigations, or research, and to disseminate information
12 concerning such preventive and control measures and works of improvement;
13 provided, however, that in order to avoid duplication of research activi-
14 ties, no district shall initiate any research program except in cooperation
15 with the government of this state or any of its agencies or with the United
16 States or any of its agencies;

17 (2) To conduct demonstrational projects within the district on lands
18 owned or controlled by this state or any of its agencies, with the cooper-
19 ation of the agency administering and having jurisdiction thereof, and on
20 any other lands within the district upon obtaining the consent of the owner
21 of such lands or the necessary rights of interests in such lands, in order
22 to demonstrate by example the means, methods, and measures by which soil and
23 soil resources may be conserved, and soil erosion in the form of soil-blowing
24 and soil-washing may be prevented and controlled; works of improvement for
25 flood prevention and the conservation, development, utilization, and dis-
26 posal of water may be carried out;

27 (3) To carry out preventive and control measures and works of improve-
28 ment for flood prevention or the conservation, development, utilization,
29 and disposal of water within the districts including, but not limited to,
30 engineering operations, methods of cultivation, the growing of vegetation,
31 changes in use of land, and other appropriate best management practices, on
32 lands owned or controlled by this state or any of its agencies, with the coop-
33 eration of the agency administering and having jurisdiction thereof, and on
34 any other lands within the district upon obtaining the consent of the owner
35 of such lands or the necessary rights or interests in such lands;

36 (4) To cooperate, or enter into agreements with, and within the limits
37 of appropriations duly made available to it by law, to furnish financial or
38 other aid, to any agency, governmental or otherwise, or any owner of lands
39 within the district, in carrying on erosion control and prevention opera-
40 tions and works of improvement for flood prevention and the conservation,
41 development, utilization, and disposal of water within the district, sub-
42 ject to such conditions as the supervisors may deem necessary to advance the
43 purpose of this chapter;

44 (5) To obtain options upon and to acquire, by purchase, exchange,
45 lease, gift, grant, bequest, devise, or otherwise, any property, real or
46 personal, or rights or interests therein and all such property shall be ex-
47 empt from taxation for state, county and municipal purposes; to maintain,
48 administer, and improve any properties acquired, to receive income from such
49 properties and to expend such income in carrying out the purposes and pro-
50 visions of this chapter; to sell, lease, or otherwise dispose of any of its

1 property or interests therein in furtherance of the purposes and provisions
2 of this chapter;

3 (6) To make available, on such terms as it shall prescribe, to landown-
4 ers within the district, agricultural and engineering machinery or equip-
5 ment, as will assist such landowners to carry on operations upon their lands
6 for the conservation of soil resources and for the prevention and control of
7 soil erosion and for flood prevention or the conservation, development, uti-
8 lization, and disposal of water;

9 (7) To construct, improve, operate and maintain such structures as may
10 be necessary or convenient for the performance of any of the operations au-
11 thorized in this chapter;

12 (8) To develop comprehensive plans for the conservation of soil re-
13 sources and for the control and prevention of soil erosion and for flood
14 prevention or the conservation, development, utilization, and disposal
15 of water within the district, which plans shall specify in such detail as
16 may be possible, the acts, procedures, performances, and avoidances which
17 are necessary or desirable for the effectuation of such plans, including
18 the specifications of engineering operations, method of cultivation, the
19 growing of vegetation, cropping programs, tillage practices, and changes in
20 use of land, and to publish such plans and information and bring them to the
21 attention of occupiers of lands within the district;

22 (9) To take over, by purchase, lease, or otherwise, and to administer,
23 any soil conservation, flood prevention, erosion control, or erosion pre-
24 vention project, or combination thereof, located within its boundaries un-
25 dertaken by the United States or any of its agencies, or by this state or any
26 of its agencies; to manage, as agent of the United States or any of its agen-
27 cies; or of this state or any of its agencies, any soil conservation, flood
28 prevention, erosion control, or erosion prevention project, or combination
29 thereof, within its boundaries; to act as agent for the United States, or
30 any of its agencies, or for this state or any of its agencies, in connec-
31 tion with the acquisition, construction, operation, or administration of
32 any soil-conservation, flood-prevention, erosion-control, or erosion-pre-
33 vention project, or combination thereof, within its boundaries; to accept
34 donations, gifts, and contributions in money, services, materials, or oth-
35 erwise, from the United States or any of its agencies, or from this state or
36 any of its agencies, and use or expend such moneys, services, material, or
37 other contributions in carrying on its operations;

38 (10) To sue and be sued in the name of the district; to have a seal,
39 which seal shall be judicially noticed; to have perpetual succession unless
40 terminated as hereinafter provided; to make and execute contracts and other
41 instruments, necessary or convenient to the exercise of its powers; to make,
42 and from time to time amend and repeal, rules not inconsistent with this
43 chapter, to carry into effect its purposes and powers;

44 (11) As a condition to the extending of any benefits under this chapter
45 to, or the performance of work upon, any lands not owned or controlled by this
46 state or any of its agencies, the supervisors may require contributions in
47 moneys, services, materials, or otherwise to any operations conferring such
48 benefits, and may require landowners to enter into and perform such agree-
49 ments or covenants as to permanent use of such lands as will tend to prevent
50 or control erosion and prevent floodwater and sediment damages thereon;

1 (12) No provisions with respect to the acquisition, operation, or dis-
2 position of property by other public bodies shall be applicable to a district
3 organized hereunder unless the legislature shall specifically so state.

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

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

28 (2) The commission shall publish the result of the election and shall
29 thereafter consider and determine whether the continued operation of the
30 district within the defined boundaries is administratively practicable and
31 feasible. If the commission determines that the continued operation of such
32 district is administratively practicable and feasible, it shall record such
33 determination and deny the petition. If the commission determines that the
34 continued operation of such district is not administratively practicable
35 and feasible, it shall record such determination and shall certify such
36 determination to the supervisors of the district. In making such determina-
37 tion the commission shall give due regard and weight to the attitudes of the
38 owners of lands lying within the district, the number of residents eligible
39 to vote in the election who shall have voted, the proportion of the votes cast
40 in the election in favor of the discontinuance of the district to the total
41 number of votes cast, the approximate wealth and income of the landowners of
42 the district, the probable expense of carrying on such erosion-control oper-
43 ations within such district, and such other economic and social factors as
44 may be relevant to such determination, having due regard to the legislative
45 findings set forth in section 22-2716, Idaho Code, provided however, that
46 the commission shall not have authority to determine that the continued op-
47 eration of the district is administratively practicable and feasible unless
48 at least a majority of the votes cast in the election shall have been cast in
49 favor of 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 op-
3 eration 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. The
8 supervisors shall thereupon file an application duly verified, with the sec-
9 retary of state for the discontinuance of such district, and shall transmit
10 with such application the certificate of the ~~state soil and water~~ conserva-
11 tion commission setting forth the determination of the commission that the
12 continued operation of such district is not administratively practicable
13 and feasible. The application shall recite that the property of the district
14 has been disposed of and the proceeds paid over as in this section provided
15 and shall set forth a full accounting of such properties and proceeds of the
16 sale. The secretary of state shall issue to the supervisors a certificate
17 of dissolution and shall record such certificate in an appropriate book of
18 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 dis-
21 trict or supervisors are parties, shall remain in force and effect for the
22 period provided in such contracts. The ~~state soil and water~~ conserva-
23 tion 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 enter-
26 tain petitions for the discontinuance of any district nor conduct elections
27 upon such petitions nor make determinations pursuant to such petitions in
28 accordance with the provisions of this chapter, more often than once in five
29 (5) years.

30 SECTION 11. That Section 22-2726, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 22-2726. FUNDS OR ASSISTANCE PROVIDED BY COUNTY FROM COUNTY GENERAL
33 FUND. In those counties of Idaho wherein all or a substantial part of the
34 county has been created and is operating as a ~~soil~~ conservation district or
35 districts under the provisions of chapter 27, title 22, section 22-2719,
36 Idaho Code, or any amendment thereto, the board of county commissioners may,
37 from time to time, at their discretion and upon request of the supervisors
38 of such ~~soil~~ conservation districts provide in their budget a sufficient
39 amount of money from the county general fund for allocation to the districts
40 to be used by the districts for any purposes authorized by law, or in lieu
41 of such allocation the county commissioners at their discretion may assign
42 or hire an employee or employees of the county to assist the supervisors in
43 the performance of the work of their office. The duties of such employee or
44 employees shall be under the direct supervision of the supervisors of each
45 ~~soil~~ conservation district.

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

1 22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall
2 be held by the ~~state soil and water~~ conservation commission on or before June
3 15 of each year and twenty (20) days' written notice of such hearing shall be
4 given to each ~~soil~~ conservation district and to all other persons requesting
5 notice of such hearing. At the hearing the ~~state soil and water~~ conserva-
6 tion commission shall consider the needs of each ~~soil~~ conservation district
7 and shall base its request for state funds for the ~~soil~~ conservation dis-
8 tricts upon the budgets, budget requests, district programs and work plans,
9 and work load analysis of the various ~~soil~~ conservation districts.

10 (2) All funds appropriated by the state for the various ~~soil~~ conserva-
11 tion districts shall be appropriated to the Idaho ~~state soil and water~~ con-
12 servation commission and shall be allocated by the commission equally to the
13 various ~~soil~~ conservation districts on the basis of the criteria established
14 in subsection (1) of this section.

15 (3) Funds appropriated to the ~~state soil and water~~ conserva-
16 tion commission for distribution to ~~soil~~ conservation districts shall be allocated by
17 the commission equally to the various ~~soil~~ conservation districts in a sum
18 not to exceed eight thousand five hundred dollars (\$8,500) per district. All
19 funds appropriated to the ~~state soil and water~~ conservation commission for
20 distribution to ~~soil~~ conservation districts in excess of eight thousand five
21 hundred dollars (\$8,500) per district shall be allocated by the commission
22 to the various ~~soil~~ conservation districts in a sum not to exceed twice the
23 amount of funds or services allocated to each district by the county commis-
24 sioners in the previous fiscal year and funds or services allocated to each
25 district by authorized officials or other local units of government or orga-
26 nizations in the previous fiscal year, provided that any such allocation by
27 the commission shall not exceed fifty thousand dollars (\$50,000) to any one
28 (1) district in a fiscal year.

29 (4) The ~~state soil and water~~ conservation commission shall adopt rules
30 necessary to carry out the purposes of this section.

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

33 22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND CRE-
34 ATED. (1) There is hereby created in the state treasury a fund to be known as
35 the Idaho resource conservation and rangeland development fund, which shall
36 consist of all moneys which may be appropriated to it by the legislature
37 or made available to it from federal, private or other sources. The state
38 treasurer is directed to invest all unobligated moneys in the fund. All
39 interest and other income accruing from such investments shall accrue to
40 the fund. The ~~state soil and water~~ conservation commission may expend from
41 the fund such sums as it shall deem necessary for any of the conservation im-
42 provements, projects and programs provided for under this chapter under such
43 terms and conditions provided for in the commission's rules and the water
44 quality program for agriculture.

45 (2) The ~~state soil and water~~ conservation commission shall establish a
46 priority list for conservation improvements, projects and the water quality
47 program for agriculture. The priority list shall be used as the method for
48 allocation of funds loaned under this chapter.

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

3 22-2731. ALLOCATION OF FUND. The Idaho resource conservation and
4 rangeland development fund shall be allocated for use by the ~~state soil and~~
5 ~~water~~ conservation commission:

6 (1) To eligible applicants for conservation improvements which it
7 deems to be "in the public interest" in such amounts as are necessary for the
8 implementation of conservation measures identified in a conservation plan;

9 (2) To eligible applicants for the purpose of conservation improve-
10 ments on rangelands, agricultural lands and riparian lands, which will
11 provide environmental enhancement to soil, water, wildlife and related re-
12 sources;

13 (3) For the purpose of implementing conservation improvements,
14 projects and the water quality program for agriculture.

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

17 22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. (1)
18 Eligible applicants may file an application with the local ~~soil~~ conservation
19 district or the ~~state soil and water~~ conservation commission for a loan from
20 the fund for the purpose of financing conservation improvement cost. Such
21 application shall be filed in such a manner and shall be in such form, and be
22 accompanied by such information as may be prescribed by the commission. Any
23 such application filed with the district or the commission under the provi-
24 sions of this chapter shall:

25 (a) Describe the nature and purposes of the improvements or projects;

26 (b) Set forth or be accompanied by a conservation plan approved by the
27 local ~~soil~~ conservation district or the commission that identifies the
28 conservation improvements, or projects, together with such technical
29 and economic feasibility data and estimated costs as may be required by
30 the commission;

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

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

36 (e) Show the proposed project is feasible from a technical standpoint
37 and economically justified.

38 (2) The local ~~soil~~ conservation districts and the commission shall keep
39 each other informed of applications received. Within sixty (60) days of re-
40 ceipt of an application, the local ~~soil~~ conservation district or the commis-
41 sion shall review and evaluate, and if it deems necessary, investigate as-
42 pects of the proposed improvements. As part of such investigation, the dis-
43 trict or the commission shall determine whether the plan for development of
44 the conservation improvements is satisfactory. If the district or the com-
45 mission determines the plan is unsatisfactory, it shall return the appli-
46 cation to the applicant and may make such recommendations to the applicant
47 as are considered necessary to make the plan satisfactory. If the district

1 or the commission determines the plan and application are satisfactory, it
2 shall be considered for funding.

3 (3) The commission may approve a loan for conservation improvements if
4 after review, evaluation and investigation if necessary, it finds that:

5 (a) The applicant is qualified and responsible;

6 (b) There is reasonable assurance that the borrower can repay the loan;
7 and

8 (c) That money in the resource conservation and rangeland development
9 fund is available for the loan.

10 (4) If the commission approves a loan, the applicant shall execute a
11 promissory note for repayment to the account of money loaned therefrom, to-
12 gether with interest not to exceed six percent (6%) annually as determined by
13 the commission. The note shall further provide that repayment of the loan,
14 together with interest thereon, shall commence not later than two (2) full
15 years from the date the note is signed. Repayment shall be completed within
16 the time period specified by the commission not to exceed fifteen (15) years,
17 except that the commission may extend the time for making repayment in event
18 of emergency or hardship. Such agreement shall also provide for such assur-
19 ance of, and security for, repayment of the loan as are considered necessary
20 by the commission.

21 (5) Upon approval of the loan and securing all necessary documents, the
22 commission will make available, in approved form, project or contract fund-
23 ing.

24 (6) If an applicant fails to comply with the repayment contract, the
25 interest in the improvement may be conveyed to a successor upon approval by
26 the commission, which may contract with the qualified successor in inter-
27 est of the original obligor for repayment of the loan, together with interest
28 thereon, and for succession to its rights and obligation in any contract with
29 the commission.

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

32 22-2733. GRANTS FROM ~~STATE SOIL AND WATER~~ CONSERVATION COMMISSION
33 GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT. (1) Eligible
34 applicants or participants may file an application with the local ~~soil~~ con-
35 servation district or the ~~state soil and water~~ conservation commission for a
36 grant from the ~~state soil and water~~ conservation commission general fund for
37 the purpose of financing conservation improvements, projects and implemen-
38 tation of the water quality program for agriculture. Such application shall
39 be filed in such a manner and shall be in such form, and be accompanied by such
40 information as may be prescribed by the commission; provided however, any
41 such application filed with the district or the commission under the provi-
42 sions of this section shall:

43 (a) Describe the nature and purpose of the improvements or conservation
44 plan implementation project;

45 (b) Set forth or be accompanied by an improvement project plan approved
46 by the local ~~soil~~ conservation district or the commission that iden-
47 tifies the practices to be applied, together with such technical and
48 economic feasibility data and estimated costs as may be required by the
49 commission;

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

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

8 (2) The commission and local ~~soil~~ conservation district will keep each
9 other informed of grant applications received. Within thirty (30) days
10 of receipt of an application, the local ~~soil~~ conservation district or the
11 commission shall review and evaluate and, if deemed necessary, investigate
12 all aspects of the proposed improvement, project or conservation plan. As
13 part of such investigation, the district or the commission shall determine
14 whether the project plan is satisfactory. If the district or the commission
15 determines that the plan is unsatisfactory, it shall return the application
16 to the applicant or participant and the district or the commission may make
17 such recommendations to the applicant or participant as are considered nec-
18 essary to make the plan satisfactory. If the commission determines either
19 the plan or a plan revised pursuant to recommendation of the district or com-
20 mission is satisfactory, it shall be considered for funding.

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

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

24 (b) The improvement, project or conservation plan demonstrates public
25 benefits; and

26 (c) That money in the ~~state soil and water~~ conservation commission gen-
27 eral fund is available for the grant.

28 (4) If the commission approves a grant, the applicant or participant
29 shall enter into an agreement covering the grant offer and acceptance of the
30 grant for implementing the improvement, project or conservation plan. The
31 agreement shall be improvement, project or conservation plan specific. The
32 terms and conditions shall be those specified by the commission.

33 (5) Upon approval of the grant and securing all necessary documents,
34 the commission will make available, in the approved form, project or con-
35 tract funding.

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

38 22-2734. COST-SHARE FROM ~~STATE SOIL AND WATER~~ CONSERVATION COMMISSION
39 GENERAL FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants or partic-
40 ipants may file an application with the local ~~soil~~ conservation district or
41 the ~~state soil and water~~ conservation commission for a cost-share contract
42 or project from the ~~state soil and water~~ conservation commission general
43 fund for the purpose of financing agricultural, grazing or other conserva-
44 tion improvements, projects or implementation of the water quality program
45 for agriculture. Such application shall be filed in such a manner and shall
46 be in such form and be accompanied by such information as may be prescribed
47 by the commission; provided however, any such application filed with the
48 district or the commission under the provisions of this section shall:

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

3 (b) Set forth or be accompanied by a plan that identifies the con-
4 servation improvements or projects, together with such technical and
5 economic feasibility data and estimated costs as may be required by the
6 commission;

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

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

12 (2) The commission and the local ~~soil~~ conservation district will keep
13 each other informed of cost-share applications received. Within thirty (30)
14 days of receipt of an application, the local ~~soil~~ conservation district or
15 the commission shall review and evaluate and, if deemed necessary, investi-
16 gate all aspects of the proposed contract or project. As part of such in-
17 vestigation, the district or the commission shall determine whether the plan
18 for development of the conservation improvements or projects is satisfac-
19 tory. If the district or the commission determines the plan is unsatisfac-
20 tory, it shall return the application to the applicant or participant and
21 the district or the commission may make such recommendations to the appli-
22 cant or participant as are considered necessary to make the application sat-
23 isfactory. When the commission determines either the application or an ap-
24 plication revised pursuant to recommendation of the district or commission
25 is satisfactory, it shall be considered for funding.

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

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

30 (b) The conservation improvement or project demonstrates public bene-
31 fit;

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

34 (d) Money is available in the ~~state soil and water~~ conservation commis-
35 sion general fund for cost-share.

36 (4) Upon approval of the cost-share contract or cost-share grant, and
37 securing of all necessary documents, the commission will make funding avail-
38 able.

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

41 22-2735. ~~PAYMENTS BY THE STATE SOIL AND WATER CONSERVATION COMMISSION~~
42 -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The com-
43 mission may make payments not to exceed the estimated reasonable cost of an
44 eligible improvement, project or plan.

45 (2) The commission may, in the name of the state of Idaho, enter into
46 contracts with approved applicants, and any such approved applicants may en-
47 ter into a contract with the commission concerning eligible improvements,
48 projects or plans. Any such contract may include such provisions as may be

1 agreed upon by the parties thereto, and shall include, in substance, the fol-
2 lowing provisions:

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

5 (b) The terms under which the commission may unilaterally terminate the
6 contract and/or seek repayment from the applicant of sums already paid
7 pursuant to the contract for noncompliance by the applicant with the
8 terms and conditions of the contract and the provisions of this chapter;

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

11 (i) To develop water quality plans for landowners and provide
12 payments to landowners for installation of best management prac-
13 tices;

14 (ii) To determine payment rates in conjunction with the commis-
15 sion for best management practices;

16 (iii) To establish a method for administration and provisions for
17 technical assistance to landowners in conjunction with the com-
18 mission;

19 (iv) To allow the state to make payments up to the estimated rea-
20 sonable cost for best management practices installation, techni-
21 cal assistance and project administration of an eligible project;

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

24 (vi) To ensure that the local matching share of the cost is pro-
25 vided as applicable;

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

29 (3) The commission may enter into contracts to provide technical as-
30 sistance to applicants that have entered agreements pursuant to this chap-
31 ter. Any such contract may include such provisions agreed upon by the par-
32 ties thereto and shall include, in substance, the following provisions:

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

34 (b) The terms under which the commission may unilaterally terminate the
35 contract, and/or seek repayment of sums paid pursuant to the contract,
36 for noncompliance by the applicants with the terms and conditions of
37 the contract, the provisions of this chapter, or rules adopted pursuant
38 thereto.

39 (4) The commission may enter into contracts and establish procedures to
40 be followed in applying for eligible improvements, projects and plans herein
41 authorized as shall be necessary for the effective administration of the wa-
42 ter quality program for agriculture.

43 (5) All contracts entered into pursuant to this section shall be sub-
44 ject to approval by the attorney general as to form. All payments by the
45 state pursuant to such contracts shall be made after audit and upon warrant
46 as provided by law on vouchers approved by the chairman and the administrator
47 of the commission.

48 (6) All grant agreements and contracts previously entered into with the
49 state board of health and welfare, soil conservation districts and the com-
50 mission pursuant to section 39-3627, Idaho Code, for payments and adminis-

1 tration are now to be administered and payments implemented solely by the
2 commission.

3 SECTION 19. 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 species
7 in response to all notification of intent to delist the species by the secre-
8 tary of interior or secretary of commerce or sooner if deemed appropriate.
9 The state management plan shall provide for the management and conservation
10 of the species once it is delisted, and contain sufficient safeguards to
11 protect the health, safety, private property and economic well-being of the
12 citizens of the state of Idaho.

13 (2) The department of fish and game shall provide the delisting advi-
14 sory teams, the informational, technical or other needs and requirements of
15 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, commis-
18 sions and boards. The appropriate state agency for wildlife biological and
19 species management issues, and for plant life biological and species man-
20 agement issues is the department of fish and game. The appropriate state
21 agency for timber harvest activities, oil and gas exploration activities
22 and for mining activities is the department of lands. The appropriate state
23 agencies for agricultural activities are the department of agriculture and
24 the Idaho ~~state soil and water~~ conservation commission. The appropriate
25 state agency for public road construction is the transportation department.
26 The appropriate state agency for water rights is the department of water
27 resources. The appropriate state agency for water quality is the department
28 of environmental quality. The appropriate state agency for outfitting and
29 guiding activities is the Idaho outfitters and guides licensing board.

30 SECTION 20. That Section 38-1306, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 38-1306. NOTIFICATION OF FOREST PRACTICE. (1) Before commencing a
33 forest practice, the department shall be notified as required in subsection
34 (2) of this section. The notice shall be given by the operator; however, the
35 timber owner or landowner satisfies the responsibility of the operator under
36 this subsection. When more than one (1) forest practice is to be conducted in
37 relation to harvesting of forest tree species, one (1) notice including each
38 forest practice to be conducted shall be filed with the department. A wood-
39 land management plan prepared by the woodland foresters of the department or
40 approved by the board of supervisors of a ~~soil~~ conservation district shall
41 constitute suitable notification of a forest practice when filed with the
42 department, provided the woodland management plan contains the information
43 required in subsection (2) of this section.

44 (2) The notification required in subsection (1) of this section shall
45 be on forms prescribed and provided by the department and shall include the
46 name and address of the operator, timber owner, and landowner, the legal de-
47 scription of the area in which the forest practice is to be conducted, and

1 other information the department considers necessary for the administration
2 of the rules adopted by the board under section 38-1304, Idaho Code.

3 (3) All notifications must be formally accepted by the department be-
4 fore any forest practice may begin.

5 (4) The initial purchaser of ties, logs, posts, cordwood, pulpwood and
6 other similar forest products which have been cut from lands within the state
7 of Idaho shall make no such purchase from anyone not having a proper accep-
8 tance of forest practice notice.

9 (5) Promptly upon formal acceptance of the notice, but not more than
10 fifteen (15) days from formal acceptance of the notice, the department shall
11 mail a copy of the notice to whichever of the operator, timber owner, or
12 landowner that did not submit the notification. The department shall make
13 available to the operator, the timber owner, and landowner a copy of the
14 rules.

15 (6) An operator, timber owner, or landowner, whichever filed the origi-
16 nal notification, shall notify the department of any subsequent change in
17 the information contained in the notification within thirty (30) days of the
18 change. Promptly upon receipt of notice of change, but not to exceed fifteen
19 (15) days from receipt of notice, the department shall mail a copy of the no-
20 tice to whichever of the operator, timber owner, or landowner that did not
21 submit the notice of change.

22 (7) The notification is valid for the same period as set forth in the
23 certificate of compliance under section 38-122, Idaho Code. At the expira-
24 tion of the notification, if the forest practice is continuing, the notifi-
25 cation shall be renewed using the same procedures provided for in this sec-
26 tion.

27 (8) If the notification required by subsection (1) of this section
28 indicates that at the expiration of the notification that the forest prac-
29 tice will be continuing, the operator, timber owner, or landowner, at least
30 thirty (30) days prior to the expiration of the notification, shall notify
31 the department and obtain a renewal of the notification. Promptly upon re-
32 ceipt of the request for renewal, but not to exceed fifteen (15) days from
33 receipt of the request, the department shall mail a copy of the renewed noti-
34 fication to whichever of the operator, timber owner, or landowner that did
35 not submit the request for renewal.

36 (9) The department shall not accept a new forest practices notifica-
37 tion from any operator having an outstanding notice of violation until the
38 repairs specified pursuant to section 38-1307(2)(a), Idaho Code, have been
39 completed to the satisfaction of the department.

40 SECTION 21. That Section 39-3601, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 39-3601. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE IN-
43 TENT. The legislature, recognizing that surface water is one of the state's
44 most valuable natural resources, has approved the adoption of water quality
45 standards and authorized the director of the department of environmental
46 quality in accordance with the provisions of this chapter, to implement
47 these standards. In order to maintain and achieve existing and designated
48 beneficial uses and to conform to the expressed intent of congress to control
49 pollution of navigable waters of the United States, the legislature declares

1 that it is the purpose of this chapter to enhance and preserve the quality and
 2 value of the navigable waters of the United States within the state of Idaho,
 3 and to define the responsibilities of public agencies in the control, and
 4 monitoring of water pollution, and, through implementation of this chapter,
 5 enhance the state's economic well-being. In consequence of the benefits
 6 resulting to the public health, welfare and economy, it is hereby declared
 7 to be the policy of the state of Idaho to protect this natural resource by
 8 monitoring and controlling water pollution; to support and aid technical and
 9 planning research leading to the control of water pollution, and to provide
 10 financial and technical assistance to municipalities, ~~soil~~ conservation
 11 districts and other agencies in the control of water pollution. The direc-
 12 tor, in cooperation with such other agencies as may be appropriate, shall
 13 administer this chapter. It is the intent of the legislature that the state
 14 of Idaho fully meet the goals and requirements of the federal clean water act
 15 and that the rules promulgated under this chapter not impose requirements
 16 beyond those of the federal clean water act.

17 SECTION 22. That Section 39-3602, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 39-3602. DEFINITIONS. Whenever used or referred to in this chapter,
 20 unless a different meaning clearly appears from the context, the following
 21 terms shall have the following meanings:

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

24 (2) "Attainable" beneficial uses means uses that can be achieved by the
 25 implementation of required effluent limits for point sources and cost-ef-
 26 fective and reasonable best management practices for nonpoint sources.

27 (3) "Best management practice" means practices, techniques or measures
 28 developed, or identified, by the designated agency and identified in the
 29 state water quality management plan which are determined to be a cost-effec-
 30 tive and practicable means of preventing or reducing pollutants generated
 31 from nonpoint sources to a level compatible with water quality goals.

32 (4) "Board" means the board of environmental quality.

33 (5) "Conservation commission" means the agency of state government
 34 created in section 22-2718, Idaho Code.

35 (6) "Conservation district" means an entity of state government as de-
 36 defined in section 22-2717, Idaho Code.

37 (7) "Consult" or "consultation" with basin advisory groups and water-
 38 shed advisory groups, when not otherwise defined in this chapter, means that
 39 the director shall:

40 (a) Upon request, provide the groups with all available information in
 41 the possession of the department concerning the subject of the consul-
 42 tation;

43 (b) Utilize the knowledge, expertise, experience and information of
 44 the groups in making the determination that is the subject of the con-
 45 sultation; and

46 (c) Consider the groups' recommendations regarding the determination
 47 that is the subject of the consultation.

48 (68) "Control strategies" means cost-effective actions in TMDL imple-
 49 mentation plans to control the discharge of pollutants that can reasonably

1 be taken to improve the water quality within the physical, operational, eco-
2 nomic and other constraints that affect individual enterprises and communi-
3 ties.

4 (79) "Degradation" or "lower water quality" means, for purposes of an-
5 tidegradation review, a change in a pollutant that is adverse to designated
6 or existing uses, as calculated for a new point source, and based upon moni-
7 toring or calculated information for an existing point source increasing its
8 discharge. Such degradation shall be calculated or measured after appropri-
9 ate mixing of the discharge and receiving water body.

10 (810) "Department" means the department of environmental quality.

11 (911) "Designated agency" means the department of lands for timber har-
12 vest activities, for oil and gas exploration and development and for mining
13 activities; the ~~soil and water~~ conservation commission for grazing activi-
14 ties and for agricultural activities; the transportation department for
15 public road construction; the department of agriculture for aquaculture;
16 and the department of environmental quality for all other activities.

17 (102) "Designated use or designated beneficial use" means those uses
18 assigned to waters as identified in the rules of the department whether or
19 not the uses are being attained. The department may adopt subcategories of
20 a use.

21 (113) "Director" means the director of the department of environmental
22 quality, or his or her designee.

23 (124) "Discharge" means any spilling, leaking, emitting, escaping,
24 leaching, or disposing of a pollutant into the waters of the state. For the
25 purposes of this chapter, discharge shall not include surface water runoff
26 from nonpoint sources or natural soil disturbing events.

27 (135) "Existing use" means those surface water uses actually attained
28 on or after November 28, 1975, whether or not they are designated uses. Ex-
29 isting uses may form the basis for subcategories of designated uses.

30 (146) "Full protection, full support, or full maintenance of designated
31 beneficial uses of water" means compliance with those levels of water qual-
32 ity criteria listed in the appropriate rules of the department, or where
33 there is no applicable numerical criteria, compliance with the reference
34 streams or conditions approved by the director in consultation with the ap-
35 propriate basin advisory group.

36 (157) "General permit" means an NPDES permit issued by the U.S. environ-
37 mental protection agency authorizing a category of discharges under the fed-
38 eral clean water act or a nationwide or regional permit issued by the U.S.
39 army corps of engineers under the federal clean water act.

40 (168) "Integrated report" means the consolidated listing and reporting
41 of the state's water quality status pursuant to the federal clean water act.

42 (179) "National pollutant discharge elimination system (NPDES)" means
43 the point source permitting program established pursuant to section 402 of
44 the federal clean water act.

45 (1820) "New nonpoint source activity" means a new nonpoint source ac-
46 tivity or a substantially modified existing nonpoint source activity on or
47 adversely affecting an outstanding resource water which includes, but is
48 not limited to, new silvicultural activities, new mining activities and
49 substantial modifications to an existing mining permit or approved plan, new
50 recreational activities and substantial modifications to existing recre-

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

8 (1921) "Nonpoint source activities" includes grazing, crop production,
9 silviculture, log storage or rafting, construction, mining, recreation,
10 septic systems, runoff from storms and other weather related events and
11 other activities not subject to regulation under the federal national pol-
12 lutant discharge elimination system. Nonpoint source activities on waters
13 designated as outstanding resource waters do not include issuance of water
14 rights permits or licenses, allocation of water rights, operation of diver-
15 sions, or impoundments.

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

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

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

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

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

46 (257) "Reference stream or condition" means one (1) of the following:

47 (a) The minimum biological, physical and chemical conditions necessary
48 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 or
7 water bodies, the director, in consultation with the basin advisory group
8 and the technical advisers to it, may define appropriate hypothetical refer-
9 ence conditions or may use monitoring data specific to the site in question
10 to determine conditions in which the beneficial uses are fully supported.

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

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

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

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

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

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

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

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

1 (34) "Waters or water body" means the navigable waters of the United
 2 States as defined in the federal clean water act. For the purposes of this
 3 chapter, water bodies shall not include municipal or industrial wastewater
 4 treatment or storage structures or private reservoirs, the operation of
 5 which has no effect on waters.

6 (35) "Water pollution" is such alteration of the thermal, chemical, bi-
 7 ological or radioactive properties of any waters of the state, or such dis-
 8 charge or release of any contaminant into the waters of the state as will or
 9 is likely to create a nuisance or render such waters harmful or detrimen-
 10 tal or injurious to public health, safety or welfare or to domestic, com-
 11 mercial, industrial, recreational, aesthetic or other legitimate uses or to
 12 livestock, wild animals, birds, fish or other aquatic life.

13 (36) "Water quality standards" are the designated uses of a water body
 14 and water quality criteria necessary to support those uses, and an an-
 15 tidegradation policy.

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

20 SECTION 23. That Section 39-6609, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 39-6609. TECHNICAL COMMITTEE. To assist in the development of its
 23 program, the council shall create a technical committee which may include,
 24 but is not exclusively limited to, designated representatives of the public
 25 health district, city and county planning or engineering departments, the
 26 county planning and zoning commission, the McCall water and sewer district,
 27 department of environmental quality, department of lands, department of
 28 fish and game, department of parks and recreation, department of water re-
 29 sources, ~~state soil and water~~ conservation commission, United States forest
 30 service, United States army corps of engineers, United States agricultural
 31 conservation and stabilization services, United States natural resources
 32 conservation service, United States geological survey, United States en-
 33 vironmental protection agency and representatives proposed by interests
 34 in agriculture, environmental protection, forest products, sporting and
 35 mining. Indian tribes may nominate a representative for the technical com-
 36 mittee. Members shall serve without state compensation except such normal
 37 compensation received by members who are state, city, county, district or
 38 federal employees serving in the normal course and scope of their employ-
 39 ment.

40 SECTION 24. That Section 42-3703, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

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

45 1. "District" or "watershed improvement district" means a governmental
 46 subdivision of this state and a public body corporate and politic organized

1 in accordance with the provisions of this act for the purposes, with the pow-
2 ers, and subject to the restrictions hereinafter set forth.

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

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

7 4. "Petition" means a petition filed under the provisions of section
8 42-3705, Idaho Code, for the creation of a district.

9 5. "Nominating petition" means a petition filed under the provisions of
10 section 42-3706, Idaho Code, to nominate a candidate for the office of direc-
11 tor of a watershed improvement district.

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

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

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

21 SECTION 25. That Section 42-3705, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen
24 (15) owners of land lying within the limits of the territory proposed to be
25 organized into a watershed improvement district may file a petition with
26 the ~~state soil and water~~ conservation commission asking that a watershed
27 improvement district be organized to function in the territory described
28 in the petition. In the event that there are less than fifteen (15) persons
29 owning land lying within the limits of the territory proposed to be organized
30 into a district, then and in that case such petition will be deemed suffi-
31 cient if it contains the signatures of two-thirds (2/3) of the owners of land
32 and representing two-thirds (2/3) of the acreage of land lying within the
33 limits of the said territory. Such petition shall set forth:

34 1. A description of the territory proposed to be organized as a water-
35 shed improvement district, which description shall be deemed sufficient if
36 generally accurate.

37 2. That there is need, in the interest of the public health, safety, and
38 general welfare for a watershed improvement district to function in the ter-
39 ritory described in the petition.

40 3. The proposed name of said district.

41 4. A request that the ~~state soil and water~~ conservation commission duly
42 define the boundaries for such district; that an election be held within the
43 territory so defined on the question of the creation of a watershed improve-
44 ment district in such territory.

45 After such petition has been filed with the ~~state soil and water~~ con-
46 servation commission it shall be the duty of the commission to define by
47 metes and bounds or by legal subdivisions the boundaries of such proposed
48 district, and to hold an election, subject to the provisions of section
49 34-106, Idaho Code, within the proposed district upon the proposition of the

1 creation of the district, and to cause notice of such election to be given.
 2 The question shall be submitted by ballots upon which the words "For creation
 3 of a watershed improvement district of the lands below described and lying
 4 in the county(ies) of, and" and "Against creation of a wa-
 5 tershed improvement district of the lands below described and lying in the
 6 county(ies) of, and" shall appear with a square before each
 7 proposition and a direction to insert an X mark in the square before one or
 8 the other of said propositions as the voter may favor or oppose creation of
 9 such district. The ballot shall set forth the boundaries of such proposed
 10 district as determined by the ~~state soil and water~~ conservation commission.

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

13 The ~~state soil and water~~ conservation commission shall pay all expenses
 14 of, and supervise the conduct of, such election. The commission shall con-
 15 duct the election as provided in chapter 14, title 34, Idaho Code. No in-
 16 formality in the conduct of such election or in any matter relating thereto
 17 shall invalidate said election or the result thereof if notice thereof shall
 18 have been given substantially as herein provided, and said election shall
 19 have been fairly conducted.

20 If the election shall result in a majority of votes being cast in favor
 21 of the creation of such proposed district the ~~state soil and water~~ conserva-
 22 tion commission shall proceed with the organization of the district in the
 23 manner hereinafter provided, to wit:

24 1. The ~~state soil and water~~ conservation commission shall appoint one
 25 (1) director to act with the two (2) directors elected as hereinafter pro-
 26 vided, which said directors shall be the governing body of the district.

27 2. The ~~state soil and water~~ conservation commission shall present to
 28 the secretary of state a certificate stating:

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

31 (b) The name and residence of the directors appointed by said commis-
 32 sion.

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

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

36 The secretary of state shall receive, file and record said certificate
 37 of the ~~state soil and water~~ conservation commission, and when said certifi-
 38 cate shall be filed and recorded the district shall constitute a governmen-
 39 tal subdivision of this state and a public body corporate and politic. The
 40 secretary of state shall make and issue to the said directors a certificate
 41 of the due organization of the said district.

42 SECTION 26. That Section 42-3706, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance of
 45 the secretary of state of a certificate of organization of a watershed im-
 46 provement district nominating petitions may be filed with the ~~state soil and~~
 47 ~~water~~ conservation commission to nominate candidates for directors of such
 48 district. The ~~state soil and water~~ conservation commission shall give no-
 49 tice of an election to be held, subject to the provisions of section 34-106,

1 Idaho Code, for the election of two (2) directors for the district. The names
2 of all nominees on behalf of whom such nominating petitions have been filed
3 in the manner provided in section 34-1404, Idaho Code, shall appear arranged
4 in the alphabetical order of the surnames upon ballots with a square before
5 each name, and direction to insert an X mark in the square before any two (2)
6 names to designate the voter's preference. All qualified electors who own
7 land or reside within the proposed district shall be eligible to vote in said
8 election. The two (2) candidates who shall receive the largest number re-
9 spectively of the votes cast in such election shall be elected for such dis-
10 trict. The ~~state soil and water~~ conservation commission shall pay all the
11 expenses of such election, supervise the conduct thereof, and publish the
12 results thereof in accordance with the provisions of chapter 14, title 34,
13 Idaho Code. All elections in existing districts following the first elec-
14 tion shall be conducted by the district directors of the district involved
15 who shall give notice of such elections and who shall bear the cost thereof.

16 In any election for director, if after the deadline for filing a decla-
17 ration of intent as a write-in candidate, it appears that the number of qual-
18 ified candidates who have been nominated for director positions is equal to
19 the number of directors to be elected, it shall not be necessary for the can-
20 didates to stand for election, and the board of directors shall declare such
21 candidates elected as directors, and the secretary of the district shall im-
22 mediately make and deliver to such persons certificates of election.

23 SECTION 27. That Section 42-3707, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The
26 governing body of the district shall consist of three (3) directors elected
27 or appointed as provided hereinabove. The director appointed by the commis-
28 sion shall be an owner of land within the district and shall be a person who
29 by training and experience is qualified to perform the specialized service
30 which will be required in the performance of his duties hereunder. The term
31 of office of each director shall be four (4) years, except that the director
32 first appointed by the ~~state soil and water~~ conservation commission shall be
33 designated to serve for a term of two (2) years from the date of his appoint-
34 ment. A director shall hold office until his successor has been elected or
35 appointed, and has qualified. Vacancies shall be filled for an unexpired
36 term by a majority of the directors duly qualified and acting at the time the
37 vacancy shall arise. A majority of the directors shall constitute a quorum
38 and the concurrence of a majority in any matter within their duties shall be
39 required for its determination. A director shall receive no compensation
40 for his service, but shall be entitled to expenses, including traveling ex-
41 penses necessarily incurred in the discharge of his duties.

42 The directors may employ a secretary, technical experts, and such other
43 employees, permanent and temporary, as they may require, and shall deter-
44 mine their qualifications, duties, and compensation. The directors may em-
45 ploy their own counsel and legal staff. The directors may delegate to their
46 chairman, to one (1) or more directors, or to agents or employees such pow-
47 ers and duties as they may deem proper and necessary. The directors shall
48 furnish to the ~~state soil and water~~ conservation commission, upon request,
49 copies of such documents or other information concerning the directors' ac-

1 tivities as said commission may require in the performance of its duties un-
 2 der this chapter. The directors shall provide for the keeping of a record
 3 of all proceedings, resolutions, regulations and orders issued or adopted;
 4 shall provide for an annual audit of its accounts, and shall provide for the
 5 execution of surety bonds by any employee or officer who shall be entrusted
 6 with funds or property of the district.

7 SECTION 28. That Section 42-3717, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 42-3717. DISCONTINUANCE -- DISSOLUTION OF DISTRICTS. (1) At any time
 10 after three (3) years ~~after~~ following the organization of a district under
 11 the provisions of this chapter, any twenty-five (25) qualified electors or
 12 owners of land lying within the boundaries of such district, or, if less
 13 than twenty-five (25) owners of land or qualified electors reside within
 14 the boundaries of such district it would be deemed sufficient if two-thirds
 15 (2/3) of the resident group, may file a petition with the ~~state soil and water~~
 16 conservation commission requesting that the operations of the district be
 17 terminated and the existence of the district discontinued. After such peti-
 18 tion has been received by the ~~state soil and water~~ conservation commission,
 19 it shall give notice of the holding of an election, subject to the provisions
 20 of section 34-106, Idaho Code, which the said commission shall supervise and
 21 govern the conduct of in accordance with the provisions of chapter 14, title
 22 34, Idaho Code. The question to be submitted by ballots upon which the words
 23 "For terminating the existence of the (name of the watershed improvement
 24 district to be here inserted)" and "Against terminating the existence of
 25 the (name of the watershed improvement district to be inserted here)" shall
 26 appear with a square before each proposition, and a direction to insert an X
 27 mark in the square before one or the other of said propositions as the voter
 28 may favor or oppose discontinuance of such district. All qualified electors
 29 who own land or reside within the proposed district shall be eligible to
 30 vote in said election. No informality in the conduct of such election or in
 31 any matters relating thereto shall invalidate said election or the result
 32 thereof if notice thereof shall have been given as herein provided, and said
 33 election shall have been fairly conducted.

34 The ~~state soil and water~~ conservation commission shall certify the re-
 35 sult of such election to the directors of the district. If the ~~state soil~~
 36 ~~and water~~ conservation commission shall certify that a majority of the votes
 37 cast in said election favor the discontinuance of the existence of the dis-
 38 trict, the directors of the district shall forthwith proceed to terminate
 39 the affairs of the district. Any moneys remaining in the treasury of said
 40 district following the winding up of the affairs of the district shall be
 41 paid by the directors into the state treasury. The directors shall file an
 42 application duly verified with the secretary of state for the discontinuance
 43 of such district, which application shall recite that the affairs of the dis-
 44 trict have been wound up, and shall set forth a full accounting of the winding
 45 up of the affairs of said district. The secretary of state shall issue to the
 46 directors a certificate of dissolution, and shall record said certificate in
 47 his office.

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

4 (2) Provided however, any district that fails or has ceased to function
5 for two (2) or more years may be dissolved by the board or boards of county
6 commissioners of the county or counties in which it is located. The county
7 commissioners may initiate such action upon their own volition, or the ac-
8 tion may be initiated by petition.

9 SECTION 29. That Section 63-36220, Idaho Code, be, and the same is
10 hereby amended to read as follows:

11 63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are ex-
12 empted from the taxes imposed by this chapter:

13 (a) Sales to or purchases by hospitals, health-related entities, edu-
14 cational institutions, forest protective associations and canal compa-
15 nies that are nonprofit organizations; and

16 (b) Donations to, sales to, and purchases by the Idaho Foodbank Ware-
17 house, Inc.; and

18 (c) Donations to, sales to, and purchases by food banks or soup kitchens
19 of food or other tangible personal property used by food banks or soup
20 kitchens in the growing, storage, preparation or service of food, but
21 not including motor vehicles or trailers; and

22 (d) Sales of clothes to, donations of clothes to, and purchases of
23 clothes by nonsale clothiers; and

24 (e) Sales to or purchases by centers for independent living; and

25 (f) Sales to or purchases by the state of Idaho and its agencies and its
26 political subdivisions; and

27 (g) Sales to or purchases by volunteer fire departments or licensed
28 emergency medical service agencies; and

29 (h) Sales to or purchases by a qualifying senior citizen center; and

30 (i) Sales to or purchases by the Blind Services Foundation, Inc.; and

31 (j) Donations to, sales to or purchases by the Advocates for Survivors
32 of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation;
33 and

34 (k) Sales to or purchases by nonprofit organizations offering free den-
35 tal clinic services to children; and

36 (l) Admissions to and purchases by museums, as defined in subsection
37 (2) of this section.

38 (2) As used in this section, these words shall have the following mean-
39 ings:

40 (a) "Educational institution" shall mean nonprofit colleges, univer-
41 sities, public charter schools organized pursuant to chapter 52, title
42 33, Idaho Code, the Idaho digital learning academy established pursuant
43 to chapter 55, title 33, Idaho Code, and other primary and secondary
44 schools, the income of which is devoted solely to education and in which
45 systematic instruction in the usual branches of learning is given. This
46 definition does not include schools primarily teaching business, danc-
47 ing, dramatics, music, cosmetology, writing, gymnastics, exercise and
48 other special accomplishments nor parent-teacher associations, parent
49 groups, alumni or other auxiliary organizations with purposes related

1 to the educational function of an institution or collective group of in-
2 stitutions.

3 (b) "Hospital" shall include nonprofit institutions licensed by the
4 state for the care of ill persons. It shall not extend to nursing homes
5 or similar institutions.

6 (c) "Health-related entities" shall mean the Idaho Cystic Fibrosis
7 Foundation, Idaho Epilepsy League, Idaho Lung Association, March of
8 Dimes, American Cancer Society, Camp Rainbow Gold, Mental Health As-
9 sociation, The Arc, The Children's Home Society of Idaho, American
10 Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy,
11 Arthritis Foundation, Muscular Dystrophy Foundation, National Mul-
12 tiple Sclerosis Society, Rocky Mountain Kidney Association, American
13 Diabetes Association, Easter Seals, Idaho Community Action Agencies,
14 Idaho Primary Care Association and community health centers that are
15 members of the Idaho Primary Care Association, the Idaho Association of
16 Free and Charitable Clinics and its member clinics, the Idaho Diabetes
17 Youth Programs, Special Olympics Idaho, the Idaho Women's and Chil-
18 dren's Alliance, and the Family Services Alliance of Southeast Idaho,
19 together with said entities' local or regional chapters or divisions.

20 (d) "Canal companies" shall include nonprofit corporations that are
21 incorporated solely for the purpose of operating and maintaining and
22 are engaged solely in operation and maintenance of dams, reservoirs,
23 canals, lateral and drainage ditches, pumps or pumping plants.

24 (e) "Forest protective associations" shall mean associations whose
25 purpose is the furnishing, operating and maintaining of a protective
26 system for the detection, prevention and suppression of forest or range
27 fires. Forest protective associations shall include only those associ-
28 ations with which the state of Idaho has contracted or become a member of
29 pursuant to chapter 1, title 38, Idaho Code.

30 (f) "Food banks or soup kitchens" shall mean any nonprofit corporation
31 or association, other than the Idaho Foodbank Warehouse, Inc., one of
32 whose regular activities is the furnishing or providing of food or food
33 products to others without charge.

34 (g) "Nonsale clothier" shall mean any nonprofit corporation or associ-
35 ation, one of whose primary purposes is the furnishing or providing of
36 clothes to others without charge.

37 (h) "Clothes" shall mean garments in general, designed or intended to
38 be worn by humans, and shall include footwear in addition to wearing ap-
39 parel.

40 (i) "Center for independent living" shall mean a private, nonprofit,
41 nonresidential organization in which at least fifty-one percent (51%)
42 of the principal governing board, management and staff are individuals
43 with disabilities and that:

44 (i) Is designed and operated within a local community by individ-
45 uals with disabilities;

46 (ii) Provides an array of independent living services and pro-
47 grams; and

48 (iii) Is cross-disability.

49 (j) "Political subdivision" means:

50 (i) A governmental organization that:

- 1 1. Embraces a certain territory,
 2 2. Is organized for public advantage and not in the interest
 3 of private individuals or classes,
 4 3. Has been delegated functions of government, and
 5 4. Has the statutory power to levy taxes; or
 6 (ii) A public health district created by section 39-408, Idaho
 7 Code; or
 8 (iii) A ~~soil~~ conservation district as defined in section 22-2717,
 9 Idaho Code; or
 10 (iv) A drainage district created pursuant to chapter 29, title
 11 42, Idaho Code; or
 12 (v) An irrigation district created pursuant to title 43, Idaho
 13 Code; or
 14 (vi) A state grazing board created by section 57-1204, Idaho
 15 Code; or
 16 (vii) A water measurement district created pursuant to section
 17 42-705 or 42-706, Idaho Code; or
 18 (viii) A ground water management district created pursuant to
 19 chapter 51, title 42, Idaho Code.
- 20 (k) "Agency of the state of Idaho" shall mean an office or organization
 21 created by the constitution or statutes of this state and constituting a
 22 component part of the executive, judicial or legislative branch of the
 23 government of this state.
- 24 (l) "Volunteer fire department" means an entity exempt from federal
 25 income taxation pursuant to section 501(c)(3) of the Internal Revenue
 26 Code and which primarily provides fire protection or fire prevention on
 27 a not-for-profit basis to surrounding residents.
- 28 (m) "Licensed emergency medical service agency" means an emergency
 29 medical service (EMS) licensed by the EMS bureau of the department of
 30 health and welfare and which is exempt from federal income taxation
 31 pursuant to section 501(c)(3) of the Internal Revenue Code and which
 32 provides emergency medical services on a not-for-profit basis to sur-
 33 rounding residents.
- 34 (n) "Qualifying senior citizen center" means an entity exempt from in-
 35 come tax pursuant to section 501(c)(3) of the Internal Revenue Code and
 36 which is a community facility for the organization and provision of a
 37 broad spectrum of services, which shall include provision of health,
 38 including mental health, social, nutritional, and educational services
 39 and the provision of facilities for recreational activities for older
 40 individuals.
- 41 (o) "Museum" means a public institution or an entity exempt from income
 42 tax pursuant to section 501(c)(3) of the Internal Revenue Code, which
 43 stores, preserves and exhibits objects of art, history, science or
 44 other objects of historical, educational or cultural value on a perma-
 45 nent basis in a building, portion of a building or outdoor location and
 46 which provides museum services to the public on a regular basis.
- 47 (3) The exemption granted by subsection (1) (f) of this section does not
 48 include any association or other organization whose members are political
 49 subdivisions or state agencies unless the organization is expressly created

1 under the joint powers provision of sections 67-2328 through 67-2333, Idaho
2 Code.

3 (4) The exemptions granted by subsection (1) of this section do not in-
4 clude the use of tangible personal property by a contractor used to improve
5 real property of an exempt entity when such use is within the definition pro-
6 vided by section 63-3615(b), Idaho Code, whether the use tax liability is in-
7 cluded in a contract total or stated separately in a contract.

8 (5) There is exempted from the taxes imposed in this chapter the renting
9 of a place to sleep to an individual by the Idaho Ronald McDonald House.

10 SECTION 30. That Section 67-818, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED
13 SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in the
14 office of the governor, the "Office of Species Conservation." The adminis-
15 trator of the office of species conservation shall be the official in the
16 state designated to oversee implementation of federal recovery plans, as
17 provided in 16 U.S.C. ~~section~~ 1533(f), and to fulfill the duties provided
18 by this section. The administrator shall be appointed by, and serve at the
19 pleasure of, the governor and shall be subject to confirmation by the state
20 senate.

21 (2) The duties of the office of species conservation shall include:

22 (a) Coordination of all state departments and divisions with duties and
23 responsibilities affecting endangered species, threatened species,
24 candidate species, species petitioned to be listed, and rare and de-
25 clining species as defined in section 36-2401, Idaho Code;

26 (b) Coordinating state implementation and response to federal recovery
27 plans, biological opinions, guidance and projects among all state and
28 local governments in the state of Idaho;

29 (c) Participation in regional efforts to cooperatively address endan-
30 gered species, threatened species, candidate and petitioned species,
31 and rare and declining species;

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

35 (e) Cooperating and consulting with the department of fish and game,
36 the department of lands, the department of water resources, the de-
37 partment of agriculture, and the department of parks and recreation
38 regarding agreements pursuant to 16 U.S.C. ~~section~~ 1533, 16 U.S.C.
39 ~~section~~ 1535 and 16 U.S.C. ~~section~~ 1539;

40 (f) Negotiating agreements with federal agencies concerning endan-
41 gered species, threatened species, candidate species, petitioned
42 species, and rare and declining species including, but not limited to,
43 agreements pursuant to 16 U.S.C. ~~section~~ 1533(d) and 16 U.S.C. ~~section~~
44 1539(a), other than those agreements negotiated pursuant to 16 U.S.C.
45 ~~section~~ 1535;

46 (g) Providing the people of the state of Idaho with an ombudsman who can
47 listen to citizens being harmed or hindered by the regulations of the
48 ESA and direct them to the appropriate state or federal agency and/or

1 speak on their behalf, as deemed appropriate by the ombudsman, to ad-
2 dress issues or concerns related to the ESA;

3 (h) Serve as a repository for agreements and plans among governmental
4 entities in the state of Idaho for the conservation of rare and declin-
5 ing species, petitioned, candidate, threatened and endangered species.

6 (3) State policy and management plans developed pursuant to this sec-
7 tion shall be developed in accordance with the following subsections:

8 (a) State policy on rare and declining, petitioned, candidate, threat-
9 ened, and endangered species and state management plans shall be
10 developed in consultation with the appropriate state agencies. The ap-
11 propriate state agency for wildlife and plant management issues is the
12 department of fish and game. The appropriate state agency for timber
13 harvest activities, oil and gas exploration activities and for mining
14 activities is the department of lands. The appropriate state agencies
15 for agricultural activities are the department of agriculture and the
16 Idaho ~~state soil and water~~ conservation commission. The appropriate
17 state agency for public road construction is the transportation depart-
18 ment. The appropriate state agency for water rights is the department
19 of water resources. The appropriate state agency for water quality is
20 the department of environmental quality. The appropriate state agency
21 for outfitting and guiding activities is the Idaho outfitters and
22 guides licensing board;

23 (b) State management plans shall be the policy of the state of Idaho,
24 but are subject to legislative approval, amendment or rejection by con-
25 current resolution. State management plans shall be subject to public
26 notice and comment but shall not be subject to judicial review.

27 (4) The governor's office of species conservation shall prepare a re-
28 port to the legislature recommending a plan to develop state conservation
29 assessments and strategies for rare and declining species in the state of
30 Idaho and submit that report and recommendation to the legislature. The re-
31 port and recommendation are subject to legislative approval, amendment or
32 rejection by concurrent resolution.

33 (5) The state asserts primacy over the management of its fish, wildlife
34 and water resources. Accordingly, any introduction or reintroduction of any
35 aquatic or terrestrial species onto lands within the state or into state wa-
36 ters, including those actions that would impair or impede the state's pri-
37 macy over its land and water, without state consultation and approval, is
38 against the policy of the state of Idaho and is hereby prohibited.

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

43 SECTION 31. That Section 74-108, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 74-108. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED
46 SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from
47 disclosure:

1 (1) Records, maps or other records identifying the location of archae-
2 ological or geophysical sites or endangered species, if not already known to
3 the general public.

4 (2) Archaeological and geologic records concerning exploratory
5 drilling, logging, mining and other excavation, when such records are re-
6 quired to be filed by statute for the time provided by statute.

7 (3) Documents and data related to oil and gas production submitted to
8 the department of lands or the oil and gas conservation commission under the
9 provisions of chapter 3, title 47, Idaho Code, provided that the records
10 qualify for confidential status under section 47-327, Idaho Code, under the
11 conditions and for the time provided by statute.

12 (4) The records of a library which, when examined alone, or when exam-
13 ined with other public records, would reveal the identity of the library pa-
14 tron checking out, requesting, or using an item from a library.

15 (5) The material of a library, museum or archive that has been con-
16 tributed by a private person, to the extent of any limitation that is a
17 condition of the contribution.

18 (6) Test questions, scoring keys, and other data used to administer a
19 licensing examination, employment, academic or other examination or testing
20 procedure before the examination is given if the examination is to be used
21 again. Records establishing procedures for and instructing persons admin-
22 istering, grading or evaluating an examination or testing procedure are in-
23 cluded in this exemption, to the extent that disclosure would create a risk
24 that the result might be affected.

25 (7) Land management plans required for voluntary stewardship agree-
26 ments entered into pursuant to law and written agreements relating to the
27 conservation of all species of sage grouse entered into voluntarily by own-
28 ers or occupiers of land with a ~~soil~~ conservation district.