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Idaho Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

Four Idaho statutes address aspects of terrorism and emergency management—the Terrorist Control Act, the Post-Attack Resource Management Act, the Emergency Relocation Act, and the Idaho Disaster Preparedness Act. The Bureau of Disaster Services is the lead emergency management agency for the state. After a disaster occurs, financial aid is given in the form of claims to the military division, tax relief, federal funds and state emergency accounts. The legislature provides for succession to state offices in emergencies. State and local seats of government may be relocated in an emergency. Idaho is a member of both the Interstate Mutual Aid Compact and the Emergency Management Assistance Compact.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The governor serves as commander-in-chief of militia and is authorized to: suspend provision of any regulation that would prevent or hinder emergency management; allocate sums in the disaster emergency account; transfer personnel or functions of state agencies; commandeer private property; compel evacuation of population or control ingress and egress to and from a disaster area; suspend or limit the sale and transportation of alcoholic beverages, firearms, explosives, and combustibles; and make provision for temporary emergency housing. After a presidential declaration is issued, the governor may enter into agreements with the federal government for sharing of disaster recovery expenses and individual and family grant programs, among other actions (Idaho Code §46-1008).

Bureau of Disaster Services and Adjutant General: In matters of “disaster services,” the adjutant general represents the governor and coordinates the activities of state agencies in disaster services. The bureau must prepare and maintain a state disaster plan that provides for prevention and mitigation, response, emergency relief, assessment of vulnerability to disasters, coordination of federal, state, and local disaster activities, and other matters (Idaho Code §46-1006(2)). The bureau may employ technical personnel to provide expert assistance in development of local and intergovernmental disaster plans (Idaho Code §46-1006(3)). The bureau provides standards and criteria, periodically reviews local and intergovernmental disaster plans, and fulfills other specified needs (Idaho Code §46-1006(6)).

Local and Intergovernmental Disaster Agencies and Services: Each county served by the bureau, or by an intergovernmental agency responsible for disaster preparedness, must maintain or participate in the work of a disaster agency, and prepare and keep current a disaster emergency plan for its area (Idaho Code §46-1009).

Emergency Response Commission: The statute created an emergency response commission in the office of the governor to serve as an all-hazards advisory and coordinating body to the governor (Idaho Code § 46-1019).

Preparedness

The Idaho State Disaster Preparedness Act requires the development of plans and preparations for disasters and emergencies from natural or manmade causes, enemy attack, sabotage, or other hostile action. The statute created the Bureau of Disaster Services, requires local governments to undertake disaster preparedness, and authorizes state and political subdivisions to execute agreements and cooperate with the federal government and governments of other states. Also, the statute authorizes the coordination of activities relating to disaster prevention, preparedness, response, and recovery by all state agencies, and entities representing federal-state and Canadian interests (Idaho Code § 46, Chapter 10 et seq).

The Post-Attack Resource Management Act recognizes that an enemy attack on the United States may occur, created an office of emergency resource management to execute a plan for “emergency resource management,” and confers emergency powers on the governor and officials of political subdivisions. The Act requires coordination with the

federal government, other states and localities, and private agencies, and authorized the governor to create a state emergency resource planning committee. The governor has general direction and control of the emergency resources management office, and is authorized to make, amend, and rescind necessary orders, rules, and regulations. Every order issued under this statute is subject to judicial inquiry by the state Supreme Court (Idaho Code §67, Chapter 55 et. seq.).

Declaration Procedures

The governor may declare that a “disaster emergency” exists by executive order or a proclamation. The declaration continues until the threat has passed, the emergency conditions no longer exist, or until 30 days have passed. The governor may extend the declaration for no more than another 30 days. The legislature may terminate a state of disaster emergency at any time (Idaho Code §46-1008).

After an enemy attack, the governor may declare, “by order,” a post-attack recovery and rehabilitation emergency. The order does not take effect unless the legislature meets within 45 days. The governor may control and regulate the sale of food and other goods and services and direct the use of material and facilities for essential civil needs. If, due to the attack, filing requirements cannot be met, “public notice by such means as may be available” may be used. The governor’s power to issue such an order may be terminated by the legislature, the President, or Congress. Such orders automatically terminate within six months (Idaho Code §67-5506).

A local disaster emergency may be declared by a mayor or a chairman of county commissioners (Idaho Code §46-1011).

Types of Assistance

The statute authorizes compensation for services or for taking or use of property as specified (Idaho Code §46-1012).

County commissioners are authorized to grant time extensions for tax filings or payments, if deemed necessary as a result of a natural disaster (Idaho Code §63-220).

Mutual Aid

The Interstate Mutual Aid Compact is codified (Idaho Code §46-1018).

The Emergency Management Assistance Compact is codified (Idaho Code §46-1018A).

The governor is authorized to enter into interstate emergency or disaster service compacts with any state (Idaho Code §46-1010).

Political subdivisions that are not part of intergovernmental arrangements will be assisted by the bureau to make suitable plans for mutual aid in disasters (Idaho Code §46-1014).

Funding

The statute requires that the chief of the bureau of disaster services submit to the county commission chairs both a written summary of federal emergency management grants provided to the state and the identification of federal funds provided for direct assistance to local disaster agencies (Idaho Code § 46-1025).

The governor's emergency fund, consisting of appropriations, is created for use in any emergency that was not foreseen or reasonably foreseeable (Idaho Code §57-1601).

The statute created a disaster emergency account as a separate account in the state treasury to be used to pay for expenses incurred by the state during a declared state of disaster emergency. The statute also provides for the transfer of moneys from the general account if needed and if available (Idaho Code § 46-1005A).

Hazard Mitigation

In addition to prevention measures included in state, local, and intergovernmental disaster plans, the bureau is required or authorized to consider steps that could be taken to prevent or reduce the harmful consequences of disasters. The governor may make recommendations to the legislature, local governments and other appropriate public and private entities (Idaho Code §46-1006(5)(i)).

Local governments are encouraged to undertake floodplain management activities (Idaho Code §46-1022).

Continuity of Government Operations

The legislature, in cases of disaster emergency or enemy attack, will provide for succession to the powers and duties of public offices, and adopt measures to insure the continuity of governmental operations (Constitution Art. III, Sec. 27).

The Emergency Relocation Act authorizes the governor to declare an emergency temporary location for seat of government, which remains the seat of government until the legislature establishes a new location or the emergency ends. The governing body of each political subdivision may establish a emergency temporary location of government (Idaho Code §67-102 to 106). In the event of an attack, the governor shall call the legislature into session within 90 days. The statute suspends provisions governing limitations on session length and subjects which may be acted upon (Idaho Code §67-422).

The statute provides for the selection of emergency interim successors for legislators, and authorizes emergency interim successors to assume duties of a legislator upon his or her death (Idaho Code §67-423, 423A).

The Emergency Interim Executive and Judicial Succession Act provides for officers to exercise the powers and duties of governor and provides for emergency interim succession to governmental offices and political subdivisions (Idaho Code § 59-1402).

Other

A state employee who is a certified service volunteer shall be granted paid leave for up to 120 work hours in any 12 month period to participate in disaster relief services for the American Red Cross. The statute also authorizes paid leave for part-time employees (Idaho Code §67-5338).

Limited liability is established for a person or entity who owns, leases, controls, occupies or maintains any building or property designated by a proper authority for civil defense as a shelter (Idaho Code § 46-1016).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Idaho Statutes, with Citations

Terms	Citations
Bureau of hazardous materials	Idaho Code §46-1002 (10)
Commission	Idaho Code §46-1002 (9)
Disaster	Idaho Code §46-1002 (3)
Disaster emergency account	Idaho Code §46-1002 (8)
Emergency	Idaho Code §46-1002 (4)
Emergency Idaho Code	Idaho Code §39-7103(2)
Enemy attack	Idaho Code §67-5503
Flood (and variants on the word)	Idaho Code §46-1021(2-8)
Hazardous substance	Idaho Code §39-7103(4)
Hazardous substance incident	Idaho Code §39-7103(3)
Incident commander	Idaho Code §39-7103(5)
Local emergency response authority	Idaho Code §39-7103(6)
Material support or resources	Idaho Code §18-8106(2)
Military division	Idaho Code §39-7103
Mitigation	Idaho Code §46-1021 (11)
Private emergency response plan	Idaho Code §39-7103(8)
Search and rescue	Idaho Code §46-1002 (7)

For Further Research

The citations noted above and other elements of the state code for Idaho may be searched at: [<http://www3.state.id.us/idstat/TOC/idstTOC.html>].