

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 188

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC LANDS; AMENDING SECTION 58-104, IDAHO CODE, TO REVISE THE  
2 POWERS AND DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS TO PROVIDE  
3 THAT, EXCEPT WHERE LAND IS USED BY A PUBLIC ENTITY FOR A PUBLIC PURPOSE,  
4 ALL NONAGRICULTURAL IMPROVEMENTS SHALL BE LEASED TO PRIVATE PERSONS AND  
5 ALL BUSINESS OPERATIONS SHALL BE SOLD TO PRIVATE PERSONS; AND AMEND-  
6 ING SECTION 58-133, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE  
7 DEPOSIT OF PROCEEDS FROM THE SALE OF STATE ENDOWMENT LANDS, TO PROVIDE  
8 FOR THE ALLOCATION AND DEPOSIT OF SUCH PROCEEDS AND EARNINGS THEREON IN  
9 SPECIFIED PERMANENT ENDOWMENT FUNDS AND TO REMOVE PROVISIONS RELATING  
10 TO AUTHORIZATION FOR THE STATE BOARD OF LAND COMMISSIONERS TO HOLD PRO-  
11 CEEDS FROM THE SALE OF LAND FOR A SPECIFIED TIME.  
12

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

14 SECTION 1. That Section 58-104, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 58-104. STATE LAND BOARD -- POWERS AND DUTIES. The state board of land  
17 commissioners shall have power:

18 1. To exercise the general direction, control and disposition of the  
19 public lands of the state; provided however that, except where the land is  
20 used by a public entity for a public purpose, all nonagricultural improve-  
21 ments on said land shall be leased to private persons, and all business oper-  
22 ations located on or using said land shall be sold to private persons.

23 2. To appoint its executive officer, the director of the department of  
24 lands.

25 3. To perform legislative functions not inconsistent with law and to  
26 delegate to its executive officer and his assistants the execution of all  
27 policies adopted by it.

28 4. To review upon appeal all decisions of the director of the department  
29 of lands in contested matters.

30 5. To determine the policy, direct the work to be undertaken, solicit  
31 bids, contract for work to be performed, and appropriate from its funds the  
32 money necessary to carry out such work.

33 6. To prescribe rules, not inconsistent with law, for the government  
34 of the department, the conduct of its employees and clerks, the distribution  
35 and performance of its business and the custody, use and preservation of the  
36 records, papers, books, documents, and property pertaining thereto.

37 7. To engage in reseeding and reforestation programs on the public  
38 lands of the state.

39 8. To exchange any public lands of the state, over which the board  
40 has power of disposition and control for lands of equal value, the title to  
41 which, or power of disposition, belongs or is vested in the governing body or  
42 board of trustees of any state governmental unit, agency or institution.

1           9. To regulate and control the use or disposition of lands in the beds  
2 of navigable lakes, rivers and streams, to the natural or ordinary high water  
3 mark thereof, so as to provide for their commercial, navigational, recre-  
4 ational or other public use; provided, that the board shall take no action in  
5 derogation of or seeking to interfere with the riparian or littoral rights  
6 of the owners of upland property abutting or adjoining such lands; except  
7 that when necessary to provide for the highest and best use of such lands for  
8 commercial, navigational, recreational or other public purposes, the board  
9 may acquire the riparian or littoral rights of upland owners by purchase or  
10 gift. The term "natural or ordinary high water mark" as herein used shall be  
11 defined to be the line which the water impresses on the soil by covering it  
12 for sufficient periods to deprive the soil of its vegetation and destroy its  
13 value for agricultural purposes. Provided that this definition shall not be  
14 construed so as to affect or change the vested property rights of either the  
15 state of Idaho or of riparian or littoral property owners. Lands lying be-  
16 low the meander line of a lake bed encompassing a national wildlife refuge  
17 as established under the authority of the Migratory Bird Conservation Act of  
18 February 18, 1929 (45 Stat. 1222), as amended, or the Fish and Wildlife Coordi-  
19 nation Act (48 Stat. 401), as amended, or the Fish and Wildlife Act of 1956  
20 (70 Stat. 1119), as amended (16 USC 742a through 742i), are not subject to  
21 the application of this act.

22           10. To enter into a joint exercise of powers agreement with the United  
23 States forest service in the department of agriculture, pursuant to section  
24 67-2328, Idaho Code.

25           11. To direct and oversee the conduct and operations of the endowment  
26 fund investment board and the Idaho department of lands.

27           12. To appoint and consult with expert advisors for each critical func-  
28 tion for which the state board of land commissioners has responsibility. In  
29 this context, the term "expert advisor" shall mean a person engaged in the  
30 business for which he holds himself out to be an expert and who is experienced  
31 in that field.

32           13. Strategically plan and establish policies to coordinate the man-  
33 agement of state lands with the investment goals of the permanent endowment  
34 funds and earnings reserve funds.

35           14. To provide reports of the status and performance of state endowment  
36 lands and the respective endowment funds to the state affairs committees of  
37 the senate and the house of representatives within fourteen (14) days after a  
38 regular session of the legislature convenes.

39           15. To make distributions to endowment income funds as provided in sec-  
40 tion 57-723A, Idaho Code.

41           SECTION 2. That Section 58-133, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43           58-133. ACQUISITION, SALE, LEASE, EXCHANGE OR DONATION OF PUBLIC  
44 LANDS -- CREATION AND OPERATION OF LAND BANK FUND. (1) The state board of land  
45 commissioners may select and purchase, lease, receive by donation, hold in  
46 trust, or in any manner acquire for and in the name of the state of Idaho such  
47 tracts or leaseholds of land as it shall deem proper, and after inventory  
48 and classification as provided herein, shall determine the best use or uses  
49 of said lands: provided, however, that all state-owned lands classified

1 as chiefly valuable for forestry, reforestation, recreation and watershed  
2 protection are hereby reserved from sale and set aside as state forests.

3 (2) The proceeds from the sale of state endowment lands may be deposited  
4 into a fund which shall be known as the "land bank fund," which is hereby  
5 created in the state treasury for the purpose of temporarily holding and  
6 allocating proceeds from said land sales pending the purchase of other land  
7 for the benefit of the beneficiaries of the endowment to the respective  
8 permanent endowment funds involved in such sales. A record shall be main-  
9 tained showing separately from each of the respective endowments the moneys  
10 received from the sale of endowment lands. Moneys Proceeds from the sale  
11 of lands which are a part of an one (1) or more endowment land grants shall  
12 forthwith be used only to purchase land for the same endowment allocated to  
13 and deposited in the permanent endowment fund of each respective endowment  
14 along with any earnings on said proceeds.

15 (3) All moneys deposited in the land bank fund, including earnings on  
16 those moneys, are hereby continually appropriated to the state board of land  
17 commissioners for the purposes enumerated in this section. The state board  
18 of land commissioners may hold proceeds from the sale of land in the land  
19 bank fund for a period not to exceed five (5) years from the effective date  
20 of sale. If, by the end of the fifth year, the proceeds from the land sale  
21 have not been encumbered to purchase other land within the state, the pro-  
22 ceeds shall be deposited in the permanent endowment fund of the respective  
23 endowment along with any earnings on the proceeds from the land sale, unless  
24 the period is extended by the legislature.