

IN THE SENATE

SENATE BILL NO. 1357, AS AMENDED

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO THE FOREST PRODUCTS COMMISSION; AMENDING TITLE 38, IDAHO CODE, BY THE  
2 ADDITION OF A NEW CHAPTER 15, TITLE 38, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY,  
3 TO DEFINE TERMS, TO CREATE A FOREST PRODUCTS COMMISSION AND TO PROVIDE FOR  
4 MEMBERSHIP, TO PROVIDE FOR QUALIFICATIONS OF MEMBERS AND COMPOSITION OF THE  
5 COMMISSION, TO PROVIDE FOR COMPENSATION OF MEMBERS, TO PROVIDE FOR A CHAIRMAN AND  
6 STAFF OF THE COMMISSION, TO PROVIDE FOR MEETINGS, TO PROVIDE POWERS AND DUTIES, TO  
7 PROVIDE LIMITATIONS TO THE POWERS OF THE COMMISSION, TO PROVIDE FOR THE BONDS OF  
8 AGENTS AND EMPLOYEES, TO PROVIDE FOR APPOINTMENT OF STAFF, TO PROVIDE FOR  
9 ESTABLISHMENT OF AN OFFICE, TO PROVIDE FOR LIABILITY OF THE STATE, TO PROVIDE FOR  
10 ASSESSMENTS AND FEES, TO PROVIDE PENALTIES, TO PROVIDE FOR DEPOSIT AND DISBURSEMENT  
11 OF FUNDS, AND TO PROVIDE FOR DISSOLUTION OF THE COMMISSION.  
12

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

14 SECTION 1. That Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW  
15 CHAPTER, to be known and designated as Chapter 15, Title 38, Idaho Code, and to read as follows:

16 CHAPTER 15  
17 IDAHO FOREST PRODUCTS COMMISSION

18 38-1501. DECLARATION OF POLICY. It is in the interest of all the people of Idaho that the abundant forest  
19 resources of the state be protected, and properly managed to produce multiple resources and values along with sustained  
20 yields of timber to support the economic welfare of the state. Because forest management, on both public and private  
21 lands, is important to each citizen of the state, it is the purpose by the enactment of this chapter to promote the economic  
22 and environmental welfare of the state by providing a means for the collection and dissemination of information regarding  
23 the management of the state's public and private forest lands and the forest products industry.

24 38-1502. DEFINITIONS. As used in this chapter:

25 (1) "Assessment year" means January 1 through December 31 of any calendar year in which the  
26 commission levies an assessment.

27 (2) "Base year" means the calendar year immediately preceding the assessment year.

28 (3) "Business entity" means a person, firm, partnership, corporation, association, trust or other recognized  
29 legal entity.

30 (4) "Commission" means the Idaho Forest Products Commission created by Section 38-1503, Idaho Code.

31 (5) "Financial supporter" means entities who have paid assessments pursuant to this chapter.

32 (6) "Forest lands" mean federal, state and private land growing forest trees species which are, or could  
33 be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term

1 includes federal, state and private land from which forest tree species have been removed but have not yet been  
2 restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

3 (7) "Forest products manufacturer" means a business entity that engages in the processing, cutting,  
4 fabricating or other process which converts timber, chips, sawdust or shavings into lumber, paper, plywood, particle board  
5 or other usable products for sale in commerce, provided however, as used in this chapter, forest products manufacturers  
6 shall not include the following business entities engaged in:

7 (a) The production of fence or corral posts or rails;

8 (b) Producing shingles or shakes;

9 (c) Producing firewood or pellets for energy; or

10 (d) Producing logs which have been shaped or scribed and used in the construction of log structures.

11 (8) "Hog fuel" means wood or wood scraps that have been shredded or pulverized and used by forest  
12 product manufacturers to generate energy.

13 (9) "Private forest lands" mean forest lands not owned by the federal government, state government and  
14 Indian tribe or a political subdivision of the state.

15 38-1503. FOREST PRODUCTS COMMISSION CREATED -- MEMBERS. (1) There is hereby created and  
16 established in the department of self-governing agencies the Idaho forest products commission, to be composed of five  
17 (5) voting members appointed by the governor from a list of names with at least two (2) names for each appointive office  
18 for each district submitted to the governor by the financial supporters of the commission in each district. Initial members  
19 of the commission shall serve either a three (3) or five (5) year term, with two (2) members of the commission serving  
20 three (3) year terms, and three (3) members of the commission serving five (5) year terms. For the initial commission  
21 members, the duration of each member's term shall be determined by lot. Thereafter, all commission members shall  
22 serve terms of three (3) years, and may be reappointed. The commission shall adopt rules to define the process for filling  
23 vacancies to the commission and to provide for determining the terms of office for all members of the commission after  
24 the expiration of the terms of the original members.

25 (2) The governor shall also name as permanent advisory members to the commission, the director of the  
26 department of lands, a representative of the United States forest service, the dean of the University of Idaho college of  
27 forestry, wildlife and range sciences or the dean's designee, and the executive directors of the intermountain forest  
28 industry association and the associated logging contractors. No advisory member of the commission shall have a vote  
29 on the commission.

30 38-1504. QUALIFICATIONS OF THE MEMBER AND COMPOSITION OF THE COMMISSION. (1) Each  
31 member of the commission shall be nominated and appointed because of their knowledge of forest management, the  
32 forest products industry, or because they possess communications skills which would enhance the ability of the  
33 commission to carry out its duties. Members of the commission shall be residents of the state who derive a substantial  
34 part of their income from association with the forest products industry within the state of Idaho. There shall be a total of  
35 five (5) members from the four (4) districts as follows:

36 District 1. The counties of Boundary, Bonner and Kootenai.

37 District 2. The counties of Shoshone, Benewah, Latah and Clearwater.

38 District 3. Idaho county and all counties north of the Salmon river not heretofore named.

39 District 4. Adams, Valley, Payette, Washington, Ada, Boise, Gem, and all other counties south of the Salmon  
40 river not heretofore named. From this district, the governor shall appoint two (2) members to the commission.

41 (2) The governor shall assure through his appointments to the commission that the commission  
42 membership reflects equitable representation for the timber growing, logging and transportation, and forest products  
43 manufacturing segments of the industry. The commission shall also include no less than one (1) member with  
44 demonstrated experience in communications or natural resource education.

45 38-1505. COMPENSATION OF MEMBERS. Members of the commission shall be compensated as provided  
46 in section 59-509(b), Idaho Code.

1           38-1506. CHAIRMAN AND STAFF OF THE COMMISSION. The commission shall elect a chairman and may  
2 employ clerical or other staff who are not members of the commission.

3           38-1507. MEETINGS OF THE COMMISSION. The commission shall meet not less than four (4) times each  
4 year and at such other times as may be determined by either the chairman or a majority of the commission members.  
5 Any meeting may be held at any location within the state, and at any time.

6           38-1508. DUTIES AND POWERS OF THE COMMISSION. (1) Consistent with the general purposes of this  
7 chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

8           (2) In the administration of the provisions of this chapter, the commission shall, in conjunction and  
9 cooperation with other entities which represent the forest products industry, have the following duties, authorities and  
10 powers:

11           (a) Conduct research and surveys to determine public attitudes and levels of knowledge regarding forest  
12 management and the forest products industry;

13           (b) Design educational campaigns and other needed efforts to provide the public with accurate information  
14 regarding the management of Idaho's forest lands and the forest products industry;

15           (c) Be an advocate for the proper management of Idaho's forest lands and for a healthy forest products  
16 industry in the state;

17           (d) Be a source of accurate and timely data regarding the forest resource and the forest products industry;

18           (e) Make projections regarding future timber supplies, availability of timber, new or existing products and  
19 markets, and other biological or social trends which might affect forest management or the forest products  
20 industry in Idaho; and

21           (f) Cooperate with any local, state or national organization or agency, whether voluntary or created by the  
22 law of any state or by national law, engaged in work or activities similar to the work and activities of the  
23 commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a  
24 joint campaign of research, education and publicity.

25           (3) The commission shall also have the duty, power and authority;

26           (a) To take such actions as the commission deems necessary or advisable to stabilize and protect the  
27 forest products industry of the state and the health and welfare of the public;

28           (b) To sue and be sued;

29           (c) To enter into such contracts as may be necessary or advisable;

30           (d) To appoint and employ officers, agents and other personnel, including experts in publicizing forest  
31 management or the forest products industry, and to prescribe their duties and fix their compensation;

32           (e) To make use of such advertising means and methods as the commission deems advisable and to enter  
33 into contracts and agreements for research and advertising within the state;

34           (f) To lease, purchase or own the real or personal property deemed necessary in the administration of the  
35 provisions of this chapter;

36           (g) To prosecute in the name of the state of Idaho any suit or action for collection of any tax or assessment  
37 provided for in this chapter;

38           (h) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for  
39 the procedure and exercise of its powers and the performance of its duties;

40           (i) To incur indebtedness and carry on all business activities; and

41           (j) To keep books and records and accounts of all its doings, which books, records, and accounts shall  
42 be open to the inspection and audit by the state auditor and public at all times.

43           38-1509. LIMITATIONS TO THE POWERS OF THE COMMISSION. Irrespective of such actions as may be  
44 taken by individual members of the commission, the commission itself shall not use any funds or other resources of the  
45 commission to influence the outcome of any election for public office, be it state or federal, or to influence the enactment  
46 or defeat of any specific piece of legislation; provided, however, the commission may, in the course of implementation

1 of this chapter, generally and objectively inform the public of legislative or regulatory proposals which may affect the  
2 management of public or private forests in Idaho or the forest products industry.

3 38-1510. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may accept  
4 grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which  
5 may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter shall  
6 be paid into a bank account in the name of the Idaho forest products commission and such moneys are hereby  
7 continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions  
8 of this chapter.

9 38-1511. BONDS OF AGENTS AND EMPLOYEES. Any agent or employee appointed by the commission shall  
10 be bonded to the state of Idaho in the time, form, and manner as prescribed in chapter 8, title 59, Idaho Code. The cost  
11 of the bond is an administrative expense under this chapter.

12 38-1512. APPOINTMENT OF STAFF, DUTIES, SALARY. The commission may appoint clerical or other staff,  
13 on either a full or part time basis, who shall devote their time to the administration of the provisions of this chapter. The  
14 staff shall be paid reasonable salaries as fixed by the commission, commensurate with their duties and experience.

15 38-1513. ESTABLISHMENT OF THE COMMISSION'S OFFICE. For the convenience of the majority of those  
16 most likely to be affected by the administration of this act, the commission shall establish and maintain an office within  
17 the state of Idaho.

18 38-1514. STATE NOT LIABLE FOR ACTS OR OMISSIONS OF THE COMMISSION OR OF ITS EMPLOYEES.  
19 The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent  
20 or employee thereof.

21 38-1515. IMPOSITION OF ASSESSMENTS AND PROVISION FOR LATE FEES. (1) From and after the first  
22 day of July, 1995, the commission is hereby authorized to levy the following assessments:

23 (a) For all forest products manufacturers, an amount no greater than fifty cents (50¢) per thousand board  
24 feet or the equivalent thereof for all logs either harvest in Idaho or measured or processed by a manufacturing  
25 entity located in the state of Idaho, regardless of the state in which the logs might have been cut. For purposes  
26 of this chapter, "forest products manufacturers" shall include those business entities which buy timber in Idaho  
27 and then sell it to other persons outside the state for manufacture into finished products. Such business entities  
28 shall be liable for the assessments described in this paragraph for all timber cut within Idaho and then distributed  
29 to other persons outside the state.

30 (b) For all business entities engaged in the harvest or transport of timber, logs, unfinished lumber, chips,  
31 sawdust, shavings or Hog fuel in Idaho, a sum no greater than twenty-five dollars (\$25.00) per employee,  
32 including single, self-employers and the individuals involved in partnerships, as measured by the records of the  
33 department of employment during the month of July of the preceding year, or as identified in (2) below, provided,  
34 however, those business entities engaged solely in the harvest or transport of those exclusions to forest products  
35 manufacturers as set forth in subsection (7) (a), (b), (c), and (d) of section 38-1502, Idaho Code, shall owe no  
36 duty or assessment under this chapter, nor shall any assessment levied upon forest products transported by  
37 railroad.

38 (c) For business entities or persons owning more than fifty thousand (50,000) acres of private forest land  
39 within the state of Idaho, but with no facilities for manufacturing forest products within the state, a sum no greater  
40 than sixteen and sixty-six one hundredths cents (16.66¢) per each acre of forest land, provided, however, that  
41 this assessment shall be reduced by an amount equal to the assessment described in paragraph (a) of this  
42 subsection for all logs harvested from that land in the preceding calendar year and assessed in this section.

1 Persons owning less than a total of fifty thousand (50,000) acres of forest land in the state shall bear no  
 2 assessment or fee pursuant to the provisions of this subsection.

3 (d) No firm or business entity shall be liable for assessments under this chapter in more than one (1) of  
 4 the categories described in this section. In the event that a person, firm or business entity qualifies to pay more  
 5 than one (1) assessment as described herein, then the greater of the assessments shall be assessed, due and  
 6 payable.

7 (2) In collecting assessments due the commission, the commission is authorized to cooperate with and  
 8 coordinate its actions to collect assessments with the various efforts of Idaho board of scaling practices, the tax  
 9 commission, the department of employment, the department of transportation and the department of lands to either collect  
 10 assessments or taxes due under the provisions of this chapter or to identify those who may owe assessments under the  
 11 provisions of this chapter.

12 (3) Any person or firm who makes payment to the commission at a date later than that prescribed in rules  
 13 set forth by the commission under this section may be subject to a late payment penalty as set forth by the commission  
 14 by rule. Such penalty shall not exceed fifteen percent (15%) per annum on the amount due. In addition to the above  
 15 penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the  
 16 collection of the tax and penalty provided for in this section.

17 (4) An assessment levied under this chapter shall be based upon data compiled from the base year.  
 18 Assessments shall be paid to the commission according to such rules as may be adopted by the commission.

19 38-1516. PENALTIES. Any person who shall violate or aid in the violation of any of the provisions of this chapter  
 20 shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than one thousand dollars  
 21 (\$1,000) or by imprisonment not to exceed ninety (90) days or by both. Fines collected for violations shall be paid into  
 22 the fund which accrues to administer the provisions of this chapter.

23 38-1517. DEPOSIT AND DISBURSEMENTS OF FUNDS. (1) Immediately upon receipt, all moneys received  
 24 by the commission shall be deposited in one or more banks or trust companies approved under chapter 27, title 67, Idaho  
 25 Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are  
 26 hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

27 (2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such  
 28 accounts signed by two (2) officers designated by the commission when the amount of such payments exceed two  
 29 thousand dollars (\$2,000). Such designees may include the members of the staff of the commission.

30 (3) The right is reserved to the state of Idaho to audit the funds to the commission at anytime.

31 (4) On or before January 15 of each year, the commission shall file with the senate and house committees  
 32 responsible for natural resources, the legislative budget office, the state auditor, and the division of financial management,  
 33 a report showing the annual income and expenses by standard classification of the commission for the preceding year.  
 34 The report shall also include an estimate of income of the commission for the current and next fiscal year and a projection  
 35 of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1994, the report shall  
 36 also include a reconciliation between the estimated income and expenses projected and the actual income and expenses  
 37 of the preceding year.

38 (5) All moneys received or expended by the commission shall be audited annually by a certified public  
 39 accountant designated by the commission, who shall furnish a copy of such audit to the state auditor. The audit shall be  
 40 completed within ninety (90) days following the close of the fiscal year.

41 (6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007  
 42 and 67-2008, Idaho Code.

43 38-1518. DISSOLUTION OF THE COMMISSION. (1) Subject to the conditions set forth in this section, the  
 44 commission may be dissolved upon a vote, carried out by written ballot by all those who have paid assessments to the  
 45 commission during the calendar year immediately preceding the vote. No such referendum may take place at any time  
 46 prior to three (3) years from the date of enactment of this chapter. No such vote may be taken unless first approved by

1 a majority of the commission who shall then report to those who have paid assessments to the commission for the  
2 reasons for the recommend dissolution together with any opposing views held by members of the commission, provided,  
3 however, that financial supporters who, together represent no less than fifty percent (50%) of the total assessments paid  
4 to the commission in the preceding year, or financial supporters who, together represent no less than ten percent (10%)  
5 of the total financial supporters for the preceding year may petition for a vote of dissolution without the approval of the  
6 commission. In no case, however, shall the commission be dissolved through a vote of the financial supporters unless  
7 the vote in favor of the dissolution exceeds sixty percent (60%) of the total assessments paid to the commission in the  
8 preceding year. One dollar (\$1.00) of assessment collected shall equal one (1) vote.

9 (2) Should such dissolution as described in this section occur, any unencumbered funds held by the  
10 commission shall be divided equally among private or public groups or agencies which, in the judgment of the  
11 commission, can best carry out the duties and authorities of the commission.