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1 State Board of Examiners, 104 Idaho 640, 642(1983)), and "shall forever re-
2 main inviolate and intact" (U.S. v. Fenton, 27 F. Supp. 816 (1939));

3 (5) It is hereby found, therefore, that trust assets must be managed to
4 foster and promote their long term stability and permanency, and that the use
5 of trust assets in the acquisition, holding, owning or operation of a poten-
6 tially unlimited spectrum of business enterprises by the Idaho state board
7 of land commissioners, except as provided herein, will expose trust assets
8 to undue risk of loss and will not provide the appropriate standard of sta-
9 bility and permanency required for their "long term" management;

10 (6) The protection of trust assets will be further fostered and pro-
11 moted by requiring that proceeds from the sale of state endowment lands de-
12 posited into the land bank fund pursuant to section 58-133(2), Idaho Code, be
13 immediately transferred to the permanent endowment fund for the benefit of
14 the respective endowment beneficiaries;

15 (7) In accordance with the preceding findings, the legislature of the
16 state of Idaho hereby enacts this act for the sole purpose of protecting and
17 benefiting the beneficiaries of the trust assets.

18 SECTION 2. That Section 58-104, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 58-104A. STATE LAND BOARD -- POWERS AND DUTIES. The state board of land
21 commissioners shall have power:

22 1. To exercise the general direction, control and disposition of the
23 public lands of the state; provided however that, except where the land is
24 used by a public entity for a public purpose, all nonagricultural improve-
25 ments on said land shall be leased or sold to private persons, and all non-
26 agricultural business operations located on or using said land shall be sold
27 to private persons.

28 2. To appoint its executive officer, the director of the department of
29 lands.

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

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

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

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

42 7. To engage in reseedling and reforestation programs on the public
43 lands of the state.

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

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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 3. 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

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1 of said lands: provided, however, that all state-owned lands classified
2 as chiefly valuable for forestry, reforestation, recreation and watershed
3 protection are hereby reserved from sale and set aside as state forests.

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

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