

IN THE SENATE

SENATE BILL NO. 1218

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO AGRICULTURE; AMENDING SECTION 22-3301, IDAHO CODE, TO REVISE A  
2 DECLARATION OF POLICY; AMENDING SECTION 22-3302, IDAHO CODE, TO REMOVE  
3 AN ASSOCIATION DESCRIPTION AND TO PROVIDE THE NAME OF AN ASSOCIATION;  
4 AMENDING SECTION 22-3304, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION;  
5 AMENDING SECTION 22-3305, IDAHO CODE, TO REMOVE ARCHAIC PROVISIONS  
6 AND TO PROVIDE FOR THE WITHDRAWAL OF A COMMISSIONER'S APPOINTMENT;  
7 AMENDING SECTION 22-3308, IDAHO CODE, TO PROVIDE THAT TWO OR MORE COM-  
8 MISSION MEMBERS MAY MAKE A WRITTEN REQUEST FOR A MEETING; AMENDING  
9 SECTION 22-3309, IDAHO CODE, TO REMOVE REFERENCE TO THE IDAHO STATE  
10 WHEAT GROWERS' ASSOCIATION, TO AUTHORIZE THE CALLING OF REFERENDUMS AND  
11 TO PROVIDE REFERENCE TO SPECIFIC LAW RELATING TO INSPECTION OF BOOKS,  
12 RECORDS AND ACCOUNTS BY THE PUBLIC; AMENDING SECTION 22-3310, IDAHO  
13 CODE, TO PROVIDE FOR THE SOLICITATION OF GRANTS, DONATIONS AND GIFTS BY  
14 THE COMMISSION; AMENDING SECTION 22-3311, IDAHO CODE, TO PROVIDE THAT  
15 THE COMMISSION MAY REQUIRE THAT THE EXECUTIVE DIRECTOR OR ANY AGENT  
16 OR EMPLOYEE APPOINTED BY THE COMMISSION BE BONDED; AMENDING SECTION  
17 22-3312, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO CERTAIN DUTIES  
18 OF THE EXECUTIVE DIRECTOR; REPEALING SECTION 22-3313, IDAHO CODE, RE-  
19 LATING TO ESTABLISHMENT OF THE EXECUTIVE DIRECTOR'S OFFICE; AMENDING  
20 SECTION 22-3315, IDAHO CODE, TO REVISE AN EFFECTIVE DATE AND TO REVISE  
21 PROVISIONS RELATING TO THE MAXIMUM TAX PER BUSHEL ON CERTAIN WHEAT; AND  
22 AMENDING SECTION 22-3318, IDAHO CODE, TO REMOVE REFERENCE TO A SPECIFIC  
23 FUND, TO PROVIDE FOR THE PAYMENT OF FINES INTO CERTAIN ACCOUNTS OF THE  
24 COMMISSION AND TO MAKE TECHNICAL CORRECTIONS.  
25

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

27 SECTION 1. That Section 22-3301, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 22-3301. DECLARATION OF POLICY. It is to the interest of all the people  
30 that the abundant natural resources of Idaho be protected, fully developed  
31 and uniformly distributed. Among the agricultural industries of the state  
32 of Idaho that contribute to the economic welfare of the state is the wheat  
33 industry. ~~Because of a surplus of wheat grown in this state, and because a~~  
34 ~~surplus during recurrent years has become excessive and difficult to market~~  
35 ~~in the available markets, it is necessary, in order to provide a profitable~~  
36 ~~enterprise for the wheat growers of the state and to promote employment of~~  
37 ~~labor and to assist the wheat growers and those in the various industries de-~~  
38 ~~pendent upon the wheat growers, that additional markets be found and devel-~~  
39 ~~oped.~~ It is the purpose of this act to promote the public health and welfare  
40 of the citizens of our state by providing means for the protection, promo-  
41 tion, study, research, analysis and development of markets concerning the  
42 growing and marketing of Idaho wheat.

1 SECTION 2. That Section 22-3302, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 22-3302. WHEAT COMMISSION CREATED -- MEMBERS. There is hereby created  
4 and established in the department of self-governing agencies the "Idaho  
5 Wheat Commission" to be composed of five (5) members appointed by the gov-  
6 ernor, one (1) from each of the five (5) commission districts referred to in  
7 section 22-3304, Idaho Code, who shall be appointed by the governor from a  
8 list of names with at least three (3) names for each appointive office for  
9 each district submitted to the governor by the Idaho State Wheat Growers  
10 Association, Inc., ~~a wheat growers association representing wheat growers~~  
11 ~~throughout the state of Idaho, doing business as the Idaho Grain Producers~~  
12 Association, and they shall hold office for a term of five (5) years. The  
13 dean of the College of Agriculture, University of Idaho, or his duly autho-  
14 rized representative, shall be an ex officio members without vote of the  
15 commission.

16 SECTION 3. That Section 22-3304, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 22-3304. QUALIFICATION OF MEMBERS. (1) Members of the commission  
19 shall be selected and appointed because of their ability and disposition  
20 to serve the state's interest and for knowledge of the state's natural re-  
21 sources. Members shall be citizens over twenty-five (25) years of age,  
22 residents of the state who have been actually engaged in growing wheat in  
23 this state for at least five (5) years, and who derive a substantial portion  
24 of their income from growing wheat in the state of Idaho.

25 (2) There shall be one (1) member from each of the five (5) districts  
26 described hereinafter:

27 District 1. The six (6) northern counties: Boundary, Bonner, Kootenai,  
28 Benewah, Latah and Shoshone.

29 District 2. Nez Perce, Lewis, Idaho, Adams, Washington, Payette, Gem,  
30 Boise, Valley and Clearwater Counties.

31 District 3. Canyon, Owyhee, Ada, Elmore, Camas, Gooding, Twin Falls,  
32 Blaine, Lincoln, Jerome, Minidoka and Cassia Counties.

33 District 4. Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison,  
34 Teton, Bingham and Bonneville Counties.

35 District 5. Power, Bannock, Caribou, Oneida, Franklin and Bear Lake  
36 Counties.

37 SECTION 4. That Section 22-3305, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 22-3305. TERM OF MEMBERS. (1) Each year the governor shall appoint one  
40 (1) member to the commission for a term of five (5) years ending on June 30th,  
41 ~~except the first members who shall be appointed for terms of one (1) to five~~  
42 ~~(5) years each, as follows: District No. 1, three (3) years; District No.~~  
43 ~~2, four (4) years; District No. 3, two (2) years; District No. 4, one (1)~~  
44 ~~year; District No. 5, five (5) years; except that a member appointed to fill~~  
45 a vacancy occurring before the expiration of the term of a member separated

1 from the commission for any cause, shall be appointed for the remainder of  
2 the term of the member whose position has been vacant.

3 (2) Each member shall hold office until his successor is appointed and  
4 qualified.

5 (3) The executive committee of the Idaho State Wheat Growers Associa-  
6 tion, doing business as the Idaho Grain Producers Association, may request  
7 the removal of any commissioner, with or without cause, and upon receipt of  
8 the request the governor shall immediately withdraw the commissioner's ap-  
9 pointment. In the absence of a request or recommendation from the executive  
10 committee, the governor may withdraw a commissioner's appointment only for  
11 incompetence, intemperance, misconduct, neglect or dereliction of duty, or  
12 commission of a felony.

13 SECTION 5. That Section 22-3308, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 22-3308. MEETINGS OF COMMISSION. The commission shall meet at least  
16 once every three (3) months regularly and at such other times as called by  
17 the chairman or upon the written request of two (2) or more commission mem-  
18 bers. The chairman may call special meetings of the commission at any time or  
19 place.

20 SECTION 6. That Section 22-3309, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 22-3309. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the gen-  
23 eral purposes of this chapter, the commission shall establish the policies  
24 to be followed in the accomplishments of such purposes.

25 (2) In the administration of this act, the commission shall, ~~in con-~~  
26 ~~junction with the Idaho State Wheat Growers' Association,~~ have the following  
27 duties, authorities and powers:

28 (a) To conduct a campaign of research, education and publicity.

29 (b) To find new markets for wheat and wheat products.

30 (c) To give, publicize and promulgate reliable information showing the  
31 value of wheat and wheat products for any purpose for which it is found  
32 useful and profitable.

33 (d) To make public and encourage the widespread national and interna-  
34 tional use of the special kinds of wheat and wheat products produced  
35 from all varieties of wheat grown in Idaho.

36 (e) To investigate and participate in studies of the problems peculiar  
37 to the producers of wheat in Idaho.

38 (3) The commission shall have the duty, power and authority:

39 (a) To take such action as the commission deems necessary or advisable  
40 in order to stabilize and protect the wheat industry of the state and the  
41 health and welfare of the public.

42 (b) To sue and be sued.

43 (c) To enter into such contracts as may be necessary or advisable.

44 (d) To appoint and employ officers, agents and other personnel, includ-  
45 ing experts in agriculture and the publicizing of the products thereof,  
46 and to prescribe their duties and fix their compensation.

1 (e) To make use of such advertising means and methods as the commission  
2 deems advisable and to enter into contracts and agreements for research  
3 and advertising within and without the state.

4 (f) To cooperate with any local, state or national organization or  
5 agency, whether voluntary or created by the law of any state or by  
6 national law, engaged in work or activities similar to the work and ac-  
7 tivities of the commission, and to enter into contracts and agreements  
8 with such organizations or agencies for carrying on a joint campaign of  
9 research, education and publicity and reciprocal enforcement.

10 (g) To lease, purchase or own the real or personal property deemed nec-  
11 essary in the administration of this act.

12 (h) To prosecute in the name of the state of Idaho any suit or action for  
13 collection of the tax or assessment provided for in this act.

14 (i) To adopt, rescind, modify and amend all necessary and proper or-  
15 ders, resolutions and regulations for the procedure and exercise of its  
16 powers and the performance of its duties, including the calling of any  
17 referendum of the wheat growers in the state of Idaho as deemed neces-  
18 sary by the commission.

19 (j) To incur indebtedness and carry on all business activities.

20 (k) To keep books and records and accounts of all its doings, which  
21 books, records and accounts shall be open to inspection by the state  
22 controller ~~and public~~ at all times and to the public as set forth in  
23 chapter 3, title 9, Idaho Code.

24 SECTION 7. That Section 22-3310, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 22-3310. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The com-  
27 mission may solicit and accept grants, donations and gifts of funds from any  
28 source for expenditure for any purpose consistent with this chapter which  
29 may be specified as a condition of any grant, donation or gift. All funds re-  
30 ceived under the provisions of this chapter shall be paid into a bank account  
31 in the name of the Idaho wheat commission and such moneys are hereby continu-  
32 ously appropriated and made available for defraying the expenses of the com-  
33 mission in carrying out the provisions of this chapter.

34 SECTION 8. That Section 22-3311, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 22-3311. BONDS OF AGENTS AND EMPLOYEES. The commission may require  
37 that the executive director, or any agent or employee appointed by the com-  
38 mission shall be bonded to the state of Idaho in the time, form and manner  
39 as prescribed by chapter 8, title 59, Idaho Code. The cost of the bond is an  
40 administrative expense under this chapter.

41 SECTION 9. That Section 22-3312, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 22-3312. APPOINTMENT OF EXECUTIVE DIRECTOR -- DUTIES -- SALARY. The  
44 commission shall appoint an executive director who shall devote full time  
45 to the administration of this chapter. ~~He shall proceed immediately to pre-~~

1 ~~pare the plans and general program necessary and adequate to carry out the~~  
2 ~~policies that are adopted by the commission.~~ The executive director shall be  
3 paid a reasonable salary fixed by the commission, commensurate with his du-  
4 ties, and all necessary expenses.

5 SECTION 10. That Section [22-3313](#), Idaho Code, be, and the same is hereby  
6 repealed.

7 SECTION 11. That Section 22-3315, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 22-3315. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and  
10 after the first day of July, ~~1992~~2012, there is hereby levied and imposed a tax  
11 not to exceed ~~two~~ five cents (25¢) per bushel on all wheat grown in the state  
12 of Idaho or given to Idaho growers under a crop reduction program, and sold  
13 or contracted through commercial channels, and each and every crop grown or  
14 wheat given to growers under a crop reduction program thereafter. The tax  
15 shall be due on wheat given to growers under a crop reduction program and sold  
16 or contracted through commercial channels, regardless of any deduction of  
17 the tax on this same wheat prior to it being given to the grower. The tax  
18 shall be due on or before the time when such wheat is first sold or contracted  
19 in the commercial channels and shall be paid at such time or times as the  
20 commission may, by rule, prescribe, as hereinafter provided, but not later  
21 than the 15th day of the month next succeeding the three (3) month period in  
22 which such wheat is sold or contracted in commercial channels. The commis-  
23 sion shall designate the quarters (three (3) month periods) for the purpose  
24 of collection of this tax.

25 (2) The tax shall be levied and assessed to the grower at the time of de-  
26 livery for sale and shall be deducted by the first purchaser from the price  
27 paid to the grower at the time of sale or in case of a lienholder who may pos-  
28 sess such wheat under his lien, the tax shall be deducted by the lienholder  
29 from the proceeds of the claim secured by such lien at the time the wheat is  
30 pledged or mortgaged. The tax shall be deducted as provided in this section  
31 whether the wheat is stored in this or any other state. The commission may,  
32 however, permit any federal corporation, such as the commodity credit corpo-  
33 ration, to waive its responsibility for the collection of the tax, provided  
34 the amount of the tax is one dollar (\$1.00) or less.

35 (3) It shall be within the discretion of the commission to establish  
36 the amount of the tax to be levied. The amount of the tax to be levied shall  
37 not exceed ~~two~~ five cents (25¢) per bushel for any fiscal year. The decision  
38 whether to adjust the amount of the tax to be levied and the time for which the  
39 adjusted levy shall be in effect shall require the vote of a majority of the  
40 commission members.

41 (4) The tax constitutes a lien prior to all other liens and encumbrances  
42 upon such wheat except liens which are declared prior by operation of a  
43 statute of this state.

44 (5) Any person or firm who makes payment to the commission at a date  
45 later than that prescribed in this section may be subject to a late payment  
46 penalty as set forth by the commission by rule. Such penalty shall not exceed  
47 the rate of fifteen percent (15%) per annum on the amount due. In addition  
48 to the above penalty, the commission shall be entitled to recover all costs,

1 fees, and reasonable attorney's fees incurred in the collection of the tax  
2 and penalty provided for in this section.

3 SECTION 12. That Section 22-3318, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 22-3318. PENALTIES. Any person who shall violate or aid in the viola-  
6 tion of any of the provisions of this act shall be guilty of a misdemeanor  
7 and upon conviction thereof be punished by a fine of not more than three hun-  
8 dred dollars (\$300) or imprisonment not to exceed ninety (90) days, or both.  
9 Fines collected for violation of this act shall be paid into ~~the "Idaho Wheat~~  
10 ~~Commission Fund."~~ any account of the commission established pursuant to sec-  
11 tion 22-3319, Idaho Code.