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SENATE

{ REPORT
109-232

IDAHO LAND ENHANCEMENT ACT

APRIL 20, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of April 7, 2006

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1131]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1131) to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Idaho Land Enhancement Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term “Agreement” means the agreement executed in April 2005 entitled “Agreement to Initiate, Boise Foothills—Northern Idaho Land Exchange”, as modified by the agreement executed in March 2006 entitled “Amendment No. 1”, and entered into by—

- (A) the Bureau of Land Management;
- (B) the Forest Service;
- (C) the State; and
- (D) the City.

(2) BUREAU OF LAND MANAGEMENT LAND.—The term “Bureau of Land Management land” means the approximately 605 acres of land administered by the Bureau of Land Management (including all appurtenances to the land) that is proposed to be acquired by the State, as identified in exhibit A2 of the Agreement and as generally depicted on the maps.

(3) BOARD.—The term “Board” means the Idaho State Board of Land Commissioners.

(4) CITY.—The term “City” means the city of Boise, Idaho.

(5) **FEDERAL LAND.**—The term “Federal land” means the Bureau of Land Management land and the National Forest System land.

(6) **MAPS.**—The term “maps” means maps 1 through 7 entitled “Parcel Identification Map: Idaho Lands Enhancement Act Land Exchange” and dated February 28, 2006.

(7) **NATIONAL FOREST SYSTEM LAND.**—The term “National Forest System land” means the approximately 7,220 acres of land (including all appurtenances to the land) that is—

(A) administered by the Secretary of Agriculture in the Idaho Panhandle National Forests and the Clearwater National Forest;

(B) proposed to be acquired by the State;

(C) identified in exhibit A2 of the Agreement; and

(D) generally depicted on the maps.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(9) **STATE.**—The term “State” means the State of Idaho, Department of Lands.

(10) **STATE LAND.**—The term “State land” means the approximately 11,815 acres of land (including all appurtenances to the land) administered by the State that is proposed to be acquired by the United States, as identified in exhibit A1 of the Agreement and as generally depicted on the maps.

SEC. 3. LAND EXCHANGE.

(a) **IN GENERAL.**—In accordance with the Agreement and this Act, if the State offers to convey the State land to the United States, the Secretary and the Secretary of Agriculture shall—

(1) accept the offer; and

(2) on receipt of title to the State land, simultaneously convey to the State the Federal land.

(b) **VALID EXISTING RIGHTS.**—The conveyance of the Federal land and State land shall be subject to all valid existing rights.

(c) **EQUAL VALUE EXCHANGE.**—

(1) **IN GENERAL.**—The value of the Federal land and State land to be exchanged under this Act—

(A) shall be equal; or

(B) shall be made equal in accordance with subsection (d).

(2) **APPRAISALS.**—The value of the Federal land and State land shall be determined in accordance with appraisals—

(A) conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice;

(B) reviewed by an interdepartmental review team comprised of representatives of Federal and State agencies; and

(C) approved by the Secretary or the Secretary of Agriculture, as appropriate.

(d) **CASH EQUALIZATION.**—

(1) **IN GENERAL.**—If the value of the Federal land and State land is not equal, the value may be equalized by the payment of cash to the United States or to the State, as appropriate, in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(2) **DISPOSITION AND USE OF PROCEEDS.**—

(A) **DISPOSITION OF PROCEEDS.**—Any cash equalization payments received by the United States under paragraph (1) shall be deposited in the fund established under Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a).

(B) **USE OF PROCEEDS.**—Amounts deposited under subparagraph (A) shall be available to the Secretary of Agriculture, without further appropriation and until expended, for the acquisition of land and interests in land for addition to the National Forest System in the State.

(e) **TIMING.**—It is the intent of Congress that the land exchange authorized and directed by this Act shall be completed not later than 180 days after the date of enactment of this Act.

(f) **RIGHTS-OF-WAY.**—

(1) **RIGHTS-OF-WAY TO NATIONAL FOREST SYSTEM LAND.**—The Secretary of Agriculture, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to the State any easements or other rights-of-way to National Forest System land that are—

(A) appropriate to provide access to the National Forest System land acquired by the State; and

(B) agreed to by the Secretary of Agriculture and the State.

(2) RIGHTS-OF-WAY TO STATE LAND.—The State shall convey to the United States any easements or other rights-of-way to land owned by the State that are—

(A) appropriate to provide access to the State land acquired by the United States; and

(B) agreed to by—

- (i) the Secretary or the Secretary of Agriculture; and
- (ii) the State.

(g) COSTS.—The City, either directly or through a collection agreement with the Secretary and the Secretary of Agriculture, shall pay the administrative costs associated with the conveyance of the Federal land and State land, including the costs of any field inspections, environmental analyses, appraisals, title examinations, and deed and patent preparations.

SEC. 4. MANAGEMENT OF FEDERAL LAND.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—There is transferred from the Secretary to the Secretary of Agriculture administrative jurisdiction over the land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is the approximately 2,110 acres of land that is administered by the Bureau of Land Management and located in Shoshone County, Idaho, as generally identified in exhibit A3 of the Agreement.

(3) WILDERNESS STUDY AREAS.—Any land designated as a Wilderness Study Area that is transferred to the Secretary of Agriculture under paragraph (1) shall be managed in a manner that preserves the suitability of land for designation as wilderness until Congress determines otherwise.

(b) ADDITIONS TO THE NATIONAL FOREST SYSTEM.—The Secretary of Agriculture shall administer any land transferred to, or conveyed to the United States for administration by, the Secretary of Agriculture in accordance with—

(1) the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 480 et seq.); and

(2) the laws (including regulations) applicable to the National Forest System.

(c) LAND TO BE MANAGED BY THE SECRETARY.—The Secretary shall administer any State land conveyed to the United States under this Act for administration by the Secretary in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) other applicable laws.

(d) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Idaho Panhandle National Forests and the Clearwater National Forest shall be considered to be the boundaries of the Idaho Panhandle National Forests and the Clearwater National Forest, respectively, as of January 1, 1965.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) LEGAL DESCRIPTIONS.—The Secretary, the Secretary of Agriculture, and the Board may modify the descriptions of land specified in the Agreement to—

(1) correct errors; or

(2) make minor adjustments to the parcels based on a survey or other means.

(b) REVOCATION OF ORDERS.—Subject to valid existing rights, any public land orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(c) WITHDRAWALS.—

(1) FEDERAL LAND.—Subject to valid existing rights, pending completion of the land exchange, the Federal land is withdrawn from—

(A) all forms of location, entry, and patent under the mining and public land laws; and

(B) disposition under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(2) STATE LAND.—Subject to valid existing rights, the land transferred to the United States under this Act is withdrawn from—

(A) all forms of location, entry, and patent under the mining and public land laws; and

(B) disposition under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(3) EFFECT.—Nothing in this section precludes the Secretary or the Secretary of Agriculture from using common varieties of mineral materials for construction and maintenance of Federal roads and facilities on the State land acquired under this Act.

PURPOSE OF THE MEASURE

The purpose of S. 1131 is to direct an exchange of approximately 7,220 acres of National Forest land and 605 acres of Bureau of Land Management land in Idaho for approximately 11,815 acres of the State of Idaho's land.

BACKGROUND AND NEED

Since the late 1960s, the issue of conserving the Boise Foothills as open space has been a significant concern of the city of Boise community. Support for conservation efforts has continued to grow within the community, culminating in May 2001 with the citizens of Boise, in one of the highest voter turnouts in city history, electing to tax Boise City residents in order to provide funding to secure permanent public open space in the Boise Foothills.

Approximately 7,700 acres of land in the Boise Foothills is owned by the State of Idaho, and the State is mandated under its constitution to manage these State Endowment lands to maximize revenue. While the city of Boise was able to conserve approximately 3,400 acres of these lands through other exchanges, it has faced a number of challenges in protecting the remainder.

The city of Boise, the State of Idaho, the Forest Service, and the Bureau of Land Management collaboratively produced an agreement that uses both Bureau of Land Management and Forest Service lands to balance an exchange with Idaho State Endowment lands on an equal-value basis. The agreement includes Federal and State lands across a broad area in the State.

The process of developing the exchange proposal has been open, and the exchange appears to have wide support in the State. The city of Boise has facilitated public meetings, provided opportunities for public comment, met with many of the affected counties, and has made drafts of the maps of the exchange available to the public. In addition, a multi-agency group has evaluated timber values, minerals, cultural resources, water rights, legal access, wildlife, fisheries, vegetation, hydrology, wetlands, threatened and endangered species, and specific habitat.

Public comments on the proposed exchange concepts were solicited beginning September 20, 2004. Through press releases and mailings, the public was encouraged to attend any one of the Open House meetings in Kellogg, St. Maries, Moscow, and Boise. Written comments were also encouraged through the use of self-addressed stamped questionnaires and through an online website. Tribal governments were contacted independently of the public comment.

The city of Boise has made a substantial investment of local property-tax dollars in the facilitation of this land exchange. This exchange will complete a statewide collaborative process that represents a legacy of local, State, and Federal cooperation regarding land management interests throughout the State.

LEGISLATIVE HISTORY

S. 1131 was introduced by Senator Craig on May 26, 2005. The Subcommittee on Public Lands and Forests held a hearing on S. 1131 on July 20, 2005 (S. Hrg. 109-157). The Energy and Natural Resources favorably reported S. 1131, with amendment in the form

of a complete substitute, by unanimous voice vote on March 8, 2006.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 8, 2006, by a voice vote of a quorum present, recommends that the Senate pass S. 1131 if amended as described herein.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute that refers to an updated agreement among the State of Idaho, the Bureau of Land Management, and the Forest Service dated March 2006 and a new set of maps dated February 28, 2006. It also simplifies the language in section 3 on valid existing rights and appraisal requirements. It adds language providing Congress' intent that the exchange be completed within 180 days of the Act being signed into law, makes technical clarifications, and simplifies both the provisions on acquisition, management, and the Land and Water Conservation Fund. It removes language on the reconfiguration of parcels, which is no longer needed due to the final balance of the exchange, and removes sufficiency language.

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2—provides the short title and definitions, including references to the lands each agency will convey, the maps that depict them, and the agreement under which they will be exchanged.

Section 3(a)—directs the Secretaries of the Interior and Agriculture to exchange the lands, as defined in the Act, in accordance with the agreement.

Subsection 3(b)—provides the exchange shall be subject to all valid existing rights. The Committee is not aware of any water rights on the Federal land that are claimed by the Nez Perce Tribe, as provided for in the Snake River Water Rights Act of 2004 (P.L. 108-447), but, in case there are such rights, subsection (b) makes clear that the conveyances of land directed by this Act would not affect the title to any of the Nez Perce Tribe's water rights.

Subsection 3(c)—requires an equal value exchange subject to appraisals completed under the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. It also directs a review of these appraisals by an interdepartmental review team comprised of representatives of Federal and State Agencies, and approval by the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

Subsection 3(d)—authorizes the exchange to include cash equalization and provides that any cash balance received by the United States shall be deposited in the fund established under the Sisk Act (16 U.S.C. 484a). It further directs that such deposits be utilized to acquire lands for the National Forest System in the State of Idaho.

Subsection 3(e)—provides that Congress intends the exchange to be completed within 180 days after enactment of the Act. The Committee is aware that the State of Idaho, city of Boise, Forest Serv-

ice, and Bureau of Land Management have undertaken environmental analyses and public meetings to help inform the public and Congress of the exchange.

Subsection 3(f)—authorizes and directs the Secretaries of the Interior and Agriculture to exchange access and easements to the State land to be acquired by the United States.

Subsection 3(g)—directs that the city of Boise shall pay for the administrative costs to carry out the exchange.

Section 4(a)—transfers administrative jurisdiction over approximately 2,110 acres of Bureau of Land Management land to the Forest Service.

Section 4(b) and (c)—provides that any lands transferred to the Secretary of the Interior or the Secretary of Agriculture shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), in the case of lands transferred to the Bureau of Land Management, and in accordance with the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 480 et seq.), and the laws (including regulations) applicable to the National Forest System, in the case of lands transferred to the Forest Service. Additionally, it directs that any land designated as a Wilderness Study Area that is transferred to the Secretary of Agriculture shall be managed in a manner that preserves the suitability of land for designation as wilderness until Congress determines otherwise.

Subsection 4(d)—directs that lands transferred to the Idaho Panhandle and Clearwater National Forests shall be considered to be within the boundaries of those Forests for the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9)

Section 5—authorizes the Secretaries of the Interior and Agriculture to correct errors and make minor adjustments to descriptions of lands to be exchanged, revokes certain public land orders, subject to valid existing rights, and withdraws the Federal lands from location, entry, and patent under mining and geothermal steam claims and public land laws. It also withdraws the lands acquired by the United States, while allowing the Secretaries of the Interior and Agriculture to use common varieties of mineral material for construction and maintenance of Federal roads and facilities.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

S. 1131—Idaho Land Enhancement Act

S. 1131 would direct the Secretaries of Agriculture and the Interior to convey to the state of Idaho a total of 7,825 acres of federal land in exchange for 11,815 acres of land owned by that state. Under the bill, if the values of the properties to be exchanged are not equal, the parties could either adjust the number of acres or make cash payments to equalize those values. Any federal spending for such payments would be subject to the availability of appropriated funds.

Based on information from the Forest Service and the Department of the Interior, CBO estimates that implementing S. 1131

would have no significant impact on the federal budget. Enacting the bill not affect revenues. According to the agencies, the federal land to be conveyed currently generates no significant collections from natural resource sales or leases and is not expected to do so over the next 10 years; therefore, we estimate that conveying it would not affect offsetting receipts (a credit against direct spending). Based on information from the agencies, we expect any cash equalization payments exchanged under S. 1131 would be negligible. Finally, we also estimate that the proposed exchange would not significantly affect the agencies' administrative costs.

S. 1131 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the city of Boise and the state of Idaho. Any costs that they might incur to complete this exchange would be incurred voluntarily.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1131.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1131.

EXECUTIVE COMMUNICATIONS

The Administration provided its views on S. 1131 during the Subcommittee on Public Lands and Forests hearing on July 20, 2005, as follows:

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SERVICE, U.S. FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for giving me the opportunity to present the views of the U.S. Department of Agriculture on S. 1131, the Idaho Land Enhancement Act of 2005.

The Idaho Land Enhancement Act would authorize the Forest Service and the Bureau of Land Management (BLM) to enter into a collaborative land exchange with the State of Idaho and the City of Boise, Idaho. The exchange was initiated by the City of Boise to preserve open space in the Boise foothills. The exchange culminates a long-term effort by all parties to preserve the character of the Boise foothills, to increase long term financial return to the Idaho State Endowment Fund and to improve land

management through consolidation of land ownership on federal and state lands. The Department supports enactment of S. 1131. We have a few recommendations that we would like the committee to consider.

The Boise metropolitan area is one of the fastest growing regions in the nation. The Boise foothills region provides a scenic backdrop as well as multiple opportunities for outdoor recreation activities by area residents. The State of Idaho manages approximately 6,000 acres of State Endowment lands within the Foothills that have significant residential development potential. These lands have a State Constitutional mandate to maximize revenue to benefit State public schools. These lands currently yield very little revenue from livestock grazing or from any other source thus there are incentives to convey the land out of public ownership.

To reduce the potential of scenic and recreational lands that are highly-valued by the City of Boise from being developed, S. 1131 proposes to convey lands in the foothills from the State of Idaho to the BLM and the Forest Service. To equalize the value of the exchange, federal timbered lands under the jurisdiction of the Forest Service would be conveyed to the State of Idaho. The administrative costs associated with the conveyance of the Federal land and State land would be paid by the City of Boise.

The proposed land exchange addresses threats of unmanaged recreational use, habitat fragmentation, and fire and fuels reduction in both Northern and Southern Idaho. This proposal has been proceeding through the administrative process for land exchanges. Upon determination that the exchange was feasible and worthy of continued study, on April 26, 2005, the City of Boise, Idaho Department of Lands, Forest Service and the BLM signed an agreement to initiate an exchange.

As part of the agreement, BLM, the Forest Service and Boise City agreed to be jointly responsible for completing environmental and cultural review work on Federal lands being transferred to the State of Idaho. Boise City is to pay for contract environmental and cultural review work approved by all parties to the agreement. BLM, the Forest Service, Idaho Department of Lands, and Boise City will be jointly responsible for completing mineral potential reports, also to be paid for by the City of Boise.

Under the agreement, initial NEPA scoping was done. BLM and the Forest Service have completed the following resource assessments: cultural/historic, Threatened and Endangered Species, biological, botanical, noxious weeds, timber, wetlands, floodplains, water resources, recreation, wilderness, visual, socio-economic and environmental justice, mineral and mineral potential. Pursuant to the Congressional Finding in Sec. 5(e), the Forest Service would carry out no further administrative or environmental analysis in completing the exchange as delineated in the bill. We will work with the Committee so that there is a common understanding of the additional administrative or en-

vironmental review that would otherwise be undertaken by the agency.

This agreement provides the framework for S. 1131. Under the proposed exchange, approximately 7,220 acres of National Forest System land within the Idaho Panhandle National Forest and the Clearwater National Forest would be conveyed to the State of Idaho. Approximately 11,085 acres of land under the jurisdiction of the Idaho Department of Lands would be conveyed to the Bureau of Land Management (7,000 acres) and to the U.S. Forest Service (4,085 acres). In addition 2,111 acres in the Grandmother Mountain area currently under the jurisdiction of the Bureau of Land Management in Shoshone County, Idaho would be transferred to the Secretary of Agriculture to be administered by the Forest Service on the Idaho Panhandle National Forests.

Management of National Forest System lands within the Idaho Panhandle, Boise, Wallowa-Whitman and Clearwater National Forests would be improved with the consolidation of land ownership patterns achieved by the Act. Efficiencies will be realized by reducing the number of joint-use roads and easements, and decreasing costs associated with boundary management. Consolidation of National Forest ownership within the Elk Creek watershed will prevent habitat fragmentation and increase opportunities for public recreation in a popular area of the Clearwater National Forest. Likewise, the State of Idaho and the BLM will benefit from land ownership consolidation and increase ability to achieve important management objectives.

The 2,111 acre Grandmother Mountain tract is in an area where other land under BLM jurisdiction was previously transferred to the Forest Service. Through the Arkansas-Idaho Land Exchange Act of 1992 approximately 10,000 acres of land administered by the BLM were conveyed to the Forest Service. The 2,111 acre remaining BLM tract is identified as a Wilderness Study Area. The legislation provides that land transferred to the Forest Service that was previously designated as a Wilderness Study Area shall be managed in a manner that preserves the suitability of the land for designation as wilderness until Congress determines otherwise.

We would like to work with the committee to implement the following recommendations concerning this bill. The intent of Sec. 3 (d) is to require that the exchange be of equal value between state and federal lands, however, the cash equalization provision is the only method described to facilitate this result. Since none of the parties wish to incur a large cash obligation, we recommend adding a provision allowing for the deletion of parcels as an alternative method of equalizing values.

There are several of the State of Idaho parcels that would be acquired by the Forest Service that are located adjacent to but outside of the existing National Forest boundaries. We recommend amending Sec. 4(e) to modify

the boundaries on all four of the affected National Forest to accommodate these parcels.

This concludes my statement, I would be happy to answer any questions that you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1131 as ordered reported.

