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105TH CONGRESS }
2d Session }

SENATE

{ REPORT
105-393

IDAHO ADMISSION ACT

OCTOBER 9 (legislative day, OCTOBER 2), 1998.—Ordered to be printed

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

REPORT

[To accompany H.R. 4166]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4166) to amend the Idaho Admission Act regarding the sale or lease of school land, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

H.R. 4166, as ordered reported, amends the Idaho Admission Act to provide for: (1) establishment of an Earnings Reserve Fund; (2) authorization of a land bank fund for additional land purchases; (3) elimination of the current ten year term for leases on school endowment lands; and (4) the removal of the current requirement that the State issue leases for school endowment lands at public auction.

BACKGROUND AND NEED

In writing the 1890 law that made Idaho the 43rd State, Congress set aside 3.5 million acres of land as a permanent endowment to help finance the education of Idaho children in the 20th century. These lands are spread throughout the State, and are managed for the financial benefit of Idaho. The Idaho Admission Act is very specific about how these lands are to be administered. While these restrictions worked well in 1890, some of them have now become outdated.

Section 5 of the Idaho Admission Act of 1890 created the endowment fund, and contains rules governing the sale and lease of endowment lands. H.R. 4166 would employ modern financial tools to

benefit Idaho's children. H.R. 4166 will replace section 5 with a new section that gives land and investment managers greater flexibility in managing both the endowment lands and endowment funds.

H.R. 4166 would give the State the authority to establish a new land bank fund which can be used to purchase additional land. For example, this land bank would allow the State to sell land that is difficult to manage in order to purchase land of higher functionality and greater investment return. This legislation also establishes an Earnings Reserve Fund. The Earnings Reserve Fund would give investment managers greater flexibility to make investments that have higher returns and facilitate a steadier and higher stream of distributions. Lastly, the legislation repeals the 10-year limit on leases on endowment lands, and allows the State Land Board to establish agreements that will maximize the long-term financial return on any lease that is made.

LEGISLATIVE HISTORY

H.R. 4166 was introduced by Congressman Crapo on June 25, 1998. The House Committee on Resources ordered H.R. 4166 reported by voice vote on August 5, 1998. On September 15, 1998 the bill passed House by voice vote.

The Senate companion bill, S. 2226, sponsored by Senators Craig and Kempthorne, received a hearing on July 22, 1998, before the Subcommittee on Forests and Public Land Management. At an open business meeting held on September 23, 1998, the Committee on Energy and Natural Resources ordered H.R. 4166 to be favorably reported, without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 23, 1998, by unanimous voice vote of a quorum present recommends that the Senate pass H.R. 4166.

SECTION-BY-SECTION ANALYSIS

Section 1 replaces section 5 of the Idaho Admissions Act (26 Stat. 215, chapter 656) with new language.

Subsection (a) states that, except as provided in subsection (c), all land granted under this Act for educational purposes shall be sold only at public sale. It further requires that proceeds of the sale of school land be deposited in the public school permanent endowment fund and expended only for the support of public schools, unless the proceeds are deposited in a land bank fund to be used to acquire other land in the State for the benefit of the public school permanent endowment fund. In addition, this subsection states that, if the proceeds are not used to acquire other land in the State within a period specified by State law, the proceeds shall be transferred to the public school permanent endowment fund. Finally, this subsection requires that any earnings on amounts in the public school permanent endowment fund be deposited in an earnings reserve fund to be used for the support of public schools.

Subsection (b) provides that any land granted under this Act for educational purposes may be leased in accordance with State law.

Subsection (c) states that the land granted for educational purposes under this Act may be exchanged for other public or private land and requires that the values of exchanged lands shall be approximately equal. This subsection authorizes values to be equalized by the payment of funds by the appropriate party if values are not approximate equal. Additionally, this subsection states that a land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land. This subsection also states that all exchanges made with the United States before the date of enactment of this paragraph are approved.

Subsection (d) provides that the land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption or entry, and shall be reserved for school purposes only.

COST AND BUDGETARY CONSIDERATION

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4166, an act to amend the Idaho Admission Act regarding the sale or lease of school land.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4166—An act to amend the Idaho Admission Act regarding the sale or lease of school land

H.R. 4166 would amend the Idaho Admission Act to provide the state with greater flexibility in managing lands given to it by the federal government in 1890 and placed in an endowment to benefit public education. These changes would conform federal statute to recent amendments to the state constitution enacted by the Idaho State Legislature.

CBO estimates that enacting this legislation would have no impact on the federal budget. Because H.R. 4166 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 4166 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 4166 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On August 12, 1998, CBO submitted a cost estimate for H.R. 4166, as ordered reported by the House Committee on Resources. The two versions are identical, as are the cost estimates.

The CBO staff contact for this estimate is Marjorie Miller. This estimate was approved by Robert A. Sunshine, 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 H.R. 4166.

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 H.R. 4166.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF GLORIA MANNING, ASSOCIATE DEPUTY
CHIEF, NATIONAL FOREST SYSTEMS, FOREST SERVICE,
DEPARTMENT OF AGRICULTURE

Mister Chairman and Members of the Subcommittee: I am Gloria Manning, Associate Deputy Chief for National Forest Systems. I am pleased to be here to share the Administration's view on S. 2226, which would amend the Idaho Admission Act with regard to the sale or lease of school land.

S. 2226 IDAHO SCHOOL LAND AMENDMENT

S. 2226 would amend the Idaho Admission Act with regard to the sale or lease of school land. The Administration takes no position on this bill because it reflects the will of the State of Idaho in regards to the disposition of Idaho state lands.

The Idaho State Legislature passed amendments to the Idaho State Constitution which removes the 10 year limit for the lease of public state lands and prohibits the use of public auction for awarding leases. In general, the Administration supports term limits for public land leases to ensure implementation of appropriate conservation and land management objectives that reflect current science. Term limits also provide a natural enforcement mechanism to protect the public interests in land use. The elimination of competitive bidding for public land leases undermines the public's ability to collect full value for the use of public land and sometimes prohibits viable panners from having the privilege of using public lands. The Administration

does not oppose the legislation that affects land entirely under the jurisdiction of the State of Idaho, but does not condone the land management principles inherent in the legislation before the Committee.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate changes in existing law made by the bill H.R. 4166, as ordered reported, are shown as follows:

IDAHO ADMISSION BILL

[26 Stat. L. 215, ch. 656.]

* * * * *

【§ 5. Sale or lease of school lands.—(a) Except as provided in subsection (b) all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. Such lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than ten years, and in the case of an oil, gas, or other hydrocarbon lease or a geothermal resource and associated byproducts lease, for as long thereafter as such product is produced in paying quantities or the lessee in good faith is conducting well drilling or construction operations, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

(b) Such lands may be exchanged for other lands, public or private. The values of such lands so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of money by the appropriate party. If any such lands are exchanged with the United States, such exchange shall be limited to Federal lands within the State that are subject to exchange under the laws governing the administration of such lands. All such exchanges heretofore made with the United States are hereby approved. [As amended 56 Stat. L. 48, ch. 36, approved February 6, 1942; 63 Stat. L. 714, ch. 622, approved October 6, 1949; 88 Stat. 1821, Pub. L. 93–562, approved December 30, 1974.】

SEC. 5. SALE, LEASE, OR EXCHANGE OF SCHOOL LAND

(a) SALE.—

(1) *IN GENERAL.*—*Except as provided in subsection (c) all land granted under this Act for educational purposes shall be sold only at public sale.*

(2) *USE OF PROCEEDS.*—

(A) *IN GENERAL.*—*Proceeds of the sale of school land—*

(i) except as provided in clause (ii), shall be deposited in the public school permanent endowment fund and expended only for the support of public schools; and

(ii)(I) may be deposited in a land bank fund to be used to acquire, in accordance with State law, other land in the State for the benefit of the beneficiaries of the public school permanent endowment fund; or

(II) if the proceeds are not used to acquire other land in the State within a period specified by State law, shall be transferred to the public school permanent endowment fund.

(B) *EARNINGS RESERVE FUND.*—Earnings on amounts in the public school permanent endowment fund shall be deposited in an earnings reserve fund to be used for the support of public schools of the State in accordance with State law.

(b) *LEASE.*—Land granted under this Act for educational purposes may be leased in accordance with State law.

(c) *EXCHANGE.*—

(1) *IN GENERAL.*—Land granted for educational purposes under this Act may be exchange for other public or private land.

(2) *VALUATION.*—The values of exchanged lands shall be approximately equal, or, if the values are not approximately equal, the values shall be equalized by the payment of funds by the appropriate party.

(3) *EXCHANGES WITH THE UNITED STATES.*—

(A) *IN GENERAL.*—A land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land.

(B) *PREVIOUS EXCHANGES.*—All land exchanges made with the United States before the date of enactment of this paragraph are approved.

(d) *RESERVATION FOR SCHOOL PURPOSES.*—Land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption, homestead entry, or any other form of entry under the land laws of the United States, but shall be reserved for school purposes only.