

## Calendar No. 623

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 105-401

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### INTERSTATE 90 LAND EXCHANGE ACT OF 1998

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

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

### REPORT

[To accompany S. 2136]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2136) to provide for the exchange of certain land in the State of Washington, 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 “Interstate 90 Land Exchange Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land located in central and southwest Washington are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as parts of the Mt. Baker-Snoqualmie National Forest, Wenatchee National Forest, and Gifford Pinchot National Forest.

(2) the private land surface estate and some subsurface is owned by the Plum Creek Timber Company, L.P. in an intermingled checkerboard pattern, with the United States or Plum Creek owning alternate square mile sections of land or fractions of square mile sections;

(3) the checkerboard land ownership pattern in the area has frustrated sound and efficient land management on both private and National Forest lands by complicating fish and wildlife habitat management, watershed protection, recreation use, road construction and timber harvest, boundary administration, and protection and management of threatened and endangered species and old growth forest habitat;

(4) acquisition by the United States of certain parcels of land that have been offered by Plum Creek for addition to the Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest will serve important public objectives, including—

(A) enhancement of public access, aesthetics and recreation opportunities within or near areas of very heavy public recreational use including—

- (i) the Alpine Lakes Wilderness Area;
- (ii) the Pacific Crest Trail;
- (iii) Snoqualmie Pass;
- (iv) Cle Elum Lake, Kachess Lake and Keechulus Lake; and
- (v) other popular recreation areas along the Interstate 90 corridor east of the Seattle-Tacoma Metropolitan Area;

(B) protection and enhancement of old growth forests and habitat for threatened endangered and sensitive species, including a net gain of approximately 28,500 acres of habitat for the northern spotted owl;

(C) consolidation of National Forest holdings for more efficient administration and to meet a broad array of ecosystem protection and other public land management goals, including net public gains of approximately 283 miles of stream ownership, 14 miles of the route of the Pacific Crest Trail, 20,000 acres of unroaded land, and 7,360 acres of riparian land; and

(D) a significant reduction in administrative costs to the United States through—

- (i) consolidation of Federal land holdings for more efficient land management and planning;
- (ii) elimination of approximately 300 miles of boundary identification and posting;
- (iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and
- (iv) other administrative cost savings;

(5) Plum Creek has selected certain parcels of National Forest system land that are logical for consolidation into Plum Creek ownership utilizing a land exchange because the parcels—

- (A) are intermingled with parcels owned by Plum Creek; and
- (B)(i) are generally located in less environmentally sensitive areas than the Plum Creek offered land; and
- (ii) have lower public recreation and other public values than the Plum Creek offered land;

(6) time is of the essence in consummating a land exchange because delays may force Plum Creek to road or log the offered land and thereby diminish the public values for which the offered land is to be acquired; and

(7) it is in the public interest to complete the land exchange at the earliest practicable date so that the offered land can be acquired and preserved by the United States for permanent public management, use, and enjoyment.

(b) PURPOSE.—It is the purpose of this Act to further the public interest by authorizing, directing, facilitating, and expediting the consummation of the Interstate 90 land exchange so as to insure that the offered land is expeditiously acquired for permanent public use and enjoyment.

### SEC. 3. DEFINITIONS.

In this Act:

(1) OFFERED LAND.—The term “offered land” means all right, title and interest in land described in section 4(b) to be conveyed into the public ownership of the United States under this Act.

(2) PLUM CREEK.—The term “Plum Creek” means Plum Creek Timber Company, L.P., a Delaware Limited Partnership, or its successors, heirs, or assigns.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) SELECTED LAND.—The term “selected land” means all right, title and interest in land described in section 4(c) to be conveyed into the private ownership of Plum Creek under this Act.

### SEC. 4. LAND EXCHANGE.

(a) CONDITION AND CONVEYANCE OF OFFERED LAND.—The exchange directed by this section shall be consummated if, not later than 270 days after the date of enactment of this Act, Plum Creek conveys acceptable title to the Secretary in and to the following offered land:

(1) Certain land comprising approximately 8,340 acres and located within the exterior boundaries of the Mt. Baker-Snoqualmie National Forest, Washington, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated September, 1998; and

(2) Certain land comprising approximately 53,576 acres and located within or adjacent to the exterior boundaries of the Wenatchee National Forest, Washing-

ton, as generally depicted on a map entitled "Interstate 90 Land Exchange", dated September, 1998.

(b) CONVEYANCE OF SELECTED LAND BY THE UNITED STATES.—Upon receipt of acceptable title to the offered land, the Secretary shall simultaneously convey to Plum Creek all right, title and interest of the United States, subject to valid existing rights, in and to the following selected land:

(1) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Mt. Baker-Snoqualmie National Forest, Washington, and comprising approximately 6,137 acres, as generally depicted on a map entitled "Interstate 90 Land Exchange", dated September 1998.

(2) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Wenatchee National Forest, Washington, and comprising approximately 5,197 acres, as generally depicted on a map entitled "Interstate 90 Land Exchange", dated September, 1998.

(3) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Gifford Pinchot National Forest, Washington, and comprising approximately 5,601 acres, as generally depicted on a map entitled "Interstate 90 Land Exchange", dated September, 1998.

**SEC. 5. EXCHANGE VALUATION, APPRAISAL AND EQUALIZATION.**

(a) EQUAL VALUE EXCHANGE.—

(1) IN GENERAL.—The values of the offered and selected land—

(A) shall be equal; or

(B) if the values are not equal, shall be equalized as set forth in subsections (e)–(g).

(2) APPRAISALS.—The values of the offered land and selected land shall be determined by appraisals utilizing nationally recognized appraisal standards, including applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions (1992), the Uniform Standards of Professional Appraisal Practice, and section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716(d)).

(3) APPROVAL BY THE SECRETARY.—The appraisals, if not already completed by the date of enactment of this Act, shall be completed and submitted to the Secretary for approval not later than 180 days after the date of enactment of this Act: *Provided, however*, That all timber activities cease no later than November 30, 1998.

(b) APPRAISAL ASSUMPTION.—

(1) FINDINGS.—Congress finds that—

(A) many of the parcels of offered land and selected land are located within areas that have been or may be designated as critical habitat for species determined to be threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.); and

(B) such a designation can make traditional appraisals of land difficult absent specific guidance from Congress due to present and future uncertainties relating to the duration, scope and nature of restrictions that may be imposed on the offered or selected land as a result of such designation with respect to future timber harvest and other development activities.

(2) APPRAISAL AT HIGHEST AND BEST USE VALUE.—In order to ensure the equitable and uniform appraisal of both the offered and selected lands directed for exchange by this Act, all appraisals under subsection (a) shall determine the highest and best use of the offered and selected land. The appraisal of the timber estate shall be in accordance with applicable provisions of the Washington State Forest Practices Act and rules and regulations thereunder, including alternative measures for protecting critical habitat pursuant to a habitat conservation plan as provided in Washington Administrative Code 222–16–080–(6).

(c) APPRAISAL PERIOD.—After the final appraised values of the offered and selected lands, or any portion of the land, has been approved by the Secretary or otherwise determined under Section 206(d) of the Federal Land Policy and Management Act (43 U.S.C. 1716(d)), the value shall not be reappraised or updated before consummation of the land exchange, except for any adjustments under subsection 6(g).

(d) EQUALIZATION IF SURPLUS OF OFFERED LAND.—

(1) IN GENERAL.—If the final appraised value of the offered land exceeds the final appraised value of the selected land, Plum Creek shall delete offered land parcels from the exchange in the exact order each land Section (or offered portion thereof) is listed in paragraph (2) until the values are approximately equal.

(2) ORDER OF DELETION.—Offered land deletions under paragraph (1) shall be made in the following order:

- (A) Township 22 North, Range 13 East, Section 31, Willamette Median;
  - (B) Township 21 North, Range 11 East, Section 35;
  - (C) Township 19 North, Range 11 East, Section 35;
  - (D) Township 19 North, Range 12 East, Section 1;
  - (E) Township 20 North, Range 11 East, Sections 1 and 13;
  - (F) Township 19 North, Range 12 East, Section 15;
  - (G) Township 20 North, Range 11 East, Section 11;
  - (H) Township 21 North, Range 11 East, Section 27;
  - (I) Township 19 North, Range 13 East, Sections 27 and 15;
  - (J) Township 21 North, Range 11 East, Sections 21 and 25;
  - (K) Township 19 North, Range 11 East, Section 23;
  - (L) Township 19 North, Range 13 East, Sections 21, 9 and 35;
  - (M) Township 20 North, Range 12 East, Sections 35 and 27;
  - (N) Township 19 North, Range 12 East, Section 11;
  - (O) Township 21 North, Range 11 East, Section 17.
- (e) EQUALIZATION IF SURPLUS OF SELECTED LAND.—
- (1) IN GENERAL.—If the final appraised value of the selected land exceeds the final appraised value of the offered land the Secretary shall delete selected land parcels from the exchange in the exact order each land Section (or selected portion thereof) is listed in paragraph (2) until the values are approximately equal.
  - (2) ORDER OF DELETION.—Selected land deletions under paragraph 1 shall be made in the following listed order:
    - (A) Township 21 North, Range 14 East, Sections 28, 22, 36, 26 and 16, Willamette Meridian;
    - (B) Township 18 North, Range 15 East, Sections 13, 12 and 2,
    - (C) Township 18 North, Range 15 East, Section 1;
    - (D) Township 18 North, Range 15 East, Section 17;
    - (E) Township 20 North, Range 11 East, Section 30;
    - (F) Township 19 North, Range 11 East, Section 6; and
    - (G) Township 20 North, Range 11 East, Section 32.
- (f) Once the values of the offered and selected lands are equalized to the maximum extent practicable under subsection (d) or (e), any balance due the Secretary or Plum Creek shall be made through cash equalization payments under subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).
- (g) USE OF PROCEEDS BY THE SECRETARY.—The amount of any cash equalization payment received by the Secretary under this Section shall be retained by the Secretary and shall be used by the Secretary until fully expended to purchase land from willing sellers in the State of Washington for addition to the National Forest System.

#### SEC. 6. MISCELLANEOUS PROVISIONS.

- (a) STATUS OF LAND AFTER EXCHANGE.—
  - (1) LAND ACQUIRED BY THE SECRETARY.—
    - (A) IN GENERAL.—Land acquired by the Secretary under this Act shall become part of the Mt. Baker-Snoqualmie, Gifford Pinchot or Wenatchee National Forests, as appropriate.
    - (B) MODIFICATION OF BOUNDARIES.—If any land acquired by the Secretary lies outside the exterior boundaries of the national forests identified in subparagraph (A), the boundaries of the appropriate national forest are hereby modified to include such land.
    - (C) MANAGEMENT.—Land acquired by the Secretary under this Act shall be managed in accordance with the Act of March 1, 1911 (commonly known as the “Weeks Law”), and with the other laws, rules, regulations and guidelines applicable to the National Forest System.
  - (2) LAND ACQUIRED BY PLUM CREEK.—Land acquired by Plum Creek under this Act shall become private land for all purposes of law, unless the deed by which conveyance is made to Plum Creek contains a specific reservation.
- (b) ACCESS TO LAND ACQUIRED BY PLUM CREEK.—
  - (1) FINDING.—Congress finds that Plum Creek will generally have adequate post-exchange access to the selected land over existing primary, secondary, or other national forest routes, or over existing Plum Creek roads.
  - (2) INTENTION.—It is the intention of Congress that Plum Creek have immediate access to all lands it acquires under this Act.
    - (A) ACCESS WITHIN COST SHARE AGREEMENT AREAS.—Within Cost Share Construction and Use Agreement Areas, the United States shall grant Plum Creek, simultaneous with the transfer of the selected land to Plum Creek, road access easements in accordance with the terms and conditions of said cost share construction and use agreements for the roads identified

on the map entitled “Plum Creek Access Road Needs”, dated September 1998.

(B) ACCESS OUTSIDE COST SHARE AGREEMENT AREAS.—Outside of Cost Share Construction and Use Agreement Areas, the United States shall grant Plum Creek, simultaneous with the transfer of the selected land to Plum Creek, road access easements in a form set out in Forest Service Handbook 2709.12, 35, subject to the Secretary’s rules and regulations 36 CFR 251, subpart B.

(c) ACCESS TO LANDS ACQUIRED BY UNITED STATES.—It is the intent of Congress that the Secretary have post-exchange access to the land acquired by the United States under this Act. Within Cost Share Construction and Use Agreement Areas, Plum Creek shall grant the Secretary, simultaneous with the transfer of the offered land, road access easements in accordance with the terms and conditions of said Cost Share Construction and Use Agreements. Outside of Cost Share Construction and Use Agreement Areas, Plum Creek shall grant the Secretary, simultaneous with the transfer of the offered land, road access easements in a format acceptable to the Secretary.

(d) TIMING.—It is the intent of Congress that the land exchange authorized and directed by this Act be consummated no later than 90 days after the date on which Plum Creek conveys title acceptable to the Secretary, unless the Secretary and Plum Creek mutually agree to extend the consummation date.

(e) WITHDRAWAL OF SELECTED LAND.—Effective upon the date of enactment of this Act, all selected land identified for exchange to Plum Creek under Section 4(c) is hereby withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) until such time as the exchange is consummated, or until a particular parcel or parcels are deleted from the exchange under section 5(e).

(f) WITHDRAWAL OF CLE ELUM RIVER LANDS.—Lands acquired by the Secretary under this Act that are located in Township 23 North, Range 14 East, and Township 22 North, Range 14 East, Willamette Meridian, shall upon the date of their acquisition be permanently withdrawn from all forms of entry and appropriation under the public land laws, including the mineral, mineral leasing and hardrock mining laws.

(g) PARCELS SUBJECT TO HISTORIC OR CULTURAL RESOURCE RESTRICTIONS.—

(1) REPORT TO PLUM CREEK.—No later than 180 days after enactment of this Act, the Secretary shall complete determinations and consultation under the National Historic Preservation Act and submit a report to Plum Creek listing by exact aliquot part description any parcel or parcels of selected land on which use restrictions or mitigation requirements will be imposed. Such report shall include an exact description of each restriction or mitigation action required.

(2) PLUM CREEK RESPONSE.—Prior to making an offer to exchange under section 4(a) of this Act, Plum Creek shall notify the Secretary as to: (i) those parcels it will accept subject to the identified use restrictions or mitigation requirements; and (ii) those parcels it will not accept because the restrictions or mitigation requirements are deemed by Plum Creek to be an unacceptable encumbrance on the land.

(3) PARCEL DELETION.—The Secretary shall delete from the selected land those parcels identified by Plum Creek as unacceptable for conveyance under paragraph (2).

(4) APPRAISAL ADJUSTMENT.—The fair market value of any parcels deleted under paragraph (3), or any modification in fair market value caused by the use restrictions or mitigation requirements on land accepted by Plum Creek, shall be based on their contributory value to the final approved appraised value of the selected land.

#### PURPOSE

The purpose of S. 2136, as ordered reported, is to authorize, direct, facilitate, and expedite the consummation of the Interstate 90 land exchange so as to ensure that the private land is expeditiously acquired for permanent public use and enjoyment.

#### BACKGROUND AND NEED

The proposed Interstate 90 land exchange represents the culmination of many years of efforts by the U.S. Forest Service, the Plum Creek Timber Company (Plum Creek) and interested con-

ervation groups to consolidate checkerboard land holdings along and near the Interstate 90 corridor east of the Seattle-Tacoma Metropolitan Area. The Interstate 90 corridor is rich in wildlife, recreation, watershed, scenic, and other values. It also receives heavy public visitation.

Past land management experience by Plum Creek and the Forest Service in this area, where the Forest Service and Plum Creek own alternate square mile sections of land in a "checkerboard" pattern, can frustrate sound and efficient land management. In particular, different goals and logging standards applicable to private and Federal lands, requests for road access and easements over national forest lands, and other potential development activities have resulted in a great deal of controversy, appeals, and litigation pertaining to use of both the Plum Creek and National Forest lands in the area.

The above mentioned problems have been exacerbated by the fact that popular recreation areas such as Snoqualmie Pass, Keechelus, Kachess and Cle Elum Lakes, and the Alpine Lakes Wilderness Area all lie either within or near the checkerboard lands. In addition, the President's 1993 Northwest Forest Plan has identified the I-90 corridor as a critical connective link in the north-south movement of the Northern Spotted Owl and other species in the Cascade Range. The Northwest Forest Plan directed that one goal of future land management is preservation and reestablishment of a late-successional forest in the area. The goal of preserving or reestablishing a late successional (old growth) forest in the area would conflict with private checkerboard ownership of land by a timber company whose goals are the utilization of its land base for long-term timber production and harvest.

These issues have prompted the effort to achieve consolidation of the checkerboard lands. Numerous discussions and efforts have occurred over the past several decades to achieve a land consolidation. The formal exchange process began in May 1995 when the Forest Service and Plum Creek signed a Memorandum of Understanding to initiate a land exchange feasibility study and enter into a land exchange effort. This process resulted in the release of a Draft Environmental Impact Statement (DEIS) on the proposed exchange in April 1998.

The overall goal of the legislated exchange is to insure that the land exchange will be completed at the earliest possible date by directing its consummation by law. This will provide certainty that the exchange will be expeditiously completed. The lands contain large amounts of roadless land and old growth forest which Plum Creek may be forced to log if an exchange cannot be completed in a timely manner.

#### LEGISLATIVE HISTORY

S. 2136 was introduced on June 5, 1998, by Senator Gorton. The Subcommittee on Forests and Public Land Management held a hearing on S. 2136 on July 22, 1998. At the business meeting on September 23, 1998, the Committee on Energy and Natural Resources ordered S. 2136, as amended favorably reported.

## COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate 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 S. 2136, if amended as described herein.

## COMMITTEE AMENDMENT

During consideration of S.2136, the Committee adopted an amendment in the nature of a substitute. The amendment revises several findings and definitions and adds language regarding conveyance of acceptable title. It adjusts the designated land involved in the exchange. The amendment stipulates a date for cessation of all Plum Creek timber harvest activities. It strikes a provision on dispute resolution regarding valuation of the lands. Several clarifying revisions are made to the process to be used in conducting appraisals. The order of deletion of lands to equalize values is modified. The amendment adds provision that allows cash equalization payments. The amendment clarifies the status of lands upon completion of the exchange. The amendment adds new language regarding access to acquired land, withdrawal of land, and parcels subject to historic or cultural resource restrictions.

## SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Interstate 90 Land Exchange Act of 1998".

Section 2 contains findings and purposes.

Section 3 contains definitions.

Section 4(a) states that the exchange shall be consummated if Plum Creek conveys the identified "offered" lands to the United States within 270 days of enactment of this Act.

Subsection (b) identifies the lands selected for exchange by the Secretary.

Section 5(a) states that the values of the lands to be exchanged must be equal, as determined through traditional Federal appraisal procedures as amended.

Paragraph (3) mandates that the appraisals be completed and submitted to the Secretary for approval not later than 180 days after the date of enactment of this Act provided that all timber harvest ceases on the offered or selected lands not later than November 30, 1998.

Subsection (b) requires that all appraisals determine the highest and best use of the offered and selected land. This subsection requires that the appraisal of the timber estate be in accordance with applicable provisions of the Washington State Forest Practices Act.

Subsection (c) states that, after the appraised values of the offered and selected lands have been approved by the Forest Service, such values shall not be reappraised or updated prior to completion of the exchange. This subsection further states that the values may be adjusted to account for deletions or restrictions of selected land related to historic or cultural resource requirements pursuant to subsection 6(g).

Subsection (d) provides that, if the value of the Plum Creek offered lands exceeds the value of the Forest Service lands, certain

identified and prioritized offered lands shall be deleted from the exchange by Plum Creek.

Subsection (e) provides that if the value of the Forest Service lands to be conveyed to Plum Creek exceeds the value of the Plum Creek lands, the Forest Service shall delete identified and prioritized selected lands from the exchange until the values are approximately equal.

Subsection (f) provides that after the values of the lands to be exchanged have been equalized to the maximum extent practicable under subsection (d) or (e), any balance due Plum Creek or the Secretary will be made through standard cash equalization payments.

Subsection (g) provides that any cash equalization money received by the Secretary will be retained by the Secretary and used to purchase land from willing sellers in the State of Washington for addition to the National Forest System.

Section 6(a) provides that lands acquired by the Forest Service in the exchange will be managed as National Forest System lands in accordance with the Weeks Act and other applicable laws, rules, regulations, and guidelines. Subsection (a) also provides for automatic modification of forest boundaries to include the acquired lands. Lands acquired by Plum Creek will become private lands for all purposes of law.

Subsection (b) recognizes that most lands acquired by Plum Creek will have adequate post-exchange access over already existing roads, and states Congress' intention that Plum Creek have immediate access to all lands it acquires in the exchange.

Subsection (c) provides for access to all lands acquired by the Secretary.

Subsection (d) states that it is the intent of Congress that the land exchange be completed no later than 90 days after the date on which Plum Creek conveys acceptable title to the Secretary, unless extended by mutual agreement of both the Secretary and Plum Creek.

Subsection (e) withdraws, upon the date of enactment of this Act, the lands to be conveyed to Plum Creek from the operation of the mining, mineral leasing and other public land entry laws.

Subsection (f) permanently withdraws lands the United States will acquire from Plum Creek in two townships from future mining or other disposal under the public land laws.

Subsection (g) establishes a specific procedure for Plum Creek to request and obtain deletion of tracts of land that it is scheduled to acquire if the company determines historic or cultural resource deed restrictions or mitigation requirements constitute an unacceptable encumbrance on the land.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, September 30, 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 S. 2136, the Interstate 90 Land Exchange Act of 1998.

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

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 2136—Interstate 90 Land Exchange Act of 1998*

CBO estimates that implementing S. 2136 would not have a significant impact on the federal budget. Because enacting S. 2136 would affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply to the bill. CBS estimates that completing the proposed land exchange under the bill would result in forgone offsetting receipts of less than \$500,000 a year over the 1999–2000 period. Because a similar land exchange is likely to occur under current law, but at a later date than the exchange under S. 2136, we estimate that S. 2136 would have a negligible impact on receipts after fiscal year 2000. S. 2136 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.

S. 2136 provides that if Plum Creek Timber Company conveys about 62,000 acres of land to the Secretary of Agriculture, then the Secretary shall convey to Plum Creek about 17,000 acres of federal land. The land that would be exchanged is within or adjacent to three national forests in the state of Washington: Mt. Baker-Snoqualmie, Wenatchee, and Gifford Pinchot. The exchange would be completed within one year of enactment.

S. 2136 would require the exchanged land to be of equal value, or if not equal that the values would have to be equalized through the deletion of federal or private offered lands until the values are equal. Once the values are equalized to the maximum extent practicable through such deletions, any balance due the Secretary or Plum Creek would be made through cash payments. The bill would authorize the Secretary to use any cash equalization payments received to purchase other land in the state of Washington.

The Forest Service (within the U.S. Department of Agriculture) is currently considering a land exchange with Plum Creek Timber Company that would be completed administratively. The exchange now under consideration would involve about 27,000 acres of federal land and about 62,000 acres of Plum Creek land. The Forest Service expects to publish an environmental impact statement on the administrative exchange in October 1998, but any such ex-

change under current law is not likely to be completed until fiscal year 2000 or later.

S. 2136 would modify the proposed administrative exchange by specifying that about 17,000 acres of federal land be conveyed to Plum Creek, rather than 27,000 acres as currently planned. According to the Forest Service, the smaller number of federal acres in S. 2136 is unlikely to be of sufficient value to equal the approximately 62,000 acres of Plum Creek land. In that case, completing the exchange under S. 2136 would require deleting certain Plum Creek offerings in the order specified by the bill. S. 2136 also would be likely to accelerate the exchange with Plum Creek by precluding any appeals or other delays that might occur in an administrative exchange.

Based on information from the Forest Service, CBO estimates that completing the administrative exchange with Plum Creek will likely result in reduced receipts from harvesting timber from federal lands. According to the Forest Service, both the federal land and the Plum Creek land has harvestable timber on it, but the timber on federal land is generally of a higher quality than the timber on Plum Creek land. Because the Forest Service has been managing federal land in the area primarily for wildlife rather than commercial harvesting, the decrease in federal offsetting receipts would total less than \$500,000 a year. Because an exchange with Plum Creek under S. 2136 would probably be completed a year or two sooner than an administrative exchange under current law, enacting the bill would result in forgone receipts beginning in fiscal year 1999. However, enacting the bill also would likely result in less forgone receipts than the administrative exchange because less federal timber is likely to be conveyed to Plum Creek under the bill. In any case, CBO estimates that the net change in offsetting receipts would total less than \$500,000 each year over the 1999–2008 period.

The CBO staff contact is Victoria V. Heid. This estimate was approved by Paul N. Van de Water, 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. 2136.

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. 2136.

#### EXECUTIVE COMMUNICATIONS

Legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 2136 were unavailable at the time the report on S. 2136 was filed. When the reports become available, the

Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

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

Mr. 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. 2136, which would provide for an exchange of lands between the Forest Service and the Plum Creek Timber Company.

Before I address each bill individually, let me summarize the Administration's position on all four: The Administration opposes S. 2136, Interstate 90 Land Exchange; takes no position on S. 2226, Idaho School Land Amendment; supports H.R. 2886, Stanislaus National Forest Demonstration Project; and supports H.R. 3796, Provision for Conveyance of the Rogue River National Forest Administrative Site.

S. 2136—I-90 LAND EXCHANGE

The Administration opposes S. 2136 which provides for the exchange of lands with the Plum Creek Timber Company. The Administration is committed to this exchange, with continued public comment and involvement in public lands decision-making. This exchange and associated public processes are already well underway administratively; this legislation would circumvent that process.

S. 2136, as introduced, would direct the Secretary to exchange lands on the Mt. Baker-Snoqualmie, Wenatchee, and Gifford Pinchot National Forests in Washington and adjust the boundaries of those forests to encompass 60,390 acres of land conveyed to the United States. In return, the Secretary would be directed to convey approximately 40,490 acres of national forest lands to the Plum Creek Company.

While we oppose this legislation, we note that there are a number of important reasons to complete this land exchange.

Land ownership in this area is an intermingled checkerboard pattern. Plum Creek Timber Company and the United States own alternate square mile sections of land or fractions of sections, making management on both private and national forest lands difficult. The exchange would simplify management of threatened endangered species habitat, and watershed and forest restoration, and would reduce long-term costs for boundary administration.

Conveyance of the Plum Creek lands would also improve the government's ability to manage federal lands to protect old-growth dependent species. There would be a net gain

to the United States of about 22,000 acres of critical habitat for the northern spotted owl.

By consolidating ownership, the exchange would improve the government's ability to provide recreation in areas such as the Alpine Lakes Wilderness, the Pacific Crest Trail, and Snoqualmie Pass that are close to the Seattle-Tacoma metropolitan area and are heavily used for recreation.

Consolidation of federal land holdings would improve the efficiency of managing these lands, lowering long term management costs to the government by eliminating about 300 miles of boundary identification and posting and decreasing the need for special use, right-of-way, and other permits.

The Administration objects to the bill because it is unnecessary, undermines progress we have made completing the exchange administratively, and impedes effective completion of the National Environmental Policy Act (NEPA) process. The parties involved in this administrative exchange have already invested close to 10 years work into making this exchange a reality. A draft environmental impact statement (EIS) for this exchange was published in April, 1998; the comment period has closed; and the Forest Service expects to issue a final EIS before the end of this calendar year. Through public comment on the draft EIS, we have made many improvements to the exchange, not reflected in the legislation.

Public input generated a consensus that lands in and around the Kelly Butte roadless area should be in contiguous federal ownership and that is reflected in the preferred alternative being developed for the final EIS. This change was based on public input, is acceptable to Plum Creek, and is an excellent example of why the public process is critical to the development of an exchange that reflects the best mix of public benefits. However, under the legislation as introduced, roadless lands in the Kelly Butte area would continue to be in checkerboard ownership, with the Plum Creek retaining its lands for possible timber harvest.

The time frames in the bill would not allow public involvement to be completed. The bill would provide up to 180 days from the date of enactment for Plum Creek to offer lands, and directs the consummation of the exchange not later than 120 days from the time of Plum Creek's offer. Despite the fact that the NEPA process on the current administrative exchange is well underway, and indeed is on a fast track, this is simply not enough time to issue the final EIS and a Record of Decision, and to resolve administrative appeals.

In addition to these concerns, the Administration also objects to provisions in the bill that:

Would grant Plum Creek permanent road access easements for no consideration and that require the Secretary to keep national forest roads open for use by

Plum Creek or provide Plum Creek alternative access if the road is closed; and

Do not clearly authorize the Secretary to impose any necessary conditions on any easements granted to Plum Creek.

Although the Administration opposes this legislation, we are committed to continuing to work with Plum Creek and the public toward the timely completion of this exchange.

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. 2136, as ordered reported.

