

IN THE SENATE

SENATE BILL NO. 1251

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO THE EXCHANGE OF STATE LANDS; AMENDING SECTION 58-138, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING IMPAIRMENT TO TITLE, TO PROVIDE
3 FOR WRITTEN AGREEMENT OF CERTAIN PERMITTEES AND PRIVATE RIGHT HOLDERS
4 PRIOR TO THE EXCHANGE OF FEDERALLY MANAGED LANDS, TO SPECIFY CERTAIN
5 PRIVATE RIGHTS, TO PROVIDE FOR DAMAGES, TO PROVIDE FOR OBJECTIONS, AND
6 TO PROVIDE THAT SUBSEQUENT PERMITS MUST BE AUTOMATICALLY OFFERED TO
7 CERTAIN PERMITTEES AND LESSEES; PROVIDING SEVERABILITY; AND DECLARING
8 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
9

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

11 SECTION 1. That Section 58-138, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 58-138. EXCHANGE OF STATE LAND. (1) The state board of land commis-
14 sioners may at its discretion, when in the state's best interest, exchange,
15 and do all things necessary to exchange fee simple title to include full
16 surface and mineral rights to any of the state lands now or hereafter held and
17 owned by this state for lands of equal value, public or private, excepting
18 lands that have as their primary value buildings or other structures, unless
19 said buildings or other structures are continually used by a public entity
20 for a public purpose. Land that the state owns known as "cottage sites" can
21 be exchanged for lands of equal value, public or private. As used in this
22 section, an exchange of state lands means a transaction in which the state
23 conveys the land to another party or parties pursuant to an agreement that
24 predates the exchange, in which transaction a party conveying land to the
25 state may be different from a party to whom the state conveyed land. The
26 parties dealing with the state in such an exchange transaction shall not be
27 prohibited from purchasing or selling assets related to accomplishing the
28 transaction before, simultaneously or after said transaction, provided that
29 all such prior and simultaneous purchases and sales are expressly provided
30 for in the exchange agreement.

31 (2) Provided further the state board of land commissioners may, in
32 its discretion, hereafter grant and receive less than fee simple title,
33 and grant, recognize, continue, or allow such reservations, restrictions,
34 easements, encumbrances, rights, preferences, entitlements, permits, or
35 such other impairment to title as may be in both the state's and the affected
36 citizen's best interest.

37 (3) No exchanges shall be made involving leased lands except upon the
38 written agreement of the lessee.

39 (4) No exchanges shall be made involving federally managed lands ex-
40 cept upon the written agreement of every permittee and private right holder
41 within such federally managed lands. Such agreement, once obtained, must be
42 kept on file at the department indefinitely.

1 (a) Private rights include but are not limited to grazing preferences,
2 mining claims, rights-of-way, water rights, or other occupancy or use
3 rights.

4 (b) The state board of land commissioners shall be liable for all dam-
5 ages to a claimant, including attorney's fees and costs, if subsequent
6 to the exchange a permittee or private right holder who has no written
7 agreement on file with the department objects to the exchange.

8 (5) Subject to the approval of the state board of land commissioners,
9 the first lease or permit on lands acquired through land exchange and in lieu
10 selections shall be offered to the present user, lessee, or permittee of the
11 land, provided that the present user, lessee, or permittee agrees in writing
12 to enter into a contractual management program through which the resource
13 values of the land may be enhanced or improved for the purpose of increas-
14 ing the income to the endowed institutions. Provided, however, that sub-
15 sequent permits must automatically be offered to a former federal permittee
16 or lessee consistent with any grazing preference held by such permittee or
17 lessee on federally managed lands that were acquired through land exchange.

18 (56) Prior to the exchange of any state endowment lands pursuant to this
19 section, the state board of land commissioners shall have an appraisal and
20 review appraisal conducted of the lands it desires to exchange along with an
21 appraisal and a review appraisal of the lands it is proposing to acquire in
22 the exchange. All such appraisals and review appraisals shall be performed
23 by appraisers who are licensed or certificated to perform such work in ac-
24 cordance with chapter 41, title 54, Idaho Code, and who are designated as
25 members of the appraisal institute (MAI). All such appraisals and review ap-
26 praisals shall conform to the uniform standards of professional appraisal
27 practice (USPAP) standards.

28 (67) In determining the fair market value of state endowment lands to
29 be exchanged and acquired pursuant to this section, the state board of land
30 commissioners shall consider all relevant information and circumstances in-
31 cluding, but not limited to, the appraisals and review appraisals required
32 by the provisions of subsection (56) of this section and any evidence that
33 enhances or detracts from their reliability.

34 (78) Annually on or before January 15 of each year, the state board of
35 land commissioners shall submit a report of all state endowment lands ex-
36 changed and acquired and all appraisals and review appraisals conducted pur-
37 suant to this section to both houses of the legislature and to the audit divi-
38 sion of the legislative services office.

39 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
40 to be severable, and if any provision of this act or the application of such
41 provision to any person or circumstance is declared invalid for any reason,
42 such declaration shall not affect the validity of the remaining portions of
43 this act.

44 SECTION 3. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2022.