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February 20th, 2026

Senator Ben Adams
Idaho Statehouse
Boise, Idaho 83702

RE: OPINION ON VARIOUS LEGAL ASPECTS OF SENATE JOINT RESOLUTION 103,
2026 SESSION

Dear Senator Adams:

You have asked this office to opine on certain legal topics which may arise during or after the legislative debates upon your proposed SJR 103. I am pleased to do so, as follows:

QUESTIONS PRESENTED:

1. Does this proposed amendment to Article IX Section 8 of the Idaho Constitution effectively prohibit the general sale or alienation of lands acquired from the federal government after the date of its adoption?
2. Does the language of the amendment impede or prohibit existing joint management programs or practices as to the acquired lands?
3. Does the concept of putting said lands in a trust separate from that holding the originally received and presently managed public institution endowment lands preclude the State Board of Land Commissioners from managing both simultaneously and effectively?
4. Does the language regarding legislative appropriations give both the state treasurer and the legislature sufficient direction and flexibility regarding the use of revenue derived and characterized as the public lands trust fund?

I.

INTRODUCTION

The Idaho Admissions Act, 26 Stat L215, 1890 granted our new State some 3.6 million acres of land to establish and fund a perpetual trust in support of public schools and certain other identified institutions. Managed by the State Board of Land Commissioners, approximately 2.5 million acres of these original endowment lands remain in state ownership. By the terms of the Act, these lands may be sold, traded or exchanged for other lands. Within our borders, however, some 34.5 million acres remains in federal ownership. The U.S. Forest Service manages 20.5 million of those acres and the Bureau of Land Management has 12 million.

During calendar year 2025, various cost-cutting and revenue generating legislative measures were introduced in the U.S. Congress for the stated purpose of helping to balance the federal budget and address the cumulating national debt which proposed the sale of federal public lands held in the West. An original proposal endorsed the disposal of between 2 to 3 million BLM and USFS acres in 11 western states, including Idaho. However, descriptive and very broad definitions within the statutory text might have made up to 250 million acres "disposal eligible." With the support of Idaho's congressional delegation, the proposal was amended out of the bill. However, the political pressure to support future revenue generation or tax cuts remains extant of the national level.

In response to that pressure, this Resolution was drafted to address the issue, should such lands in the future, be transferred from federal to state ownership, of also retaining maximum public access and appropriate management priorities for such after acquired lands.

II.

QUESTIONS PRESENTED

1. DOES THIS PROPOSED AMENDMENT TO ARTICLE IX SECTION 8 OF THE IDAHO CONSTITUTION EFFECTIVELY PROHIBIT THE GENERAL SALE OR ALIENATION OF LANDS ACQUIRED FROM THE FEDERAL GOVERNMENT AFTER THE DATE OF ITS ADOPTION?

ANSWER: YES.

The text established a trust "intact and inviolable for this and future generation" from which "Such lands shall not be sold." Exchange is possible, if authorized by a two-thirds legislative note. Leasing is possible, under Land Board management for "best practices." Thus, this late-acquired trust land, if any is received, is not saleable, unlike the endowment lands of 1890.

2. DOES THE LANGUAGE OF THE AMENDMENT IMPEDE OR PROHIBIT EXISTING JOINT MANAGEMENT PROGRAMS OR PRACTICES AS TO THE ACQUIRED LANDS?

ANSWER: YES, TO AN EXTENT.

The text sets up certain mandatory land board management criteria which are unique to these acres:

1. Harmonious and coordinated management
2. Avoidance of permanent impairment
3. Development and utilization to conserve existing and future uses
4. Preservation of existing rights
5. Allows acquisition of new rights
6. Promotion of public recreation, scenic values, watershed quality and wildlife habitat
7. Accords with state law

Any former program or practice not entirely consistent with all or any of these requirements would be disallowed. Likewise, former federal management programs, authorized by federal law and applicable to certain acreages solely because of federal ownership of those lands would become inapplicable when the national title is transferred to state ownership.

Thus, payments in lieu of taxes (PILT) to counties from the federal treasury would cease only for those acres actually transferred. Likewise "Good Neighbor Authority" management under 16 U.S.C. Section 2113(a) or shared stewardship programs conducted under current federal statutes such as the BLM Organic Act, 43 U.S.C Section 1701, et seq. would have to be reformatted or renegotiated or eliminated as to the transferred acreages. However, the State could also set up identical programs on some or all of the transferred acres. Likewise, said existing programs would remain unaffected as to acreage retained in federal ownership.

3. DOES THE CONCEPT OF PUTTING SAID LANDS IN A TRUST SEPARATE FROM THAT HOLDING THE ORIGINALLY RECEIVED AND PRESENTLY MANAGED PUBLIC INSTITUTION ENDOWMENT LANDS PRECLUDE THE STATE BOARD OF LAND COMMISSIONERS FROM MANAGING BOTH SIMULTANEOUSLY AND EFFECTIVELY?

ANSWER: NO.

The language of the text sufficiently describes both the creation of an after-acquired lands trust and its unique management objectives as to allow distinct management for the stated objectives by this constitutionally established board. Because such lands, if ever received, can be separately inventoried and slated for the new management scheme it will be possible to readily

identify them for unique handling. With such lands and a district regimen will come a need for additional personnel at the Department of Lands, however.

4. DOES THE LANGUAGE REGARDING LEGISLATIVE APPROPRIATIONS GIVE BOTH THE STATE TREASURER AND THE LEGISLATURE SUFFICIENT DIRECTION AND FLEXIBILITY REGARDING THE USE OF REVENUE DERIVED AND CHARACTERIZED AS THE PUBLIC LANDS TRUST FUND?

ANSWER: YES

Under the text, revenue or income from the after-acquired lands would only be generated by either the "Lease of such lands" or when "best management practices," consistent with all of the other stated objectives, allow timber removal, mining, grazing, agriculture or other income producing activities not inconsistent with "public recreation, scenic values, watershed quality and wildlife habitat." Obviously, each such lease or other usage proposal considered by the Land Board could be opposed or debated on the basis of alleged conflicts. Dissatisfied applicants or opponents could seek judicial review.

However, once such revenue is attained, the text suitably directs the legislature on a specific set of descending priorities to:

1. Support operating and maintaining such lands, then
2. Compensate counties, presumably for lost federal PILT revenues, as described above, then
3. Improve or increase public use and access, then
4. Support primary and secondary public education.

No mechanism or test is contained in the text to specifically direct a funding result for an annual appropriation, but per the language, all of such priorities should be considered and a record should be made of how, why and in what amounts such allocations were deemed politically consistent with the constitutional mandate at each session.

The state treasurer is appropriately instructed to create and maintain a "public lands trust fund" separate from all other endowment and Admissions-Act era funds. From this new fund, up to the extent of income received from the land Board, annual legislative expenditures shall be withdrawn.

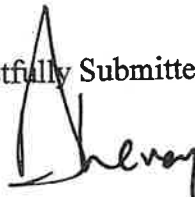
I.

CONCLUSION

This proposed constitutional amendment is appropriately designed and defined to set up a separate trust management process impressed with different objectives and priorities than the

Admission Acts trust lands. As a point of major distinction, it prohibits the sale of any after-acquired federal lands transferred to state ownership.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. Leroy". The signature is written in a cursive style with a large, prominent initial "D".

David H. Leroy, Attorney at Law

