

Lewiston Tribune

Idaho land becomes a constitutional issue

State legislators considering two constitutional amendments that would affect how state land is managed and potentially sold

Eric Barker

ANALYSIS

Idaho legislators will consider a pair of constitutional amendments that address state-owned land and the degree it is protected from hitting the auction block.

The status of public land, whether state or federal, became a hot topic last summer when Sen. Mike Lee, R-Utah, pushed legislation that would have forced the federal government to sell up to 3 million acres managed by the U.S. Forest Service and Bureau of Land Management. It prompted a grassroots backlash from public land lovers who flooded switchboards and inboxes on Capitol Hill. Idaho state legislators, who had no say in the legislation, even heard from worried constituents.

Lee's effort was turned back when his colleagues, including Congressman Mike Simpson and U.S. Sens. Jim Risch and Mike Crapo, all Republicans from Idaho, rejected it. Rep. Russ Fulcher, R-Idaho, backed a smaller sell-off provision.

In January, state Sen. Ben Adams, R-Nampa, introduced a proposed amendment to the Idaho Constitution that would prevent the sale of any land the state acquires from the federal government. It would not affect land already owned by the state. If it is approved by a two-thirds margin during the legislative session and later by a majority of voters in November, it would be added to the state constitution.

The amendment is getting mixed reviews from public land advocates. Many of them like that it prevents land transferred from federal to state ownership from being sold. But some fear it is designed to pave the way for transferring federal land to Idaho by eliminating one of the main arguments against it — that the state would have to sell transferred federal land to escape the high cost of caring for it..

That aspect of it holds the possibility of dividing Gem State public land advocates. Polling conducted by the Conservation Voters of Idaho last summer showed 96% of Idahoans believe public lands should remain in public ownership.

Some conservative legislators and other right leaning leaders in Idaho have long bristled at the size of the federal government's land ownership in the state — roughly 32 million acres or 61%. There have been several pushes to force the federal government to transfer land to the state. Opponents have raised two main objectives to that idea. They point out that the state doesn't have the financial resources to manage so much land and would likely be incentivized if not forced to sell much of it.

If the state didn't sell, they say it would have to engage in aggressive resource extraction, likely at the expense of healthy fish and wildlife habitat, scenic beauty and recreation access, in an effort to cover management costs.

Idaho already manages its state timberland much more aggressively than the U.S. Forest Service and BLM.

Nick Fasciano, executive director of the Idaho Wildlife Federation, said his group is working to educate its members and hasn't yet taken a stance on the amendment. That said, he sees pros and cons.

"We don't want to see something that makes transfer more likely, but having a stopgap against potential sale if there is transfer is a positive."

He noted, it's possible the sale prohibition could make the state unwilling to accept land from the federal government.

A second constitutional amendment, authored by Rep. Britt Raybauld, R-Rexburg, was introduced just last week. It is designed to disincentivize the sale of state-owned land by changing its management mandate. The constitution dictates that state endowment land be managed to "secure the maximum long term financial return" to schools and other entities funded by proceeds from activities on the land.

That leaves the land vulnerable for sale. Even though selling land brings one-time money, it's possible the sale price of some parcels, large or small, might be so high that it would dwarf future revenue from activities like logging and grazing.

The recent sale of state cabin sites ringing Payette and Priest lakes is a prime example. The parcels bring in annual rents that can't begin to equal the income from selling them. So the land board has done just that.

Raybauld's amendment would replace the mandate for maximum long-term financial returns with language that says priority will be given to revenue generation "followed by preserving and promoting the public's access to recreate, hunt, fish, and trap on such lands. Public access shall not be denied as long as such recreation, hunting, fishing, and trapping activities do not impede contracted revenue-generating activities. Revenue-

generating activities and public access on such lands shall be subject to such limitations as may be prescribed by law and shall be prioritized over the sale or exchange of such land.”

While the amendment doesn't prohibit selling state land, it removes handcuffs that an extreme offer would otherwise slap on the land board and instead allows for a more deliberative process based around a wider range of land management directives. In other words, it would not force them to sell land simply because the offer is so high.

Another provision says that any land acquired from the federal government after July 1 will be classified as public and be managed by the same prescriptions — revenue generation and public access. It does not prevent acquired land from being sold.

Raybauld told the Tribune that Idaho's growth is going to continue to put pressure on public lands and her amendment gives the land board an expanded tool kit to deal with it.

“Maybe we don't want the sale of state lands to be the first option,” she said.

Other outdoor news

A new poll commissioned by the Conservation Voters of Idaho indicates 72% of Idaho voters oppose the views expressed by Steve Pearce, president Donald Trump's nominee to lead the Bureau of Land Management. It also showed 69% would view Sens. Risch and Crapo more favorably if they vote against Pearce, a former congressman from New Mexico who has pushed for the disposal of federal public lands and the shrinking of national monuments.

A bill introduced by Sen. Dan Foreman, R-Idaho, that would require the Idaho Fish and Game Commission to hold 30-day comment periods prior to setting hunting and fishing seasons, was held in the Resource and Environment Committee at the request of Foreman. The move stalls the legislation and its fate rests with chairperson Van T. Burtenshaw, R-Terrenton, who can bring it back to send if he wishes.

Barker may be contacted at ebarker@lmtribune.com.