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SENATE

{ REPORT
{ 105-331

UTAH SCHOOLS AND LANDS EXCHANGE ACT OF 1998

SEPTEMBER 14, 1998.—Ordered to be printed

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

REPORT

[To accompany H.R. 3830]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 3830) to provide for the exchange of certain lands within the State of Utah, having considered the same, reports favorably thereon without amendment and recommends that the Act, as amended, do pass.

PURPOSE OF THE MEASURE

H.R. 3830, as ordered reported, would authorize a large scale land exchange to trade out a substantial portion of the State of Utah's School Trust inholdings within Federal conservation units, National Forests and Indian Reservations located in the State of Utah for valuable tracts of Federal land elsewhere in the State.

BACKGROUND AND NEED

When Utah was granted Statehood, the State was deeded lands from the public domain for the purpose of providing funds for the school children of Utah. Generally the State of Utah was granted the second, sixteenth, thirty-second, and thirty-sixth sections of each township.

This system provided a broad sample of all of the lands in Utah, thus ensuring that the State would get some valuable mineral, agricultural, timber, and commercial lands, along with the less valuable lands. This would avoid the long and protracted valuation fight over where blocks of State trust lands ought to be located. It was anticipated that Utah would be like Kansas or Nebraska, where all of the Federal land in the area would soon become private. This would give the State valuable inholdings that private

concerns would quickly acquire, thus creating a sizable trust fund for the school children.

As it turned out, homestead settlement in Utah proved to be much more difficult than it was in Kansas or Nebraska. Before much of the lands could be acquired, the Federal Government started a policy shift toward retention of public lands. National Parks, National Forests, National Monuments, and Indian Reservations were created, effectively eliminating the possibility that these public lands would ever pass into private ownership. Instead of becoming valuable inholdings in developing privately owned areas, the State trust lands became small isolated tracts surrounded by lands which were very unlikely to ever be used for economic development.

The school trust lands became a liability to Federal land managers and generated very little income for the State school trust. Over the years, several proposals to group the school trust lands into economically viable blocks have been proposed, but almost all have failed. Land exchanges require that swapped lands be of equal value; unfortunately, it has proved nearly impossible to resolve the valuation of these of lands. Valuation debates have gone on for years, and despite the good intentions of all parties concerned, very little has been solved. No one has benefitted from this deadlock, least of all the school children of Utah.

Against this backdrop, Governor Mike Leavitt of Utah and Secretary Bruce Babbitt of the Department of the Interior developed a proposal for a sweeping land exchange that would trade out a substantial proportion of the State of Utah's inholding for valuable tracts of Federal land elsewhere in the State.

LEGISLATIVE HISTORY

H.R. 3830 was introduced in the House of Representatives by Congressman Hansen on May 12, 1998. A hearing on H.R. 3830 was held before the House Resources Committee Subcommittee on National Parks and Public Lands on May 19, 1998. The bill was favorably reported from the Resources Committee on June 17, 1998. The House passed H.R. 3830, as reported, by voice vote on June 24, 1998.

H.R. 3830 was referred to the Senate Committee on Energy and Natural Resources. The Subcommittee on Forests and Public Land Management held a hearing on H.R. 3830, and the Senate companion measure, S. 2146, on June 25, 1998.

COMMITTEE RECOMMENDATION

At its open business meeting on July 29, 1998, the Senate Committee on Energy and Natural Resources ordered H.R. 3830 favorably reported by a voice vote of a quorum present.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Utah Schools and Lands Exchange Act of 1998.

Sec. 2. Findings

The findings in section 2 provide the context for the legislation. Principal among these findings is that the State of Utah owns 176,000 acres of surface estate and 24,165 acres of mineral interests within the boundaries of the Grand Staircase/Escalante National Monument and 200,000 acres of surface estate and 76,000 acres of mineral interests within units of the National Park System, National Forest System and Indian Reservations, and that development of these State resources would be incompatible with the purposes of these Federal units;

Additional findings conclude that the United States and the State of Utah have reached agreement for the exchange of identified state owned inholdings for Federal lands outside identified Federal land management units, that the exchange is of approximate equal value, and that the exchange would be unlikely to trigger significant environmental controversy. Because the inholdings the Federal Government would receive are contained within conservation units, and become the Utah School Trust is required to extract financial benefit from its lands, this exchange will assist the Federal Government through the resolution of long-standing environmental conflicts and further the interests of the school children of Utah by putting revenue generating assets in the Trust.

Sec. 3. Ratification of the agreed exchange between the State of Utah and the Department of the Interior

Subsection 3(a) Agreement—Describes, in general, the scope of the Agreement between the United States and the State of Utah.

Under the agreement the Federal Government receives the following State lands and interests: (1) approximately 38,500 acres of land and 9,500 acres in mineral interests within the Navajo Indian Reservations; (2) approximately 8,980 acres of land along with mineral interest in an additional 480 acres lands within the Goshute Indian Reservations of; (3) 2,560 acres within the Alton Coal Field Tracts; (4) approximately 70,000 acres of inholdings within the National Forest including the: Wasatch-Cache National Forest, Sawtooth National Forest, Ashley National Forest, Caribou National Forest, Uintah National Forest, Manti-La Sal National Forest, Fishlake National Forest, Dixie National Forest, and the Desert Range Experimental Station; (5) all State lands within the exterior boundaries of the Grand Staircase-Escalante National Monument comprising approximately 176,699 acres of land along with an additional 24,000 acres of mineral holdings; and (6) approximately 80,000 acres of State inholdings within units of the National Park System in Utah. Inholdings within the following National Parks and Recreation Areas are obtained by the Federal Government: Arches National Park, Capitol Reef National Park, Dinosaur National Monument, Glen Canyon National Recreation Area and Flaming Gorge National Recreation Area. The combined acreage of State lands to be acquired total over 376,000 acres, with an additional 66,000 acres of mineral estate.

Under the agreement the State of Utah will receive right, title, and interest to the following assets: (1) 640 acres of the Blue Mountain Telecommunications Site in Uintah County; (2) 3,000 acres of land in and around Beaver Mountain Ski Resort; (3) 1,920 acres in

the Warner Valley Tract in Washington County; (4) 33,208 acres in the Big Water Tract near Glen Canyon; (5) 12,678 acres in the Hatch Parcel within Garfield County; (6) mineral interests in coal located in the Cottonwood Tract up to the sum of \$13,006,105 in royalty and rental income; (7) about 881 acres of land within the Westridge Coal Tract; (8) 2,600 acres within the Uintah County Tract; (9) 2,000 acres within the Millard County Tract; (10) 58,000 acres within the Ferton Field; (11) 22.3 million tons of coal from the Mill Fork Tract; (12) approximately, 2,560 acres within the Dugout Canyon Tract in addition to about 2,560 acres in the Muddy Tract; (13) the coal underlying 9,600 acres located within the National Horn Coal Tract; (14) 4,000 acres of land within the Duchesne County Tract, and (15) \$50,000,000 in cash. Mineral reserves to be conveyed to the State total approximately 156 million tons of coal reserves, and 185 billion cubic feet of coal bed methane.

General provisions of the Agreement requires that if the State disposes of all or any of the natural resources referred to in section 3(a) it shall be in done in a competitive basis. The State is also required to pay the United States a percentage of the bonus bid it receives when issuing leases under subparagraph (i) of he agreement, allow for administrative costs and direct how that money will be deposited.

In addition, the agreement provides direction for the transfer of title between the United States and the State; directs that lands acquired by the United States within Federal conservation units are to be managed as part of those units; states that water rights appurtenant to exchange lands remain with those lands; gives direction that all grazing agreements in effect on exchanged lands be honored until expiration of those agreements; transfers mineral development rights in existence at the time of exchange along with the land; and specifies that all exchange parties shall remain responsible for hazardous waste to the extent it was responsible on the date of the exchange.

Subsection 3(b) Ratification—Incorporates the Agreement into this title and ratifies the terms and conditions.

Sec. 4. Legal description

States that the maps and legal descriptions related to the exchange will be on file with the Secretary of the Interior in Washington, D.C. and at the Bureau of Land Management State Director's office in Salt Lake City, Utah.

Sec. 5. Costs

Directs all participants in the exchange process to pay for their own costs associated with the implementation of the Act.

Sec. 6. Repeal of Public Law 103–93 and Public Law 104–211

Repeals Public Law 103–93 which contained a process for exchanging State inholdings within units of the National Park System, National Forest System, and Indian Reservations for other Federal lands in Utah, and Public Law 104–211 which provided for a land exchange and minor boundary adjustments within the Goshute Indian Reservation in Utah (this legislation expands on both of these repealed laws).

Sec. 7. Cash payment previously authorized

As previously authorized in PL 103–93, upon completion of the exchanges contained within the Agreement, the United States shall pay Utah the sum of \$50 million.

Sec. 8. Schedule for conveyances

Sets a 70 day time frame for completing the exchanges authorized in the Agreement.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 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 H.R. 3830, the Utah Schools and Lands Exchange Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the State and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3830—Utah Schools and Lands Exchange Act of 1998

Summary: H.R. 3830 would ratify an agreement between the state of Utah and the Department of the Interior (DOI) regarding an exchange of certain state and federal lands, mineral interests, and a cash payment. The agreement supersedes and expands on an exchange provided for under the Utah Schools and Lands Improvement Act of 1993 (Public Law 103–93).

Enacting H.R. 3830 could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but the aggregate effect over the next five years is not likely to be significant. Because the federal land to be offered to Utah does not currently generate significant mineral receipts and the extent of future development of that land is uncertain, the exchange would probably not result in a significant loss of mineral receipts within the next five years. Enacting H.R. 3830 would probably shift the timing of some payments between the federal government and Utah, but we do not expect a net change in payments over the 1999–2003 period.

H.R. 3830 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Background: Under current law (Public Law 103–93), the Secretary of the Interior is authorized to acquire about 39,480 acres of surface lands and about 49,460 acres of subsurface lands owned

by the state, to be made part of the Navajo and Goshute Indian Reservations. In addition, the current law authorizes the Secretary to acquire about 156,000 acres of surface and subsurface land owned by the state within the boundaries of national parks and forests in Utah. In exchange for acquiring these state lands, the law authorizes the Secretary to offer Utah certain specified coal tracts on federal land, about 3,640 acres of commercial property, up to \$50 million in mineral royalties from federal land within Utah, and additional lands as required to complete the exchange. This authorized exchange has not yet been completed, however, because of disagreements on valuation. Those disagreements are currently being contested in court.

Description of the act's major provisions: H.R. 3830 would ratify an agreement entered into by the state of Utah and DOI on May 8, 1998, superseding and expanding on the exchanges authorized by Public Law 103-93.

Under the agreement, the state of Utah would convey to the federal government about 376,739 surface acres and about 442,719 subsurface acres of state land within the Grand Staircase-Escalante National Monument, the Navajo and Goshute Indian Reservations, and several national parks, recreation areas, and forests.

In return, the federal government would convey to Utah about 138,647 acres of federal land with potential coal resources of roughly 160 million tons; the rights to \$13 million (plus interest) in potential future coal royalties and rent from federal coal in a particular tract that is so far undeveloped; potential coal bed methane resources of 185 billion cubic feet; other potential mineral resources such as oil, gas, and limestone; commercial properties; and \$50 million in cash upon completion of the exchange. Any future bonus bids generated from the state's sale of the mineral resources on federal land would be split equally between the state and the federal government, reduced by 50 percent of the state's administrative costs.

Estimated cost to the Federal Government: Based on information from DOI and Utah, we do not expect that enacting H.R. 3830 would result in any significant costs to the federal government over the next five years. CBO expects that enacting this legislation would result in discretionary costs to implement the exchange (for activities such as revising maps and signage), but we estimate that such costs would total less than \$500,000 per year. CBO expects that enacting H.R. 3830 would have some effect on offsetting receipts, but we do not expect any significant loss of receipts over the next five years, and we have no basis for predicting either the magnitude or the timing of any such potential effects over the long term. The potential effects on direct spending are discussed below.

Mineral resources.—The agreement would provide that Utah received 160 million tons of coal in certain tracts. In addition, the state would receive the rights to \$13 million (plus interest) in potential rent and royalty income from the Cottonwood Tract if the state leases that area, whereas under the exchange authorized by Public Law 103-93 Utah would receive the rights to all unleashed coal in the Cottonwood Tract. None of the federal coal resources that would be offered to the state under the exchange are now

leased or currently producing, and DOI cannot predict when such resources might generate offsetting receipts in the future, if at all.

The agreement also would provide that Utah receive 185 billion cubic feet of potential coal bed methane resources. According to DOI, most of those resources are not leased, and what is leased generates only a small amount of rent now. DOI considers production of these resources speculative and cannot estimate when or if they would produce receipts to the Treasury under current law.

Because these federal mineral resources could potentially generate offsetting receipts over the 1999–2008 period if they remained in federal ownership, enacting this legislation could result in forgone receipts to the Treasury. We expect that there would be no significant loss over the next five years. Because we have no basis for predicting if and when these federal resources might be developed under current law, CBO cannot estimate any long-term loss of receipts that might occur under H.R. 3830.

The proposed exchange also could increase federal mineral receipts relative to current law. One of the federal coal tracts authorized for exchange under Public Law 103–93, the Quitchupah (Convulsion Canyon) Tract, is now under lease; because the exchange under H.R. 3820 would exclude this federal tract, it could result in additional receipts to the federal government (relative to current law) if the land generates royalty receipts in the future. Furthermore, based on information provided by the Administration, we understand that the parties to the agreement intend that the state would waive its share of any receipts generated by the federal government on land acquired from Utah. Such a waiver could increase net receipts to the Treasury because under current law Utah would share in such receipts. However, because CBO has no basis for predicting when or if the federal government would develop such land, we cannot estimate the amount of any additional receipts.

\$50 million cash payment.—Under H.R. 3830, the federal government would pay \$50 million to Utah upon completion of the exchange. This payment would replace one of the same amount authorized by Public Law 103–93. It seems likely that the \$50 million payment to Utah under Public Law 103–93 would eventually be made sometime during the 1999–2003 period, either under a settlement or pursuant to a court decision, but we cannot predict precisely when the payment would occur. Under H.R. 3830, the cash payment would likely occur in fiscal year 1999. Therefore, CBO expects that enacting the legislation might result in a shift in the timing of the cash payment, but would not change the aggregate amount of cash payments over the next five years.

Federal commercial properties.—Under the agreement, Utah would receive about 3,640 acres of federal land on which a ski resort and telecommunications site are located. Those properties were part of the exchange authorized under Public Law 103–93. Because it seems reasonably likely that these properties would eventually be exchanged with Utah under current law, this part of the exchange would have no budgetary effect relative to current law.

Development properties.—According to DOI, none of the potential development properties that would be offered to Utah are under lease or generating receipts.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because enacting H.R. 3830 could affect direct spending (including offsetting receipts), pay-as-you-go procedures would apply. CBO expects that enacting H.R. 3830 would probably shift the timing of some payments between the federal government and Utah, and could result in some loss of offsetting receipts that would otherwise accrue to the government under current law, but we have no basis for predicting either the magnitude or the timing of any such potential effects.

Estimated impact on State, local, and tribal governments: H.R. 3830 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The agreement ratified by this act was entered into voluntarily by the State of Utah. All costs and benefits accruing to the state would be the result of that agreement.

Estimated impact on the private sector: This act would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 23, 1998, CBO prepared a cost estimate for H.R. 3830 as ordered reported by the House Committee on Resources on June 17, 1998. The two versions of H.R. 3830 are identical, as are the two estimates.

Estimate prepared by: Federal Costs: Victoria V. Heid; Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate 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. 3830.

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. 3830.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF BRUCE BABBITT, SECRETARY, U.S. DEPARTMENT OF THE INTERIOR

Good morning, Mr. Chairman, and thank you for this opportunity to appear before you today concerning S. 2146, the Utah Schools and Lands Exchange Act of 1998. It has been my pleasure to join with Governor Mike Leavitt and the entire Utah delegation, both in Utah and here in Washington, to appear in support of this recently negotiated, comprehensive land exchange agreement between the Interior Department and the State of Utah.

More than a decade ago, a great Utah governor had a vision of sweeping realignment of publicly owned land in Utah. Scott Matheson told anyone who would listen of the great benefits of this realignment for the State, its public schools, and for the United States as well. His vision, appropriately named Project BOLD, was ahead of its time. But it planted a seed that has today burst into flower. Less than two years ago, Governor Matheson's widow looked on as the President of the United States proclaimed the Grand Staircase-Escalante National monument. She heard the President acknowledge that within the borders of the Monument were 176,000 acres of State lands and heard his promise to work with the State to trade out those lands, to ensure that the school children of Utah will benefit from, and not be burdened by, the Grand Staircase-Escalante National Monument.

Just a few weeks ago, it was my pleasure to stand with Norma Matheson and Mike Leavitt to celebrate the fulfillment of President Clinton's promise and the realization of Scott Matheson's dream. Many have sought this elusive goal, Mr. Chairman, but it took this Governor to make it happen. After long controversy and stalemate, Governor Leavitt and I agreed that the two of us should work together to break the deadlock and find solutions to Utah's inholdings problem.

We agreed that both of us stood to gain by consolidating our lands for better management, and that both of us would be better off if we spent our time and money investing in the lands and the people instead of litigation and lawyers. We pledged to each other that in negotiating this deal, we would protect the environment, protect the taxpayers, and make the state school trust whole.

I am pleased to appear before you today, Mr. Chairman, to report that we have met those goals. The President's promise has been kept, and sooner than most would have expected. In fact, the Governor and I have gone well beyond that promise to negotiate the resolution of the difficult state trust land issues beyond the borders of the Grand Staircase-Escalante National Monument.

Many have noted the historic dimensions associated with reaching this agreement. As Governor of Arizona, I helped engineer some big, mutually beneficial state-federal land trades. But I've never done anything on this scale before. And as far as I know no one else has either, at least in the lower 48 states. Passage and enactment of this legislation would mark the end of six decades of controversy over the issue of Utah's trust land inholdings within national parks, forests, monuments, and reservations.

If not historic, Mr. Chairman, I think it is at least notable that Governor Leavitt and the entire Utah Congressional delegation have been joined by trust land administrators, environmental groups, and this Secretary of the Interior in a common position on the resolution of a major Western public lands issue. With this settlement, perhaps

we have opened a positive new chapter in the federal-state relationship concerning public land management in Utah.

The scope and complexity of the negotiations and the agreement itself were and are enormous. The fact that so many had tried for so long to no avail was a signal to both of us that the idea of going through the standard administrative channels, tract by tract, was going to be a prescription for further delay, litigation, and expense to both federal and state taxpayers. As a result, Governor Leavitt and I agreed that all issues would be on the table, and that the two of us would commit to negotiating a single, comprehensive, non-segmentable agreement. We understood that while it would be possible to argue over the value of individual tracts, or whether one of us got a better deal on one small part of the exchange, it was critically important that both of us be able to agree at the conclusion of the negotiations that both parties were treated fairly and that we had in fact, to the satisfaction of both, arrived at an equal value exchange.

The negotiations were spirited, and both sides fought hard for their interests. In my judgment, we succeeded. This is a fair deal, for both sides. I'm sure the Governor will speak to the important benefits in this agreement for the state trust lands administration and the school children of Utah. I would like to take a few moments to address the other two components of our concern, the environment and the taxpayers.

I have three observations to make concerning the very important environmental considerations and understandings that are part of this agreement. First, the Utah State school trust lands in this deal include properties within the National Park System, the National Forest System, and the Grand Staircase-Escalante National Monument. Because these are some of the most renowned lands in the United States, and because a mission of the state trust lands administration is to produce revenues for Utah's public schools, we knew that such an exchange would resolve many of the longstanding and inherent environmental conflicts occurring on these public lands.

Second, the federal assets we made available for exchange with the state were selected with a great sensitivity to environmental concerns and a belief and expectation by both parties that the federal assets conveyed to the state would be highly unlikely to trigger significant environmental controversy. We both agreed at the outset of negotiations to avoid lands where we knew that any of the following existed or could be reasonably foreseen: significant wildlife resources, endangered species habitat, significant archaeological resources, areas of critical environmental concern, coal requiring surface mining, wilderness study areas, significant recreational areas, scenic areas, or any other lands known to raise significant environmental concerns of any kind.

And third, we agreed that where the state obtains mineral interests as part of this agreement and the federal government retains the surface or other interest, any development that takes place will not conflict with established federal land and environmental management objectives. We further agreed that any such development will be fully subject to all of the environmental regulation applying to development of non-federal minerals on federal lands.

Mr. Chairman, Governor Leavitt and I also agreed that the interest of the American taxpayer must be protected, and I am pleased to report that we have done so. This agreement was negotiated with the goal of producing a budget-neutral document, so that we could assure all Members of Congress that the budget we have all worked so hard to contain would not be affected. I want to reiterate that when all of the lands, interests, and money in the deal are taken into account, we have negotiated an approximately equal value exchange. Except for the \$50 million cash payment, already authorized and scored under PL 103-93, the remainder of the properties comprise an asset exchange of speculative, commercial, and conservation lands. Both sides fought hard for the interests of their constituencies, and considerable energy went into guaranteeing that neither side was taking advantage of the other, that each felt they received a fair and equal deal when negotiations had concluded.

Governor Leavitt and I were not working in a vacuum. Through the prior work of this Committee and the Utah Congressional delegation, the Governor and I already had the template to work from for dealing with the lands outside the Monument. This was Public law 103-93, signed by President Clinton, which had already identified many of the properties and the framework for carrying out such an exchange. Like Governor Mathersons' project BOLD, PL 103-93 helped chart the course that the two of us followed.

I would like to similarly salute the School and Institutional Trust Lands Administration for developing the concept of a like-for-like exchange with the federal government, which helped reframe the debate over the Monument lands. Members of this Committee encouraged SITLA in the formulation of its proposal, which was widely circulated around the Congress, the environmental community, and the State of Utah.

The essential elements of this agreement are contained in proposals and legislation that have been around for years; there is little, if anything new in the agreement. Building on these ideas, the governor and I were able to establish a connection of mutual trust and commitment to see this process through and conclude the long, difficult years of conflict and controversy in a way that protected the interests of both sides and will in fact benefit both parties.

I want you to know, Mr. Chairman, that I will stand by this deal. However, I must also make it clear, as I have to the Governor and the delegation already, that Administration support is contingent on the passage of a clean bill, with no amendments, riders, or other objectionable legislation attached. While I believe this is a good deal for the environment, the taxpayers, and the school trust of Utah, I will have no hesitation about recommending a veto if any objectionable provisions are attached in this Congress. We negotiated to the limit of what we believe is acceptable, and any attempt to turn this vehicle into a Christmas tree for other legislation opposed by the Administration will unfortunately result in killing this agreement.

With that understanding, I stand ready to help however I can, Mr. Chairman. The President's promise to negotiate in good faith has been kept. It is now up to Congress to deliver the legislation without substantive change to the President's desk. This concludes my prepared statement. I would be happy to answer any questions the Committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 11 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 3830, as ordered reported, are shown as following (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

AN ACT To provide for the exchange of certain lands with the State of Utah, and
for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Utah Schools and Lands Improvement Act of 1993".

[SEC. 2. UTAH-NAVAJO LAND EXCHANGE.

[(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately thirty-eight thousand five hundred acres of surface and subsurface estate, and approximately an additional nine thousand five hundred acres of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

[(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land de-

scribed in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

[SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

[(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate, as generally depicted on the map entitled “Utah-Goshute Land Exchange”, dated May 18, 1992, such lands are here by declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

[(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

[(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, comprising approximately five acres more or less, together with all improvements thereon, is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, Range 69 East, lost 5, 6, 7, 9, 11 and 14 of section 34.

[(2) No part of the lands referred to in paragraph (1) shall be used for gaming or any related purpose.

[SEC. 4. IMPLEMENTATION.

[The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

[SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

[(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United States title to the school and institutional trust lands by the State of Utah within units of the National Forest System, comprising approximately seventy-six thousand acres as depicted on a map entitled “Utah Forest Land Exchange”, dated May 18, 1992.

[(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

[SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

[(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah located within all units of the National Park System, comprising approximately eighty thousand acres, located within the State of Utah on the date of enactment of this Act.

[(b) STATUS.—Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park

System, and shall be subject to all laws and regulations applicable to that unit of the National Park System.

[(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, compensate the State of Utah for the fair market value of five hundred eighty and sixty-four one-hundredths acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

[SEC. 7. OFFER TO STATE.

[(a) SPECIFIC OFFERS.—Within thirty days after enactment of this Act, the Secretary of the Interior shall transmit to the State of Utah a list of lands, or interests in lands, within the State of Utah for Transfer to the State of Utah in exchange for the State lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, of interests therein:

[(1) Blue Mountain Telecommunications Site, fee estate, approximately six hundred and forty acres.

[(2) Beaver Mountain Ski Resort site, fee estate, approximately three thousand acres, as generally depicted on the map entitled “Beaver Mountain Ski Resort” dated September 16, 1992.

[(3) The unleased coal located in the Winter Quarters Tract.

[(4) The unleased coal located in the Crandall Canyon Tract.

[(5) All royalties receivable by the United States with respect to coal leases in the Quitcupah (Convulsion Canyon) Tract.

[(6) The unleased coal located in the Cottonwood Canyon Tract.

[(7) The unleased coal located in the Soldier Creek Tract.]

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in subsection (a), the Secretary of the Interior shall offer to the State of Utah a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan of reclamation, were in production, and were not under administrative or judicial appeal.

[(2) No offer under this subsection shall be for royalties aggregating more than 50 per centum of the total appraised value of the State lands described in sections 2, 3, 5, and 6.]

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties under this section exceeding \$50,000,000.

[(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of December 31, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange

for such State lands, to the extent consistent with other applicable laws and regulations.

[SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.]

[(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than ninety days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall provide for an appraisal of the lands or interests therein involved in the exchange authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the uniform appraisal standards for Federal land acquisition.

[(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after two years from the date of enactment of this Act, the parties have not agreed upon the final terms of some or all of the exchanges authorized by this Act, including the value of the lands involved in some or all of such exchanges, notwithstanding any other provisions of law, any appropriate United States District Court, including but not limited to the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

[(2) No action provided for in this subsection may be filed with the Court sooner than two years and later than five years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with the applicable laws and rules.

[(c) ADJUSTMENT.—If the State shares revenue from the selected Federal properties, the value of such properties shall be the value otherwise established under this section, less the percentage which represents the Federal revenue sharing obligation, but such adjustment shall not be considered as reflecting a property right of the State of Utah.

[(d) INTEREST.—Any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

[SEC. 9. TRANSFER OF TITLE.]

[(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or interests in lands and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in sections 2, 3, 5, and 6.

[(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title, and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Sec-

retary shall reserve to the United States all remaining right, title, and interest of the United States.

[(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of mineral equal in value to the value attributed to such rights in connection with an exchange under this Act.

[(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to all school and institutional trust lands described in sections 2, 3, 5, and 6 of this Act. Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place within sixty days following agreement by the Secretary of the Interior and the governor of the State of Utah, or entry of an appropriate order of judgment by the District Court.

[(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

[(c) CONDITIONS.—(1) With respect to the lands and interests described in section 7(a), enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

[(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests. Extraction of any coal resources described in section 7(a) shall occur only through underground coal mining operations.

[(3) Transfer of any mineral interests to the State of Utah shall be subject to such conditions as the Secretary shall prescribe to ensure due diligence on the part of the State of Utah to achieve the timely development of such resources.

[SEC. 10. LEGAL DESCRIPTIONS.

[(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appro-

prate agencies of the Department of the Interior and Department of Agriculture.]

(b) **PILT.**—Section 6902(b) of title 31, United States Code, is amended by striking “acquisition.” and inserting in lieu thereof “acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.”.

[(c) **INTENT.**—The lands and interests described in section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent act of Congress. It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to assure that counties within the State are treated equitably as a result of this exchange.

[(d) **COSTS.**—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

[(e) **DEFINITION.**—As used in this Act, the term (1) “School and Institutional Trust Lands” means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act; and (2) “Secretary” means the Secretary of the Interior; unless specifically defined otherwise.

[SEC. 11. ADDITIONAL GOSHUTE INDIAN RESERVATION LANDS.

[(a) **FURTHER ADDITIONS TO GOSHUTE RESERVATION.**—In addition to the lands described in section 3, for the purpose of securing in trust for the Goshute Indian Tribe certain additional public lands and lands belonging to the State of Utah, which comprise approximately 8,000 acres of surface and subsurface estate, as generally depicted on the map entitled ‘Additional Utah-Goshute Exchange’, dated July 1, 1994, such public lands and State lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance of the State lands from the State of Utah and acceptance of title by the United States.

[(b) **AUTHORIZATION.**—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

[(c) **APPLICATION OF PRIOR PROVISIONS.**—(1) Except as provided in paragraph (2), the remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section.

[(2) The Goshute Indian Tribe will be responsible for payment of the costs of appraisal of the lands to be acquired pursuant to this

section, which costs shall be paid prior to the transfer of such lands.

[SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

ACT OF OCTOBER 1, 1996

AN ACT To amend Public Law 103-93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. ADDITION OF CERTAIN UTAH STATE LANDS TO GOSHUTE INDIAN RESERVATION.

[The Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995) is amended—

[(1) by redesignating section 11 as section 12; and

[(2) by inserting from section 10 the following new section:

[“SEC. 11. ADDITIONAL GOSHUTE INDIAN RESERVATION LANDS.

[(a) FURTHER ADDITIONS TO GOSHUTE RESERVATION.—In addition to the lands described in section 3, for the purpose of securing in trust for the Goshute Indian Tribe certain additional public lands and lands belonging to the State of Utah which comprise approximately 8,000 acres of surface and subsurface estate, as generally depicted on the map entitled ‘Additional Utah-Goshute Exchange’, dated July 1, 1994, such public lands and State lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance of the State lands from the State of Utah and acceptance of title by the United States.

[(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

[(c) APPLICATION OF PRIOR PROVISIONS.—(1) Except as provided in paragraph (2), the remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section.

[(2) The Goshute Indian Tribe will be responsible for payment of the costs of appraisal of the lands to be acquired pursuant to this section, which costs shall be paid prior to the transfer of such lands.”.]