

FEDERAL LAND TRANSACTION FACILITATION ACT
REAUTHORIZATION OF 2018

APRIL 9, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 5133]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5133) to reauthorize the Federal Land Transaction Facilitation Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Land Transaction Facilitation Act Reauthorization of 2018”.

SEC. 2. FEDERAL LAND TRANSACTION FACILITATION ACT.

The Federal Land Transaction Facilitation Act is amended—

(1) in section 203(1) (43 U.S.C. 2302(1)), by striking “cultural, or” and inserting “cultural, recreational access and use, or other”;

(2) in section 203(2) (43 U.S.C. 2302(2))—

(A) in the matter preceding subparagraph (A), by striking “on the date of enactment of this Act was” and inserting “is”;

(B) by amending subparagraph (A) to read as follows:

“(A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, priority species and habitats designated in a land use plan in accordance with subpart E (entitled “Fish and Wildlife”) of part I of Appendix C of Bureau of Land Management Land Use Planning Handbook H-1601-1 (Rel 1-1693), a special recreation management area, or a national natural landmark managed by the Bureau of Land Management;”
and

(C) by amending subparagraph (D) to read as follows:

- “(D) a National Forest or National Grassland in the National Forest System; or”;
- (3) in section 203 (43 U.S.C. 2302), by inserting the following paragraph after section 203(2) (and redesignating the following paragraphs accordingly):
- “(3) INACCESSIBLE LANDS THAT ARE OPEN TO PUBLIC HUNTING, FISHING, RECREATIONAL SHOOTING, OR OTHER RECREATIONAL PURPOSES.—The term ‘inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes’ means public lands in Alaska and the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) consisting of at least 640 contiguous acres on which the public is allowed under Federal or State law to hunt, fish, target shoot or use the land for other recreational purposes but—
- “(A) to which there is no public access or egress; or
- “(B) to which public access or egress to the land is significantly restricted, as determined by the Secretary.”; and
- (4) in section 205 (43 U.S.C. 2304)—
- (A) in subsection (a), by striking “section 206” and all that follows through the period and inserting the following: “section 206—
- “(1) to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);
- “(2) not later than 180 days after the date of the enactment of the Federal Land Transaction Facilitation Act Reauthorization of 2018, to establish and make available to the public, on the website of the Department of the Interior, a database containing a comprehensive list of all the land referred to in paragraph (1); and
- “(3) to maintain the database referred to in paragraph (2).”; and
- (B) by striking subsection (d);
- (5) in section 206(c)(2) (43 U.S.C. 2305(c)(2))—
- (A) in subparagraph(A)(i), by striking “inholdings; and” and inserting “inholdings.”;
- (B) in subparagraph (A)(ii), by striking “exceptional resources.” and inserting “exceptional resources; or”;
- (C) in subparagraph (A), by inserting after clause (ii), “(iii) adjacent to inaccessible lands open to public hunting, fishing, recreational shooting, or other recreational purposes.”; and
- (D) by adding at the end the following:
- “(E) Any funds made available under subparagraph (D) that are not obligated or expended by the end of the fourth full fiscal year after the date of the sale or exchange of land that generated the funds may be expended in any State.”;
- (6) in section 206(c)(3) (43 U.S.C. 2305(c)(3))—
- (A) by inserting after subparagraph (A) the following:
- “(B) the extent to which the acquisition of the land or interest therein will increase the public availability of resources for, and facilitate public access to, hunting, fishing, and other recreational activities.”; and
- (B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D);
- (7) by striking section 206(f) (43 U.S.C. 2305(f)); and
- (8) in section 207(b) (43 U.S.C. 2306(b))—
- (A) in paragraph (1)—
- (i) by striking “96–568” and inserting “96–586”; and
- (ii) by striking “; or” and inserting a semicolon;
- (B) in paragraph (2)—
- (i) by inserting “Public Law 105–263;” before “112 Stat.”; and
- (ii) by striking the period at the end and inserting a semicolon; and
- (C) by adding at the end the following:
- “(3) the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432; 120 Stat. 3028);
- “(4) the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2403);
- “(5) subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111–11);
- “(6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111–11);
- “(7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1108); or

“(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1121).”

PURPOSE OF THE BILL

The purpose of H.R. 5133 is to reauthorize the Federal Land Transaction Facilitation Act.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Land Transaction Facilitation Act (FLTFA, 43 U.S.C. 2301 et seq.) established a self-funded federal program that, for more than a decade, facilitated strategic federal land sales by the Bureau of Land Management (BLM) to provide funding for high-priority land acquisition. FLTFA funds BLM, U.S. Forest Service (USFS), National Park Service (NPS), and U.S. Fish and Wildlife Service (USFWS) land conservation projects that increase public access for outdoor recreation, hunting, and fishing as well as conservation of wildlife habitat. Funds are also used to protect water quality and preserve historic and cultural resources. FLTFA has resulted in a net reduction of the federal land estate by a 3 to 2 ratio.¹

FLTFA was enacted in 2000 and expired in 2011. Under FLTFA, revenue generated through the BLM’s land disposal process provided funding for high-priority land conservation. Land sale revenue is distributed in the following manner: 4% to the State in which the land is sold and 96% to the Federal Land Disposal Account. Of the funds acquired under FLTFA, 80% are required to be used for land acquisitions within the State in which funds were received, and 20% are to be used for land acquisitions in any of the other ten contiguous Western States or Alaska.

For use of the land acquisition funds, nominations are submitted to BLM, and an interagency team (BLM, USFS, NPS and USFWS) evaluates and ranks proposals. A 2003 Interagency MOU recommended the distribution of land acquisition funds as follows: 60% for BLM, 20% for USFS; 10% for USFWS, and 10% for NPS. Approvals from the Secretaries of the Interior and Agriculture are required to authorize the funding.²

FLTFA’s implementation between 2000–2011 resulted in BLM selling 27,249 acres of low-priority lands and federal agencies acquiring 18,093 acres of high-priority lands.³ These transactions allowed ranchers and farmers to expand operations by purchasing BLM lands adjacent to their properties. Additionally, BLM sold lands with timber interests, to real estate companies, community colleges, landfills, etc. Completed FLTFA land conservation projects have included river frontage for fly-fishing access at North Platte River Special Recreation Management Area, big-game winter habitat at Elk Springs Area of Critical Environmental Concern in New Mexico, and historic preservation at Canyons of the Ancients National Monument in Colorado.⁴

¹ *The Conservation Fund*, <https://www.conservationfund.org/our-work/conservation-fund-partnerships/conservation-policy/ftfa> (accessed 2/19/18).

² *Ibid.*

³ Email from legislative affairs staff, Bureau of Management, to majority House Natural Resources Committee Staff (February 28, 2018, 3:23pm) (on file with the Committee).

⁴ *The Conservation Fund*, <https://www.conservationfund.org/our-work/conservation-fund-partnerships/conservation-policy/ftfa> (accessed 3/19/18).

H.R. 5133 permanently authorizes FLTFA. It also amends FLTFA to place an emphasis on wildlife-dependent recreation in support of sportsmen and women in land acquisitions under the law. It requires BLM to create and maintain a publicly-available database of all lands available for disposal. Finally, it creates additional flexibility to more effectively and efficiently fund conservation in the Western States.

COMMITTEE ACTION

H.R. 5133 was introduced on March 1, 2018, by Congressman Rob Bishop (R-UT). The bill was referred to the Committee on Natural Resources. On March 7, 2018, the Natural Resources Committee met to consider the bill. Congressman Rob Bishop offered an amendment designated #1; it was adopted by unanimous consent. No additional amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 5, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5133, the Federal Land Transaction Facilitation Act Reauthorization of 2018.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 5133—Federal Land Transaction Facilitation Act Reauthorization of 2018

CBO estimates that enacting H.R. 5133 would not affect the federal budget because H.R. 1625, the Consolidated Appropriations

Act, 2018 (Public Law 115–141), which contained provisions similar to those in H.R. 5133, was enacted on March 23, 2018.

Because enacting H.R. 5133 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 5133 also would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 5133 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize the Federal Land Transaction Facilitation Act.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL LAND TRANSACTION FACILITATION ACT

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TITLE II—FEDERAL LAND TRANSACTION FACILITATION

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SEC. 203. DEFINITIONS.

In this title:

(1) **EXCEPTIONAL RESOURCE.**—The term “exceptional resource” means a resource of scientific, natural, historic, **【**cultural, or**】** *cultural, recreational access and use, or other* recreational value that has been documented by a Federal, State, or local governmental authority, and for which there is a compelling need for conservation and protection under the jurisdiction of a Federal agency in order to maintain the resource for the benefit of the public.

(2) **FEDERALLY DESIGNATED AREA.**—The term “federally designated area” means land in Alaska and the eleven contiguous Western States (as defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o))) that **【**on the date of enactment of this Act was**】** *is* within the boundary of—

【(A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, or a national natural landmark managed by the Bureau of Land Management;**】**

(A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, priority species and habitats designated in a land use plan in accordance with subpart E (entitled “Fish and Wildlife”) of part I of Appendix C of Bureau of Land Management Land Use Planning Handbook H-1601-1 (Rel 1-1693), a special recreation management area, or a national natural landmark managed by the Bureau of Land Management;

(B) a unit of the National Park System;

(C) a unit of the National Wildlife Refuge System;

【(D) an area of the National Forest System designated for special management by an Act of Congress; or**】**

(D) a National Forest or National Grassland in the National Forest System; or

(E) an area within which the Secretary or the Secretary of Agriculture is otherwise authorized by law to acquire lands or interests therein that is designated as—

(i) wilderness under the Wilderness Act (16 U.S.C. 1131 et seq.);

(ii) a wilderness study area;

(iii) a component of the Wild and Scenic Rivers System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); or

(iv) a component of the National Trails System under the National Trails System Act (16 U.S.C. 1241 et seq.).

(3) *INACCESSIBLE LANDS THAT ARE OPEN TO PUBLIC HUNTING, FISHING, RECREATIONAL SHOOTING, OR OTHER RECREATIONAL PURPOSES.*—The term “inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes” means public lands in Alaska and the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) consisting of at least 640 contiguous acres on which the public is allowed under Federal or State law to hunt, fish, target shoot or use the land for other recreational purposes but—

(A) to which there is no public access or egress; or

(B) to which public access or egress to the land is significantly restricted, as determined by the Secretary.

[(3)] (4) *INHOLDING.*—The term “inholding” means any right, title, or interest, held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally designated area.

[(4)] (5) *PUBLIC LAND.*—The term “public land” means public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

[(5)] (6) *SECRETARY.*—The term “Secretary” means the Secretary of the Interior.

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SEC. 205. DISPOSAL OF PUBLIC LAND.

(a) *IN GENERAL.*—The Secretary shall establish a program, using funds made available under [section 206, to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans (as in effect on the date of enactment of this Act) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).] *section 206—*

(1) *to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);*

(2) *not later than 180 days after the date of the enactment of the Federal Land Transaction Facilitation Act Reauthorization of 2018, to establish and make available to the public, on the website of the Department of the Interior, a database containing a comprehensive list of all the land referred to in paragraph (1); and*

(3) *to maintain the database referred to in paragraph (2).*

(b) *SALE OF PUBLIC LAND.*—

(1) *IN GENERAL.*—The sale of public land so identified shall be conducted in accordance with sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1719).

(2) *EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS.*—The exceptions to competitive bidding requirements under section 203(f) of the Federal Land Policy and Management Act of

1976 (43 U.S.C. 1713(f)) shall apply to this section in cases in which the Secretary determines it to be necessary.

(c) REPORT IN PUBLIC LAND STATISTICS.—The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities under this section.

[(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall terminate 11 years after the date of enactment of this Act.]

SEC. 206. FEDERAL LAND DISPOSAL ACCOUNT.

(a) DEPOSIT OF PROCEEDS.—Notwithstanding any other law (except a law that specifically provides for a proportion of the proceeds to be distributed to any trust funds of any States), the gross proceeds of the sale or exchange of public land under this Act shall be deposited in a separate account in the Treasury of the United States to be known as the “Federal Land Disposal Account”.

(b) AVAILABILITY.—Amounts in the Federal Land Disposal Account shall be available to the Secretary and the Secretary of Agriculture, without further Act of appropriation, to carry out this title.

(c) USE OF THE FEDERAL LAND DISPOSAL ACCOUNT.—

(1) IN GENERAL.—Funds in the Federal Land Disposal Account shall be expended in accordance with this subsection.

(2) FUND ALLOCATION.—

(A) PURCHASE OF LAND.—Except as authorized under subparagraph (C), funds shall be used to purchase lands or interests therein that are otherwise authorized by law to be acquired, and that are—

- (i) [inholdings; and] *inholdings*;
- (ii) adjacent to federally designated areas and contain [exceptional resources.] *exceptional resources*; or
- (iii) *adjacent to inaccessible lands open to public hunting, fishing, recreational shooting, or other recreational purposes.*

(B) INHOLDINGS.—Not less than 80 percent of the funds allocated for the purchase of land within each State shall be used to acquire inholdings identified under section 204.

(C) ADMINISTRATIVE AND OTHER EXPENSES.—An amount not to exceed 20 percent of the funds deposited in the Federal Land Disposal Account may be used by the Secretary for administrative and other expenses necessary to carry out the land disposal program under section 205.

(D) SAME STATE PURCHASES.—Of the amounts not used under subparagraph (C), not less than 80 percent shall be expended within the State in which the funds were generated. Any remaining funds may be expended in any other State.

(E) *Any funds made available under subparagraph (D) that are not obligated or expended by the end of the fourth full fiscal year after the date of the sale or exchange of land that generated the funds may be expended in any State.*

(3) PRIORITY.—The Secretary and the Secretary of Agriculture shall develop a procedure for prioritizing the acquisition of inholdings and non-Federal lands with exceptional resources as provided in paragraph (2). Such procedure shall consider—

(A) the date the inholding was established (as provided in section 204(c));

(B) *the extent to which the acquisition of the land or interest therein will increase the public availability of resources for, and facilitate public access to, hunting, fishing, and other recreational activities;*

~~[(B)]~~ (C) the extent to which acquisition of the land or interest therein will facilitate management efficiency; and

~~[(C)]~~ (D) such other criteria as the Secretary and the Secretary of Agriculture deem appropriate.

(4) BASIS OF SALE.—Any land acquired under this section shall be—

(A) from a willing seller;

(B) contingent on the conveyance of title acceptable to the Secretary, or the Secretary of Agriculture in the case of an acquisition of National Forest System land, using title standards of the Attorney General;

(C) at a price not to exceed fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions; and

(D) managed as part of the unit within which it is contained.

(d) CONTAMINATED SITES AND SITES DIFFICULT AND UNECONOMIC TO MANAGE.—Funds in the Federal Land Disposal Account shall not be used to purchase land or an interest in land that, as determined by the Secretary or the Secretary of Agriculture—

(1) contains a hazardous substance or is otherwise contaminated; or

(2) because of the location or other characteristics of the land, would be difficult or uneconomic to manage as Federal land.

(e) LAND AND WATER CONSERVATION FUND ACT.—Funds made available under this section shall be supplemental to any funds appropriated under chapter 2003 of title 54, United States Code.

~~[(f)]~~ TERMINATION.—On termination of activities under section 205—

~~[(1)]~~ the Federal Land Disposal Account shall be terminated; and

~~[(2)]~~ any remaining balance in the account shall become available for appropriation under section 200303 of title 54, United States Code.]

SEC. 207. SPECIAL PROVISIONS.

(a) IN GENERAL.—Nothing in this title provides an exemption from any limitation on the acquisition of land or interest in land under any Federal law in effect on the date of enactment of this Act.

(b) OTHER LAW.—This title shall not apply to land eligible for sale under—

(1) Public Law ~~[(96-568)]~~ 96-586 (commonly known as the “Santini-Burton Act”) (94 Stat. 3381)~~[(]; or];~~

(2) the Southern Nevada Public Land Management Act of 1998 (*Public Law 105-263*; 112 Stat. 2343)~~[(.];~~

(3) *the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109-432; 120 Stat. 3028);*

(4) *the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108-424; 118 Stat. 2403);*

(5) *subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111-11);*

(6) *subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111-11);*

(7) *section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1108); or*

(8) *section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1121).*

(c) EXCHANGES.—Nothing in this title precludes, preempts, or limits the authority to exchange land under authorities providing for the exchange of Federal lands, including but not limited to—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(2) the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086) or the amendments made by that Act.

(d) NO NEW RIGHT OR BENEFIT.—Nothing in this Act creates a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

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