

106TH CONGRESS  
1ST SESSION

# S. 1129

To facilitate the acquisition of inholdings in Federal land management units  
and the disposal of surplus public land, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 1999

Mr. DOMENICI introduced the following bill; which was read twice and referred  
to the Committee on Energy and Natural Resources

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## A BILL

To facilitate the acquisition of inholdings in Federal land  
management units and the disposal of surplus public  
land, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Land Trans-  
5       action Facilitation Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) the Bureau of Land Management has au-  
9       thority under the Federal Land Policy and Manage-  
10      ment Act of 1976 (43 U.S.C. 1701 et seq.) to sell

1 land identified for disposal under its land use plan-  
2 ning;

3 (2) the Bureau of Land Management has au-  
4 thority under that Act to exchange Federal land for  
5 non-Federal land if the exchange would be in the  
6 public interest;

7 (3) through land use planning under that Act,  
8 the Bureau of Land Management has identified cer-  
9 tain tracts of public land for disposal;

10 (4) the land management agencies of the De-  
11 partment of the Interior have authority under exist-  
12 ing law to acquire land consistent with land use  
13 plans and the mission of each agency;

14 (5) the sale or exchange of land identified for  
15 disposal and the acquisition of certain non-Federal  
16 land from willing landowners would—

17 (A) allow for the reconfiguration of land  
18 ownership patterns to better facilitate resource  
19 management;

20 (B) contribute to administrative efficiency  
21 within Federal land management units; and

22 (C) allow for increased effectiveness of the  
23 allocation of fiscal and human resources within  
24 the Federal land management agencies;

1           (6) a more expeditious process for disposal and  
2           acquisition of land, established to facilitate a more  
3           effective configuration of land ownership patterns,  
4           would benefit the public interest;

5           (7) many private individuals own land within  
6           the boundaries of Federal land management units  
7           and desire to sell the land to the Federal Govern-  
8           ment;

9           (8) such land lies within national parks, na-  
10          tional monuments, national wildlife refuges, and  
11          other areas designated for special management;

12          (9) Federal land management agencies are fac-  
13          ing increased workloads from rapidly growing public  
14          demand for the use of public land, making it dif-  
15          ficult for Federal managers to address problems cre-  
16          ated by the existence of inholdings in many areas;

17          (10) in many cases, inholders and the Federal  
18          Government would mutually benefit from Federal  
19          acquisition of the land on a priority basis;

20          (11) proceeds generated from the disposal of  
21          public land may be properly dedicated to the acqui-  
22          sition of inholdings and other land that will improve  
23          the resource management ability of the Bureau of  
24          Land Management and adjoining landowners;

1           (12) using proceeds generated from the disposal  
 2           of public land to purchase inholdings and other such  
 3           land from willing sellers would enhance the ability of  
 4           the Federal land management agencies to—

5                   (A) work cooperatively with private land-  
 6                   owners and State and local governments; and

7                   (B) promote consolidation of the ownership  
 8                   of public and private land in a manner that  
 9                   would allow for better overall resource manage-  
 10                  ment;

11           (13) in certain locations, the sale of public land  
 12           that has been identified for disposal is the best way  
 13           for the public to receive fair market value for the  
 14           land; and

15           (14) to allow for the least disruption of existing  
 16           land and resource management programs, the Bu-  
 17           reau of Land Management may use non-Federal en-  
 18           tities to prepare appraisal documents for agency re-  
 19           view and approval consistent with applicable provi-  
 20           sions of the Uniform Standards for Federal Land  
 21           Acquisition.

### 22 **SEC. 3. DEFINITIONS.**

23           In this Act:

24                   (1) EXCEPTIONAL RESOURCE.—The term “ex-  
 25                   ceptional resource” means a resource of scientific,

1 historic, cultural, or recreational value that has been  
2 documented by a Federal, State, or local govern-  
3 mental authority, and for which extraordinary con-  
4 servation and protection is required to maintain the  
5 resource for the benefit of the public.

6 (2) FEDERALLY DESIGNATED AREA.—The term  
7 “Federally designated area” means land adminis-  
8 tered by the Secretary in Alaska and the eleven con-  
9 tiguous Western States (as defined in section 103 of  
10 the Federal Land Policy and Management Act of  
11 1976 (43 U.S.C. 1702)) that on the date of enact-  
12 ment of this Act was within the boundary of—

13 (A) a national monument, area of critical  
14 environmental concern, national conservation  
15 area, national riparian conservation area, na-  
16 tional recreation area, national scenic area, re-  
17 search natural area, national outstanding nat-  
18 ural area, or a national natural landmark man-  
19 aged by the Bureau of Land Management;

20 (B) a unit of the National Park System;

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

23 (D) a wilderness area designated under the  
24 Wilderness Act (16 U.S.C. 1131 et seq.), the  
25 Wild and Scenic Rivers Act (16 U.S.C. 1271 et

1           seq.), or the National Trails System Act (16  
2           U.S.C. 1241 et seq.).

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

7           (4) PUBLIC LAND.—The term “public land”  
8           means public lands (as defined in section 103 of the  
9           Federal Land Policy and Management Act of 1976  
10          (43 U.S.C. 1702)).

11          (5) SECRETARY.—The term “Secretary” means  
12          the Secretary of the Interior.

13 **SEC. 4. IDENTIFICATION OF INHOLDINGS.**

14          (a) IN GENERAL.—The Secretary shall establish a  
15          procedure to—

16               (1) identify, by State, inholdings within feder-  
17               ally designated areas for which the landowner has  
18               indicated a desire to sell the land or an interest in  
19               land to the Federal Government; and

20               (2) establish the date on which the land or in-  
21               terest in land identified became an inholding.

22          (b) NOTICE OF POLICY.—The Secretary shall pro-  
23          vide, in the Federal Register and through such other  
24          means as the Secretary may determine to be appropriate,  
25          periodic notice to the public of the policy under subsection

1 (a), including any information required by the Secretary  
 2 to consider an inholding for acquisition under section 6.

3 (c) IDENTIFICATION.—An inholding—

4 (1) shall be considered for identification under  
 5 this section only if the Secretary receives notification  
 6 of a desire to sell from the landowner in response to  
 7 public notice given under subsection (b); and

8 (2) shall be deemed to have been established as  
 9 of the later of—

10 (A) the earlier of—

11 (i) the date on which the land was  
 12 withdrawn from the public domain; or

13 (ii) the date on which the land was es-  
 14 tablished or designated for special manage-  
 15 ment; or

16 (B) the date on which the inholding was  
 17 acquired by the current owner.

18 (d) APPLICATION TO THE SECRETARY OF AGRICULTURE.—If funds become available under section  
 19 6(c)(2)(E)—  
 20 6(c)(2)(E)—

21 (1) this section shall apply to the Secretary of  
 22 Agriculture; and

23 (2) private land within an area described in  
 24 that section shall be deemed to be an inholding for  
 25 the purposes of this Act.

1       (e) NO OBLIGATION TO CONVEY OR ACQUIRE.—The  
2 identification of an inholding under this section creates no  
3 obligation on the part of a landowner to convey the  
4 inholding or any obligation on the part of the United  
5 States to acquire the inholding.

6 **SEC. 5. DISPOSAL OF PUBLIC LAND.**

7       (a) IN GENERAL.—The Secretary shall establish a  
8 program, using funds made available under section 6, to  
9 complete appraisals and satisfy other legal requirements  
10 for the sale or exchange of public land identified for dis-  
11 posal under approved land use plans (as in effect on the  
12 date of enactment of this Act) under section 202 of the  
13 Federal Land Policy and Management Act of 1976 (43  
14 U.S.C. 1712).

15       (b) SALE OF PUBLIC LAND.—

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

20           (2) EXCEPTIONS TO COMPETITIVE BIDDING RE-  
21 QUIREMENTS.—The exceptions to competitive bid-  
22 ding requirements under section 203(f) of the Fed-  
23 eral Land Policy and Management Act of 1976 (43  
24 U.S.C. 1713(f)) shall apply to this section in cases  
25 in which the Secretary determines it to be necessary.



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

4 (d) TERMINATION OF AUTHORITY.—The authority  
 5 provided under this section shall terminate 10 years after  
 6 the date of enactment of this Act.

7 **SEC. 6. FEDERAL LAND DISPOSAL ACCOUNT.**

8 (a) DEPOSIT OF PROCEEDS.—Notwithstanding any  
 9 other law (except a law that specifically provides for a pro-  
 10 portion of the proceeds to be distributed to any trust funds  
 11 of any States), the gross proceeds of the sale or exchange  
 12 of public land under this Act shall be deposited in a sepa-  
 13 rate account in the Treasury of the United States to be  
 14 known as the “Federal Land Disposal Account”.

15 (b) AVAILABILITY.—Amounts in the Federal Land  
 16 Disposal Account shall be available to the Secretary, with-  
 17 out further Act of appropriation, to carry out this Act.

18 (c) USE OF THE FEDERAL LAND DISPOSAL AC-  
 19 COUNT.—

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

23 (2) FUND ALLOCATION.—

1 (A) PURCHASE OF LAND.—Except as au-  
2 thorized under subparagraph (C), funds shall  
3 be used to purchase—

4 (i) inholdings; and

5 (ii) land adjacent to federally des-  
6 ignated areas that contains exceptional re-  
7 sources.

8 (B) INHOLDINGS.—Not less than 80 per-  
9 cent of the funds allocated for the purchase of  
10 land within each State shall be used to  
11 acquire—

12 (i) inholdings identified under section

13 4; and

14 (ii) National Forest System land as  
15 authorized under subparagraph (E).

16 (C) ADMINISTRATIVE AND OTHER EX-  
17 PENSES.—An amount not to exceed 20 percent  
18 of the funds in the Federal Land Disposal Ac-  
19 count shall be used for administrative and other  
20 expenses necessary to carry out the land dis-  
21 posal program under section 5.

22 (D) SAME STATE PURCHASES.—Of the  
23 amounts not used under subparagraph (C), not  
24 less than 80 percent shall be expended within  
25 the State in which the funds were generated.

1 Any remaining funds may be expended in any  
2 other State.

3 (E) PURCHASE OF NATIONAL FOREST SYS-  
4 TEM LAND.—Beginning 5 years after the date  
5 of enactment of this Act, if, for any fiscal year,  
6 the Secretary determines that funds allocated  
7 for the acquisition of inholdings under this sec-  
8 tion exceed the availability of inholdings within  
9 a State, the Secretary may use the excess funds  
10 to purchase land, on behalf of the Secretary of  
11 Agriculture, within the boundaries of a national  
12 recreation area, national scenic area, national  
13 monument, national volcanic area, or any other  
14 area designated for special management by an  
15 Act of Congress within the National Forest  
16 System.

17 (3) PRIORITY.—The Secretary may develop and  
18 use criteria for priority of acquisition that are based  
19 on—

20 (A) the date on which land or interest in  
21 land became an inholding;

22 (B) the existence of exceptional resources  
23 on the land; and

24 (C) management efficiency.

1           (4) BASIS OF SALE.—Any acquisition of land  
2       under this section shall be—

3                   (A) from a willing seller;

4                   (B) contingent on the conveyance of title  
5       acceptable to the Secretary (and the Secretary  
6       of Agriculture, in the case of an acquisition of  
7       National Forest System land) using title stand-  
8       ards of the Attorney General; and

9                   (C) at not less than fair market value con-  
10      sistent with applicable provisions of the Uni-  
11      form Appraisal Standards for Federal Land Ac-  
12      quisitions.

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

18                   (1) contains a hazardous substances or is other-  
19      wise contaminated; or

20                   (2) because of the location or other characteris-  
21      tics of the land, would be difficult or uneconomic to  
22      manage as Federal land.

23       (e) INVESTMENT.—Amounts in the Federal Land  
24      Disposal Account shall earn interest at a rate determined  
25      by the Secretary of the Treasury based on the current av-

1 erage market yield on outstanding marketable obligations  
 2 of the United States of comparable maturities.

3 (f) LAND AND WATER CONSERVATION FUND ACT.—  
 4 Funds made available under this section shall be supple-  
 5 mental to any funds appropriated under the Land and  
 6 Water Conservation Fund Act (16 U.S.C. 460l–4 et seq.).

7 (g) TERMINATION.—On termination of activities  
 8 under section 5—

9 (1) the Federal Land Disposal Account shall be  
 10 terminated; and

11 (2) any remaining balance in the account shall  
 12 become available for appropriation under section 3  
 13 of the Land and Water Conservation Fund Act (16  
 14 U.S.C.460l–6).

15 **SEC. 7. SPECIAL PROVISIONS.**

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

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

22 (1) Public Law 96–568 (commonly known as  
 23 the “Santini-Burton Act”) (94 Stat. 3381); or

24 (2) the Southern Nevada Public Land Manage-  
 25 ment Act of 1998 (112 Stat. 2343).

1       (c) EXCHANGES.—Nothing in this Act precludes, pre-  
2       empts, or limits the authority to exchange land under—

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

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

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

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