

IDAHO ADMISSION BILL

[26 Stat. L. 215, ch. 656; am. 1998, P.L. 105-296.]

AN ACT

To Provide for the Admission of the State of Idaho into the Union

SECTION.

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3. Representative in congress — Voters registration law — Officers — Assumption of duties.
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SECTION.

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PREAMBLE

Whereas, The people of the territory of Idaho did, on the 4th day of July, 1889, by a convention of delegates called and assembled for that purpose, form for themselves a constitution, which constitution was ratified and adopted by the people of said territory at an election held therefor on the first Tuesday in November, 1889, which constitution is republican in form, and is in conformity with the Constitution of the United States; and,

Whereas, said convention and the people of said territory have asked the admission of said territory into the Union of States on an equal footing with the original states in all respects whatever. Therefore,

§ 1. Idaho admitted to union — Constitution ratified. — The state of Idaho is hereby declared to be a state of the United States of America, and is hereby declared admitted into the union on an equal footing with the original states in all respects whatever; and that the constitution which the people of Idaho have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

Cited in: Boise City Irr. & Land Co. v. Turner, 176 F. 373 (D. Idaho 1905); Mower v. Bond, 8 F.2d 518 (D. Idaho 1925).

§ 2. Boundaries of state. — The said state shall consist of all the territory described as follows: Beginning at the intersection of the thirty-ninth meridian with the boundary line between the United States and the British possessions; then following said meridian south until it reaches the summit of the Bitter Root Mountains; thence southeastward along the crest of the Bitter Root range and the Continental divide until it intersects the meridian of thirty-four degrees of longitude; thence southward on this meridian to the forty-second parallel of latitude; thence west on this parallel of latitude to its intersection with a meridian drawn through the mouth of the Owyhee River; north on this meridian to the mouth of the Owyhee River; thence down the mid-channel of the Snake River to the mouth of the Clear-water River; and thence north on the meridian which passes through the mouth of the Clearwater to the boundary line between the United States and the British possessions, and east on said boundary line to the place of beginning.

Cross ref. Boundaries of state, see Constitution of Idaho, Art. 17, § 1.

§ 3. Representative in congress — Voters registration law — Officers — Assumption of duties. — Until the next general census, or until otherwise provided by law, said state shall be entitled to one representative in the house of representatives of the United States, and the election of the representative to the fifty-first congress and fifty-second congress shall take place at the time, and be conducted and certified in the same manner as is provided in the constitution of the state for the election of state, district, and other officers in the first instance.

The law of the territory of Idaho for the registration of voters shall apply to the first election of state, district, and other officers held after the admission of the state of Idaho. County and precinct officers elected at the first election held after the admission of the state of Idaho shall assume the duties of their respective offices on the second Monday of January, 1891.

§ 4. School lands. — Sections numbered 16 and 36 in every township of said state, and where such sections or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said state for the support of common schools, such indemnity lands to be selected within said state in such manner as the legislature may provide, with the approval of the secretary of the interior.

§ 5. Sale, lease, or exchange of school land. — (a) Sale. —

(1) In general. — Except as provided in subsection (c), all land granted under this Act for educational purposes shall be sold only at public sale.

(2) Use of proceeds. —

(A) In general. — Proceeds of the sale of school land —

(i) except as provided in clause (ii), shall be deposited in the public school permanent endowment fund and expended only for the support of public schools; and

(ii)(I) may be deposited in a land bank fund to be used to acquire, in accordance with State law, other land in the State for the benefit of the beneficiaries of the public school permanent endowment fund; or

(II) if the proceeds are not used to acquire other land in the State within a period specified by State law, shall be transferred to the public school permanent endowment fund.

(B) Earnings reserve fund. — Earnings on amounts in the public school permanent endowment fund shall be deposited in an earnings reserve fund to be used for the support of public schools of the State in accordance with State law.

(b) Lease. — Land granted under this Act for educational purposes may be leased in accordance with State law.

(c) Exchange. —

(1) In general. — Land granted for educational purposes under this Act may be exchanged for other public or private land.

(2) Valuation. — The values of exchanged lands shall be approximately equal, or, if the values are not approximately equal, the values shall be equalized by the payment of funds by the appropriate party.

(3) Exchanges with the United States. —

(A) In general. — A land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land.

(B) Previous exchanges. — All land exchanges made with the United States before the date of the enactment of this paragraph are approved.

(d) Reservation for School Purposes. — Land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption, homestead entry, or any other form of entry under the land laws of the United States, but shall be reserved for school purposes only. [As amended 56 Stat. L. 48, ch. 36, approved February 6, 1942; 63 Stat. L. 714, ch. 622, approved October 6, 1949; 88 Stat. 1821, Pub. L. 93-562, approved December 30, 1974.]

Compiler's notes. The 1942 amendment changed the words 'five years' to 'ten years' in the first part of the second sentence of this section.

The 1949 amendment inserted the words 'land in the case of an oil, gas, or other hydrocarbon lease, for as long thereafter as such product is produced' in the second sentence.

The 1974 amendment in subsection (a) in the first sentence inserted "Except as provided in subsection (b)," in the second sentence substituted "Such" for "But said," inserted "or a geothermal resource and associated by-products lease" after "hydrocarbon lease," and inserted "in paying quantities or the lessee in good faith is conducting well

drilling or construction operations" after "produced"; and added subsection (b).

Commingling of Funds.

The fact that the public school income fund contains income from the public school fund does not prevent the legislature from placing specified funds, for the specific purpose of being used for the teachers' retirement system, into the public school income fund and later withdrawing such funds for the use of the teachers' retirement system since such withdrawal would not constitute a withdrawal from the public school fund. *Teachers' Retirement Sys. v. Williams*, 84 Idaho 467, 374 P.2d 406 (1962).

§ 6. Grant of land for erection of public buildings. — Fifty sections of the unappropriated public lands within said state, to be selected and located in legal subdivisions as provided in section 4 of the act, shall be, and are hereby, granted to said state for the purpose of erecting public buildings at the capital of said state for legislative, executive, and judicial purposes, including construction, reconstruction, repair, renovation, furnishings, equipment, and any other permanent improvement of such buildings and the acquisition of necessary land for such buildings, and the payment of principal and interest on bonds issued for any of the above purposes. [As amended 71 Stat. L. 277, Pub. L. 85-84, approved July 3, 1957.]

Compiler's notes. The 1957 amendment added the words 'including construction, reconstruction, repair, renovation, furnishings, equipment and any other permanent improvement of such buildings and the acquisition of necessary land for such buildings,

and the payment of principal and interest on bonds issued for any of the above purposes.' It also provided that the section should take effect as of July 3, 1890.

Sec. to sec. ref. This section is referred to in §§ 57-803, 57-811.

§ 7. Public lands — Sale — Per cent paid state for school fund. — Five per cent of the proceeds of the sales of public lands lying within said state which shall be sold by the United States subsequent to the admission of said state into the union, after deducting all the expenses incident to the same, shall be paid to the said state, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said state.

§ 8. University land grant. — The lands granted to the territory of Idaho by the Act of February 18, 1881, entitled, "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes," are hereby vested in the state of Idaho to the extent of the full quantity of 72 sections to said state, and any portion of said lands that may not have been selected by said territory of Idaho may be selected by the said state; but said Act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said state, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act, shall forever remain under the exclusive control of said state, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

Compiler's notes. Act of February eighteenth above referred to appears in 21 Stat. L. 326, ch. 61.

Sec. to sec. ref. This section is referred to in § 57-803.

§ 9. Penitentiary granted to state. — The penitentiary at Boise City, Idaho, and all lands connected therewith, and set apart and reserved therefor, and unexpended appropriations of money therefor, and the personal property of the United States now being in the Territory of Idaho

which has been in use in said territory in the administration of the territorial government, including books and records and the property used at the constitutional convention which convened at Boise City in the month of July, 1889, are hereby granted and donated to the state of Idaho.

Sec. to sec. ref. This section is referred to in §§ 57-803, 57-807.

§ 10. Agricultural college land grant. — Ninety thousand acres of land, to be selected and located as provided in section 4 of this Act, are hereby granted to said state for the use and support of an agricultural college in said state, as provided in the Acts of Congress making donations of lands for such purposes.

Sec. to sec. ref. This section is referred to in § 57-803.

§ 11. Specific land grants for various state institutions. — In lieu of the grant of land for purposes of internal improvement made to the new states by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the state of Idaho, and in lieu of any claim or demand by the said state under the Act of September 28, 1850, and section 2479 of the Revised Statutes, [43 U. S. Code, § 982] making a grant of swamp and overflowed lands to certain states, which grant is hereby declared, is not extended to the state of Idaho, and in lieu of any grant of saline lands to said state, the following grants of land are hereby made, to wit: To the state of Idaho: For the establishment and maintenance of a scientific school, 100,000 acres, for state normal schools, 100,000; for the support and maintenance of the insane asylum located at Blackfoot, 50,000 acres; for the support and maintenance of the state university, located at Moscow, 50,000; for the support and maintenance of the penitentiary, located at Boise City, 50,000 acres; for other state, charitable, education, penal and reformatory institutions, 150,000 acres. None of the lands granted by this act shall be sold for less than \$10 an acre.

Sec. to sec. ref. This section is referred to in §§ 57-803, 57-807.

§ 12. Limitation on land grants and their use. — The state of Idaho shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purpose herein mentioned, in such manner as the legislature of the state may provide.

§ 13. Mineral lands exempted from school land grants — Lieu lands. — All mineral lands shall be exempted from the grants by this act. But if sections 16 and 36, or any subdivision, or portion of any smallest subdivision, thereof, in any township, shall be found by the department of the interior to be mineral lands, said state is hereby authorized and

empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said state, in lieu thereof, for the use and benefit of the common schools of said state.

§ 14. Selection and survey of lands granted. — All lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior from the surveyed unreserved, and unappropriated public lands of the United States, within the limits of the state entitled thereto. And there shall be deducted from the number of acres of land donated by this act for the specific objects to said state the number of acres heretofore donated by congress to said territory for similar objects.

§ 15. Appropriation to pay expenses of constitutional convention. — The sum of \$28,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures, and for elections held therefor and thereunder. Any money hereby appropriated not necessary for such purposes shall be covered into the treasury of the United States.

§ 16. United States circuit and district courts. — The said state shall constitute a judicial district, the name thereof to be the same as the name of the state and the circuit and district courts therefor shall be held at the capital of the state for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the Ninth Judicial Circuit. There shall be appointed for said district one district judge, one United States attorney and one United States marshal. The judge of said district shall receive a yearly salary of \$3500, payable in four equal instalments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in the said district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in said district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both circuit and district courts. The circuit and district courts for said district, and the judges thereof respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and the clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation allowed by

law to other similar officers and persons performing similar duties in the state of Oregon.

§ 17. Appeals to Supreme Court of United States — Powers of federal and state courts. — All cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the Supreme Court of said territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or for further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said state from or to the Supreme Court of such state, as the nature of the case may require. And the circuit, district and state courts herein named shall, respectively, be the successors of the Supreme Court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the Supreme Court of the territory mentioned in this act, in any case arising within the limits of the proposed state prior to the admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said state into the union.

§ 18. Pending actions. — In respect to all cases, proceedings, and matters now pending in the Supreme or district courts of said territory at the time of the admission into the union of the state of Idaho, and arising within the limits of such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said Supreme and district courts of said territory; and in respect to all other cases, proceedings, and matters pending in the Supreme or district courts of said territory at the time of the admission of such territory into the union, arising within the limits of said state, the courts established by such state shall, respectively, be the successors of said Supreme and district territorial courts; and all the files, records, indictments, and proceedings, relating to any such cases shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the state shall be pending, in any territorial court in said territory, shall abate by the admission of such state into the union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or state court, as the case may be: provided, however, that in all civil actions, causes and proceedings in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceedings filed in the proper court; and, in

the absence of such request, such cases shall be proceeded with in the proper state courts.

Jurisdiction of United States District Court.

The United States circuit court for the district of Idaho had jurisdiction of an action pending in the district court of Idaho territory when that territory became a state, between a corporation of Washington territory and a

corporation of Montana territory, and removed to the former court after the two last-named territories had become states, by reason of such diversity of citizenship. *Washington & I.R.R. v. Coeur d'Alene Ry. & Nay. Co.*, 160 U.S. 77, 16 5. Ct. 219, 40 L. Ed. 346 (1895).

§ 19. Laws of United States — Application. — From and after the admission of said state into the union, in pursuance of this act, the laws of the United States not locally inapplicable shall have the same force and effect within the said state as elsewhere within the United States.

§ 20. Representation in congress. — The legislature of the said state may elect two senators of the United States as is provided by the constitution of said state, and the senators and representatives of said state shall be entitled to seats in congress, and to all the rights and privileges of senators and representatives of other states in the Congress of the United States.

§ 21. Territorial officers, continuance in office — Territorial laws, continuance in force. — Until the state officers are elected and qualified under the provisions of the constitution of said state, the officers of the territory of Idaho shall discharge the duties of their respective offices under the constitution of the state, in the manner and form as therein provided; and all laws in force, made by said territory, at the time of its admission into the union, shall be in force in said state, except as modified or changed by this act or by the constitution of the state.

§ 22. Conflicting laws repealed. — All acts or parts of acts in conflict with the provisions of this act, whether passed by the legislature of said territory or by congress, are hereby repealed.