



STATE OF IDAHO

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February 22, 1990

The Honorable Jerry Evans
State Superintendent of
Public Instruction
LBJ Building
STATEHOUSE MAIL

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: RS24069 - Amendment of Idaho Constitution art. 9, § 8

Dear Mr. Evans:

This is in response to your question whether R.S.24069, which proposes a constitutional amendment to Idaho Const. art. 9, § 8, would be contrary to the provisions of the federal land grants the state received from the United States Government.

Currently, art. 9, § 8, requires the state board of land commissioners to make its decisions with respect to endowment lands "as will secure the maximum long term financial return to the institution to which granted or to the state if not specifically granted." The proposed amendment would add the language "or as will secure the greatest public benefit therefore." In other words, the amendment would permit the land board to make decisions based upon the "greatest public benefit" rather than upon the basis of the maximum financial return for the intended recipient of land grant benefits.

The Idaho Admission Bill provides various grants of lands to the state for various purposes. For example, § 4 provides that two sections in every township or equivalent lands are "hereby granted to said state for the support of common schools. . . ." The proposed constitutional amendment would attempt to permit the state to substitute the "greatest public benefit" formula for the

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land grant requirement that the lands be used for the support of common schools. The same problem would occur with respect to the other land grants made to the state by the Idaho Admission Bill.

When the state receives grants from the federal government, it is bound by the terms of those grants. Consequently, to accomplish the purpose intended by the proposed amendment, it would be necessary both for the state to amend the constitution and for Congress to amend the Idaho Admission Bill. If the legislature desires to propose the constitutional amendment, it would make sense to make the effective date of the amendment the date upon which the Idaho Admission Bill is amended to permit the result intended.

Sincerely,

DAVID G. HIGH
Deputy Attorney General
Chief, Business Regulation
and State Finance Division