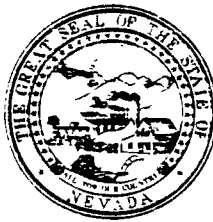


SELECT COMMITTEE ON PUBLIC LANDS



Bulletin No. 81-22

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

March 1981

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Senate Concurrent Resolution No. 5—Senators Blakemore, Gibson, Lamb, Close, Wilson, Dodge, Glaser, Jacobsen, Don Ashworth, Keith Ashworth, Echois and Neal

FILE NUMBER...87....

SENATE CONCURRENT RESOLUTION—Continuing the existence of the select committee on public lands.

WHEREAS, S.C.R. 9 of the 59th session of the Nevada legislature directed the creation of a select committee on public lands charged with several responsibilities including:

1. Traveling to Washington, D.C., to meet with federal executive and legislative officials to consider Nevada's unique situation with respect to the public lands;
2. Studying the alternatives for management of the public lands that would include a role for the state;
3. Increasing the amounts of land in nonfederal ownership;
4. Considering state consent to acquisition of lands by the Federal Government;
5. Proposing federal legislation on public lands;
6. Forming a regional coalition on public lands;
7. Reviewing and assessing plans and decisions of the Bureau of Land Management in the state; and

WHEREAS, The select committee has accomplished some of the assigned tasks and is heavily involved in several others; and

WHEREAS, To accomplish modification of federal land policy is a slow process requiring constant attention over the next several years at least; and

WHEREAS, The Nevada select committee has taken a leading role in forming a western coalition on public lands and is now looked to for leadership on this issue; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the Nevada select committee on public lands be continued through the 60th session of the Nevada legislature and for the interim period until the beginning of the 61st session; and be it further

Resolved, That the select committee be composed of three members of the senate appointed by the majority leader of the senate and four members of the assembly appointed by the speaker of the assembly, chosen with appropriate regard for their experience and knowledge about public lands; and be it further

Resolved, That the select committee shall:

1. Encourage and actively support the formation and efforts of the western coalition on public lands;
2. Advance knowledge and understanding of Nevada's public lands situation in local, regional and national forums;
3. Support Congressional legislation that will enhance the state and local roles in public lands management and that will increase the disposal of public domain lands for public purposes, for the expansion of communities, and for agricultural and other development; and be it further

Resolved, That the select committee is an official agency of the legislative counsel bureau whose members are entitled to receive out of the legislative fund for each day's attendance at meetings or official business of the select committee after adjournment of the 60th legislative session, if approved by the legislative commission, \$40 per day and the per diem expense allowance and travel expenses provided by law; and be it further

Resolved, That the select committee shall submit its report to the legislative commission for transmission to the 61st session of the legislature.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 61ST SESSION OF THE NEVADA LEGISLATURE:

This report is transmitted to the members of the 1981 legislature for their consideration and appropriate action. Senate Concurrent Resolution No. 5 of the 1979 session, while requiring preparation of this report, primarily directed the select committee on public lands to carry out various other activities and functions.

The 1975 legislature originally directed a study of public lands. That was carried out pursuant to S.C.R. 35 of the 1975 session. One recommendation of the 1975-1977 study was that a select committee on public lands be created to attempt to carry out several of the goals set forth in the study. The select committee was created in 1977 with the adoption of S.C.R. 9. The select committee, continued by S.C.R. 5 in 1979, has made great strides over the past 4 years in promoting and gaining support for public lands reform measures in Nevada and the West. Since passage of A.B. 413 by the 1979 legislature, the select committee has also become a major guiding force behind the "Sagebrush Rebellion" movement, not only in Nevada, but at western and national levels as well.

This report is transmitted to the members of the 1981 legislature for their consideration.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
March 1981

LEGISLATIVE COMMISSION

Senator Keith Ashworth, Chairman
Senator Melvin D. Close, Jr., Vice Chairman

Senator Richard E. Blakemore	Assemblyman Robert E. Barengo
Senator Carl F. Dodge	Assemblyman Joseph E. Dini, Jr.
Senator Lawrence E. Jacobsen	Assemblyman Virgil M. Getto
Senator Thomas R. C. Wilson	Assemblyman Paul W. May
	Assemblyman Robert F. Rusk
	Assemblyman Darrell D. Tanner

SUMMARY OF RECOMMENDATIONS

1. The select committee on public lands recommends that a constitutional amendment be prepared to regulate management and disposal of state lands. (BDR C-84)
2. The select committee on public lands recommends that state law be amended to allow legislative or gubernatorial approval of acquisitions or uses of certain lands by the Federal Government. (BDR 26-85)
3. The select committee on public lands recommends that payments in lieu of taxes be provided to local governments by the state if Nevada obtains title to or management of the unappropriated public lands. (BDR 26-83)
4. The select committee on public lands recommends that Congress be urged to enact legislation to permit transfer of unappropriated public lands to the states. (BDR 591)
5. It is recommended that the select committee on public lands be continued by the legislature until the beginning of the 62nd session. (BDR 86)

REPORT TO THE LEGISLATIVE COMMISSION
FROM THE SELECT COMMITTEE
ON PUBLIC LANDS

I. INTRODUCTION AND BACKGROUND

General Background

The 1975 session of the Nevada legislature in Senate Concurrent Resolution No. 35 directed a study of "* * * the several possible approaches to the problem of securing a greater degree of control by the State of Nevada over the public lands within its borders for the common benefit of its citizens * * *." That study, reported in Legislative Counsel Bureau Bulletin 77-6, made a number of recommendations designed to increase state control over the use and disposition of federal lands in the state. In particular, that report recommended the creation of a select committee of the legislature charged with several specific responsibilities related to increased state control over public lands. The 1979 report of the select committee, Legislative Counsel Bureau Bulletin 79-19, noted considerable progress by the committee along these lines in the years 1977 and 1978.

Before considering the work of the select committee in 1979 and 1980 and its recommendations, it may be useful to again set forth the public lands situation in the West in general and Nevada in particular. First, there are several categories of federal land but for the purposes of this report, there are two. The first category is federally owned land which includes land for federal buildings, national parks, wildlife refuges and defense establishments. Such lands are used for specific federal purposes. The second category is land currently controlled by the Federal Government, commonly referred to as the public domain.

With passage of A.B. 413 by the 1979 Nevada legislature, the State of Nevada claims ownership to the lands in the public domain category administered by the United States Department of the Interior's Bureau of Land Management (BLM). Until Nevada's claim of ownership is resolved by Congress or the U.S. Supreme Court, public domain lands will continue to be administered by

either BLM or the U.S. Department of Agriculture's Forest Service. Public domain lands, in almost all cases, have never been privately owned. They are lands which came to the United States through the several major land acquisitions in our history, but especially the Oregon Compromise of 1846 and the Mexican Cession of 1848. Almost 87 percent of Nevada is federal land, the greater part by far in the public domain. No state, except Alaska, has more and when the selection process there is complete, Nevada will be the preeminent public land state.

Until October 1976, the official policy of the Federal Government had been the orderly disposal of the public domain. However, for at least 30 years preceding that date, very little disposition of the public domain was accomplished. In October 1976, the Federal Land Policy and Management Act (P.L. 94-579) was passed. It is commonly referred to as the BLM Organic Act. One of the goals of the legislation was to consolidate and clarify hundreds of often conflicting laws dealing with the public domain and to give the Bureau of Land Management a clear charter. In addition, the act reversed the 200 year old policy of disposal of public lands by stating that it be the policy of the United States that "* * * the public lands be retained in federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest * * *."

To understand better how dramatic a change in philosophy is represented by the Organic Act, it is useful to look at the development of the federal lands laws. In the early years of our nationhood, the attitude of the Federal Government was strongly in favor of pushing the development of the lands west of the Appalachians. This served the purpose of providing federal revenue also. In fact, the Revolutionary War debt was retired this way. Federal land law can be traced to the Northwest Ordinance of 1785 and after the Constitution was ratified, to the Public Land Act of 1796. Under these laws, land was sold for \$2 per acre in tracts of at least 640 acres. This was a lot of money for most prospective pioneers. National security pressures to settle the vast areas gained by the Louisiana Purchase and the Mexican Cession combined with political pressures from those hoping to be pioneers resulted in the Homestead Act of 1862. This act established 160 acres as a family farm.

This size was based on the fertility and arability of the Midwest's tall grass prairies. From the Rockies through the Great Basin, the 160 acre homestead was not economically feasible. As a result, very little homesteading was done in those areas and the land remained open range.

Two later acts, the Desert Land Entry Act (1877) and the Carey Act (1894), were designed to more specifically address the various issues related to irrigated "homesteads" in the semi-arid and arid West. These acts, particularly the Desert Land Entry Act, were more successful in promoting settlement in the Great Basin, but were still not adequate for the needs of this region.

The range remained open until 1934 when the Taylor Grazing Act was passed. This act closed the open range and instituted leases and grazing fees.

From the passage of the Homestead Act in 1862 to the BLM Organic Act in 1976, public lands policy has been in a state of drift and uncertainty. The result has been indecision and inaction in many areas of public lands policy. Combined with ill-defined policy has been a miserly federal commitment to the maintenance of federal lands. The BLM Organic Act and the Public Rangelands Improvement Act of 1978 reflect a federal commitment to a forceful public lands policy. During the Carter Administration, the shape of that policy was heavily weighted to environmental protection and related concerns. Under the new Reagan Administration, it appears that there will be a dramatic shift back to a more balanced philosophy, with orderly resource development given renewed priority.

Concern for the public lands is basically a regional problem. Certainly there is national interest in public lands policy but the land is actually located in 12 western states. In fact, 93 percent of all land controlled by the Federal Government is located in these 12 states. The percentages range from 29 for Washington to 87 for Nevada. Alaska is also currently at 87 percent federal land, but that percentage is decreasing. The problems caused by such vast stretches of federal land were outlined in the 1977 legislative counsel bureau study and will not be repeated here. Suffice it to say that the select committee has compiled even more evidence of the hardships caused for state and local governments, ranchers, farmers, miners and recreationists as a result of federal public lands legislation, regulation and policy.

"Sagebrush Rebellion"

In 1979, the Nevada legislature passed A.B. 413 (Appendix A) which initiated the so-called "Sagebrush Rebellion" movement. This law, among other things, claims that "* * * subject to existing rights, all public lands in Nevada and all minerals not previously appropriated are the property of the State of Nevada and subject to its jurisdiction and control * * *." The public lands addressed by this law include only those unappropriated and unreserved public lands presently under the administration of the federal Bureau of Land Management. Some 49 million acres are involved in this claim which will eventually have to be resolved by either Congress or the United States Supreme Court.

Because of the tremendous amount of attention and controversy generated through passage of Nevada's "Sagebrush Rebellion" law, 14 other Western and Great Plains states have adopted or are considering similar or related laws, resolutions and studies. Appendix B provides a state-by-state listing of existing and proposed legislation along these lines. Appendix C is a good example of recent magazine articles on the "Sagebrush Rebellion." Many national magazines and major newspapers have featured articles and editorials on this subject. The enclosed article from Kiwanis Magazine is one of the better objective views of the "Sagebrush Rebellion" to appear over the past 2 years.

This report is not intended to analyze the "Sagebrush Rebellion" or present all of the pros and cons on this subject. The report instead is devoted to the activities of the select committee on public lands since 1979, many of which relate directly to accomplishment of the tasks outlined in S.C.R. 5 through the "Sagebrush Rebellion" movement. The "Sagebrush Rebellion" has proven to be the catalyst needed to bring national exposure and further understanding of public lands issues unique to Nevada and the West.

II. NEVADA SELECT COMMITTEE ON PUBLIC LANDS

Background on the Select Committee

The 1977 legislature passed Senate Concurrent Resolution No. 9 which initially created the select committee on public lands. That resolution called for the appointment of three senators by the majority leader of the senate and three assemblymen by the speaker of the assembly. The committee was to choose its own chairman. Appointed from the senate were Senator Richard E. Blakemore of Tonopah, Senator Norman D. Glaser of Halleck and Senator Norman Ty Hilbrecht of Las Vegas. Appointed from the assembly were Assemblyman Karen W. Hayes of Las Vegas, Assemblyman William A. Kissam of Las Vegas and Assemblyman Don A. Moody of Hawthorne. The committee selected Senator Blakemore as chairman.

The 1979 legislature continued the existence of the select committee through passage of Senate Concurrent Resolution No. 5 which is reproduced at the front of this bulletin. That resolution called for a similar structure for the committee, except that the number of assemblymen was increased to four. The select committee was continued by S.C.R. 5 until the beginning of the 61st legislative session. Appointed members during this time period were Senator Richard E. Blakemore of Tonopah, Senator Norman D. Glaser of Halleck, and Senator M. H. (Mike) Sloan of Las Vegas. Appointed from the assembly were Assemblyman Joseph E. Dini of Yerington, Assemblyman Karen W. Hayes of Las Vegas, Assemblyman John Marvel of Battle Mountain, and Assemblyman Dean A. Rhoads of Tuscarora. Senator Blakemore continued as chairman of the select committee, with Assemblyman Hayes serving as vice chairman.

Before describing activities and progress by the select committee on public lands regarding the three primary tasks outlined by S.C.R. 5, this report will describe some of the more pertinent administrative details concerning this committee. These details include the budget review process for the committee, current expenditures, and meetings held during the past 1½ years.

A formal budget request by the select committee was prepared on November 8, 1979, and presented to the legislative commission on December 19, 1979. The purpose of this budget request was to comply with the requirements specified in S.C.R. 5. This budget

request (Appendix D) was approved by the legislative commission as submitted on December 19, 1979. This approval covered the \$27,401 requested by the select committee. Up to February 19, 1981, some \$23,086 had been spent by the select committee in accordance with the approved budget.

Meetings of the Select Committee

The following portion of this report provides a description and summary for each of the eight meetings conducted by the select committee since enrollment of S.C.R. 5 on May 15, 1979. Complete minutes from each of these meetings are available from the research division of the legislative counsel bureau.

MEETINGS OF THE NEVADA LEGISLATURE'S SELECT COMMITTEE ON PUBLIC LANDS May 1979 - January 1981

<u>Meeting Date & Location</u>	<u>Subjects Discussed & Action Taken</u>
1. August 10, 1979 Room 213 Legislative Building Carson City, NV	Committee decisions to address responsibilities under S.C.R. 5 through framework of A.B. 413 as much as possible. Planning and preparation for September 6-7, 1979, conference in Reno of Western Coalition on Public Lands. Several presentations to committee on growing "Sagebrush Rebellion" movement.
2. November 1, 1979 Convention Center Stockmen's Hotel Elko, NV	Development of committee budget. Establishment of Western Coalition Clearinghouse function and "Coalition Comments" newsletter. Discussion of LANDSAT capabilities, recent CSG Western Conference meeting, and other matters.
3. February 1, 1980 Las Vegas City Commission Chambers Las Vegas, NV	Discussion of "Welcome to the West" logo, and copyright thereof. Discussions and planning for a trip to Washington, D.C., in March 1980 to help initiate development of a private sector counterpart to the

Meeting Date & Location

Subjects Discussed & Action Taken

- western coalition of state and local governments on public lands. Possible meetings with congressional delegation on public lands matters while in Washington, D.C., was also discussed.
4. March 16-18, 1980
Various locations
Washington, D.C.
- Informal organizational meeting at Key Bridge Marriott Hotel on March 16. On March 17, presentation by select committee to board of directors meeting of National Cattlemen's Association at Key Bridge Marriott Hotel, with later select committee workshop for private sector groups at U. S. Chamber of Commerce offices. On March 18, briefing on Sagebrush Rebellion and later press conference in conjunction with Senate Energy Committee. Afternoon meetings with Senator Cannon, Senator Laxalt and Congressman Santini.
5. June 6-7, 1980
Room 213, Legislative
Building
Carson City, NV
- Staff update on various matters relating to "Sagebrush Rebellion." Update by committee members on various meetings recently attended. Presentation by Nevada attorney general's office to committee relating to legal efforts on A.B. 413. Discussion of professional media campaign to promote "Sagebrush Rebellion" and public lands goals. Preliminary development of legislation for 1981 session of legislature.
6. August 13, 1980
Room 214, College of
Agriculture
University of Nevada
Reno, NV
- Select committee hosts meeting of key western legislators and other interested parties on "Sagebrush Rebellion" efforts to date and future direction for this public lands movement. Further refinement

Meeting Date & Location

Subjects Discussed & Action Taken

- August 13, 1980
(continued)
7. November 20, 1980
Little America Hotel
Salt Lake City, UT
8. January 7, 1981
Room 234, Legislative
Building
Carson City, NV
- of legislative package for 1981 session. State-by-state reports from the 12 western states represented at meeting. Presentations by other persons in attendance on "Sagebrush Rebellion." Preparation of resolutions for submittal to Public Lands Task Force of CSG's Western Conference.
- Meeting in conjunction with national public lands conference sponsored by League for the Advancement of States Equal Rights (LASER). Discussion of future direction for select committee to accomplish responsibilities under S.C.R. 5 and to achieve control of public lands as specified by A.B. 413. These discussions were in consideration of a new administration coming to Washington, D.C., in January 1981. Further refinement of legislation for 1981 Nevada session.
- Presentation to committee by former U.S. Congressman Wayne Aspinall of Colorado who served as chairman of the House Interior and Insular Affairs Committee for 14 years. Committee discussions on future direction of "Sagebrush Rebellion," including future meetings, studies, and coordination efforts needed. Finalization of legislative package for 1981 session.

III. SUPPORT OF A WESTERN COALITION ON PUBLIC LANDS

The Western Coalition on Public Lands was formed in 1978 to represent state and county officials on public lands issues in the 13 western states. States represented are Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The coalition was formed at the urging of Nevada's select committee on public lands to support efforts for transfer of federal public domain lands to the respective states. The coalition advocates public lands positions supported by the Western Conference of The Council of State Governments (CSG) and the Western Interstate Region of the National Association of Counties (NACo).

Two major meetings have been held by the Western Coalition on Public Lands since its formation. Both meetings were arranged and coordinated through the efforts of the select committee on public lands. The first meeting was held in Washington, D.C., in May 1978. That meeting is discussed in Legislative Counsel Bureau Bulletin No. 79-19.

The select committee, as one of its first priorities after being continued by S.C.R. 5 in 1979, hosted another meeting of the Western Coalition on Public Lands. In consultation with both CSG and NACo officials, it was decided to hold this meeting on September 6-7, 1979, in Reno. The meeting was conducted in the convention center of the Sahara Reno Hotel, with original estimates for an attendance of up to 150 persons.

Because of Nevada's passage of "Sagebrush Rebellion" legislation (A.B. 413) earlier in 1979, with accompanying media buildup and controversy from environmental groups, the western coalition meeting evolved into a significant "happening" and "protest" against public lands policies by the Federal Government at that time. By the time the meeting was to begin, preregistrations had already topped the 300 mark. Last minute "scrambling" was necessary to handle the overflow crowd at the opening session which featured remarks by Nevada's Governor Robert List and a dynamic address by U.S. Senator Orrin Hatch (R-Utah). Presentations later in the conference by Lieutenant Governor Terry Miller (R-Alaska), Congressman Don Clausen (R-California), Congressman Jim Santini (Nevada), and U.S. Senator Paul Laxalt (Nevada) were also most timely and well received.

Following is the agenda for the September 6-7, 1979, western coalition meeting:

THURSDAY, SEPTEMBER 6, 1979
Sahara Reno Hotel

8-9 a.m. Registration for Meeting

9 a.m. Opening Session

Nevada Hosts:

Senator Richard E. Blakemore, Chairman, Nevada
Select Committee on Public Lands

Jack Pettiti, Commissioner, Clark County,
Nevada, and Past Chairman, WIR/NACo

Welcoming Remarks:

Governor Robert List, Nevada, Vice Chairman,
Western Conference, CSG

Jean Stoess, Vice Chairman, Washoe County
Commission

Official Officers:

Senator Robert H. Ziegler, Sr., Alaska,
Chairman, Western Conference, CSG (Presiding)

Cal Black, Commissioner, San Juan County,
Utah, and Chairman, WIR/NACo

Keynote Speaker: U.S. Senator Orrin G. Hatch,
Utah

10:15 a.m.

General Session:
Retention Versus Disposal--State Action,
Federal Action

Moderator: Assemblyman Dean A. Rhoads, Nevada

Alex J. Armijo, Commissioner of Public Lands,
New Mexico

Richard H. Bryan, Attorney General, Nevada

Frank Gregg, Director of BLM

Tom Nelson, Assistant Chief, U.S. Forest Service

Noon

Lunch--Sahara Reno Opera House

Speaker: Lt. Governor Terry Miller, Alaska.
"Alienation of the West--The Rise of the Western
Coalition"

1:30 p.m.

Work Sessions (Panel Discussions)

- (1) The Sagebrush Rebellion--(Where Do We Go from Here?)
- (2) Public Lands Payments--State/County Relationships, and Current Legislation in Congress
- (3) BLM (Organic Act Regulations and Wilderness Review)
- (4) Forest Service (RARE II and Regulations under RPA and NFMA)

3:30 p.m.

Work Sessions (Develop Positions)

- (1) The Sagebrush Rebellion--(Where Do We Go from Here?)
- (2) Public Lands Payments--State/County Relationships, and Current Legislation in Congress
- (3) BLM (Organic Act Regulations and Wilderness Review)
- (4) Forest Service (RARE II and Regulations under RPA and NFMA)

FRIDAY, SEPTEMBER 7, 1979

8 a.m.

General Session

Presiding: Cal Black, Commissioner, San Juan
County, Utah

U.S. Representative Don Clausen, Ranking Minority Member, House Interior and Insular Affairs Committee. "The BLM Organic Act: Congress' Intent"

8:45 a.m. Report of Work Sessions

Discussion and Establishment of Western Coalition Priorities and Responsibilities

Decision on Work Program for 1979-80

10:45 a.m. U.S. Representative James Santini, Chairman of Mines and Mining Subcommittee of House Interior and Insular Affairs Committee. "Land Management, Wilderness Review and the Future of Mining in the West"

11:15 a.m. Resumption of General Session

12:15 p.m. Lunch--U.S. Senator Paul Laxalt, Nevada, Co-Chairman, U.S. Senate Western Coalition

Adjournment

Out of this meeting came several resolutions based on the discussions held in each of the four separate work sessions. These resolutions, dealing with the "Sagebrush Rebellion," public lands payments, BLM regulations and programs, and U.S. Forest Service regulations and programs, are available for review in the research division of the legislative counsel bureau. These resolutions were also forwarded to the annual meetings of both CSG's Western Conference and NACo's Western Interstate Region. Both bodies endorsed the positions advocated by the western coalition, including:

- Support for the transfer of federal public lands to the respective states;
- Expeditious disposal of unmanageable and isolated tracts of federal lands;

- Full payments to counties under the payments-in-lieu of taxes program to compensate for the tax immunity of federal lands;
- Support for wilderness decisions based on the multiple use concept of public lands that would protect state designated road systems, prime commercial timber production, recreation uses, watershed, mineral, gas and oil resources, and decisions consistent with state and local land use plans;
- Support for Alaska lands legislation that would guarantee the conveyance of statehood entitlement lands to the State of Alaska, ensure that resources of Alaska will continue to be studied, evaluated, developed and conserved;
- Support for a comprehensive energy impact assistance program for states, counties and communities impacted by energy development;
- Support for the goals of the National Forest and Rangeland Resources Planning Act to include range and forest land restoration and protection, water development, reforestation, and adequate research and management; and
- Support for comprehensive state and local land use planning.

These positions were further refined by CSG's western conference at its October 1980 annual meeting in Jackson, Wyoming. Appendix E presents the 10 resolutions relating to public lands enacted at that meeting. These resolutions further strengthened unity among western states on public lands issues.

It can be stated without question that the September 1979 western coalition meeting in Reno was a vital event to unify and direct the growing public lands movement in the West known as the "Sagebrush Rebellion." Efforts at state and local government levels, through the Western Coalition on Public Lands and several public lands committees in Western CSG and Western NACo, have resulted in a fairly strong and unified western voice on public lands issues.

The select committee in early 1980 decided that a counterpart coalition should be encouraged among the various private organizations concerned with public lands matters. This resulted in a trip to Washington, D.C., in March 1980 to meet with various private organizations and share the positive experience with the state-county western coalition.

Meetings in Washington, D.C., included a presentation by the select committee before the board of directors and delegates to the National Cattlemen's Association. That same afternoon, the select committee had arranged a work session in the offices of the U.S. Chamber of Commerce. Although attendance at this work session was low (approximately 35), the need for a coalition of private sector interests in the public lands was demonstrated. Considerable discussion concerned whether a coalition approach would work since certain rivalries exist among some of these private organizations. There was some sentiment expressed for the establishment of a new entity to represent or at least provide an information base regarding private sector concerns relating to public lands control and management.

Since the meetings in Washington, D.C., several additional groups have formed in both the private and public sectors to further public lands issues advocated by the "Sagebrush Rebellion." These groups include, but are not limited to:

<u>Name of Entity</u>	<u>General Direction</u>
League for the Advancement of States Equal Rights (LASER)	Provision of information and funding to allow for the ultimate divestiture of public lands to the states.
States Rights Coordinating Council	Composed of key state legislators and others committed to divestiture of public lands to the states.
CSG Western Conference Public Lands Committee	Legislators from throughout the West to work primarily on advancement of "Sagebrush Rebellion" goals.

Sagebrush Rebellion, Inc.	Litigation on selected cases where federal presence is determined unconstitutional or in violation of basic state sovereignty.
National Innholders Association	Protect the rights of citizens on public lands, particularly those citizens owning enclaves of private land and surrounded by federal land.
National Outdoor Coalition	Efforts to assure public access to, and use of, the public lands.
Outdoors Unlimited, Inc.	Strongly supportive of "Sagebrush Rebellion" efforts and an advocate of multiple use concept on the public lands.

In conclusion, the select committee on public lands has been most effective over the past 1½ years in gaining additional support for the Western Coalition on Public Lands and related efforts. Additional work is needed to help the new administration in Washington, D.C., properly understand and address the public lands inequities in Nevada and the West. The select committee on public lands is still looked to for guidance and direction by the western coalition and other groups. The select committee should be continued until commencement of the 62nd session to, among other things, support coalition efforts.

IV. ADVANCE KNOWLEDGE AND UNDERSTANDING OF NEVADA'S PUBLIC LANDS SITUATION

The select committee was very active over the last 1½ years in advancing knowledge and understanding of Nevada's public lands situation in local, regional and national forums.

The committee participated in or hosted major meetings in Washington, D.C., Boise, Salt Lake City and Reno (two times). Additionally, select committee members were invited to speak at many other meetings around the Nation during this time period. Travel and expenses to these latter meetings were usually paid for by either the sponsoring group or the committee member.

Within Nevada, select committee members, Senator Lawrence E. Jacobsen, Assemblyman Alan Glover, and Jac Shaw, Nevada State Lands Administrator, spoke to numerous civic organizations, professional societies and other interested groups. Records regarding these speaking engagements are available for review in the research division of the legislative counsel bureau.

Another primary way in which the select committee advanced understanding and knowledge of Nevada's public lands situation was through establishment of a western coalition clearinghouse. The clearinghouse function emphasized the collection and distribution of information on western public lands issues. A quarterly newsletter, "Coalition Comments," was also developed for broad distribution, while "Sagebrush Update" was distributed twice monthly to members of the Nevada legislature.

MAJOR MEETINGS PARTICIPATED IN OR HOSTED BY NEVADA SELECT COMMITTEE ON PUBLIC LANDS
1979 - 1980

DATE	SPONSORING ORGANIZATION	LOCATION	ATTENDANCE	SUMMARY OF MEETING
September 6, 1979 thru September 7, 1979	Western Coalition on Public Lands (Western CSG, Western NACo and Select Committee)	Reno, NV	350	This meeting, more than any other event prior to this time, brought about a growing western unity on public lands issues, particularly the "Sagebrush Rebellion" movement initiated through passage of A.B. 413 by the 1979 Nevada legislature.
December 13, 1979	Idaho Cattlemen's Assn. & Idaho Cattle Feeders Association	Boise, ID	200	This meeting allowed the select committee its first real opportunity to present Nevada's public lands situation in a major out-of-state forum. For this meeting, each member of the select committee presented one element of a comprehensive briefing package on the "Sagebrush Rebellion."
March 17, 1980	National Cattlemen's Association	Washington, D.C.	250	The select committee again presented its comprehensive briefing, with a special invitation to the National Cattlemen's Assn. to assist in the formation of a private sector coalition on public lands.
March 17, 1980	U.S. Chamber of Commerce & Nevada Select Committee on Public Lands	Washington, D.C.	35	This meeting involved several national representatives of major private organizations that are users of the public lands. The select committee was assisted in this meeting by legislators from the states of Utah, Arizona and Washington. The states of Montana, Oregon, Idaho and Alaska were also represented by public land users. This meeting served to exchange information and encourage development of a private sector coalition on public lands.
August 13, 1980	Nevada Select Committee on Public Lands	Reno, NV	60	This meeting brought together key legislators and other interested persons from 12 western states. The purpose of the meeting was to outline Nevada's direction on the "Sagebrush Rebellion" and related public lands efforts, and seek unity and common direction from the other states. This meeting was an excellent forum and "strategy session" which led directly to the annual Western CSG meeting the following month.
November 20, 1980 thru November 22, 1980	League for the Advancement of States Equal Rights (LASER)	Salt Lake City, UT	600	For this major meeting, the select committee was asked to prepare a comprehensive information package to be printed by LASER for distribution to all conference participants. This document, which is available for review in the research division of the legislative counsel bureau, and the presentations given by members of the select committee were extremely effective in bringing greater knowledge and understanding of Nevada's public lands situation.

SPEAKING ENGAGEMENTS BY MEMBERS OF SELECT COMMITTEE ON PUBLIC LANDS

Selected Out-of-State Organizations Addressed by a Member of the Select Committee on Public Lands
(Generally at No Expense to State of Nevada)

<u>Organization</u>	<u>Place</u>	<u>Date</u>	<u>Number Persons in Attendance</u>
Commonwealth Club North	Anchorage, Alaska	July 7, 1979	100
Alabama State Bar Association Oil, Gas and Mineral Law Section	Huntsville, Alabama	July 20, 1979	100
American Legislative Exchange Council	Chicago, Illinois	August 11, 1979	100
National Conference of Editorial Writers	Phoenix, Arizona	September 28, 1979	300
Interstate Oil Compact Commission	San Diego, California	December 3, 1979	800
National Woolgrower's Association and National Cattlemen's Association	San Diego, California	January 19, 1980	1,000
BLM National Public Lands Advisory Council	Washington, D.C.	January 29, 1980	100
Forestry Forum at University of California	Berkeley, California	February 20, 1980	100
Western Interstate Region of National Association of Counties	Boise, Idaho	April 23, 1980	300
Outdoor Writers Association of America	Rapid City, S. Dakota	June 16, 1980	100
Western States Association of Tax Administrators	Salt Lake City, Utah	September 24, 1980	200
Western Conference of The Council of State Governments	Jackson, Wyoming	October 1, 1980	300
National Water Resources Association	Omaha, Nebraska	October 24, 1980	1,000

Clearinghouse Function

A quarterly newsletter entitled "Coalition Comments" was initiated in October 1979 as a primary means of communication and information-sharing on public lands issues in the West, particularly the "Sagebrush Rebellion." Six editions of "Coalition Comments" have been prepared since its beginning with a current distribution list of approximately 1,000. The select committee on public lands accepted the initial responsibility for "Coalition Comments" and the establishment of a clearinghouse for public lands and "Sagebrush Rebellion" information. It was the hope of the select committee that these functions could eventually be assumed by an entity with a broader regional perspective. The January 1981 issue of "Coalition Comments" was to have been the first under the responsibility of the Western Conference of The Council of State Governments. However, due to unforeseen staff limitations, the western conference was unable to accept responsibility for either the clearinghouse or "Coalition Comments" at that time. Perhaps at some later date the western conference or a similar regional entity will be able to assume these functions. Until that time, the select committee proposes to continue preparation of "Coalition Comments" on a quarterly basis and maintain an up-to-date clearinghouse of public lands and "Sagebrush Rebellion" information.

All readers of "Coalition Comments" are asked to forward copies of news articles and clippings, legislative proposals and actions, upcoming or recent meeting summaries, and other materials relating to public lands matters in the West to the select committee. Each issue of "Coalition Comments" highlights some of the happenings around the West with other news of general interest. All information is retained and placed in the clearinghouse filing system by state and/or topic. Staff of the research division of the legislative counsel bureau performs the editorial and filing responsibilities of the clearinghouse under supervision of the select committee on public lands.

A second newsletter, entitled "Sagebrush Update," was initiated in August 1980 at the request of Nevada's legislative commission. Seven issues of this newsletter were prepared between that time and the start of the 1981 legislative session. These newsletters were prepared primarily for the use and information of Nevada legislators, with a printing of approximately 80 copies per issue. It is proposed by the select committee that these newsletters be continued after adjournment of the 61st legislative session.

V. SUPPORT OF CONGRESSIONAL LEGISLATION

The select committee was extremely effective in the support of congressional legislation providing for the orderly transfer of the unappropriated public lands from the Federal Government to the states. This support came in the form of providing input in testimony at a regional public hearing on Congressman Santini's revised bill, H.R. 5436, and to Nevada Congressman Jim Santini in the revision of H.R. 7837. (See Appendices F and G.)

Amendments to H.R. 5436

Prior to the trip to Washington, D.C., by the select committee in March 1980, the committee had been in contact with the three members of Nevada's congressional delegation. Congressman Jim Santini had introduced H.R. 5436 in the House of Representatives on September 27, 1979. This bill was patterned after S. 1680 which had been introduced earlier in 1979 by Senator Orrin Hatch (Utah) in the U.S. Senate. H.R. 5436 and S. 1680 provided for the cession and conveyance to the states of federally owned unreserved, unappropriated lands, and established policy, methods, procedures, schedules, and criteria for such transfers. Congressman Santini had felt it important to introduce this type of bill in 1979, but realized that certain revisions thereto were necessary in the longer term. He therefore requested the select committee on public lands to provide to him at the time of their trip to Washington, D.C., suggested amendments to H.R. 5436.

On the afternoon of March 18, 1980, the select committee on public lands met with Congressman Santini and members of his staff in his office in Washington, D.C. The committee presented written suggestions on ways to improve H.R. 5436 and discussed them in detail with Congressman Santini. Comments provided by the select committee were incorporated in the revised bill, H.R. 7837, and included the following:

1. Deletion of lands within the national forest system from in the definition of "unreserved unappropriated public lands." Members of the select committee felt that the bill in Congress should only involve the transfer of lands under the control of the Bureau of Land Management to the states.

This amendment was designed to allow conformity with A.B. 413 (1979 Nevada legislature) and "Sagebrush Rebellion" legislation from other western states, and also remove the controversy involved over transfer of national forest lands.

2. Provision that states, in making any subsequent conveyance, transfer, or other disposal of public lands acquired under this Act, shall reserve easements and rights of way deemed necessary to assure public access to remaining public lands. The select committee felt it most important to put this provision in the federal act to guarantee the retention of public access to public land areas affected by this bill.
3. Provision that states continue the payments in-lieu of taxes program for local governments. The payments in-lieu of taxes program is now under federal management, and for FY 1980-81 slightly over \$100 million was provided to local governments impacted by significant areas of public lands within their boundaries. For local governments in Nevada, slightly more than \$5 million was provided by this federal program in FY 1980-81.
4. Inclusion of the governing bodies and planning commissions of cities in the inventory and study of public lands to be conducted in each state. The select committee stated that cities in Nevada and other western states were vitally concerned regarding public lands within their boundaries as well as adjacent public land areas which may be needed in the future for community expansion and development or public facilities.
5. Deletion of the hiring preference to be given by the states to former federal employees who lose their employment because of this Act. The select committee felt that states would hire the most qualified persons available to manage the public lands, including many federal employees terminated as a result of this Act. However, the committee felt that it would be unfair to other qualified applicants for states to give priority to the hiring of such terminated federal employees.

Congressional Hearing on H.R. 7837

On November 22, 1980, Congressman Santini, as chairman of the House Subcommittee on Mines and Mining, conducted a congressional hearing on November 22, 1980. The hearing, held in Salt Lake City, focused on H.R. 7837 which was introduced by Congressman Santini in July 1980.

The primary thrust of H.R. 7837 is to provide a mechanism for the transfer of the unreserved and unappropriated public lands from federal to state ownership. Federal land transfer boards would be set up in each public land state for the purpose of receiving and processing applications from the states for the transfer of all or portions of the eligible public lands. Each state would have to establish a state land commission and pass several laws to allow for the orderly transfer of public lands applied for. Several hundred persons attended the congressional hearing in Salt Lake City. Of the 30-40 persons testifying, only five or six were in opposition to the bill with the great majority strongly supportive. Select committee members testifying in support of H.R. 7837 were Senator Blakemore, Senator Glaser, Assemblyman Hayes and Assemblyman Rhoads. Sitting on the subcommittee along with Congressman Santini (D-Nevada) were Congressmen Dan Marriott (R-Utah), Bob Whittaker (R-Kansas), and Ray Kogovsek (D-Colorado).

VI. RECOMMENDATIONS AND FUTURE OF THE SELECT COMMITTEE

Future Outlook

It can be fairly said that the select committee has made tremendous progress toward the goal of gaining greater state control over the public lands within Nevada. The objectives of the select committee in general, and the "Sagebrush Rebellion" in particular, can be divided into three phases.

Phase 1 - This phase involved gaining regional and national attention to public lands issues in Nevada and the West. It also involved the formation of an effective coalition including elected officials and private groups and citizens from Nevada and other states. This effort was so successful that President Reagan actively supported the "Sagebrush Rebellion" in his 1980 campaign for the Presidency, and stated that he could be "counted in as a Sagebrush Rebel." This phase can be regarded as a total success, with a President, many new members of Congress, and a Secretary of the Interior totally supportive of modifying federal land policy, regulations and laws which are contrary to the basic multiple use philosophy. Many of the issues and problems which gave rise to the "Sagebrush Rebellion" movement will be eliminated because of the new attitude and philosophy in Washington, D.C.

Phase 2 - The second phase of the "Sagebrush Rebellion" started on January 20, 1981, with the inauguration of President Reagan. It is vital that the select committee and others involved in gaining national attention to public lands issues in the West continue their efforts by working cooperatively with the new administration and Congress. Many positive benefits can be derived by participating in the reshaping of federal policy, regulations and laws on our public lands. Any lessening of public lands efforts by Nevada, other states or private groups would greatly diminish the pressure and input needed by the new administration to make these positive changes on our public lands.

Phase 3 - The third phase is long-term in nature. It is believed that the only guarantee that Nevada and other public lands states can obtain to assure consistent public lands policy from administration to administration is actual divestiture of

the unreserved and unappropriated public lands to the states. Nevada's position should remain constant--13 percent of the lands in Nevada in nonfederal ownership is not enough and additional lands must be conveyed by the Federal Government to Nevada in the future. Continuation of the select committee on public lands is most important until this "phase 3" goal has been accomplished.

Recommendations

For the 1981 legislative session, five recommendations are being made:

1. Nevada's constitution should be amended to guarantee to all Nevadans, other states, and the Federal Government that public lands will remain public when conveyed from federal to state ownership. The state constitution should provide for the disposal of public lands only under very specific circumstances such as for needed community expansion, agriculture if soil and water conditions warrant, and recreation and public purposes. By placing this type of guarantee in Nevada's constitution, to be enacted by a vote of the general public, such provisions could only be changed through another vote of the people. The constitution should also provide for the multiple use management of public lands to allow for maximum benefits to all users of the public lands. These concepts are expressed in BDR C-84 (pp. 110).
2. Chapter 328 of the Nevada Revised Statutes needs to be amended to remove Nevada's "blanket consent" to federal land acquisition. Recent efforts by the U.S. Fish and Wildlife Service to purchase or possibly condemn private ranches and recreational areas in the Warm Springs area of Clark County is but one example of how unchecked federal acquisitions could increase the already staggering 87 percent of Nevada's lands being in federal control.

A December 14, 1979, report by the Comptroller General of the United States was entitled "The Federal Drive to Acquire Private Lands Should be Reassessed." It is expected that the Reagan Administration will be very sensitive to the recommendations of this report and substantially curtail

future acquisitions of private land by the Federal Government. However, Nevada should protect itself by reserving the right to be notified of all proposed federal land acquisitions and should act on these proposals as allowed by the U.S. Constitution. These concepts are presented in BDR 26-85 (p. 117).

3. In fairness to counties and local governments in Nevada, the current federal program of providing payments in-lieu of taxes to local governments impacted by large areas of public lands within their boundaries should be continued by the state. At current levels, this would require around \$5 million additional per year to be provided to local governments in Nevada. Projections indicate that revenues from the public lands if they were under state control would be more than adequate to provide a continuation of in-lieu payments, allow for the needed funding to properly manage the public lands, and also make up any loss of federal funds as a result of such public land transfer. The payments in-lieu of taxes concept is presented in BDR 26-83 (p. 132).
4. The Nevada legislature should again urge Congress, through passage of a joint resolution, to transfer the unreserved unappropriated public lands to the state. This recommendation is contained in BDR 591 (p. 136).
5. Because of the reasons presented earlier in this report, the select committee on public lands should be continued for at least the next 2 years. Largely because of the efforts of the select committee, public lands issues in Nevada and the West have gained national importance. The momentum and interest gained by the select committee for the "Sagebrush Rebellion" and related issues would be jeopardized if this committee were not continued. It is proposed that the clearinghouse function and newsletters of the select committee also be continued. A resolution to continue the select committee is presented in BDR 86 (p. 140).

A P P E N D I X A

ASSEMBLY BILL 413
(1979)

Assembly Bill No. 413—Assemblymen Rhoads, Hayes, Mann, Marvel, Bergevin, Polish, Robinson, Banner, Hickey, Horn, Brady, Dini, Glover, Chaney, Bennett, Tanner, Stewart, FitzPatrick, Price, Prengaman, Fielding, Sena, Craddock, Barengo, Cavnar, May, Getto, Bremner, Malone, Westall, Vergels, Weise, Harmon, Rusk, Webb, Jeffrey and Mello

CHAPTER 633

AN ACT relating to public lands; creating a board of review; providing for state control of certain lands within the state boundaries; providing penalties; making an appropriation; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 321 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

SEC. 2. *The legislature finds that:*

1. *The State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders because:*

(a) *On October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaim all right and title to unappropriated public land within its boundaries;*

(b) *From 1850 to 1894, newly admitted states received 2 sections of each township for the benefit of common schools, which in Nevada amounted to 3.9 million acres;*

(c) *In 1880 Nevada agreed to exchange its 3.9-million-acre school grant for 2 million acres of its own selection from public land in Nevada held by the Federal Government;*

(d) *At the time the exchange was deemed necessary because of an immediate need for public school revenues and because the majority of the original federal land grant for common schools remained unsurveyed and unsold;*

(e) *Unlike certain other states, such as New Mexico, Nevada received no land grants from the Federal Government when Nevada was a territory;*

(f) *Nevada received no land grants for insane asylums, schools of mines, schools for the blind and deaf and dumb, normal schools, miner's hospitals or a governor's residence as did states such as New Mexico; and*

(g) *Nevada thus received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the land grant states in the far west admitted after 1864, while states of comparable location and soil, namely Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants.*

2. *The State of Nevada has a legal claim to the public land retained by the Federal Government within Nevada's borders because:*

(a) *In the case of the State of Alabama, a renunciation of any claim to unappropriated lands similar to that contained in the ordinance adopted by the Nevada constitutional convention was held by the Supreme Court of the United States to be "void and inoperative" because*

it denied to Alabama "an equal footing with the original states" in *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845);

(b) The State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders, setting a further precedent which inured to the benefit of all states admitted later "on an equal footing"; and

(c) The Northwest Ordinance of 1787, adopted into the Constitution of the United States by the reference of Article VI to prior engagements of the Confederation, first proclaimed the "equal footing" doctrine, and the treaty of Guadalupe Hidalgo, by which the territory including Nevada was acquired from Mexico and which is "the supreme law of the land" by virtue of Article VI, affirms it expressly as to the new states to be organized therein.

3. The exercise of broader control by the State of Nevada over the public lands within its borders would be of great public benefit because:

(a) Federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government controls from 97 to 99 percent of the land;

(b) Federal jurisdiction over the public domain is shared among 17 federal agencies or departments which adds to problems of proper management of land and disrupts the normal relationship between a state, its residents and its property;

(c) None of the federal lands in Nevada are taxable and Federal Government activities are extensive and create a tax burden for the private property owners of Nevada who must meet the needs of children of Federal Government employees, as well as provide other public services;

(d) Under general land laws only 2.1 percent of federal lands in Nevada have moved from federal control to private ownership;

(e) Federal administration of the retained public lands, which are vital to the livestock and mining industries of the state and essential to meet the recreational and other various uses of its citizens, has been of uneven quality and sometimes arbitrary and capricious; and

(f) Federal administration of the retained public lands has not been consistent with the public interest of the people of Nevada because the Federal Government has used those lands for armament and nuclear testing thereby rendering many parts of the land unusable and unsuited for other uses and endangering the public health and welfare.

4. The intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states.

5. The attempted imposition upon the State of Nevada by the Congress of the United States of a requirement in the enabling act that Nevada "disclaim all right and title to the unappropriated public lands lying within said territory," as a condition precedent to acceptance of Nevada into the Union, was an act beyond the power of the Congress of the United States and is thus void.

6. The purported right of ownership and control of the public lands

within the State of Nevada by the United States is without foundation and violates the clear intent of the Constitution of the United States.

7. The exercise of such dominion and control of the public lands within the State of Nevada by the United States works a severe, continuous and debilitating hardship upon the people of the State of Nevada.

SEC. 3. As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires:

1. "Division" means the division of state lands of the state department of conservation and natural resources.

2. "Public lands" means all lands within the exterior boundaries of the State of Nevada except lands:

(a) To which title is held by any private person or entity;

(b) To which title is held by the State of Nevada, any of its local governments or the University of Nevada System;

(c) Which are located within congressionally authorized national parks, monuments, national forests or wildlife refuges, or which are lands acquired by purchase consented to by the legislature;

(d) Which are controlled by the United States Department of Defense, Department of Energy or Bureau of Reclamation; or

(e) Which are held in trust for Indian purposes or are Indian reservations.

SEC. 3.5. 1. There is hereby created a board of review composed of the:

(a) Director of the state department of conservation and natural resources;

(b) Administrator of the division of environmental protection of the state department of conservation and natural resources;

(c) Administrator of the division of mineral resources of the state department of conservation and natural resources;

(d) Administrator of the division of state parks of the state department of conservation and natural resources;

(e) State engineer;

(f) State forester firewarden;

(g) Chairman of the state environmental commission;

(h) Director of the department of energy; and

(i) Executive director of the state department of agriculture.

2. The chairman of the state environmental commission shall serve as chairman of the board.

3. The board shall meet at such times and places as are specified by a call of the chairman. Five members of the board constitute a quorum. The affirmative vote of a majority of the board members present is sufficient for any action of the board.

4. Except as provided in this subsection, the members of the board serve without compensation. The chairman of the state environmental commission is entitled to receive a salary of \$40 for each day's attendance at a meeting of the board and the travel expenses and subsistence allowances provided by law for state officers.

5. The board:

(a) Shall review and approve or disapprove all regulations proposed by the state land registrar under section 4 of this act.

(b) May review any decision of the state land registrar made pursuant to sections 2 to 9, inclusive, of this act if an appeal is taken pursuant to section 8.5 of this act, and affirm, modify or reverse the decision.

SEC. 4. 1. The division shall hold the public lands of the state in trust for the benefit of the people of the state and shall manage them in an orderly and beneficial manner consistent with the public policy declared in section 6 of this act.

2. The state land registrar may with the approval of the board of review adopt regulations necessary to manage the public lands in an orderly and beneficial manner and to carry out the provisions of sections 2 to 9, inclusive, of this act and the public trust created in those sections.

3. Except as provided in this subsection, the state land registrar may contract for or employ such professional and clerical personnel as are needed to carry out his functions. Any contract for professional services must be approved by the state board of examiners and any money necessary to compensate those persons must be approved for expenditure by the legislature or the interim finance committee.

SEC. 5. 1. Subject to existing rights, all public lands in Nevada and all minerals not previously appropriated are the property of the State of Nevada and subject to its jurisdiction and control.

2. Until equivalent measures are enacted by the State of Nevada, the rights and privileges of the people of the State of Nevada under the National Forest Reserve Transfer Act (16 U.S.C. §§ 471 et seq.), the General Mining Laws (30 U.S.C. §§ 21 et seq.), the Homestead Act (43 U.S.C. §§ 161 et seq.), the Taylor Grazing Act (43 U.S.C. §§ 315 et seq.), the Desert Land Act (43 U.S.C. §§ 321 et seq.), the Carey Act (43 U.S.C. §§ 641 et seq.) and the Public Rangelands Improvement Act (43 U.S.C. §§ 1901 et seq.) and all rights-of-way and easements for public utilities must be preserved under administration by the state.

3. Public lands in Nevada which have been administered by the United States under international treaties or interstate compacts must continue to be administered by the state in conformance with those treaties or compacts.

SEC. 6. The public lands of Nevada must be administered in such a manner as to conserve and preserve natural resources, wildlife habitat, wilderness areas, historical sites and artifacts, and to permit the development of compatible public uses for recreation, agriculture, ranching, mining and timber production and the development, production and transmission of energy and other public utility services under principles of multiple use which provide the greatest benefit to the people of Nevada.

SEC. 7. 1. Except as provided in subsection 2, no sale, conveyance or other disposal of the public lands may be permitted or authorized by the state land registrar, unless specifically authorized by an act of the legislature enacted after July 1, 1979.

2. To the extent that the public lands may be conveyed, leased, permitted, or licensed by the Federal Government or any of its agencies, the state land registrar is hereby authorized to convey, lease, license or permit the use of public lands to the same extent or in the same manner as those

lands are conveyed, leased, licensed, or permitted to be used by the Federal Government or any of its agencies.

3. All proceeds of fees, rents, royalties or other money paid to the state under sections 2 to 9, inclusive, of this act must be deposited with the state treasurer for credit to the state general fund.

SEC. 8. 1. Except as it is authorized pursuant to section 5 of this act or except as it may be authorized by the state land registrar pursuant to any authority conferred upon him by law, any sale, lease, exchange, encumbrance or other disposal of any parcel of or any interest in the public lands is void.

2. Any person who intends to perform or who actually carries out any act with respect to the use, management or disposal of any of the public lands under color of any statute, ordinance, regulation, custom or usage of the United States or otherwise, shall obtain written authorization from the state land registrar approving or confirming any such act, which authorization shall be given only to the extent it is authorized under the laws of this state.

3. Any person who does not obtain written authorization from the state land registrar as required by subsection 2 may be enjoined by the state land registrar from attempting to perform or continuing to carry out any act respecting the use, management or disposal of any of the public lands in any court of competent jurisdiction of this state within whose jurisdiction any of the affected public lands are located or the person resides.

4. Any person who receives any money or other consideration for any purported sale or other disposition of any public land which was made contrary to the provisions of sections 2 to 9, inclusive, of this act is liable to the state for that money or for the value of any other consideration. The money may be recovered in an action brought by the state land registrar in a court of competent jurisdiction of this state within whose jurisdiction any of the affected public lands are located or the person resides.

SEC. 8.5. 1. Any person who is aggrieved by a decision of the state land registrar made pursuant to sections 2 to 9, inclusive, of this act may appeal by letter to the board of review within 30 days after the date of the decision from which the appeal is taken. The letter must set out:

(a) The decision from which the appeal is taken;
(b) Legal grounds for the contention of the appellant that the decision exceeds the authority of the state land registrar; and
(c) Facts to support the contention,
with sufficient particularity to permit the state land registrar to prepare for a hearing.

2. Upon receiving the letter, the board may:

(a) Dismiss the appeal if it appears from the letter to lack any merit; or
(b) Set a date for a hearing of the appeal which must be not less than 15 days nor more than 45 days after the date on which the board receives the letter. The board shall notify the state land registrar and the appellant of the date, time and place of the hearing.

3. Any hearing held by the board must be informal.

4. The state land registrar or his representative shall present at the hearing the facts considered in reaching his decision. The appellant or his

representative may present matters in support of his contention that the state land registrar's decision exceeds his authority.

5. *If the appellant does not appear in person or by representative, the board may consider the matters set forth in his letter of appeal and may dismiss the appeal or take any other action which it finds to be reasonable and proper.*

6. *The board shall issue its order as soon as practicable after conducting the hearing. The order of the board is a final decision in a contested case.*

SEC. 9. *The attorney general may initiate or defend any action commenced in any court to carry out or enforce the provisions of sections 2 to 9, inclusive, of this act or seek any appropriate judicial relief to protect the interests of the state or the people of the state in the public lands. The right to enforce the provisions of sections 2 to 9, inclusive, of this act vests exclusively in the attorney general.*

SEC. 10. 1. The department of conservation and natural resources shall conduct an inventory and a study of the public lands of Nevada to determine, in conjunction with the respective boards of county commissioners and the planning commissions of the several counties, the methods of management that will best satisfy the requirements of section 6 of this act and establish a basis for determining the best uses of the land.

2. The department of conservation and natural resources shall submit a report of its findings and recommendations to the 61st session of the legislature.

SEC. 11. There is hereby appropriated to the interim finance committee from the state general fund the sum of \$250,000 for the biennium beginning July 1, 1979, and ending June 30, 1981, for the support of the state land registrar and the division of state lands of the state department of conservation and natural resources in carrying out the purposes of this act, and for the attorney general for any litigation arising out of this act. All costs of litigation incurred by the attorney general in enforcing the provisions of this act are a charge upon the appropriation made in this section.

A P P E N D I X B

STATES' LAND RIGHTS
"SAGEBRUSH REBELLION" LEGISLATION

STATES' LAND RIGHTS - "SAGEBRUSH REBELLION" - LEGISLATION
THROUGH FEBRUARY 2, 1981

<u>State</u>	<u>Bill, Resolution or State Law</u>	<u>Summary</u>	<u>Current Status or Vote by Legislature</u>	<u>Effective Date</u>
Alaska	HCR 34 (1980)	Supports Nevada on the Sagebrush Rebellion issue.	Passed and read by Governor on 5/9/80.	-
	HCR 40 (1980)	Requests that the Governor cause immediate land selections to which Alaska is entitled from the United States.	Passed and read by Governor on 6/1/80.	-
	HB 644 (1980)	An act creating the Alaska Statehood Commission to study and recommend appropriate changes in the relationship of the people of Alaska to the United States.	-	7/2/80
Arizona	SB 1012 (1980) (Arizona Revised Statutes 37-901 to 37-909)	Similar to the 1979 Nevada law. Passed both Houses of the Legislature in late March 1980, vetoed by Governor Rabbitt on April 8, with a subsequent veto override by the Senate on April 14, and the House on April 15, 1980.	Original Passage: Senate 20-10 House 47-11 Veto Override: Senate 21-8 House 46-8	7/31/80
California	AB 2302 (1980)	Assemblyman Hayes did not seek an override to the Governor's veto of AB 1407 from 1979. AB 2302 incorporates the concepts of AB 1407 into a more comprehensive study of the financial, legal, and land management aspects of public land ownership by the State. The Attorney General, the Office of Planning and Research, the State Lands Commission and the Department of Fish and Game will all participate in this study. Became effective without the signature of the Governor.	Assembly 78-0 Senate 40-0	1/1/81

<u>State</u>	<u>Bill, Resolution or State Law</u>	<u>Summary</u>	<u>Current Status or Vote by Legislature</u>	<u>Effective Date</u>
Colorado	HJR 1006 (1980)	Provides funding for a multistate study of the effect and impact of transferring public lands from federal to state control.	House 50-10 Senate 35-0	adopted 4/8/80
	SB 170 (1981)	Similar to the 1979 Nevada law, and also lays claim to U. S. Forest Service lands.	Introduced on January 7, 1981. In Senate Agriculture Committee. Hearing on January 29, 1981. Expected to be amended and reported out first week in February.	
Hawaii	SR 266 (1980)	Endorses and supports the efforts of western states to gain equality with other states in land management, control and ownership.	-	adopted 4/15/80
Idaho	SCR 129 (1980)	Directs Attorney General to explore the feasibility of supporting Nevada's public lands legal challenge, and to study whether Idaho should also seek control of the public lands.	Senate 19-16 House 55-15	adopted 3/14/80
	Two bills to be introduced in February, 1981.	One bill will be similar to the 1979 Nevada law claiming state jurisdiction over the unappropriated public lands. The other bill is to remove from state law automatic state consent to federal land acquisitions.		
Montana	SB 123 (1981)	Similar to the 1979 Nevada law.	Hearing held in Senate Natural Resources Committee on January 26, 1981.	

<u>State</u>	<u>Bill, Resolution or State Law</u>	<u>Summary</u>	<u>Current Status or Vote by Legislature</u>	<u>Effective Date</u>
Nevada	AB 413 (1979) Nevada Revised Statutes 321.596- 321.599)	In 1979 Nevada enacted a law, dubbed the "Sagebrush Rebellion", which asserts state control and ownership over the unappropriated public domain lands now under the management of the Federal Bureau of Land Management.	Assembly 38-1 Senate 17-3	7/1/79
	AB 13 (1981)	Requires state to reserve from sales of state land routes necessary to continue public access to public lands.	Currently in Assembly Government Affairs Committee.	
	SJR 17 (1981)	A proposed constitutional amendment to severely restrict any future disposals of public lands by Nevada.	Currently in Senate Natural Resources Committee	
	SB 176 (1981)	Removes from state law automatic state consent to federal land acquisitions.	Currently in Senate Natural Resources Committee.	
	One additional bill is to be introduced in February 1981.	A bill to guarantee a continuation of in-lieu of tax payments to local governments if Nevada gains actual control of the unappropriated public lands.		
New Mexico	HB 79 (1980) (New Mexico Statutes 19-15-1 to 19-15-10)	Similar to the 1979 Nevada law.	House 48-18 Senate 25-13	5/14/80
North Dakota	At least one bill expected to be introduced in February, 1981.	Expected to be similar to 1979 Nevada law.		

<u>State</u>	<u>Bill, Resolution or State Law</u>	<u>Summary</u>	<u>Current Status or Vote by Legislature</u>	<u>Effective Date</u>
Oregon	Two bills expected to be introduced in February 1981.	One bill will be similar to the 1979 Nevada bill, claiming state jurisdiction over the unappropriated public lands. The other bill sets up a pilot mechanism for counties to work cooperatively with BLM to allow county management of certain public lands.		
South Dakota	SB 131 (1981)	Similar to the 1979 Nevada law claiming state jurisdiction over the unappropriated public lands.	Introduced on January 22, 1981. In Senate State Affairs Committee.	
Utah	SB 5 (1980)	Similar to the 1979 Nevada law.	House 57-11 Senate 20-7	7/1/80
Washington	AB 3593 (1980)	Similar to the 1979 Nevada law.	Senate 42-1 House 90-7 (3/10/80)	Did not go into effect because the proposed constitutional amendment was defeated at the November 1980 general election.
	SJR 132 (1980)	Constitutional amendment to remove disclaimer clause relating to unappropriated public lands in Washington.	Senate 38-6 House 89-8 (3/10/80)	
	Two bills are expected to be introduced in 1981.	One bill is to be similar to the 1979 Nevada law. The other bill would create a study of the public land ownership issues in Washington State, somewhat similar in approach to the 1980 California law.		
Wyoming	HB 6 (1980) (Wyoming Statutes 36-12-101 to 36-12-109)	Similar to the 1979 Nevada law, and also lays claim to U.S. Forest Service lands.	House 48-13 Senate 21-8	3/10/80

A P P E N D I X C

"AMERICA'S SAGEBRUSH REBELLION"

By Gary Turbak

(Reprinted with permission from Kiwanis Magazine)

AMERICA'S SAGEBRUSH REBELLION

By Gary Turbak

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On July 4, 1980, in the mesa country of eastern Utah, Bob Westwood got off the first "shot" in the newest American rebellion. With flags flying and 500 compatriots cheering him on, the Grand County roads superintendent fired up not a musket, but a bulldozer.

Lowering the machine's blade and heading into a proposed wilderness area, he illegally peeled back a layer of earth along 200 yards of federally owned land. The symbolic "shot" was hardly heard outside Utah but provided yet another spirited rallying point for supporters of the Sagebrush Rebellion.

The Sagebrush Rebellion is a western movement professing a truly ambitious goal. It seeks nothing less than the transfer of vast land tracts from federal to state ownership. At stake is title to nearly 600 million acres in twelve western states.

The rebellion has been called everything from a holy states' rights crusade to a land grab to a "cowpie confrontation." But it is serious. One US senator is mustering support for a "second American revolution," and a few fleeting, wistful whispers of secession have been heard.

The movement began in earnest in 1979 when Nevada passed a law laying claim to 49 million acres of land within its borders controlled by the federal Bureau of Land Management (BLM). New Mexico, Utah, Wyoming, Arizona, and several other western states have either created similar statutes, passed supportive resolutions, or mandated studies of the situation. Along the way, a reporter dubbed the actions a "sagebrush rebellion," and the cause had a name.

It comes as a surprise to many that the US government owns most of the western half of the country. Its holdings include 29 percent of the state of Washington, 87 percent of Nevada, and 96 percent of Alaska. The remaining states fall somewhere in between, with the great white fathers in Washington, DC, controlling more than half of all land in the twelve western states (excluding Hawaii). In theory, each US citizen owns 2.7 acres of the American West.

The BLM and the US Forest Service manage most of this land, but it is primarily the BLM areas that are being contested. Legislatures in the rebellious states say they want the land, and the federal government says "no."

Throughout the West and in the bureaucratic halls of Washington, DC, sides are being chosen and verbal bullets fired.

Former Secretary of the Interior Cecil Andrus has called the Sagebrush Rebellion "an attempt to hornswoggle all Americans out of a unique land heritage." Bernard Shanks of the forestry department at Utah State University says the movement "lies on a bedrock of greed."

Speaking for the rebels, Nevada's governor Robert List says the animosity in his state toward the federal government is the "greatest in the US since the time of the revolution against the king of England." A western editor writes: "Who owns Wyoming's future--the residents of the state or the District of Columbia? It may belong to someone else if we can't take hold of the reins ourselves." As a presidential candidate Ronald Reagan joined the fray, asking to be "counted in as a rebel."

The Sagebrush Rebellion lies at the confluence of numerous land use and management issues. At the heart of the West's disenchantment are grazing restrictions that sometimes appear confusing and ill-conceived. But other grievances abound. Idaho rebels oppose expansion of the Birds of Prey Conservation Area. California off-road vehicle users want increased access. Alaskans fume over restrictions on energy, timber, and resource development. New Mexico rails against a federal strip mining law. Rebels in all western states complain of bureaucratic red tape, environmental regulations, and federal ineptitude.

Nevada state senator Richard Blakemore sums up the West's position: "For many years the public domain was open to ranching, mining, and outdoor recreation. But a number of federal acts, passed to protect and conserve the environment, have closed great parts of the public domain to traditional uses. Westerners see these restrictions as a portent of things to come--that eventually most of today's public lands will be locked up in wilderness or other restrictive uses." The magnitude of federal holdings has long intimidated many westerners. A Denver Post editorial compared coexistence with the dominant federal landlord to sleeping with an elephant: "He may obliterate you without even being aware of it." Proponents look on the movement as a just cause whose time has come.

A 1976 statute, the Federal Land Policy and Management Act (FLPMA), helped tip the balance toward open rebellion.

For a long time after the US government had fought, bought, and bargained its way into becoming the West's chief landlord, it tried to get rid of its holdings. A number of laws, such as the Homestead Act of 1862, sought to sell or give away as much western federal territory as possible. Divestiture became a national policy.

Beginning about 1934, though, the federal attitude began to shift from disposal toward management. Gradually, a management bureaucracy--the Bureau of Land Management--emerged. The trend culminated in 1976 with the FLPMA, which put an end to land disposal as a national policy and affirmed the right of federal land ownership. Many westerners had hoped to someday take title to the federal land, and the FLPMA dashed those hopes.

Beginning with Nevada, legislatures in many western states saw wholesale takeover as the best attack and have laid blatant claim to most unappropriated federal land in the West (such areas as national parks, wildlife refuges, and Forest Service holdings have generally been exempted). New Mexico is perhaps typical in its statutory assertion of "strong moral, historical, economic, and legal claims upon the public land retained by the federal government within its borders."

And the rebellion was on. With the exception of isolated incidents such as the bulldozing in Utah, battles have generally been fought in the legislatures and through the news media.

That does not mean, however, that kid gloves are standard Sagebrush Rebellion garb. The resources under federal control, says US senator James McClure of Idaho, "are underutilized and overmanaged by hordes of bureaucrats sitting on their fat backsides." Senator Orrin Hatch of Utah, a strong supporter of the Sagebrush Rebellion, refers to rebellion opponents as "dandelion worshippers," "iron-handed policy makers," and "land-embalming park managers." He says the federal bureaucracy has a "disdain for private property rights and just plain decency that has not been equalled since the first American revolution threw out the archetype of such oppression, pompous George the Third."

The BLM tends to maintain a low profile in the fracas, professing simply that the states have no right whatsoever to claim any federal land. "The land," says a BLM spokesman, "belongs to everyone, not just to the western states."

Rebellion opponents in other quarters are more scathing. Bernard Shanks says, "The leaders of the Sagebrush Rebellion--miners, stockmen, and loggers--have a long record of provincial, self-centered interest in national resources. Their political spokesmen have no record as conservationists of national stature--instead they are noted for shortsighted, self-serving political activity."

Ted Trueblood heads up a group of conservationists--called Save Our Public Lands--who oppose the rebellion. "The Sagebrush Rebellion," he says, "by its very name, appeals to the simplistic. The something-for-nothing hopefuls are flocking to its banner like ants to a picnic. What the promoters of the Sagebrush Rebellion want is your land, and they want it for little or nothing."

Essentially, the Sagebrush Rebels view their cause as one of states' rights. They speak of "frustrations and broken dreams" brought about by "expanding regulations, endless studies, and abrupt, arbitrary decisions on the part of federal agencies."

"Overregulation is bad everywhere," explains Richard Blakemore, "but it's worse for states in which the federal government is also the landlord over most of the land."

It is, then, with the perceived excesses and omissions of the federal government that the rebels do battle. Their avowed goal, however, is not to reform the rascals but to throw them out. Western states, they say, would then be free to do as they please with the land and resources within their borders. Rebels claim that the result will be an efficient, equitable, logical use of the land.

Sagebrushers look to a legal theory called the "equal footing doctrine" to buttress their case. In the early years of US history, most unappropriated land within each new state was made available for private or state ownership as that state joined the union. East of the 100th meridian (which runs south from North Dakota to Texas), the greatest amount of land retained by the federal government is 10 percent in Florida. Average federal ownership in the eastern states is 4.3 percent, and a few states contain no federal land.

As the twelve western states joined the union, however, the federal government began retaining huge chunks of land. Sagebrush Rebels claim that admission of western states on a less than equal footing with their eastern counterparts is unconstitutional and that the land should revert to the states and their control.

Another argument often heard from rebellion supporters has to do with management efficiency. Nevada's legislative counsel predicts that the states "would not only be more efficient managers of the public lands but will also manage them in a more economic fashion than does the BLM." All revenue from the land, say Sagebrushers, would remain within the state, not lie deposited in the federal treasury.

"Nevada," says a rebellion leader there, "would best manage the lands for Nevada's needs, not those perceived along the Potomac River." The other states also see themselves as their own best managers.

The rebellion, though, is not really a grassroots movement, and most of the considerable opposition to it comes not from the affected federal bureaucrats but from a loose coalition of anti-Sagebrush Rebellion westerners.

The movement has been born and raised in western legislatures--legislatures that opponents claim are controlled by resource users such as stockmen, developers, miners and utilities. "The Sagebrush Rebellion is first and foremost an attempt to deprive Americans of their most precious shared heritage--several hundred million acres of public land," claims California's secretary for resources, Huey Johnson. "The cries of states' rights," says a Washington state critic, "are a thinly veiled attempt to open public lands to questionable activities."

Opponents primarily fear that once states acquire title to the millions of contested acres, they may institute whole-sale sell-offs. Idaho state senator Kenneth Robison: "The policy of western states is to get as much income as possible from the lands they control. The quickest way to gain income would be to sell off large acreages. 'Keep Out' signs are what we can expect if these lands should be transferred to state control."

Much of the opposition to the rebellion comes from people who use the vast public lands for recreation. While Sagebrushers complain of resources currently locked up in wilderness areas, there is--in the words of one recreation spokesman--"no lockup more complete than a 'No Trespassing' sign on private land." Governor Babbitt of Arizona agrees: "The public--hunters, fishermen, recreation users, and taxpayers--would be the clear losers from the Sagebrush Rebellion."

Opponents also question state ability to manage millions of additional acres. "Most of the western states," says Charles Callison, director of the Public Lands Institute, "could not afford to manage all these lands. It would place a tremendous burden on the state's taxpayers."

And, according to Huey Johnson, most western state constitutions require state land to be managed for maximum revenue production. This would probably preclude multiple use management or management strictly for wildlife or recreation. Rebels dispute such assessments, and western prairies ring with rhetorical potshots.

The field of battle has shifted somewhat since the rebellion's infancy. Early strategy called for land-seizing legislation to be followed by no-holds-barred litigation. But the laws have been on the books for many months, and the rebels have made no move toward actual takeover and have not yet had their day in court. Movement leaders such as Dean Rhoads of Nevada say the states who rebelled early are waiting for others to catch up so that a unified front may be presented. They also cite legal difficulties in suing the federal government.

Opponents aren't so sure. "The Sagebrush Rebellion proponents have been very careful to ensure that no case comes to court," explains Gary Wicks, director of the BLM in Utah. "They have shifted their approach," he says, "to an attempt at gaining popular support for federal congressional action."

Bills have been introduced in Congress that would accomplish in one fell swoop what the rebels have thus far been attempting to do piecemeal. The measures call for federally owned, unreserved, unappropriated land to be conveyed to the states, but none of the proposals has yet come to a vote.

Although the Sagebrush Rebellion may appear on the surface to be a spontaneous child of the times, opponents are quick to point out that this is not the first time the sanctity of federal land has been threatened. The secretary of the interior proposed exactly the same land transfer in 1929, and in 1946 a congressional bill resurrected the idea. The first effort died for lack of interest in the western states, and the second was beaten back by conservationists who supported federal ownership.

In 1953, historian Bernard DeVoto issued a prophetic caveat that today is the refrain of Sagebrush Rebellion opponents. "The public lands," he said, "belong to the citizens of all states and not to 2 percent of the citizens of eleven states. The public lands are the only responsibility of the government besides atomic energy about which Congress could make an irretrievable mistake. For if the public lands are once relinquished, they will be gone for good."

Even as the outcome of the present rebellion is being decided, astute observers are looking beneath the surface of the controversy. Some, like Idaho's governor John Evans, believe land ownership to be a secondary issue. "The rebellion," he says, "is a complex nexus of issues relating to federal stewardship of our public lands. The significant issues that lie beneath the Sagebrush Rebellion are ones of management, not ownership. State takeover, by itself, does nothing to improve the management of resources. If we are to improve our stewardship of the public domain lands, we must seek cooperation with the federal government, not confrontation."

And DeWitt John of the Colorado Department of Natural Resources sees the beginning of a silver lining: "The real story of the Sagebrush Rebellion may be the new willingness of the BLM and other federal agencies to treat the states as full partners in such areas as coal leasing, resource management planning, and adjustments of grazing levels."

And the BLM in Washington, DC, admits that it already is "more sensitive to the needs of the West" because of the Sagebrush Rebellion. "In that respect," says one BLM official, "the Sagebrush Rebellion has been helpful."

So this confrontation on the prairie may never satisfy the zealots, may produce much more heat than light, yet may add a measure of good to the management and use of America's vast public lands.

A P P E N D I X D

A PROPOSAL FOR SELECT COMMITTEE ACTIVITIES
AND BUDGET PROPOSAL

NEVADA LEGISLATURE
SELECT COMMITTEE ON PUBLIC LANDS
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



SENATOR RICHARD E. BLAKEMORE, *Chairman*
SENATOR NORMAN D. GLASER
SENATOR MIKE SLOAN
ASSEMBLYMAN JOSEPH E. DINI
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN JOHN MARVEL
ASSEMBLYMAN DEAN A. RHODES

STAFF DIRECTOR: ANDREW P. GROSE (702) 885-5637

November 8, 1979

M E M O R A N D U M

TO: Chairman and Members of the Legislative Commission
FROM: Senator Richard E. Blakemore, Chairman
SUBJECT: A Proposal for Select Committee Activities

Introduction

The Select Committee on Public Lands, as a committee and individually, can take credit for two major accomplishments: The formation of the Western Coalition on Public Lands and the passage of state legislation that has resulted in national attention and enhanced regional unity. There are a number of lesser but still significant accomplishments including the coalition's first trip to Washington, the introduction in Congress of a "checkerboard lands" bill, the current Santini proposal to sell Las Vegas land to buy Tahoe land, the creation of highly effective promotional items and informational materials, and the very successful Reno meeting of the western coalition.

The question now is where the select committee goes from here. It became apparent at the Western CSG meeting in Helena that despite seeming unity and agreement on direction, the whole western program on public lands can come untracked unless there is a guarantee of consistency and continuity. For the past 2 1/2 years, that consistency and continuity has been provided by the select committee. To avoid any future "scares" such as occurred in Helena, the select committee must continue to participate in all forums where the future direction of the "Sagebrush Rebellion" may be in question.

In addition, the select committee has the responsibility to oversee the clearinghouse function for the western coalition. That responsibility was accepted by Nevada at the western coalition meeting in Reno and at the Western CSG meeting in Helena.

The select committee also has a continuing responsibility for extending the formal unity of the West on public lands matters. There is at this time a growing interest by national agricultural organizations in the Sagebrush Rebellion and what their role should be. This interest includes a proposal by the American National Cattlemen's Association for a national meeting of agricultural groups including the Cattlemen, the Woolgrowers, the Farm Bureau, the Grange, the Public Lands Council, as well as other groups representing public lands users such as miners and outdoor recreationists. The time and location has not been set but it has been suggested that the select committee host such a meeting in an effort to establish a private sector western coalition on public lands to support and complement the Western Coalition on Public Lands composed of elected officials.

The initial efforts toward the formation of the private sector coalition will take place in Boise, Idaho, concurrently with the NACo western region board of directors meeting. Representatives of the cattlemen's organizations of 11 western states will be there and the Idaho and national cattlemen's groups have asked the select committee to put on a program on the "Sagebrush Rebellion."

A great deal of activity is going on now in terms of western unity and western action on public lands matters. It is impossible to budget specifically for each one because current information is inadequate. The proposed budget does have some flexibility that will allow the chairman of the select committee to respond to demands as they arise.

Finally, should hearings be set on public lands bills in Congress, especially Hatch's S 1680, Laxalt and Cannon's S 3192, or Santini's HR 5436, the Western Coalition on Public Lands led by the select committee should be present.

This budget proposal reflects a departure from past practices concerning staff expenses. The legislative counsel and the auditor see no impediment to placing money for certain staff expenses in an interim committee budget but we point out the fact for commission consideration. While such an accounting procedure is without precedent in the LCB, the demands on staff associated with the select committee and the entire Sagebrush Rebellion movement is also without precedent in the LCB. The plain fact is that the research division travel budget cannot fund the travel required to support the select committee. Considerable research travel money has already gone for this purpose.

BUDGET PROPOSAL

With these general observations about the future role of the select committee, it becomes necessary to forecast expenditures. For the rest of FY 79-80, through June 30, 1980, it is possible to forecast general costs in the categories of activities suggested.

1. Regional Activities.

Joint Western NACo Board-Western Coalition Steering Committee meeting in Boise, Idaho, December 12-14, 1979.

<u>Legislators</u> (7)	
Travel	\$ 1,287
Salary	840
Per Diem	987
Total	<u>\$ 3,114</u>
<u>Staff</u> (2)	<u>586</u>
<u>TOTAL</u>	<u>\$ 3,700</u>

Western Interstate Region, NACo, Annual Meeting in Boise, Idaho; April 22-26, 1980.

<u>Legislators</u> (7)	
Travel	\$ 1,287
Salary	1,120
Per Diem	1,316
Total	<u>\$ 3,723</u>
<u>Staff</u> (2)	<u>668</u>
<u>TOTAL</u>	<u>\$ 4,391</u>

Select committee regular meetings in conjunction with the Federal Regulation Review Committee meetings in January, March and May of 1979 (additional expenses for three members).

<u>Legislators</u>	(3)	
Travel		\$1,080
Salary		360
Per Diem		360
Total		<u>\$1,800</u>
<u>Staff</u>	(no additional)	

2. Clearinghouse.

The research division intends to manage the clearinghouse function with existing personnel resources. There are other expenses that will be incurred that are not provided for in the division budget.

Coalition newsletter "Coalition Comments" in October 1979, January and April 1980.

Printing Costs	\$ 450
Mailing Costs	540
Total	<u>\$ 990</u>

Copying costs for clearinghouse materials sent to requesters for balance of this fiscal year:

	<u>\$ 500</u>
<u>TOTAL</u>	<u>\$1,490</u>

3. Select committee hosting of private sector public lands coalition. (Place undetermined but Washington and Denver proposed--budget based on Washington.

(3-day meeting)

<u>Legislators</u>	(7)	
Travel		\$3,500
Salary		840
Per Diem		1,617
<u>Staff</u>	(3)	<u>2,193</u>
<u>TOTAL</u>		<u>\$8,150</u>

4. Select committee appearance before Congress in support of public lands legislation.

<u>Legislators</u>	(7)	
Travel		\$3,500
Salary (2 days)		560
Per Diem (3 days)		<u>1,617</u>
<u>Staff</u>	(3)	<u>2,193</u>
<u>TOTAL</u>		<u>\$7,870</u>

TOTAL BUDGET REQUEST BY ACTIVITY

1.	Regional Meetings	\$ 8,091
2.	In-State Meetings	1,800
3.	Clearinghouse	1,490
4.	Host Private Sector Coalition Meeting	8,150
5.	Testifying before Congress	<u>7,870</u>
	<u>TOTAL</u>	<u>\$27,401</u>

TOTAL BUDGET REQUEST BY BUDGET CATEGORIES

Legislator travel and per diem in state	\$ 1,440
Legislator travel and per diem out of state	15,111
Legislator salaries	3,720
Clearinghouse function	1,490
Staff travel and per diem in state	0
Staff travel and per diem out of state	<u>5,640</u>
<u>TOTAL</u>	<u>\$27,401</u>

This budget is based on the entire select committee attending all proposed activities, with adequate staff support. If it is felt that some activities can be adequately covered with less than full attendance, the cost will go down. At the same time, however, it is very common to have occasions arise on short notice at which it is advisable to have select committee participation. Ideally, any budget approval by the legislative commission should include some discretion for the chairman of the select committee, within the budget approved, to authorize travel by members when such travel is in support of the goals of the select committee.

If the proposed budget is approved, it should provide this flexibility.

REB/APG/jld

SUGGESTED MOTION FOR COMMISSION ACTION

Move that the budget for the Select Committee on Public Lands be increased by money from the legislative fund in the amount of \$27,401 in categories as follows:

Legislator travel and per diem in state	\$ 1,440
Legislator travel and per diem out of state	15,111
Legislator Salaries	3,720
Clearinghouse Function	1,490
Staff travel and per diem in state	0
Staff travel and per diem out of state	<u>5,640</u>
<u>TOTAL</u>	<u>\$27,401</u>

A P P E N D I X E

RESOLUTIONS PERTAINING TO PUBLIC LANDS ISSUES

Adopted by The Western Conference of the Council of State Governments at its 1980 Annual Meeting held from September 28-October 1, 1980, at Jackson, Wyoming.

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THE WESTERN CONFERENCE of The Council of State Governments



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RESOLUTION NO. 1

WESTERN CONFERENCE INVOLVEMENT IN THE SAGEBRUSH REBELLION

WHEREAS, the assertion by states in the West of greater control over the use and disposition of the unappropriated public lands and basic states' rights known as the "Sagebrush Rebellion," has steadily gained momentum; and

WHEREAS, there are now six other states which have joined Nevada in the passage of state laws asserting or studying state claims to the unappropriated public lands; and

WHEREAS, the Sagebrush Rebellion is now a movement proceeding on the administrative, political, legislative and judicial fronts, involving several states and multiple issues and demanding greater cooperation and coordination among participants; and

WHEREAS, the greatest success of the Sagebrush Rebellion in terms of legislative effectiveness in passing state legislation, organizing regional cooperation, and influencing related activities in Washington, D.C., has been realized by Nevada's Select Committee on Public Lands; and

WHEREAS, the basis of that success has been in having a specially appointed group of legislators dedicated to the goals of the Sagebrush Rebellion who, through interest and experience, are expert in public lands issues, and in having adequate funding and travel authorization to respond to Sagebrush Rebellion needs; and

WHEREAS, each state involved in the Sagebrush Rebellion has a responsibility to share in regional efforts but no single state has the resources nor should it have the responsibility for coordinating regional programs and activities; and

WHEREAS, the Western Conference of The Council of State Governments has established a Public Lands Task Force, composed of state legislators from throughout the western states, to address

public lands matters of common concern in the West;

NOW, THEREFORE, BE IT RESOLVED that the Western Conference of the Council of State Governments supports the creation and appointment of special legislative committees in each state supporting the goals of the Sagebrush Rebellion and western states' rights issues, such committees to be bipartisan, adequately funded, and composed of legislators knowledgeable and experienced in public lands issues; and

BE IT FURTHER RESOLVED that the Western Conference of The Council of State Governments should designate its Public Lands Task Force as the lead entity to actively promote and diligently pursue matters relating to the Sagebrush Rebellion; and

BE IT FURTHER RESOLVED that at least two legislators from each western state who have shown past interest and support for the Sagebrush Rebellion be appointed to the membership of the Public Lands Task Force, and in those states appointing a special committee, legislators appointed to the Public Lands Task Force should also be members of that committee; and

BE IT FURTHER RESOLVED that the Public Lands Task Force should meet, at a minimum, in accordance with the biennial calendar of the Western Conference and report back to the Western Conference at its annual meeting in 1981, to be held in Reno, Nevada, on the status of its activities, its projected future plans and needs, and the need for continuation of Public Lands Task Force efforts on behalf of the Sagebrush Rebellion.



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RESOLUTION NO. 2

PUBLIC LAND GOALS

RESOLVED, that the Western Conference agrees to the following public land goals:

1. Enactments of state laws calling for transfer of unappropriated and unreserved public lands from the federal government to the states;
2. At the appropriate time and, if necessary, pursuit of legal action to achieve this end including litigation brought by the states against the federal government challenging the federal control and management of the unappropriated and unreserved public lands;
3. Equitable, shared financial support for litigation efforts;
4. Coalition building among public land user groups; and
5. Educating the general public about the causes of the Sagebrush Rebellion, with emphasis on media understanding.



THE WESTERN CONFERENCE of The Council of State Governments



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RESOLUTION NO. 3

WAIVER OF FEDERAL SOVEREIGN IMMUNITY

WHEREAS, the question of the constitutionality of the retention of the public lands by the federal government in perpetuity is a significant and consuming question in the West; and

WHEREAS, the national interest as well as that of the West will be served by an early and definitive resolution of this basic constitutional question; and

WHEREAS, Nevada has passed legislation challenging the right of the federal government to hold the public domain indefinitely, and other states are moving to do likewise; and

WHEREAS, the federal doctrine of sovereign immunity states that the federal government may not be sued and taken into court, such as on public lands issues, unless the federal government willingly agrees to such legal challenge; and

WHEREAS, the doctrine of sovereign immunity could be invoked by the federal government as a defense which would prevent the resolution of this matter of great public concern; and

WHEREAS, the precedent for the federal government by law to waive sovereign immunity for a time certain and for a specific subject is well established;

NOW, THEREFORE, BE IT RESOLVED that the Congress by law provide for a waiver of federal sovereign immunity for ten years in the matter of public lands control.



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RESOLUTION NO. 4

PUBLIC LAND LITIGATION

WHEREAS, the litigation in support of the Sagebrush Rebellion will involve a case before the U.S. Supreme Court; and

WHEREAS, such litigation is always costly in time, money and effort; and

WHEREAS, this litigation must be buttressed by extensive and sound studies, thus adding to the cost; and

WHEREAS, all states standing to benefit from successful litigation should assist in the costs of litigation; and

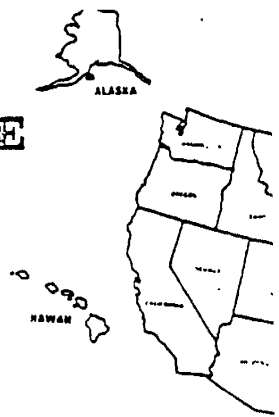
WHEREAS, the offices of attorneys general in the West for the most part cannot support active participation in the litigation within their existing budgets;

NOW, THEREFORE, BE IT RESOLVED that each state legislature that has passed or passes Sagebrush Rebellion legislation give positive consideration to the additional budgetary needs of their attorney general's office; and

BE IT FURTHER RESOLVED that the Conference of Western Attorneys General and its litigation committee devise an equitable formula for determining the fair contribution of each party plaintiff to the case.



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RESOLUTION NO. 5

PURSUIT OF PUBLIC LAND LITIGATION

WHEREAS, the Nevada legislature passed the first Sagebrush Rebellion legislation in 1979; and

WHEREAS, there are now six other states which have passed similar legislation although most western states did not have regular legislative sessions in 1980; and

WHEREAS, the strongest posture for pursuing Sagebrush Rebellion litigation would be to have the maximum number of states as parties plaintiff; and

WHEREAS, there will be significant costs for the contemplated litigation and each state affected should be given the opportunity to share in those costs;

NOW, THEREFORE, BE IT RESOLVED that expeditious action be pursued to obtain from the United States Supreme Court a grant of original jurisdiction; and

BE IT FURTHER RESOLVED that any suits on the merits of the Sagebrush Rebellion allow for the maximum number of states to participate in the suits.



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RESOLUTION NO. 6

CONGRESSIONAL STUDY OF THE ECONOMIC IMPACT OF FEDERAL LAWS AND REGULATIONS ON PUBLIC LANDS

WHEREAS, the series of federal laws of the 1960s and 1970s and the regulations promulgated thereunder, concerning public lands, wilderness, environmental protection, grazing, water and other issues of particular concern to the West have had a tremendous impact on the West; and

WHEREAS, the critical national needs for energy have focused national attention, as never before, on the resources of the West; and

WHEREAS, the conflicting demands upon the West of energy development and environmental constraints have been recognized but never systematically analyzed; and

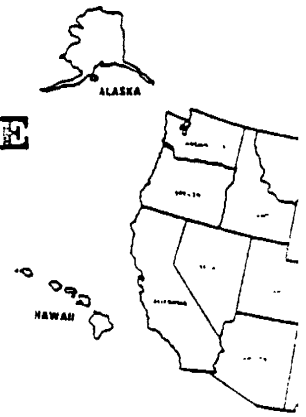
WHEREAS, public policy decisions by local, state and federal governments concerning public lands cannot be intelligently or responsibly made without a fuller understanding of the economic and environmental aspects and their interactions;

NOW, THEREFORE, BE IT RESOLVED that the Congress of the United States is requested to authorize and fund a study of the economic impact of federal laws and regulations on public lands and on local and state governments; and

BE IT FURTHER RESOLVED that the study address the conflicts between environmental restraints on the one hand and, on the other, the economic needs of the nation and the impacts on state and local governments in the public lands states and recommend guidelines for determining when one value must be placed above the other.



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RESOLUTION NO. 7

COMPLETION OF IN-LIEU LAND SELECTIONS

WHEREAS, after decades of delay, the federal government has still not completed the transfer of more than 640,000 acres of land lawfully due to the states in-lieu of school and other lands; and

WHEREAS, the Secretary of the Interior's "equal value" requirement for the selection of these in-lieu lands, while unfavorable to the West, has recently been upheld by the Supreme Court in the case of Andrus v. Utah; and

WHEREAS, the Secretary of the Interior, in view of this court decision, has announced a program to expedite the selection and transfer of these in-lieu lands to the states; and

WHEREAS, these selections and transfers have been hampered by inadequate federal resources to perform surveying and resource evaluations; and

WHEREAS, the remaining selections and transfers constitute only about three percent of the total entitlements to the states (excluding Alaska), but have resulted in a lingering and disproportionate strain on state-federal relations;

NOW, THEREFORE, BE IT RESOLVED by the Western Conference that the Secretary of the Interior be commended for his interest in completing in-lieu selections and transfers; that these selections and transfers be completed with "all deliberate speed"; that the Department of the Interior provide sufficient resources to accomplish this task; and that the Department use state performed surveys and resource evaluations if adequate federal resources are unavailable.



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RESOLUTION NO. 8

GRAZING ON PUBLIC RANGELANDS

WHEREAS, many ranching operations in the West utilize, and are virtually dependent on, supplemental grazing on public lands; and

WHEREAS, the Public Rangelands Improvements Act of 1978 (PL 94-579) authorizes significant funding for on-the-ground range rehabilitation and improvement measures; and

WHEREAS, funding for these range improvements has not yet been released by Congress; and

WHEREAS, increased forage requirements for livestock and court-ordered Environmental Impact Statements on grazing are being developed by the Bureau of Land Management; and

WHEREAS, economic hardships experienced by ranching operations because of these new federal requirements are not adequately addressed by the federal government; and

WHEREAS, ranches forced out of business will often be sold off as undesirable premature subdivisions, with adverse impacts on both our economy and environment

NOW, THEREFORE, BE IT RESOLVED that the Western Conference of the Council of State Governments finds that in order to mitigate the adverse impacts associated with reductions in grazing on our public lands, the federal government should insure that the impact on the economic viability of ranching operations be adequately examined and addressed; and

BE IT FURTHER RESOLVED that the Western Conference supports the conveyance, in some cases, of nearby or adjacent federal lands to affected private ranches to allow expansion of base oper-

actions needed to retain economic viability; and

BE IT FURTHER RESOLVED that the Carey Act, Desert Land Act, and if required, the Federal Land Policy and Management Act, be utilized by the federal government for all appropriate land conveyances; and

BE IT FURTHER RESOLVED that the previously authorized funding under the Public Rangelands Improvement Act and the Federal Land Policy and Management Act, be promptly released by Congress and promptly expended by the Bureau of Land Management for on-the-ground range improvements consistent with the principles of this Resolution.



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of

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RESOLUTION NO. 9

SUPPORT FOR PUBLIC LAND LEGISLATION PENDING IN CONGRESS (S 1680 AND HR 7837)

WHEREAS, there is legislation in Congress that would accomplish the basic goals of the Sagebrush Rebellion; and

WHEREAS, it is important that those members of Congress who are working for the passage of legislation to transfer significant amounts of unappropriated and unreserved public lands to the states be given all possible support, especially from the western states; and

WHEREAS, the proposals in Congress offer an opportunity for national attention to the issues raised by the Sagebrush Rebellion;

NOW, THEREFORE, BE IT RESOLVED that all western states are urged through their elected officials and public lands user groups to support in an active manner hearings on and passage of a bill embracing the concepts embodied in S 1680 (Senator Orrin Hatch of Utah) and HR 7837 (Congressman Jim Santini of Nevada), as endorsed by the Western Conference; and

BE IT FURTHER RESOLVED that the Public Lands Committee of the Western Conference be authorized to appear and testify before Congressional committees selected to hold hearings on these bills, in support of Conference resolutions pertaining to public lands.



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RESOLUTION NO. 10

IN SUPPORT OF THE CONFERENCE OF
THE LEAGUE FOR THE ADVANCEMENT OF STATES EQUAL RIGHTS (LASER)
(NOVEMBER 20-22, 1980)

WHEREAS, the success of the Sagebrush Rebellion depends to a large extent on increasing the understanding of all Americans, especially non-westerners about the causes of the movement; and

WHEREAS, elected officials supporting the Sagebrush Rebellion should support responsible and effective efforts to educate the general public on the Sagebrush Rebellion; and

WHEREAS, LASER is sponsoring a major national meeting on the Sagebrush Rebellion in Salt Lake City November 20-22, 1980 that should attract national media and major post-election attention;

NOW, THEREFORE, BE IT RESOLVED that all western states through their elected officials and public lands user groups be urged to support LASER by helping to plan the forthcoming meeting and participating in that meeting.

A P P E N D I X F

H.R. 5436
96th Congress

REPORTS OF
CONGRESS

96TH CONGRESS
1ST SESSION

H.R. 5436

To provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1979

Mr. SANTINI introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

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

3 TITLE I—SHORT TITLE; FINDINGS AND

4 DECLARATION OF POLICY; DEFINITIONS

5 SEC. 101. This Act may be cited as the “Western
6 Lands Distribution and Regional Equalization Act of 1979”.

7 SEC. 102. The Congress hereby finds that—

1 (1) equality of constitutional right and power is
2 the condition of all the States of the Union, old and
3 new;

4 (2) every new State admitted into the Union is
5 entitled to exercise all of the powers of government
6 which belong to the original States of the Union;

7 (3) the citizens of each State are entitled to all of
8 the privileges and immunities of citizens in the several
9 States;

10 (4) the power of Congress to admit new States
11 into the Union under article IV, section 3 of the Con-
12 stitution of the United States was not designed to
13 impair the equal power, dignity, and authority of the
14 States;

15 (5) as a condition of admission into the Union,
16 Congress has, on occasion, imposed burdens upon new
17 States that are not shared by the States equally;

18 (6) the original thirteen States, and States formed
19 from the territories thereof, owned all public lands
20 within their borders;

21 (7) title in the Federal Government to public
22 lands within the borders of the thirteen States, and
23 States formed from the territories thereof, rests only on
24 deeds of cession voluntarily consented to by the legisla-
25 tures of these States;

1 (8) as a condition of admission into the Union,
2 Congress retained in the Federal Government owner-
3 ship over substantial amounts of territory located
4 within the borders of States west of the one-hundredth
5 meridian. This occurred despite the Treaty of Guada-
6 lupe Hidalgo which specified that the lands which
7 eventually became all or part of seven Western States
8 of the Union were to be formed into "free, sovereign,
9 and independent" States;

10 (9) in the absence of such conditions of admission,
11 the legislative authority of the States would have ex-
12 tended over federally owned lands within these States
13 to the same extent as over similar property held by
14 private owners;

15 (10) during the course of the deliberations that re-
16 sulted in the drafting of the Constitution of the United
17 States, Founding Fathers, such as James Madison,
18 recognized that the Western States neither would nor
19 ought to submit to a Union which degraded them from
20 an equal rank with the other States;

21 (11) article I, section 8, clause 17 of the Constitu-
22 tion of the United States authorizes the Federal Gov-
23 ernment to exercise dominion over public lands only to
24 the extent necessary to create a seat of government,
25 and to administer places, purchased by the consent of

1 the State legislatures, for the erection of forts, maga-
2 zines, arsenals, dockyards, and other needful buildings.
3 In the absence of some express or implied legislative
4 authority to perform some further function, Congress is
5 limited by, and the rights of the States are protected
6 by, the tenth amendment to the Constitution of the
7 United States;

8 (12) the enabling Acts admitting the Western
9 States into the Union expressly recognize that the
10 Federal Government may some day choose to extin-
11 guish title to public lands held by it within the borders
12 of these States;

13 (13) article IV, section 3 of the Constitution ex-
14 pressly provides Congress with the power to "dispose
15 of and make all needful Rules and Regulations respect-
16 ing the Territory or other Property belonging to the
17 United States." This provision has been interpreted to
18 invest in Congress plenary authority to dispose of lands
19 held in Federal ownership, through sale, grant, or any
20 other means of disposition;

21 (14) there is precedent for large transfers of feder-
22 ally owned public lands designed to place new States
23 on par with the original thirteen States of the Union;
24 and

1 (15) the States of the Union and their citizens are
2 at least as well equipped as the central government to
3 make the often difficult policy decisions that are neces-
4 sary with respect to the use to which lands within
5 their States shall be put.

6 SEC. 103. (a) It is the policy of the United States to
7 adhere strictly to the constraints of the United States Consti-
8 tution and the various ordinances and treaties and decisions
9 of the Supreme Court of the United States governing the
10 ownership, holding, management, and disposition of all lands
11 to which the United States has acquired title or dominion.

12 (b) It is the policy of the United States that it has been
13 and is now duty bound to hold all unreserved and unappro-
14 priated public lands in trust, for the States and to convey such
15 trust lands to the States admitted to the Union in order that
16 such States may exercise full sovereignty over such lands
17 and place them on an equal footing with respect to such land
18 within their boundaries as the original States.

19 (c) It is the policy of the United States that the forego-
20 ing trust is no longer useful or necessary or authorized by
21 law and that all portions of the unreserved and unappropriat-
22 ed public lands as defined in this Act should be placed under
23 the responsible administration and regulation of the States
24 containing them when such States have adopted a legislative
25 program as will constitute a reasonable uniformity of Federal

1 and State legislation and administration as will safeguard the
2 accepted principles of conservation, recreation, reclamation,
3 and other multiple uses of such lands.

4 (d) It is the policy of the United States that public lands
5 shall not be retained in Federal ownership absent a clear
6 constitutional mandate, and that such lands shall be placed in
7 State ownership as expeditiously as possible.

8 SEC. 104. For the purposes of this Act, the term—

9 (1) “unreserved unappropriated public lands”
10 means all lands and interests therein which are owned
11 or controlled by the United States, including the min-
12 eral rights on or underlying such lands, and appurte-
13 nant water and access rights (including lands underly-
14 ing navigable lakes, streams, and other watercourses)
15 lying within the boundaries of any State west of the
16 one-hundredth meridian, except lands within the
17 boundaries of national parks, national monuments, and
18 national wildlife and migratory bird sanctuaries estab-
19 lished prior to January 1, 1979, lands within the
20 boundaries of any military reservations and establish-
21 ments, and Indian reservations, lands essential to the
22 operation, maintenance, and access to United States
23 Corps of Engineers and United States Bureau of Rec-
24 lamation projects, lands essential to the operation,
25 maintenance, and access to designated United States

1 highways, lands necessary to the operation, mainte-
2 nance, and access to shipyards, docks, security and de-
3 fense establishments, magazines, arsenals, and build-
4 ings to house operations of the United States Govern-
5 ment;

6 (2) "Federal Land Transfer Board" means the
7 Board established pursuant to section 201;

8 (3) "State land commission" means any authority,
9 agency, board, or commission established pursuant to
10 section 301 of this Act; and

11 (4) "conveyance" shall include any conveyance or
12 other transfer by deed or other appropriate instrument.

13 TITLE II—FEDERAL LAND TRANSFER BOARD

14 SEC. 201. (a) In any case in which a State determines
15 to acquire all or any portion of the unreserved unappropriated
16 public lands within its boundaries, the Governor of that State
17 shall submit an application to the President of the United
18 States requesting the President to establish a Federal Land
19 Transfer Board for such State. Such application shall be au-
20 thorized by a law of the State enacted on or after the date of
21 the enactment of this Act. No application shall be received by
22 the President after the expiration of a sixty-month period fol-
23 lowing the date of the enactment of this Act.

24 (b)(1) As soon as practicable following the receipt of
25 such application, but in no event later than the ninety-day

1 period following the date on which nominees are submitted to
2 him pursuant to clause (E) of this subsection, the President
3 shall take such action as may be necessary to establish a
4 Federal Land Transfer Board for the State submitting such
5 application (unless such a board is already in existence on the
6 basis of a prior application from such State). Such Board
7 shall consist of the following members:

8 (A) one member appointed by the President (who
9 shall be chairman but who shall have no vote except in
10 the case of a tie vote);

11 (B) one member appointed by the Secretary of the
12 Interior;

13 (C) one member appointed by the Secretary of
14 Agriculture;

15 (D) one member appointed by the Secretary of
16 Defense; and

17 (E) three members appointed by the President
18 from a list of nominees submitted to the President by
19 the Governor of the applicant State.

20 (2) Such members shall serve until all conveyances au-
21 thorized by this Act to the affected State have been carried
22 out. Any vacancy on the Federal Land Transfer Board shall
23 be filled in the same manner as that provided for the original
24 appointment. Members appointed pursuant to clause (A), (B),

1 (C), or (D) of paragraph (1) of this subsection may serve on
2 more than one such board.

3 (c) Each Federal Land Transfer Board established for a
4 State pursuant to this section shall, in making conveyances
5 to such State under this Act, coordinate its activities with the
6 State land commission, established pursuant to section 301 of
7 this Act, of such State.

8 (d) Within thirty days following the establishment of a
9 Federal Land Transfer Board for an applicant State under
10 this section, the President shall transfer such application, and
11 all accompanying papers and documentations, to such Board.
12 Within ninety days following the receipt of such application,
13 the Federal Land Transfer Board shall determine, by a ma-
14 jority of the members of the Board, if such application is in
15 compliance with the provisions of this Act and if the appli-
16 cant has met the conditions and requirements set forth in this
17 Act. If such Federal Land Transfer Board determines that
18 the application is in compliance with the provisions of this
19 Act and that the applicant has met the conditions and re-
20 quirements set forth in this Act, the Federal Land Transfer
21 Board shall convey all right, title, and interest of the United
22 States in and to the unreserved unappropriated public lands
23 set forth in the application in such manner and in accordance
24 with such time schedule or schedules as shall be agreed upon
25 between the Federal Land Transfer Board and the appropri-

1 to State land commission, but in no event later than twenty-
2 months following the determination of the Federal Land
3 Transfer Board that the application was in compliance with
4 this Act and that the applicant had met the conditions and
5 requirements set forth in this Act. Such conveyance shall be
6 made without consideration other than the mutual covenants
7 of this Act. In any case in which the Federal Land Transfer
8 Board determines that such application is not in compliance
9 with this Act, or that the applicant has not complied with the
10 requirements and conditions of this Act, the Federal Land
11 Transfer Board shall notify the applicant to that effect within
12 thirty days following such determination. Such notice shall
13 contain the specific reason or reasons as to why such applica-
14 tion was not in compliance or why such applicant failed to
15 meet such requirements or conditions, as the case may be.

16 (e) A State shall not be limited in the number of applica-
17 tions which it may submit pursuant to this Act, within the
18 sixty-month period following the date of the enactment of this
19 Act.

20 SEC. 202. (a) In any case in which any State, corpora-
21 tion, or other public or private entity, or individual has any
22 claim or is involved in any dispute arising out of or in connec-
23 tion with the implementation of this Act, such State, corpora-
24 tion, entity, or individual shall have the right to petition the
25 appropriate Federal Land Transfer Board to hear, consider,

1 and act on such claim or dispute. Upon receiving any such
2 petition, the Board shall, by majority vote of the members of
3 the Board, make such findings and determinations and issue
4 such orders as may be necessary to settle such claim or re-
5 solve such dispute.

6 (b) Each Federal Land Transfer Board shall establish
7 uniform policies and procedures for receiving such petitions
8 and for expeditiously hearing and disposing of such claims
9 and disputes.

10 SEC. 203. Any State aggrieved by an order or decision
11 of a Federal Land Transfer Board under section 201 may
12 apply to the Federal Land Transfer Board for a review of
13 such order or determination within thirty days following the
14 date of such order or determination. Upon the receipt of such
15 application, the Federal Land Transfer Board shall cause
16 such investigation to be made as the Board may deem appro-
17 priate. Such investigation shall provide an opportunity for a
18 public hearing to enable the State to present information or
19 other data. The State shall be given written notice of the
20 time and place of the hearing at least five days prior to the
21 hearing. Any such hearing shall be of record and shall be
22 subject to section 554 of title 5, United States Code. Upon
23 receiving the report of such investigation, the Federal Land
24 Transfer Board shall make findings of fact, and shall issue a
25 written decision, incorporating therein an order vacating, af

1 firming, modifying, or terminating the prior order or determi-
2 nation of the Federal Land Transfer Board complained of and
3 incorporate its findings therein.

4 SEC. 204. (a) Any final order or decision of a Federal
5 Land Transfer Board pursuant to section 203 of this Act
6 shall be subject to judicial review by the United States court
7 of appeals for the circuit in which the affected land is located
8 upon the filing in such court within thirty days from the date
9 of such final order or decision of a petition by any State ag-
10 grieved by such order or the decision praying that the order
11 or decision be modified or set aside in whole or in part. A
12 copy of the petition shall forthwith be sent by registered or
13 certified mail to the Chairman of the Federal Land Transfer
14 Board, and thereupon the Chairman shall certify and file in
15 such court the record upon which the order or decision com-
16 plained of was issued, as provided in section 2112 of title 28,
17 United States Code.

18 (b) The court shall hear such petition on the record
19 made before the Federal Land Transfer Board. The findings
20 of the Federal Land Transfer Board, if supported by substan-
21 tial evidence on the record considered as a whole, shall be
22 conclusive. The court may affirm, vacate, or modify any
23 order or decision or may remand the proceedings to the Fed-
24 eral Land Transfer Board for such further action as the court
25 may direct.

1 (c) The judgment of the court shall be subject to review
2 only by the Supreme Court of the United States upon a writ
3 of certiorari or certification as provided in section 1254 of
4 title 28, United States Code.

5 TITLE III—STATE LAND COMMISSIONS

6 SEC. 301. (a) No State seeking the conveyance of unre-
7 served unappropriated public lands under this Act shall be
8 entitled to such lands unless such State has established a
9 State land commission board with powers and obligations as
10 set forth in subsection (b) of this section.

11 (b) There shall be in effect and applicable to such com-
12 mission laws of the affected State which—

13 (1) require the commission to hold and manage, in
14 accordance with this Act, unreserved unappropriated
15 public lands conveyed pursuant to this Act in trust for
16 the ultimate benefit and use of all the people of the
17 United States in an orderly, beneficial, and economic
18 manner, and to manage such lands in conformity with
19 established concepts of multiple use and in such a
20 manner as will maximize the conservation and preser-
21 vation of natural resources, wildlife habitat, wilderness
22 values, historical values, artifacts, and antiquities, and
23 in a manner which will permit development of compati-
24 ble public uses for recreation, agriculture, grazing,
25 mineral, and timber production, and development, pro-

1 duction, and transmission of energy and other public
2 utility services to provide maximum balanced benefits;

3 (2) recognize and declare that all public lands of
4 the State (including lands transferred pursuant to this
5 Act), together with mineral and water rights appurte-
6 nant, not previously reserved or appropriated, are the
7 property of the State and subject to its jurisdiction and
8 control;

9 (3) provides for the recognition and protection, in-
10 cluding the issuance of such documents or other instru-
11 ments as may be necessary, of valid rights, existing on
12 the date of the transfer to the State of unreserved un-
13 appropriated public lands under this Act, and which
14 rights were acquired under or in connection with the
15 National Forest Transfer Act (16 U.S.C. 471 et seq.),
16 the Homestead Act (43 U.S.C. 161 et seq.), the Gen-
17 eral Mining Laws (30 U.S.C. 21 et seq.), the Taylor
18 Grazing Act (43 U.S.C. 315 et seq.), the Desert Land
19 Act (43 U.S.C. 321 et seq.), the Carey Act (43 U.S.C.
20 641 et seq.), the Public Range Lands Improvement
21 Act (43 U.S.C. 1901 et seq.), or any other Federal
22 law, and which provides for and preserves all rights-of-
23 way and easements for interstate public highways and
24 public utilities within the State;

1 (4) provides that no unreserved unappropriated
2 public lands conveyed to any State pursuant to this
3 Act shall be conveyed, transferred, or otherwise dis-
4 posed of except pursuant to the specific authority of a
5 State law enacted on or after the date on which such
6 State acquired such lands pursuant to this Act;

7 (5) provide that such lands, subject to subpara-
8 graph (D) of this paragraph, may be conveyed, leased,
9 permitted, or licensed for purposes comparable to those
10 authorized by Federal law while such lands were under
11 the jurisdiction and control of the Federal Government;

12 (6) provide that all proceeds derived by a State
13 from fees, rents, royalties, or other moneys received by
14 such State in connection with the use or sale or other
15 disposition of such lands acquired by the State pursu-
16 ant to this Act shall be deposited in the treasury of
17 that State for credit to the general revenues of such
18 State;

19 (7) provide for the conduct, in conjunction with
20 the respective boards of county commissioners and
21 county planning commissions, of an inventory and
22 study of the public lands of the State with a view to
23 determining the best methods of utilization and man-
24 agement of such lands in order to meet the needs and
25 interests of the people of the State;

1 (8) provide for transfer to the United States, with-
2 out consideration, of such easements, rights-of-way,
3 permits, and licenses as may be necessary to the con-
4 duct of any lawful Federal activity or function upon,
5 over, or under any such lands conveyed to the State
6 pursuant to this Act; and

7 (9) provide that such lands acquired pursuant to
8 this Act which, prior to that acquisition, were adminis-
9 tered pursuant to an international treaty or interstate
10 compact, shall continue to be administered by the State
11 in conformance with the terms of such treaty or com-
12 pact.

13 (c) The State land commission shall coordinate its activ-
14 ities in carrying out its functions under this Act with the
15 appropriate Federal Land Transfer Board.

16 TITLE IV—MISCELLANEOUS

17 SEC. 401. (a) Notwithstanding any other provision of
18 this Act or any transfer of unreserved unappropriated public
19 lands pursuant thereto, the United States shall retain juris-
20 diction and control over all oceans, seas, navigable rivers,
21 streams, and lakes, and projects and facilities of the Corps of
22 Engineers and the Bureau of Reclamation which would oth-
23 erwise be subject to transfer pursuant to this Act, except that
24 the retention of such jurisdiction and control by the United
25 States shall not abrogate or otherwise diminish any rights

1 acquired by any State to lands underlying such waters pursu-
2 ant to transfers made in accordance with this Act. In no
3 case, however, shall any such State or its successor in title
4 use such underlying lands in a manner so as to hamper, inter-
5 rupt, or otherwise impede the United States in the exercise of
6 the jurisdiction and control reserved to the United States
7 pursuant to this section.

8 (b) The President of the United States shall take such
9 action as may be necessary to modify or amend any treaty or
10 other agreement which the United States has with any for-
11 eign nation, if such modification or amendment is essential to
12 the implementation of this Act.

13 SEC. 402. Any State receiving a conveyance of land
14 pursuant to this Act is authorized to enter into interstate
15 compacts with other States in order to carry out actions, af-
16 fecting the lands so received, which can best be carried out
17 jointly with such States, such as compacts relating to compli-
18 ance with Federal laws involving water and air pollution, the
19 administration of forest lands as a unit, and such other com-
20 pacts as may be necessary relating to land and water use
21 activities. The consent of Congress is hereby given to any
22 such compact, if such compact has been first approved by the
23 appropriate Federal Land Transfer Board or Boards.

24 SEC. 403. (a) In order to assist any individual who, im-
25 mediately prior to any transfer to a State of unreserved unap-

1 appropriated public land pursuant to this Act, was employed by
 2 the United States in connection with the administration of
 3 such land and who, as a direct result of such land transfer,
 4 had his or her employment terminated, such State shall, in
 5 consultation with the appropriate Federal Land Transfer
 6 Board, establish and administer a program to assist such indi-
 7 vidual so terminated. Such program shall include, among
 8 others, provisions—

9 (1) providing for the publication of notices of all
 10 new State employment opportunities within such State
 11 directly attributable to the acquisition by the State of
 12 such lands, the qualifications for such positions, and
 13 the names and addresses for employment inquiries; and

14 (2) provisions pursuant to which the State shall
 15 give employment preferences to such employees so ter-
 16 minated for such available State positions in accord-
 17 ance with requirements established by such State.

18 (b) In establishing a program pursuant to subsection (a)
 19 of this section, no State shall be required—

20 (1) to follow Federal hiring practices or proce-
 21 dures except as specifically provided by law or regula-
 22 tion;

23 (2) to adjust or otherwise modify its present
 24 method of wage, salary, or benefits determination; or

1 (3) to make, except to the extent provided by this
2 Act, employment accommodations for any Federal em-
3 ployee adversely affected by the conveyance to that
4 State of unreserved unappropriated lands.

5 SEC. 404. (a) The Office of Personnel Management shall
6 establish and carry out a program to provide monthly salary
7 or wage adjustment payments to each individual within the
8 purview of section 403, if such individual is employed by the
9 affected State within one hundred and eighty days following
10 the termination of his or her Federal employment. Such pay-
11 ments shall be in an amount equal to the difference between
12 the basic monthly rate of pay received by such individual as a
13 result of his or her Federal employment immediately prior to
14 its termination and the basic monthly rate of pay to which
15 such individual was entitled to receive from such State imme-
16 diately upon his or her employment by such State. Such indi-
17 vidual shall be entitled to receive monthly payments in an
18 amount equal to such difference during the period that he or
19 she is employed by such State, but in no event shall such
20 payments continue after the expiration of twelve months fol-
21 lowing the date on which such State employment com-
22 menced. No such individual shall be entitled to receive salary
23 or wage adjustment payments under this section unless such
24 individual, within the one hundred and eighty-day period fol-
25 lowing the date of termination of his or her Federal employ-

1 ment, has filed a written election to receive such payments
2 with the Office of Personnel Management. In no case shall
3 any individual who has received benefits or assistance under
4 the provisions of section 8336(d) (relating to early retire-
5 ment), or section 5595 (relating to severance pay), of title 5,
6 United States Code, or any provision of such title relating to
7 preferences on civil service registers for displaced or termi-
8 nated Federal employees, be eligible to receive benefits under
9 this section. In no case shall any such individual who has
10 received benefits under this section be eligible for such bene-
11 fits or assistance under the aforementioned provisions of title
12 5, United States Code.

13 (b) Any State having within its employment an individu-
14 al receiving payments pursuant to this section shall immedi-
15 ately notify the Office of Personnel Management if such indi-
16 vidual retires or otherwise leaves or is separated from such
17 State employment prior to the expiration of the twelve-month
18 period following the date on which such State employment
19 commenced.

20 SEC. 405. In any case in which a State has submitted
21 an application for the transfer of public lands under title II of
22 this Act, the Secretary of the department having jurisdiction
23 over the lands covered by such application is authorized to
24 make a loan or loans to such State to insure that it is finan-
25 cially able to comply with the conditions and requirements of

1 this Act. All loans shall bear interest at a rate not to exceed
2 3 per centum and shall be for such amounts and durations as
3 the Secretary shall determine. The Secretary shall limit the
4 amounts of such loans to any State to the anticipated miner-
5 al, timber, and grazing revenues to be received by such State
6 from such transferred lands for any prospective ten-year
7 period. Such loans shall be repaid by the loan recipients from
8 mineral, timber, and grazing revenues to be derived from
9 lands transferred pursuant to this Act by such recipients, as
10 the Secretary determines.

11 SEC. 406. There are authorized to be appropriated such
12 sums as may be necessary to carry out the provisions of this
13 Act.

○

A P P E N D I X G

H.R. 7837
96th Congress

96TH CONGRESS
2D SESSION

H. R. 7837

To provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 1980

Mr. SANTINI (for himself, Mr. CHENEY, Mr. CLAUSEN, Mr. CLEVELAND, Mr. COELHO, Mr. GRAMM, Mr. JOHNSON of California, Mr. KOGOVSEK, Mr. LEWIS, Mr. LUJAN, Mr. MARLENEE, Mr. MARRIOTT, Mr. MCKAY, Mr. PASHAYAN, Mr. PATTERSON, Mr. RUDD, Mr. SHUMWAY, Mr. STUMP, Mr. SYMMS, Mr. THOMAS, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

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

1 TITLE I—SHORT TITLE; FINDINGS AND
2 DECLARATION OF POLICY; DEFINITIONS

3 SEC. 101. This Act may be cited as the “Western
4 Lands Distribution and Regional Equalization Act of 1980”.

5 SEC. 102. The Congress hereby finds that—

6 (1) equality of constitutional right and power is
7 the condition of all the States of the Union, old and
8 new;

9 (2) every new State admitted into the Union is
10 entitled to exercise all of the powers of government
11 which belong to the original States of the Union;

12 (3) the citizens of each State are entitled to all of
13 the privileges and immunities of citizens in the several
14 States;

15 (4) the power of Congress to admit new States
16 into the Union under article IV, section 3 of the Con-
17 stitution of the United States was not designed to
18 impair the equal power, dignity, and authority of the
19 States;

20 (5) as a condition of admission into the Union,
21 Congress has, on occasion, imposed burdens upon new
22 States that are not shared by the States equally;

23 (6) the original thirteen States, and States formed
24 from the territories thereof, owned all public lands
25 within their borders;

1 (7) title in the Federal Government to public
2 lands within the borders of the thirteen States, and
3 States formed from the territories thereof, rests only on
4 deeds of cession voluntarily consented to by the legisla-
5 tures of these States;

6 (8) as a condition of admission into the Union,
7 Congress retained in the Federal Government owner-
8 ship over substantial amounts of territory located
9 within the borders of States west of the one-hundredth
10 meridian;

11 (9) in the absence of such conditions of admission,
12 the legislative authority of the States would have ex-
13 tended over federally owned lands within these States
14 to the same extent as over similar property held by
15 private owners;

16 (10) during the course of the deliberations that re-
17 sulted in the drafting of the Constitution of the United
18 States, Founding Fathers, such as James Madison,
19 recognized that the Western States neither would nor
20 ought to submit to a Union which degraded them from
21 an equal rank with the other States;

22 (11) article I, section 8, clause 17 of the Constitu-
23 tion of the United States authorizes the Federal Gov-
24 ernment to exercise dominion over public lands only to
25 the extent necessary to create a seat of government,

1 and to administer places, purchased by the consent of
2 the State legislatures, for the erection of forts, maga-
3 zines, arsenals, dockyards, and other needful buildings.
4 In the absence of some express or implied legislative
5 authority to perform some further function, Congress is
6 limited by, and the rights of the States are protected
7 by, the tenth amendment to the Constitution of the
8 United States;

9 (12) the enabling Acts admitting the Western
10 States into the Union expressly recognize that the
11 Federal Government may some day choose to extin-
12 guish title to public lands held by it within the borders
13 of these States;

14 (13) article IV, section 3 of the Constitution ex-
15 pressly provides Congress with the power to "dispose
16 of and make all needful Rules and Regulations respect-
17 ing the Territory or other Property belonging to the
18 United States" which provision has been interpreted to
19 invest in Congress plenary authority to dispose of lands
20 held in Federal ownership, through sale, grant, or any
21 other means of disposition;

22 (14) there is precedent for large transfers of feder-
23 ally owned public lands designed to place new States
24 on par with the original thirteen States of the Union;
25 and

1 (15) the States of the Union and their citizens are
2 at least as well equipped as the central government to
3 make the often difficult policy decisions that are neces-
4 sary with respect to the use to which lands within
5 their States shall be put.

6 SEC. 103. (a) It is the policy of the United States to
7 adhere strictly to the constraints of the United States Consti-
8 tution and the various ordinances and treaties and decisions
9 of the Supreme Court of the United States governing the
10 ownership, holding, management, and disposition of all lands
11 to which the United States has acquired title or dominion.

12 (b) It is the policy of the United States that it has been
13 and is now duty bound to hold all unreserved and unappro-
14 priated public lands in trust for the States and to convey such
15 trust lands to the States admitted to the Union in order that
16 such States may exercise full sovereignty over such lands
17 and place them on an equal footing with respect to such land
18 within their boundaries as the original States.

19 (c) It is the policy of the United States that the forego-
20 ing trust is no longer useful or necessary or authorized by
21 law and that all portions of the unreserved and unappro-
22 priated public lands as defined in this Act should be placed
23 under the responsible administration and regulation of the
24 States containing them when such States have adopted a leg-
25 islative program as will constitute a reasonable uniformity of

1 Federal and State legislation and administration as will safe-
2 guard the accepted principles of conservation, recreation, rec-
3 lamation, and other multiple uses of such lands.

4 (d) It is the policy of the United States that public lands
5 shall not be retained in Federal ownership absent a clear
6 constitutional mandate, and that such lands shall be placed in
7 State ownership as expeditiously as possible.

8 SEC. 104. For the purposes of this Act, the term—

9 (1) “unreserved unappropriated public lands”
10 means all lands and interests therein which are owned
11 or controlled by the United States, including the min-
12 eral rights on or underlying such lands, and appurte-
13 nant water and access rights (including lands underly-
14 ing navigable lakes, streams, and other watercourses)
15 lying within the boundaries of any State west of the
16 one-hundredth meridian, except lands within the
17 boundaries of national parks, national monuments, and
18 national wildlife and migratory bird sanctuaries estab-
19 lished prior to July 25, 1980, lands within the bound-
20 aries of any unit of the national forest system, lands
21 within the boundaries of any military reservations and
22 establishments, Indian reservations and lands held in
23 trust by the United States for an Indian or Indian
24 tribe, lands essential to the operation, maintenance,
25 and access to United States Corps of Engineers and

1 United States Water and Power Resources Service
2 projects, lands essential to the operation, maintenance,
3 and access to designated United States highways,
4 lands necessary to the operation, maintenance, and
5 access to shipyards, docks, security and defense estab-
6 lishments, magazines, arsenals, and buildings to house
7 operations of the United States Government, lands se-
8 lected by Alaska Native corporation pursuant to the
9 Alaska Native Claims Settlement Act, lands selected
10 by the State of Alaska pursuant to the Alaska State-
11 hood Act, and lands administered under the Act of
12 August 28, 1937 (50 Stat. 875) of the Act of May 24,
13 1939 (55 Stat. 753);

14 (2) "Federal Land Transfer Board" means the
15 Board established pursuant to section 201;

16 (3) "State land commission" means any authority,
17 agency, board, or commission established pursuant to
18 section 301 of this Act; and

19 (4) "conveyance" shall include any conveyance or
20 other transfer by deed or other appropriate instrument.

21 TITLE II—FEDERAL LAND TRANSFER BOARD

22 SEC. 201. (a) In any case in which a State determines
23 to acquire all or any portion of the unreserved unappropriated
24 public lands within its boundaries, the Governor of that State
25 shall submit an application to the President of the United

1 States requesting the President to establish a Federal Land
2 Transfer Board for such State. Such application shall be au-
3 thorized by a law of the State enacted on or after the date of
4 the enactment of this Act. No application shall be received by
5 the President after the expiration of a sixty-month period fol-
6 lowing the date of the enactment of this Act.

7 (b)(1) As soon as practicable following the receipt of
8 such application, but in no event later than the ninety-day
9 period following the date on which nominees are submitted to
10 him pursuant to clause (E) of this subsection, the President
11 shall take such action as may be necessary to establish a
12 Federal Land Transfer Board for the State submitting such
13 application (unless such a board is already in existence on the
14 basis of a prior application from such State). Such Board
15 shall consist of the following members:

16 (A) one member appointed by the President (who
17 shall be chairman but who shall have no vote except in
18 the case of a tie vote);

19 (B) one member appointed by the Secretary of the
20 Interior;

21 (C) one member appointed by the Secretary of
22 Agriculture;

23 (D) one member appointed by the Secretary of
24 Defense; and

1 (E) three members appointed by the President
2 from a list of nominees submitted to the President by
3 the Governor of the applicant State.

4 (2) Such members shall serve until all conveyances au-
5 thorized by this Act to the affected State have been carried
6 out. Any vacancy on the Federal Land Transfer Board shall
7 be filled in the same manner as that provided for the original
8 appointment. Members appointed pursuant to clause (A), (B),
9 (C), or (D) of paragraph (1) of this subsection may serve on
10 more than one such board.

11 (c) Each Federal Land Transfer Board established for a
12 State pursuant to this section shall, in making conveyances
13 to such State under this Act, coordinate its activities with the
14 State land commission, established pursuant to section 301 of
15 this Act, of such State.

16 (d) Within thirty days following the establishment of a
17 Federal Land Transfer Board for an applicant State under
18 this section, the President shall transfer such application, and
19 all accompanying papers and documentations, to such Board.
20 Within ninety days following the receipt of such application,
21 the Federal Land Transfer Board shall determine, by a ma-
22 jority of the members of the Board, if such application is in
23 compliance with the provisions of this Act and if the appli-
24 cant has met the conditions and requirements set forth in this
25 Act. If such Federal Land Transfer Board determines that

1 the application is in compliance with the provisions of this
2 Act and that the applicant has met the conditions and re-
3 quirements set forth in this Act, the Federal Land Transfer
4 Board shall convey all right, title, and interest of the United
5 States in and to the unreserved unappropriated public lands
6 set forth in the application in such manner and in accordance
7 with such time schedule or schedules as shall be agreed upon
8 between the Federal Land Transfer Board and the appropri-
9 ate State land commission, but in no event later than twenty-
10 four months following the determination of the Federal Land
11 Transfer Board that the application was in compliance with
12 this Act and that the applicant had met the conditions and
13 requirements set forth in this Act. Such conveyance shall be
14 made without consideration other than the mutual covenants
15 of this Act. In any case in which the Federal Land Transfer
16 Board determines that such application is not in compliance
17 with this Act, or that the applicant has not complied with the
18 requirements and conditions of this Act, the Federal Land
19 Transfer Board shall notify the applicant to that effect within
20 thirty days following such determination. Such notice shall
21 contain the specific reason or reasons as to why such applica-
22 tion was not in compliance or why such applicant failed to
23 meet such requirements or conditions, as the case may be.

24 (e) A State shall not be limited in the number of applica-
25 tions which it may submit pursuant to this Act, within the

1 sixty-month period following the date of the enactment of this
2 Act.

3 SEC. 202. (a) In any case in which any State, corpora-
4 tion, or other public or private entity, or individual has any
5 claim or is involved in any dispute arising out of or in connec-
6 tion with the implementation of this Act, such State, corpora-
7 tion, entity, or individual shall have the right to petition the
8 appropriate Federal Land Transfer Board to hear, consider,
9 and act on such claim or dispute. Upon receiving any such
10 petition, the Board shall, by majority vote of the members of
11 the Board, make such findings and determinations and issue
12 such orders as may be necessary to settle such claim or re-
13 solve such dispute.

14 (b) Each Federal Land Transfer Board shall establish
15 uniform policies and procedures for receiving such petitions
16 and for expeditiously hearing and disposing of such claims
17 and disputes.

18 SEC. 203. Any State aggrieved by an order or decision
19 of a Federal Land Transfer Board under section 201 may
20 apply to the Federal Land Transfer Board for a review of
21 such order or determination within thirty days following the
22 date of such order or determination. Upon the receipt of such
23 application, the Federal Land Transfer Board shall cause
24 such investigation to be made as the Board may deem appro-
25 priate. Such investigation shall provide an opportunity for a

1 public hearing to enable the State to present information or
2 other data. The State shall be given written notice of the
3 time and place of the hearing at least five days prior to the
4 hearing. Any such hearing shall be of record and shall be
5 subject to section 554 of title 5, United States Code. Upon
6 receiving the report of such investigation, the Federal Land
7 Transfer Board shall make findings of fact, and shall issue a
8 written decision, incorporating therein an order vacating, af-
9 firming, modifying, or terminating the prior order or determi-
10 nation of the Federal Land Transfer Board complained of and
11 incorporate its findings therein.

12 SEC. 204. (a) Any final order or decision of a Federal
13 Land Transfer Board pursuant to section 203 of this Act
14 shall be subject to judicial review by the United States court
15 of appeals for the circuit in which the affected land is located
16 upon the filing in such court within thirty days from the date
17 of such final order or decision of a petition by any State ag-
18 grieved by such order or the decision praying that the order
19 or decision be modified or set aside in whole or in part. A
20 copy of the petition shall forthwith be sent by registered or
21 certified mail to the Chairman of the Federal Land Transfer
22 Board, and thereupon the Chairman shall certify and file in
23 such court the record upon which the order or decision com-
24 plained of was issued, as provided in section 2112 of title 28,
25 United States Code.

1 (b) The court shall hear such petition on the record
 2 made before the Federal Land Transfer Board. The findings
 3 of the Federal Land Transfer Board, if supported by substan-
 4 tial evidence on the record considered as a whole, shall be
 5 conclusive. The court may affirm, vacate, or modify any
 6 order or decision or may remand the proceedings to the Fed-
 7 eral Land Transfer Board for such further action as the court
 8 may direct.

9 (c) The judgment of the court shall be subject to review
 10 only by the Supreme Court of the United States upon a writ
 11 of certiorari or certification as provided in section 1254 of
 12 title 28, United States Code.

13 TITLE III—STATE LAND COMMISSIONS

14 SEC. 301. (a) No State seeking the conveyance of unre-
 15 served unappropriated public lands under this Act shall be
 16 entitled to such lands unless such State has established a
 17 State land commission board with powers and obligations as
 18 set forth in subsection (b) of this section.

19 (b) There shall be in effect and applicable to such com-
 20 mission laws of the affected State which—

21 (1) require the commission to hold and manage, in
 22 accordance with this Act, unreserved unappropriated
 23 public lands conveyed pursuant to this Act in trust for
 24 the ultimate benefit and use of all the people of the
 25 United States in an orderly, beneficial, and economic

1 manner, and to manage such lands in conformity with
2 established concepts of multiple use and in such a
3 manner as will encourage the conservation and preser-
4 vation of natural resources, wildlife habitat, wilderness
5 values, historical values, artifacts, and antiquities, and
6 in a manner which will permit development of compati-
7 ble public uses for recreation, agriculture, grazing,
8 mineral, and timber production, and development, pro-
9 duction, and transmission of energy and other public
10 utility services to provide maximum balanced benefits;

11 (2) recognize and declare that all public lands of
12 the State (including lands transferred pursuant to this
13 Act), together with mineral and water rights appurte-
14 nant, not previously reserved or appropriated, are the
15 property of the State and subject to its jurisdiction and
16 control;

17 (3) provides for the recognition and protection, in-
18 cluding the issuance of such documents or other instru-
19 ments as may be necessary, of valid rights, existing on
20 the date of the transfer to the State of unreserved un-
21 appropriated public lands under this Act, and which
22 rights were acquired under or in connection with the
23 National Forest Transfer Act (16 U.S.C. 471 et seq.),
24 the Homestead Act (43 U.S.C. 161 et seq.), the Gen-
25 eral Mining Laws (30 U.S.C. 21 et seq.), the Taylor

1 Grazing Act (43 U.S.C. 315 et seq.), the Desert Land
2 Act (43 U.S.C. 321 et seq.), the Carey Act (43 U.S.C.
3 641 et seq.), the Public Range Lands Improvement
4 Act (43 U.S.C. 1901 et seq.), or any other Federal
5 law, and which provides for and preserves all rights-of-
6 way and easements for interstate public highways and
7 public utilities within the State;

8 (4) provides that no unreserved unappropriated
9 public lands conveyed to any State pursuant to this
10 Act shall be conveyed, transferred, or otherwise dis-
11 posed of except pursuant to the specific authority of a
12 State law enacted on or after the date on which such
13 State acquired such lands pursuant to this Act and
14 provides that in making any such conveyance, transfer,
15 or other disposal, the State shall reserve such ease-
16 ments and other property interests as it deems neces-
17 sary to assure public access to Federal lands and to
18 other State lands retained in State ownership;

19 (5) provide that such lands, subject to paragraph
20 (4) of this subsection, may be conveyed, leased, permit-
21 ted, or licensed for purposes comparable to those au-
22 thorized by Federal law while such lands were under
23 the jurisdiction and control of the Federal Government;

24 (6) provide that all proceeds derived by a State
25 from fees, rents, royalties, or other moneys received by

1 such State in connection with the use or sale or other
2 disposition of such lands acquired by the State pursu-
3 ant to this Act shall be deposited in the treasury of
4 that State and provide that, where any unit of local
5 government, as defined in the Act of October 20, 1976
6 (90 Stat. 2662), would be entitled to receive annual
7 payments under that Act for any land which would be
8 entitlement land within the meaning of that Act if such
9 land were retained in Federal ownership, following
10 conveyance of such land to the State pursuant to this
11 Act, the State will make annual payments to such unit
12 of local government with respect to such land for any
13 year in which the State retains a property interest in
14 such land and that such annual payments will be at
15 least equal to the payments which would have been
16 made to such unit of local government with respect to
17 such land under the Act of October 20, 1976, if such
18 land had remained in Federal ownership;

19 (7) provide for the conduct, in conjunction with
20 the respective boards of county commissioners and
21 county planning commissions and with municipal coun-
22 cils and planning commissions, of an inventory and
23 study of the public lands of the State with a view to
24 determining the best methods of utilization and man-

1 agement of such lands in order to meet the needs and
2 interests of the people of the State;

3 (8) provide for transfer to the United States, with-
4 out consideration, of such easements, rights-of-way,
5 permits, and licenses as may be necessary to the con-
6 duct of any lawful Federal activity or function upon,
7 over, or under any such lands conveyed to the State
8 pursuant to this Act; and

9 (9) provide that such lands acquired pursuant to
10 this Act which, prior to that acquisition, were adminis-
11 tered pursuant to an international treaty or interstate
12 compact, shall continue to be administered by the State
13 in conformance with the terms of such treaty or
14 compact.

15 (c) The State land commission shall coordinate its activ-
16 ities in carrying out its functions under this Act with the
17 appropriate Federal Land Transfer Board.

18 TITLE IV—MISCELLANEOUS

19 SEC. 401. (a) Notwithstanding any other provision of
20 this Act or any transfer of unreserved unappropriated public
21 lands pursuant thereto, the United States shall retain juris-
22 diction and control over all oceans, seas, navigable rivers,
23 streams, and lakes, and projects and facilities of the Corps of
24 Engineers and the Water and Power Resources Service
25 which would otherwise be subject to transfer pursuant to this

1 Act, except that the retention of such jurisdiction and control
2 by the United States shall not abrogate or otherwise diminish
3 any rights acquired by any State to lands underlying such
4 waters pursuant to transfers made in accordance with this
5 Act. In no case, however, shall any such State or its succes-
6 sor in title use such underlying lands in a manner so as to
7 hamper, interrupt, or otherwise impede the United States in
8 the exercise of the jurisdiction and control reserved to the
9 United States pursuant to this section. Nothing in this Act
10 shall affect or impair any provision of State law or rule of law
11 relating to allocation, control, or use of water.

12 (b) The President of the United States shall take such
13 action as may be necessary to modify or amend any treaty or
14 other agreement which the United States has with any for-
15 eign nation, if such modification or amendment is essential to
16 the implementation of this Act.

17 SEC. 402. Any State receiving a conveyance of land
18 pursuant to this Act is authorized to enter into interstate
19 compacts with other States in order to carry out actions, af-
20 fecting the lands so received, which can best be carried out
21 jointly with such States, such as compacts relating to compli-
22 ance with Federal laws involving water and air pollution, the
23 administration of forest lands as a unit, and such other com-
24 pacts as may be necessary relating to land and water use
25 activities. The consent of Congress is hereby given to any

1 such compact, if such compact has been first approved by the
2 appropriate Federal Land Transfer Board or Boards.

3 SEC. 403. There are authorized to be appropriated such
4 sums as may be necessary to carry out the provisions of this
5 Act.

○

A P P E N D I X H

SUGGESTED LEGISLATION

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SUMMARY--Proposes constitutional amendment to regulate management and disposal of state lands. (BDR C-84)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

SENATE JOINT RESOLUTION--Proposing to amend the Nevada constitution to provide for management of state lands for recreational and other purposes, and to restrict the disposal and use of proceeds of the lands.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new article designated Article 20 be added to the constitution of the State of Nevada and section 3 of article 11 of the constitution be amended to read respectively as follows:

Article 20.

Section 1. The lands which are owned or held in trust by this state must be managed for the purposes of recreation, grazing, forestry and the conservation of water and wildlife and to effect the greatest number and best uses of the lands which are economical and protect the productivity of the lands.

Sec. 2. The proceeds from sales of lands granted to this state by Congress, including sales of minerals, gravel, oil and gas, after deducting the costs of the sales, must be used first in the manner imposed as a condition of granting the lands, and any surplus must be distributed as provided by Article 11 of this Constitution. All other revenue which is derived from those lands,

including revenue from grazing leases and sales of timber and geothermal energy, after deducting the costs of managing those lands, must be used first in the manner imposed as a condition of granting the lands, and any surplus, if the lands were obtained before July 1, 1981, must be distributed as provided by Article 11 of this Constitution, and if obtained on or after July 1, 1981, after deducting payments to local governments in lieu of taxes on those lands, may be used by the state without restriction.

Sec. 3. The legislature shall provide by law for the issuance of patents and the reservation of easements and other property interests which assure public access to federal and state lands upon the disposal of lands granted to this state by Congress. These lands must not be sold or otherwise disposed of except:

1. For the expansion of cities and towns or, if necessary, for commercial purposes, if recommended to the legislature by the local government within whose jurisdiction the land is located and approved by the legislature by law.

2. For agricultural purposes if found suitable and certified to have water available for that purpose by an officer or officers charged by law with those duties, if recommended to the legislature by the local government within whose jurisdiction the land is located and approved by the legislature by law.

3. For sale or lease to an agency or political subdivision of this state or nonprofit corporation or association for the same public and recreational purposes as federal lands may be so sold or leased, if recommended by the state agency charged with the management of the lands and the local government within whose jurisdiction the land is located and if approved by the governor.

4. For use by an agency or instrumentality of the Federal Government, upon the advice of the state agency charged by law with that duty and the local government within whose jurisdiction the land is located, if approved by the legislature by law.

5. For mines which are located or patented pursuant to federal or state law. Provision must be made for the reservation or sale of rights to minerals known to exist in the lands when disposed of by the state in any manner other than by location or patent.

6. By leases for the grazing of livestock in the same manner and for the same purposes as federal lands may be so leased, if approved by the state agency charged by law with that duty.

7. By other leases and easements and rights of way for a period not to exceed 99 years if the rental is at fair market value and is revalued at intervals not to exceed 5 years, if recommended by the local government within whose jurisdiction the land is located, or by the state agency charged with the management of the land if it is located within more than one county, and if approved by:

- (a) The legislature by law;
- (b) A committee of the legislature; or
- (c) A state agency charged with that duty, and by the governor.

8. By exchanges, for the purpose of consolidation and better management and use of the land, of parcels of state land within the limits of 20 miles on each side of the line of the Southern Pacific Railroad, for parcels of land of equivalent size or value which were granted to the Central Pacific Railroad in the amount of 10 alternate sections per mile on each side of the line of that railroad, if recommended to the legislature by the state agency charged with the management of the lands and approved by the legislature by law.

9. Land which was acquired by the state for a specific purpose and is no longer needed for that purpose, or small and isolated parcels of no larger than 640 acres which are difficult and uneconomic to manage, upon the advice of the local government within whose jurisdiction the land is located, if recommended to the legislature by the state agency charged with the management of the lands and approved by the legislature by a vote of two-thirds of the members elected to each house.

10. Pursuant to an affirmative vote of three-quarters of the members elected to each house of the legislature.

[Section] Sec. 3. [All lands, including the sixteenth and thirty-sixth sections in any township donated for the benefit of public schools in the act of the Thirty-eighth Congress, to enable the people of Nevada Territory to form a state government, the thirty thousand acres of public lands granted by an act of Congress, approved July second, A.D. eighteen hundred and sixty-two, for each senator and representative in Congress, and all proceeds of lands that have been or may hereafter be granted or appropriated by the United States to this state, and also the five hundred thousand acres of land granted to the new states under the act of Congress distributing the proceeds of the public lands among the several states of the union, approved A.D. eighteen hundred and forty-one; provided, that Congress make provision for or authorize such diversion to be made for the purpose herein contained; all estates that may escheat to the state; all of such per centum as may be granted by Congress on the sale of lands; all fines collected under the penal laws of the state; all property given or bequeathed to the state for educational purposes; and all proceeds derived from any or all of said sources shall be and the same are hereby solemnly pledged for educational purposes, and shall not be transferred to any other funds for other uses; and the interest thereon shall, from time to time, be apportioned among the several counties as the legislature may

provide by law; and the legislature shall provide for the sale of floating land warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above-mentioned sources; provided, that the interest only of the aforesaid proceeds shall be used for educational purposes, and any surplus interest shall be added to the principal sum; and provided further, that such portion of said interest as may be necessary may be appropriated for the support of the state university.] The proceeds from the sales of all lands granted by Congress to this state without restriction or for educational purposes, all estates that escheat to the state and all property given or bequeathed to the state for educational purposes, together with all fines collected under the penal laws of the state and that percentage of the proceeds from the sale of federal lands which has been granted by Congress to this state without restriction or for educational purposes, are hereby pledged for educational purposes and must not be transferred to other funds for other uses. The legislature shall provide by law for the investment of the money pledged for educational purposes. The interest only on that money and the revenue from lands which were obtained by the state before July 1, 1981, must be apportioned by the legislature among the several counties, and, if necessary, a portion of that interest

and revenue may be appropriated for the support of the state university, but any of that interest or revenue which is unexpended at the end of any year must be added to the principal sum pledged for educational purposes.

SUMMARY--Provides for legislative or gubernatorial approval of acquisitions or uses of certain lands by Federal Government. (BDR 26-85)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to federal lands; providing for individual approval by the legislature of acquisitions and cessions of jurisdiction respecting certain federal lands; providing for individual approval by the governor of certain uses of those lands or water rights or closures of public roads on the lands; providing for hearings and recommendations by the tax commission and the planning agencies of affected local governments; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 328 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. As used in NRS 328.040 to 328.120, inclusive, and sections 3 to 6, inclusive, of this act, unless the context otherwise requires, "planning agency" means:

1. The planning commission for the city in which the land is entirely located; or

2. A county or regional planning commission, if there is one, or the board of county commissioners or Nevada Tahoe regional planning agency, within whose jurisdiction the land is located.

Sec. 3. Any application by the United States to obtain the consent of this state to acquire lands or to obtain a cession from this state of any of its jurisdiction over any federal lands, and any offer or agreement by the State of Nevada to grant such a cession or consent, the conditions of which have not been fully complied with before the effective date of this act, are declared to be void and of no effect, and as to those lands the state retains the entire jurisdiction it exercised or was entitled to exercise when the United States acquired the land.

Sec. 4. 1. The governor, upon the advice of the Nevada tax commission and appropriate planning agencies, may consent to a use of land or water or closure of a public road by the United States if that use or closure will effectuate an authorized governmental purpose of the United States and will not substantially interfere with the state's interest in regulating the use of land, water and roads within its borders.

2. In deciding whether to grant or deny the consent of the state the governor shall:

(a) Balance the interests of the Federal Government and the state; and

(b) Not apply standards or impose conditions respecting the use of land, water or roads which are more restrictive than those generally applicable to other persons in this state.

3. In granting the consent of the state the governor shall not grant or waive any right, privilege, immunity or other incident of sovereignty provided for in paragraph (a) of subsection 1 and in subsection 4, except paragraphs (c) to (e), inclusive, of NRS 328.080.

4. Any recommendation of the Nevada tax commission which is not acted on by the governor within 30 days after he receives it and which is not in conflict with the requirements of this section is automatically approved unless the governor defers the decision for good cause noted on the application.

Sec. 5. The attorney general:

1. Shall bring and maintain any appropriate action on behalf of the state to enforce the provisions of NRS 328.040 to 328.120, inclusive; or

2. May bring and maintain an action on the relation of, or may intervene on behalf of, any person in any court in any meritorious case involving a policy, law or regulation of the Federal Government which encroaches on or interferes with the sovereignty or jurisdiction reserved to this state by the Constitution of the United States respecting the land, water or public roads located within its borders or the use of them.

The right to enforce the provisions of this section is limited to the attorney general.

Sec. 6. 1. The state land registrar shall:

(a) Create and maintain a registry of all lands and interests in land in Nevada, other than the unreserved, unappropriated public lands, owned or held in trust by an agency or instrumentality of the Federal Government.

(b) With the advice and assistance of the attorney general and the district attorneys, determine and state in the registry the nature and extent of the Federal Government's jurisdiction over each tract of land or interest in land entered in the registry.

2. The department of taxation, with the cooperation of the state land registrar, shall advise the county assessors of:

(a) Those lands and interests in land in the registry which may be taxed and the taxable activities conducted on them; and

(b) Any changes in the taxable status of those lands and interests when the changes come to their knowledge.

3. The state land registrar, attorney general and executive director of the department of taxation shall develop a plan to effectuate the provisions of this section and carry them out within 5 years.

Sec. 7. NRS 328.040 is hereby amended to read as follows:

328.040 [The authority conferred upon the Nevada tax commission to give or withhold the consent of the state shall include all acquisitions of real property or of rights therein, including

water rights of every nature whatever, by the United States, including gifts.] The procedure provided in NRS 328.040 to 328.120, inclusive, applies to any application by an agency or instrumentality of the Federal Government to obtain from the State of Nevada:

1. A cession of exclusive or concurrent jurisdiction in connection with a use of federal land:

(a) For a purpose expressly stated in clause 17 of section 8 of article I of the Constitution of the United States or for any other authorized governmental purpose; or

(b) For the benefit of, in trust for or in the name of any Indian or other ward of the Federal Government.

2. Consent to acquire by any method, including reservation, withdrawal, purchase, condemnation or gift, any land or water in the State of Nevada, including land to be held for the benefit of, in trust for or in the name of an Indian or other ward of the Federal Government, or to use any such land or water for any proprietary purpose or governmental purpose other than those expressly stated in clause 17 of section 8 of article I of the Constitution of the United States, or close any public road on such land, if that use or closure is subject to the sovereignty reserved to the State of Nevada pursuant to the Constitution of the United States.

Sec. 8. NRS 328.050 is hereby amended to read as follows:

328.050 1. [Application for permission to make any such acquisition shall be made] The United States by an authorized officer [of the United States] may apply to the Nevada tax commission [.] to obtain a cession of exclusive or concurrent jurisdiction or the consent of the State of Nevada to acquire or use any land or water right or any interest in them for any purpose provided in NRS 328.040 to 328.120, inclusive. The application [shall] must set forth:

(a) The purpose of the application;

(b) The legal description of the [desired] property [or interest therein,] involved, supported by a map [thereof and the] of the property;

(c) The authority for [, purpose of] and interest to be acquired in the property;

(d) The method to be used in [acquiring the same.] any acquisition of property; and

[(b)] (e) Those provisions in the statutes of the United States, if any, for making tax payments upon the [real] property subsequent to [its acquisition.] the cession or grant of consent.

2. The Nevada tax commission may [prescribe the use of any] recommend to the legislature that a specified method of acquisition be used as a condition to such consent.

Sec. 9. NRS 328.060 is hereby amended to read as follows:

328.060 1. Upon the filing of an application by a federal agency on behalf of the United States [to make an acquisition of land] for one of the purposes provided [for] in NRS [328.030 to 328.150,] 328.040 to 328.120, inclusive, the Nevada tax commission shall give written notice of [a public hearing to be held at the county seat of the county in which the requested lands are situated. Where] the application to the planning agencies of the affected local governments within 1 week after its receipt of the application.

2. Each planning agency so notified shall within 90 days after the notice is sent hold a public hearing on the application at the place where it normally meets. If the requested acreage is located [in two or more counties, a public hearing shall be held at the county seat in each such county affected by the request.] within the jurisdiction of two or more planning agencies, each of those agencies must hold a hearing.

[2. Notice shall be given] 3. Each planning agency shall notify the public of its hearing by publication [thereof,] in one issue of a newspaper of general circulation published in each of the counties [affected thereby, the] in which the land is located. The notice [to] must be published at least 20 days [prior to] before the date set for the hearing [. The notice shall] and set

forth the legal description of the real property and the purpose for which [required as contained] it is to be used as stated in the [request.] application. The cost of publishing the notice [shall] must be borne by the United States or by someone in its behalf.

[3. Actual notice by mail shall also be given by the] The planning agency shall deliver its written recommendation on the application, including the reasons for its recommendation, to the Nevada tax commission within 15 days after the conclusion of its hearing on the application.

4. The Nevada tax commission shall hold a hearing on such an application within 90 days after it receives the written recommendation from the planning agency. The commission shall give notice of its hearing as required by law and in addition shall give notice of the hearing [or hearings] to the clerk or executive secretary of every municipal corporation or taxing agency having the right to tax real property as of the date of the notice. At its hearing the commission shall receive any testimony pertaining to taxation of the requested land and shall consider the written recommendation of the planning agency. Within 15 days after concluding its hearing, the commission shall deliver its written recommendation, including the reasons for its recommendation, and the recommendation of the planning agency, to:

(a) The legislature, if the application is for a cession of exclusive or concurrent jurisdiction or consent to acquire any land or water for a proprietary purpose or governmental purpose other than those expressly stated in clause 17 of section 8 of article I of the Constitution of the United States; or

(b) The governor, if the application is for consent to use any land or water for any proprietary or governmental purpose other than those expressly stated in clause 17 of section 8 of article I of the Constitution of the United States or to close a public road.

[4.] 5. The Nevada tax commission shall [make necessary] adopt such rules as are necessary for governing the procedure of [such] these hearings.

[5. The] 6. A planning agency or the Nevada tax commission [shall have the right:

(a) To] may set the hearings upon several requests at the same session.

[(b) To] 7. The Nevada tax commission may appoint an examiner to conduct [any such] hearings [, and to] on these applications, supervise the taking of testimony and [to] report to the commission in such manner as the commission may provide.

Sec. 10. NRS 328.080 is hereby amended to read as follows:

328.080 [The consent of the state in all such cases shall be conditioned upon the following requirements having been complied

with and shall be based upon such other factors as the Nevada tax commission, in its discretion, may take into consideration in the making of its decision:]

1. Before transmitting an application to the legislature or governor, the Nevada tax commission:

(a) Must determine and state in its recommendation whether:

(1) The United States, by a statute then in [force and] effect, [must have] has provided for, and [must be] is ready, able and willing to make tax payments, or payments in lieu of taxes, upon the premises, including the improvements to be placed thereon, at the rate that other similar property in the county is taxed. [Payments shall] These payments must continue as long as ownership by the United States [ownership] continues. [Such tax payments shall be apportioned among the state and all municipal corporations and taxing agencies of the state which would otherwise have the right to tax the property from time to time if the property were privately owned. The Nevada tax commission shall be the sole bargaining agency in matters of taxation between the state, its political subdivisions and the Federal Government, and shall determine the ratio of distribution of taxes or payments in lieu of taxes required to be paid by the Federal Government among the payees; but no tax shall be demanded under the provisions of NRS 328.030 to 328.150, inclusive, upon a right of way for a

public road or post office or for any purpose expressly stated in clause 17 of section 8 of article I of the Constitution of the United States.

2. The board of county commissioners of each county to be affected by each requested acquisition must have given its written consent to the acquisition to the Nevada tax commission. The consent shall be expressed by a resolution duly adopted and entered in the journal of the board of county commissioners.

3.] (2) The United States [of America must have] has consented in writing to the levying and collection of all taxes to which any business, construction contractor or any other enterprise or occupation thereafter conducted or operated upon the premises would be subject if the property were to remain in private ownership.

[4. When it appears to] (b) Is the sole bargaining agency between the state, its local governmental agencies and the Federal Government respecting any conditions to be imposed on a cession of jurisdiction or a grant of consent to acquire land or water rights, including matters of taxation, but in its negotiating the commission shall not demand any payment of a tax or payment in lieu of taxes upon a post office, right of way for a public road or any land or premises or use of them for a purpose expressly stated in clause 17 of section 8 of article I of the Constitution of the United States.

2. Any payment of taxes or payment in lieu of taxes provided for in subsection 1 which becomes a condition of a cession of jurisdiction or grant of consent pursuant to NRS 328.040 to 328.120, inclusive, must be reasonably apportioned by the Nevada tax commission among the state and all the local governmental agencies which would otherwise have the right to tax the property if privately owned.

3. If a planning agency or the Nevada tax commission [and the board of county commissioners of the county or counties affected] finds that the purpose for [such purchase of land] an acquisition of land or water by the United States is to the best interests of the general public, it may recommend the waiver of tax payments or payments in lieu of taxes . [may be waived.]

4. The Nevada tax commission with the advice of the attorney general may negotiate with the United States respecting, and shall specifically recommend to the legislature, whether the state should cede to the United States exclusive or concurrent jurisdiction respecting offenses of a criminal nature and cases arising under the civil laws of this state. With respect to other conditions which may be imposed on a cession of jurisdiction or grant of consent it is the policy of this state to reserve:

(a) Its authority to serve and execute its civil and criminal process issued by the courts of this state;

(b) All civil and political rights, including the right of suffrage, of persons residing on the land which they may have had if the acquisition were not made;

(c) Its right to control, maintain and operate all state highways constructed upon the land;

(d) Its jurisdiction over the land and water and use of them, including the full power to control and regulate the acquisition, use, control and distribution of water with respect to the land so applied for; and

(e) Such other legislative jurisdiction over the land as does not interfere with the express purpose of the acquisition, and to impose a condition that the jurisdiction ceded or consent granted to the United States continues only as long as the land belongs to the United States and is held by it for the purpose for which jurisdiction is ceded or consent is granted and in compliance with each of the conditions and reservations of the cession or grant.

Sec. 11. NRS 328.100 is hereby amended to read as follows:

328.100 1. The cession or consent of the state [shall] which is approved by the legislature must be evidenced by a certificate executed on behalf of the state by the [Nevada tax commission]

lieutenant governor, as president of the senate, and the speaker of the assembly and countersigned by the governor. The consent of the state which is approved by the governor must be evidenced by a certificate executed by him. The certificate [shall] must then be delivered to the secretary of state, who shall affix the seal of the state thereto and [shall] must thereupon deliver [the same] it to the United States.

2. The certificate [of consent shall accurately describe the premises or rights requested.] must contain an accurate description of the land and a statement of the jurisdiction ceded or acquisition or use granted to the United States and all power, authority and jurisdiction reserved to the state.

3. The certificate [shall be eligible] must be in a form acceptable for recordation in the deed records of the county or counties to which it relates.

Sec. 12. NRS 328.110 is hereby amended to read as follows:

328.110 A recorder of conveyances of real property in this state shall not accept for recordation any deed of conveyance wherein the United States is the grantee unless there is recorded with the deed of conveyance:

1. A certificate of consent pertaining to the transaction as provided for in NRS 328.100; or

2. The written statement of a representative of the United States, contained in the deed , or a notarized statement by such a representative accompanying it, that the United States does not seek exclusive jurisdiction over the property.

Sec. 13. NRS 328.120 is hereby amended to read as follows:

328.120 On matters under the provisions of NRS [328.030 to 328.150,] 328.040 to 328.120, inclusive, affecting water rights, reclamation, flood control and watershed protection, the Nevada tax commission shall call upon the state engineer for technical and engineering advice, and the water law of this state [shall be] is the rule of decision in all matters relating to water rights.

Sec. 14. NRS 328.010, 328.020, 328.030, 328.070, 328.090, 328.130, 328.140, 328.150, 328.160, 328.170, 328.180, 328.190, 328.200, 328.201, 328.206, 328.207, 328.208, 328.209 and 328.2091 are hereby repealed.

Sec. 15. This act shall become effective upon passage and approval.

SUMMARY--Provides for payments to local governments in lieu of taxes if state obtains title to or management of public lands. (BDR 26-83)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Contains Appropriation.

AN ACT relating to public lands; providing for payments to local governments in lieu of taxes if the state obtains title to or management of the public lands; creating a trust fund; making an appropriation contingent on the transfer of those lands; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 321 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. There is hereby created in the state treasury the public land trust fund. All money appropriated for the purpose of making payments to local governments in lieu of taxes on public lands must be deposited by the state land registrar in the state treasury for credit to the public land trust fund. If the state obtains title to, trusteeship over or management of more than one-fifth of the public lands in Nevada, upon approval of the interim finance committee the state land registrar shall pay out of that trust fund in each fiscal year to each local government in Nevada an amount equal to the payment the local government received in lieu of taxes on

federal lands pursuant to 31 U.S.C. §§ 1601 et seq., in the most recent fiscal year, less the payment in lieu of taxes which the local government is entitled to receive from the Federal Government in the next fiscal year after the state obtains those lands.

2. If the local governments receive reduced payments in lieu of taxes from the Federal Government during a portion of a fiscal year because of the state's obtaining those lands, the payments provided for in subsection 1 must be prorated for that portion of the fiscal year in which the payments from the Federal Government are reduced.

3. Payments from the trust fund must be made as other claims against the state are paid.

Sec. 2. NRS 361.055 is hereby amended to read as follows:

361.055 1. All lands and other property owned by the state are exempt from taxation, except real property acquired by the State of Nevada and assigned to the department of wildlife which is or was subject to taxation under the provisions of this chapter at the time of acquisition and except as provided in subsection 4.

2. In lieu of payment of taxes on each parcel of real property acquired by it which is subject to assessment and taxation pursuant to subsection 1, the department of wildlife shall make annual payment to the county tax receiver of the county wherein each such parcel of real property is located of an amount equal to the total

taxes levied and assessed against each such parcel of real property in the year in which title to it was acquired by the State of Nevada.

3. Such payments in lieu of taxes must be collected and accounted for in the same manner as taxes levied and assessed against real property pursuant to this chapter are collected and accounted for.

4. [After July 1, 1978, all] All real estate owned by the State of Nevada located in each county , except public lands obtained after June 30, 1981, must be listed in a separate tax list and assessment roll book of that county at its full cash value. If the total value of such real estate owned by the state in a county is greater than 17 percent of the total value of all other real estate listed in the county's tax list and assessment roll books, that portion of the value of the real estate owned by the state which is in excess of such 17 percent may be taxed by the county as other property is taxed.

5. Money received pursuant to this section must be apportioned each year to the counties, school districts and cities wherein each such parcel of real property is located in the proportion that the tax rate of each such political subdivision bears to the total combined tax rate in effect for such year.

Sec. 3. 1. If the state obtains the unreserved, unappropriated public lands in Nevada pursuant to an act of Congress which provides for the cession and conveyance or other transfer of those

lands to this state, whether the federal act is effective before, on or after the date of passage and approval of this act, there is hereby appropriated from the state general fund to a special fund for payments in lieu of taxes on public lands pursuant to section 1 of this act the sum of \$9,108,100.

2. The state treasurer shall invest the money in the special fund as other state money is invested until after the state obtains the public lands pursuant to the aforementioned federal act and the interim finance committee approves payments to local governments in lieu of taxes on public lands pursuant to section 1 of this act, at which time he shall transfer the money in the special fund to the public land trust fund.

3. The state treasurer shall report the amount of the uncommitted balance of this appropriation as of December 31, 1990, to the senate committee on finance and the assembly committee on ways and means in January, 1991. After June 30, 1991, that uncommitted balance must not be committed and reverts to the state general fund.

Sec. 4. 1. Sections 1 and 2 of this act shall become effective on the date the state obtains the public lands pursuant to the federal act described in subsection 1 of section 3 of this act.

2. This section and section 3 of this act shall become effective on July 1, 1981.

SUMMARY--Urges Congress to enact legislation transferring public lands to states. (BDR 591)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

SENATE JOINT RESOLUTION--Urging Congress and the President of the United States to enact and approve legislation transferring the unreserved, unappropriated public lands to the states in which the lands are located.

WHEREAS, The Federal Government possesses 61.6 million acres or 87 percent of the land in the State of Nevada; and

WHEREAS, A single federal agency, the Bureau of Land Management, administers 49.1 million acres of public domain, comprising 69 percent of the land in Nevada; and

WHEREAS, Of all the lands possessed by the Federal Government, over 93 percent is located in just 12 western states, including 64 percent of the land in Utah, 63 percent in Idaho, 52 percent in Oregon, 48 percent in Wyoming, 45 percent in California and 43 percent in Arizona, and the Federal Government will ultimately retain approximately two-thirds of the land in Alaska; and

WHEREAS, Since the enactment of the Northwest Ordinance in 1787 the public domain has been impressed with a trust requiring the Federal Government to pursue an orderly program of disposal of the public domain in each new state so that the new states will be on an equal footing with the original states in the Union; and

WHEREAS, The Federal Government, based on initial interpretations of the Constitution of the United States and the Northwest Ordinance, and longstanding practice thereafter, did dispose of virtually all of the public domain as far west as the 100th meridian; and

WHEREAS, A blue ribbon committee appointed by President Hoover to review the conservation and administration of the public domain recommended to Congress in 1931 that "Congress should pass an act granting to the respective public land states all the unreserved, unappropriated public domain within their respective boundaries"; and

WHEREAS, In the last 116 years only 2.1 percent of the land in Nevada has passed from federal control to private ownership under the general land laws; and

WHEREAS, The Federal Government's infrequent disposals of land in Nevada have virtually ceased, and the amount of federally controlled land in this state has, in fact, increased from 86.21 percent in June 1964, to 87.09 percent in September 1978, an increase of .88 percent (as if 86.21 percent were not enough); and

WHEREAS, The Federal Government's failure to dispose of the public domain is a breach of the trust under which it obtained those lands and impairs Nevada's expectancy with respect to land disposals; and

WHEREAS, The Federal Government's land policy of retaining the public domain presently impairs the State of Nevada's ability to function in a sovereign capacity and denies Nevada an equal footing with the other states in the Union; and

WHEREAS, The Federal Government's land policy has similarly impaired the expectations and sovereignty of the other western states and has denied them an equal footing with the other states in the Union; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That this legislature strongly urges Congress and the President of the United States to provide for the transfer of the unreserved, unappropriated public domain to the states in which those lands are located, by enacting and approving legislation similar to S. 1680 of the 96th Congress, introduced by Senator Hatch of Utah, or H.R. 7837 of the 96th Congress, introduced by Congressman Santini of Nevada; and be it further

RESOLVED, That the legislative counsel shall forthwith transmit copies of this resolution to the President of the United States, the Vice President as President of the Senate, the Speaker of the House of Representatives and each member of the congressional delegations from the states of Nevada and Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington and Wyoming; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.

SUMMARY--Continues existence of select committee on public lands.
(BDR 86)

SENATE CONCURRENT RESOLUTION--Continuing the existence of the
Nevada select committee on public lands.

WHEREAS, The 58th session of the Nevada legislature directed the legislative commission to study means of deriving additional state benefits from the public lands, and the 59th session of the Nevada legislature directed the creation and the 60th session continued the existence of a select committee on public lands which has been charged with:

1. Studying Nevada's unique situation with respect to public lands;
2. Considering alternatives for the management of public lands which include increasing the amounts of those lands in nonfederal ownership and management of those lands by the state;
3. Proposing state and federal legislation on public lands;
and
4. Forming a regional coalition on public lands; and

WHEREAS, The select committee has accomplished some of its assigned tasks and continues to work on others, such as modifying federal policy respecting the public lands, which take time and will require continued attention during the next several years;
and

WHEREAS, The select committee has been instrumental in the formation of a western coalition on public lands but is still looked to for leadership of the movement away from federal control of the public lands; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Nevada select committee on public lands be continued through the 61st session of the Nevada legislature and for the interim period until the beginning of the 62nd session; and be it further

RESOLVED, That the select committee be composed of three members of the senate appointed by the majority leader of the senate and three members of the assembly appointed by the speaker of the assembly, chosen with appropriate regard for their experience and knowledge about public lands; and be it further

RESOLVED, That the select committee shall:

1. Actively support the efforts of the western coalition on public lands;
2. Advance knowledge and understanding in local, regional and national forums of Nevada's unique situation with respect to public lands;
3. Support Congressional legislation that will enhance state and local roles in the management of public lands and will increase the disposal of public lands; and be it further

RESOLVED, That the select committee is an official agency of the legislative counsel bureau whose members are entitled to receive out of the legislative fund for each day's attendance at meetings or official business of the select committee after adjournment of the 61st legislative session, if approved by the legislative commission, \$80 per day and the per diem expense allowance and travel expenses provided by law; and be it further

RESOLVED, That the select committee shall submit its report to the legislative commission for transmission to the 62nd session of the legislature.