

NEVADA LEGISLATURE'S COMMITTEE  
ON PUBLIC LANDS



*Bulletin No. 87-17*

LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

January 1987



NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS

BULLETIN NO. 87-17

LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

JANUARY 1987



TABLE OF CONTENTS

	<u>Page</u>
<u>Nevada Revised Statutes 218.536, et seq.</u> .....	v
Report Of The Nevada Legislature's Committee On Public Lands To The Members Of The 64th Session Of The Nevada Legislature.....	ix
Summary Of Recommendations.....	xi
Report To The 64th Session Of The Nevada Legislature From The Nevada Legislature's Committee on Public Lands.....	1
I. Introduction.....	1
II. Public Lands Legislation Of The 63rd Session Of The Nevada State Legislature.....	2
A. Desert Land Entry.....	2
B. Federal Resources Revenues.....	2
C. Interim Study Of Public Land Laws.....	3
D. Land Exchanges.....	3
E. Land Grants.....	4
F. Livestock Grazing.....	4
G. Wilderness.....	4
H. Wild Horses.....	5
I. Constitutional Amendment.....	5
III. Summary Of Interim Activities.....	5
A. Meetings.....	6
B. Issues.....	6
C. Interim Study.....	7

	<u>Page</u>
IV. Overview Of Committee Meetings.....	8
A. First Meeting.....	8
B. Second Meeting.....	8
C. Visit To Washington, D.C.....	9
D. Third Meeting.....	10
E. Fourth Meeting.....	10
F. Fifth Meeting.....	11
G. Subcommittee Meeting On Nellis Air Force Base.....	12
H. Sixth Meeting.....	12
I. Subcommittee Meetings On Laughlin Bay.....	13
J. Seventh Meeting.....	14
K. Eighth Meeting.....	14
L. Ninth Meeting.....	15
V. Summary Of Selected Major Issues.....	15
A. Wilderness Proposals.....	15
1. United States Forest Service Wilderness..	15
2. Bureau of Land Management Wilderness.....	17
B. Great Basin National Park.....	19
C. Water Issues.....	20
1. Water Rights for Federal Agencies.....	20
2. <u>Sierra Club v. Block</u> .....	21
D. Military Land And Airspace.....	21
1. Military Airspace.....	22
2. Military Lands Withdrawal Act.....	22

	<u>Page</u>
VI. Recommendations.....	23
A. Constitutional Amendment.....	23
B. Gradual Land Acquisitions.....	24
C. Bureau Of Land Management Wilderness Report..	26
D. Water Rights.....	26
E. Military Land And Airspace.....	27
F. Wild Horses.....	28
VII. Appendices.....	31
A. List Of Meetings, Issues And Actions Of The Nevada Legislature's Committee On Public Lands From July 1985 Through December 1986...	33
B. Letter To Nevada's Congressional Delegation Concerning The Bureau Of Land Management/ United States Forest Service Interchange Proposal.....	45
C. Schedules And Briefing Materials Of The Nevada Legislature's Committee On Public Lands For Its Visit To Washington, D.C., In October 1985.....	51
D. Statement By The Nevada Legislature's Committee On Public Lands For The Congressional Hearings On The Wilderness Proposals For United States Forest Service Lands In Nevada.....	121
E. Letter To Nevada's Congressional Delegation Concerning The Committee's Hearing And Recommendation On The Proposal To Create The Great Basin National Park.....	127
F. Memorandum By Staff To The Committee Entitled "Report on the Meeting of the Subcommittee on Issues with Nellis Air Force Base".....	133

	<u>Page</u>
G. Paper Prepared By The Division Of State Lands Entitled "Alternatives for a Study of the Federal Lands with Potential for State Acquisition".....	141
H. Briefing Paper Prepared By The Planning Staff Of Nevada's Office Of Community Services Entitled "Existing And Proposed Department Of Defense Activities In Nevada".....	149
I. Letter Dated September 29, 1986, To Congressman John F. Seiberling And Members Of The House Subcommittee On Public Lands Concerning The Designation Of Military Airspace.....	157
J. Proposed Constitutional Amendment--Senate Joint Resolution No. 21 (File No. 68, <u>Statutes Of Nevada, 1985</u> ).....	163
K. Recommendation No. 86-5 By The Nevada State Multiple Use Advisory Committee On Federal Lands Concerning The Bureau Of Land Management Statewide Wilderness Report.....	167
L. Suggested Legislation.....	171

**LEGISLATIVE COMMITTEE ON PUBLIC LANDS**

**218.536 Legislative findings and declarations.** The legislature finds and declares that:

1. Policies and issues relating to public lands and state sovereignty as impaired by federal ownership of land are matters of continuing concern to this state.

2. This concern necessarily includes an awareness that all federal statutes, policies and regulations which affect the management of public lands are likely to have extensive effects within the state and must not be ignored or automatically dismissed as beyond the reach of the state's policymakers.

3. Experience with federal regulations relating to public lands has demonstrated that the State of Nevada and its citizens are subjected to regulations which sometimes are unreasonable, arbitrary, beyond the intent of the Congress or the scope of the authority of the agency adopting them and that as a result these regulations should be subjected to legislative review and comment, and judicially tested where appropriate, to protect the rights and interests of the state and its citizens.

4. Other western states where public lands comprise a large proportion of the total area have shown an interest in matters relating to public lands and those states, along with Nevada, have been actively participating in cooperative efforts to acquire, evaluate and share information and promote greater understanding of the issues. Since Nevada can both contribute to and benefit from such interstate activities, it is appropriate that a committee on matters relating to public lands be assigned primary responsibility for participating in them.

(Added to NRS by 1979, 5; A 1983, 208)

**218.5361 "Committee" defined.** As used in NRS 218.5361 to 218.5371, inclusive, "committee" means the legislative committee on public lands.

(Added to NRS by 1979, 5; A 1983, 209)

**218.5363 Establishment; membership; chairman; vacancies.**

1. There is hereby established a legislative committee on public lands consisting of three members of the senate, three members of the assembly and one elected officer representing the governing body of a local political subdivision, appointed by the legislative commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are state legislators must be

appointed to provide representation from the various geographical regions of the state.

2. The members of the committee shall select a chairman from one house of the legislature and a vice chairman from the other. After the initial selection of a chairman and a vice chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the committee shall select a replacement for the remainder of the unexpired term.

3. Any member of the committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next session of the legislature.

4. Vacancies on the committee must be filled in the same manner as original appointments.

(Added to NRS by 1979, 5; A 1983, 209; 1985, 589)

#### **218.5365 Meetings; regulations; compensation of members.**

1. The members of the committee shall meet throughout each year at the times and places specified by a call of the chairman or a majority of the committee. The research director of the legislative counsel bureau or a person he has designated shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. Four members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

2. The members of the committee who are state legislators are entitled to receive a salary of \$80 and the subsistence allowances and travel expenses provided for state officers and employees generally for each day of attendance at a meeting of the committee and while engaged in the business of the committee.

3. The member of the committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his position for each day of attendance at a meeting of the committee and while engaged in the business of the committee, to be paid by his local political subdivision.

(Added to NRS by 1979, 5; A 1981, 170; 1983, 209; 1985, 398, 1131)

#### **218.5367 Powers of committee.**

1. The committee may:

(a) Review and comment on any administrative policy, rule or regulation of the:

(1) Secretary of the Interior which pertains to policy concerning or management of public lands under the control of the Federal Government; and

(2) Secretary of Agriculture which pertains to policy concerning or management of national forests;

(b) Conduct investigations and hold hearings in connection with its review, including but not limited to investigating the effect on the state, its citizens, political subdivisions, businesses and industries of such policies, rules, regulations and related laws;

(c) Consult with and advise the state land use planning agency on matters concerning federal land use, policies and activities in this state.

(d) Direct the legislative counsel bureau to assist in its research, investigations, review and comment;

(e) Recommend to the legislature as a result of its review any appropriate state legislation or corrective federal legislation; and

(f) Advise the attorney general if it believes that any federal policy, rule or regulation which it has reviewed encroaches on the sovereignty respecting land or water or their use which has been reserved to the state pursuant to the Constitution of the United States.

2. Any reference in this section to federal policies, rules, regulations and related federal laws includes those which are proposed as well as those which are enacted or adopted.

(Added to NRS by 1979, 5; A 1981, 170)

**218.5368 Duties of committee.** The committee shall:

1. Actively support the efforts of state and local governments in the western states regarding public lands and state sovereignty as impaired by federal ownership of land.

2. Advance knowledge and understanding in local, regional and national forums of Nevada's unique situation with respect to public lands.

3. Support legislation that will enhance state and local roles in the management of public lands and will increase the disposal of public lands.

(Added to NRS by 1983, 208)

**218.5369 Oaths; depositions; subpoenas.**

1. In conducting the investigations and hearings of the committee:

(a) The secretary of the committee, or in his absence any member of the committee, may administer oaths.

(b) The secretary or chairman of the committee may cause the deposition of witnesses, residing either within or without the state, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The secretary or chairman of the committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books

and papers as required by the subpoena, the secretary or chairman of the committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the committee which is named in the subpoena, or has refused to answer questions propounded to him,

and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the committee. A certified copy of the order shall be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the committee, the court shall enter an order that the witness appear before the committee at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

(Added to NRS by 1979, 6)

**218.5371 Fees and mileage for witnesses.** Each witness who appears before the committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage shall be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the secretary and chairman of the committee.

(Added to NRS by 1979, 6)

REPORT OF THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS  
TO THE MEMBERS OF THE 64TH SESSION OF THE NEVADA LEGISLATURE:

This report presents the recommendations, reviews the issues and summarizes the activities of the Nevada legislature's committee on public lands over the past biennium since July 1985. Members of the committee appointed by the legislative commission include:

Senator Dean A. Rhoads, Chairman  
Assemblyman David D. Nicholas, Vice Chairman  
Senator James H. Bilbray (July 1985 to November 1986)\*  
Assemblyman Virgil M. Getto  
Senator Alan H. Glover (July 1985 to September 1985)\*\*  
Assemblyman John W. Marvel  
Senator Kenneth K. Redelsperger (December 1986 to present)\*  
Senator John M. Vergiels (September 1985 to present)\*\*  
Clark County Commissioner Karen W. Hayes

In this report, the committee has attempted to summarize the issues and its activities and to present its recommendations in a concise form. The committee received an extensive amount of testimony and supporting documentation in addition to the information summarized in this report. All supporting documents and minutes of meetings are on file with the research library of the legislative counsel bureau.

This report, although not required by state law, is transmitted to the members of the 1987 legislature for their information, consideration and appropriate action.

Respectfully submitted,

Nevada Legislature's  
Committee on Public Lands

Carson City, Nevada  
January 1987

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\*Senator Bilbray resigned from the Nevada senate in November 1986 following his election to the United States Congress, and Senator Redelsperger was appointed to fill this vacancy.

\*\*Senator Glover resigned from the Nevada senate in September 1985 to become Carson City Recorder, and Senator Vergiels was appointed to fill this vacancy.



## SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations to the 64th session of the Nevada legislature by the committee on public lands.

The committee recommends:

1. That the legislature adopt the proposed constitutional amendment--Senate Joint Resolution No. 21 (File No. 68, Statutes of Nevada, 1985)--to clarify those state lands and proceeds which are pledged for educational purposes.
2. That the legislative commission, by July 1987, provide additional funds to the Nevada legislature's committee on public lands to conduct a scoping study or introductory examination of the costs and feasibility of the project to gradually acquire specific lands from the Federal Government for the state.
3. That the legislature adopt a joint resolution to urge and request Nevada's congressional delegation, the Congress and the appropriate federal executive branch agencies to support and cooperate with the state's efforts to gradually acquire its equal share of federal lands. (BDR R-1148)
4. That the legislature adopt a joint resolution to urge the United States Bureau of Land Management to allow for direct public input on its draft statewide wilderness report. (BDR R-1145)
5. That the legislature adopt a joint resolution to urge Congress to enact legislation to forbid the federal reservation of water rights for wilderness areas. (BDR R-1149)
6. That the legislature adopt a joint resolution to urge Congress to:
  - a. Investigate the designation and control of military airspace by the Federal Aviation Administration; and
  - b. Enact legislation to enhance public participation in the process of establishing airspace classifications and restrictions. (BDR R-1147)
7. That the legislature support, and that the committee send a letter to the appropriate federal agencies in support of, efforts by the executive branch of government in Nevada to:

- a. Establish a written agreement with the U.S. Department of Defense and the U.S. Department of the Interior to ensure that the "Nevada Report" section of the "Military Land Withdrawal Act of 1986" is implemented; and
  - b. Seek funding from those federal agencies to finance a full-time staff person at the state level in Nevada's office of community services to assist and oversee the implementation of the federal legislation.
8. That the legislature adopt a law to restore the authority of boards of county commissioners to establish procedures and enforce laws governing animals-at-large, including wild horses. (BDR 45-1150)
9. That the legislature adopt a joint resolution to urge Congress to enact legislation which increases controls on the number of wild horses and burros and which authorizes additional methods of removing those animals from public lands. (BDR R-1146)

REPORT TO THE 64TH SESSION OF THE NEVADA LEGISLATURE  
FROM THE NEVADA LEGISLATURE'S COMMITTEE  
ON PUBLIC LANDS

I. INTRODUCTION

The 1975 session of the Nevada legislature originally directed a study of public lands under Senate Concurrent Resolution No. 35 (File No. 136). One recommendation of this 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 (File No. 42). The select committee was continued by S.C.R. 5 (File No. 87) in 1979 and S.C.R. 17 (File No. 99) in 1981 to promote and gain support for public land reform measures in Nevada and the West.

During the 1983 legislative session, Senate Bill 33 (chapter 56) was enacted to create the Nevada legislature's committee on public lands (Nevada Revised Statutes [NRS] 218.536, et seq.). This bill effectively combined two legislative committees which were found to have complementary functions--the select committee on public lands (a nonstatutory committee) and the legislative committee for the review of federal regulations (a statutory committee created in 1979).

The Nevada legislature's committee on public lands, therefore, is a permanent statutory committee of the Nevada state legislature. Its purposes are to review and comment on proposals and practices affecting public lands under the control of the Federal Government in this state, and to provide a forum for the discussion and hearing of public lands matters.

Public lands issues are of vital concern to Nevada and its citizens since approximately 86 percent of the land in this state is controlled by agencies of the Federal Government.

This bulletin is the second interim report of the committee. The first report--Legislative Counsel Bureau Bulletin No. 85-22, "Nevada Legislature's Committee On Public Lands"--was submitted to the members of the Nevada legislature and dated July 1985.

## II. PUBLIC LANDS LEGISLATION OF THE 63RD SESSION OF THE NEVADA STATE LEGISLATURE

Recommendations pertaining to the public lands were suggested by the Nevada legislature's committee on public lands and drafted into proposed legislation for consideration by the 63rd session of the legislature. Other public lands bills and resolutions originated in the senate committee on natural resources and the assembly committee on natural resources, agriculture and mining. The most significant public lands measures adopted by the 1985 Nevada legislature are summarized and briefly discussed below.

### A. DESERT LAND ENTRY

Senate Joint Resolution No. 22 (File No. 64) requests Congress to amend federal law to require a person filing for lands in Nevada under the Desert Land Entry Act to be a resident of the state. Nevada currently is the only state in which residency is not required in order to file for lands under this federal law.

This exemption was authorized in 1921 at Nevada's request in order to encourage additional settlement of the state. Today, there is an overabundance of applicants under the Desert Land Entry Act for land in Nevada's water-short basins; many of whom are from out-of-state. Amendment of the Desert Land Entry Act to restore the residency requirement in Nevada would make the act's provisions consistent throughout the Western States.

### B. FEDERAL RESOURCES REVENUES

Senate Bill 232 (chapter 269) provides for the distribution of revenue received by the state from federal land leases for gas, geothermal, mineral and oil resources. In any fiscal year, the state treasurer is allowed to deposit no more than \$10 million received by the state from these federal leases into the state distributive school fund. Any amount received in excess of \$10 million is to be deposited in a separate account created for this purpose. Money in this account is to be distributed as follows:

1. Twenty-five percent to the state distributive school fund;
2. Twenty-five percent to Nevada's office of community services for distribution as grants to agencies and political subdivisions of the state; and

3. Fifty percent to the counties from which the minerals and resources are extracted. One-fourth of this amount must be distributed to the school district in each affected county.

This measure is intended to offset some of the adverse impacts of mineral development in Nevada's counties.

#### C. INTERIM STUDY OF PUBLIC LAND LAWS

Senate Concurrent Resolution No. 47 (File No. 132) directs the legislative commission to conduct an interim study of state public land laws. This study is to review and evaluate all of the existing public land laws in the State of Nevada. The study seeks to identify and clarify conflicts in those laws and to suggest ways that the legislature can resolve those conflicts. The study also includes public land laws relating to access to public and private lands and the use of eminent domain for mining activities. (See Legislative Counsel Bureau Bulletin No. 87-13 entitled "Study Of The State's Laws Concerning Public Lands.")

#### D. LAND EXCHANGES

Senate Joint Resolution No. 3 (File No. 38) was adopted in response to the announcement by the United States Bureau of Land Management (BLM) and the United States Forest Service (USFS) that approximately 35 million acres of land, primarily in the West, are proposed to be transferred between the two agencies. The resolution urges the Federal Government to delay the proposed transfer of Nevada's two national forests to the BLM until there is full public disclosure and congressional review of the effects of the transfer.

Senate Joint Resolution No. 29 (File No. 94) urges Congress to enact legislation requiring the transfer of federal land to Nevada in the same proportion that federal land in this state is withdrawn from multiple-use status for such single-use purposes as military operations, nuclear energy facilities, and areas designated as wilderness. The Federal Government is urged to cooperate with the State of Nevada in developing a plan for the disposition and management of federal land proposed for transfer. This plan would include: a list of federal lands which the state and local governments wish to acquire by transfer; the identification of land which the Federal Government intends to withdraw from public use; and the procedure for the transfer of federal land to Nevada.

#### E. LAND GRANTS

Senate Joint Resolution No. 19 (File No. 92) is similar to a resolution passed in the 1983 session calling for a grant of 6,205,522 acres of public land to the State of Nevada for the benefit of the public schools. This figure was derived by comparing the acreage of land granted to neighboring Western States upon entering the Union and the acreage granted to this state. The 6.2-million-acre figure is the amount of land required to give Nevada parity with other "public land" states in terms of federal land grants.

#### F. LIVESTOCK GRAZING

Senate Joint Resolution No. 25 (File No. 53) urges Congress to retain the current formula used to establish fees for grazing on federal rangelands.

When Congress passed the Public Rangelands Improvement Act of 1978, it established the current grazing fee formula and directed that it be used for a 7-year trial period, pending the completion of a comprehensive fee study and report to the Congress.

The grazing fee study has been prepared and released by the BLM and the USFS. The study lists six alternatives, including the present grazing fee formula. After the end of the public review and comment period, the Secretaries of the Interior and Agriculture will be recommending a grazing fee formula to Congress for final action.

Nevada's livestock and agricultural industries are supporting retention of the current grazing fee formula. The other alternatives in the study would significantly increase the fees for grazing on federal rangelands and would be very harmful to agriculture and ranching in Nevada and the economy of the state's rural counties.

#### G. WILDERNESS

Assembly Joint Resolution No. 1 (File No. 76) supports the Nevada wilderness bill introduced in March of 1985 by U.S. Senators Chic Hecht and Paul Laxalt and U.S. Representative Barbara Vucanovich. The bill calls for the designation of 136,900 acres of U.S. Forest Service land as wilderness. In addition, A.J.R. 1 supports the inclusion of 1.3 million acres within the Desert National Wildlife Range as wilderness.

## H. WILD HORSES

Senate Bill 485 (chapter 594) authorizes the management and disposition of the Heil Wild Horse Bequest--money left to the State of Nevada for "the preservation of wild horses." The bill establishes a trust fund for the principal of the trust (\$900,000); authorizes the expenditure of the balance of the bequest and of income to the trust; creates the commission for the preservation of wild horses and a staff position; authorizes cooperative agreements with federal land management agencies; and declares the harming and unauthorized killing of wild horses to be a gross misdemeanor. This bill incorporates most of the recommendations made by the governor's committee on wild horses.

Senate Joint Resolution No. 20 (File No. 89) urges Congress to enact legislation to control strictly the populations of wild burros and horses on public lands and to authorize additional methods for removing these animals from public lands in Nevada. The additional methods include the sale of excess wild burros and horses at public auction or the destruction of the animals in the most humane and economical manner possible.

## I. CONSTITUTIONAL AMENDMENT

The 1985 Nevada legislature also adopted a proposed constitutional amendment related to public lands. Senate Joint Resolution No. 21 (File No. 68) proposes an amendment to the Nevada constitution to clarify historic language pertaining to land grants that is obsolete and confusing. The amendment clarifies the intent to permanently pledge several types of revenue, including all proceeds of school grant lands, for educational purposes. This proposed amendment will be returned to the 1987 session of the legislature and, if adopted, will be placed on the ballot of the 1988 General Election for approval or rejection by the voters.

## III. SUMMARY OF INTERIM ACTIVITIES

The Nevada legislature's committee on public lands deals with many public lands issues which involve ongoing problems, programs and activities that are subject to congressional and other federal action. The committee has been very active and involved in a wide variety of public lands issues during the 1985-1986 interim period.

This section of the report provides a brief summary of the committee's meetings and an overview of the major issues. More in-depth information on the committee's meetings and certain issues is provided in sections IV and V of this report.

A detailed list of the meetings, issues and actions of the public lands committee from July 1985 through December 1986 is provided at Appendix A.

#### A. MEETINGS

The committee held nine regular meetings throughout the state as follows:

<u>Date</u>	<u>Nevada Location</u>
August 16, 1985	Reno
October 7, 1985	Elko
December 16, 1985	Las Vegas
February 7, 1986	Las Vegas
April 3 and April 4, 1986	Laughlin
May 22, 1986	Reno
June 30, 1986	Carson City
September 4 and September 5, 1986	Fallon
December 17, 1986	Carson City

The committee also created two subcommittees to deal with specific issues. These subcommittees met as follows:

Subcommittee on Issues with Nellis Air Force Base  
May 8, 1986, in Las Vegas

Subcommittee on Laughlin Bay  
May 23, 1986, in Carson City  
June 30, 1986, in Carson City

In addition, members of the committee traveled to Washington, D.C., to visit with United States senators and representatives and with executive branch officials who are involved in public lands matters. This visit took place from October 16 to October 18, 1985.

#### B. ISSUES

The Nevada legislature's committee on public lands monitored developments and heard testimony on a broad range of public lands issues of interest to Nevada and its citizens. The committee wrote letters and submitted recommendations, as necessary, to federal officials and Nevada's congressional delegation.

The following is a list of the issues reviewed and investigated by the committee during the 1985-1986 interim period:

1. Wilderness proposals for BLM and USFS lands in Nevada;
2. Proposals to create the Great Basin National Park;
3. Water rights for federal agencies;
4. Military land withdrawals and airspace restrictions in Nevada;
5. Gradual land acquisitions by the state from the Federal Government;
6. Wild horse issues and Nevada's commission for the preservation of wild horses;
7. Bureau of Land Management/United States Forest Service land interchange proposals;
8. Fire management and rehabilitation activities on federal lands;
9. Omnibus rangelands proposals, including grazing fees and related issues;
10. Bureau of Land Management resource management plans and environmental impact statements;
11. The Aerojet land exchange proposal;
12. Mining and ranching conflicts and agreements in Nevada;
13. The Superconducting Super Collider project;
14. The minerals industry in Nevada;
15. Nellis Air Force Base and surrounding lands; and
16. Laughlin Bay and the Fort Mohave Recreation Area.

C. INTERIM STUDY

The Nevada legislature's committee on public lands also conducted an interim study as a part of its activities. The 1985 legislature adopted Senate Concurrent Resolution No. 47 (File No. 132) which directed the legislative commission to study the state's laws concerning public lands. The

legislative commission assigned this study to the public lands committee. The committee devoted a portion of six of its regular meetings to this study. The final report on the study of the state's laws concerning public lands is found in Legislative Counsel Bureau Bulletin No. 87-13.

#### IV. OVERVIEW OF COMMITTEE MEETINGS

The Nevada legislature's committee on public lands maintained an active schedule during the interim between the 1985 and 1987 legislative sessions. The committee's regular meetings and other activities are summarized below.

##### A. FIRST MEETING

The first meeting of the committee was held on August 16, 1985, in Reno, Nevada.

The committee organized itself and received updated information on numerous public lands issues. Major testimony and discussion occurred on the Wells Resource Management Plan and Environmental Impact Statement by the BLM, the litigation concerning water rights for federal agencies, and the BLM/USFS land interchange proposal.

The committee directed staff to prepare a letter to Nevada's congressional delegation requesting information and expressing concern about the economic impact of the BLM/USFS interchange proposal on Nevada. A copy of this correspondence is at Appendix B.

##### B. SECOND MEETING

The second meeting of the committee was held on October 7, 1985, in Elko, Nevada.

Along with updated reports on various public lands issues, the committee heard extensive testimony concerning water rights for federal agencies, wilderness proposals in Congress for USFS lands in Nevada, and the federal response to fires on public lands in this state.

The 1985 fire season in Nevada was one of the worst in the state's history. Testimony revealed widespread perceptions of mismanagement by the BLM in its firefighting efforts. In subsequent action following this meeting, the Nevada office of the BLM included the following recommendation in its Action Plan from the 1985 Wildfire Operations Review to improve public support and participation:

Each district should play the 80 minute tape from the Public Lands Committee Meeting to their seasonal employees so they will realize the importance of their actions and comments. Also to be played at Basic Firefighters' Camp in June.

### C. VISIT TO WASHINGTON, D.C.

Members of the Nevada legislature's committee on public lands visited Washington, D.C., from October 16 through October 18, 1985, to meet with key senators, congressmen and executive branch officials concerning public lands issues of importance to the citizens of Nevada. The committee traditionally visits Washington, D.C., during the interim period to emphasize to federal officials the positions taken on public lands issues by the Nevada legislature during its previous session.

This visit particularly was timely because the U.S. Congress was considering three different bills to designate USFS lands in Nevada as wilderness. In addition, proposals were being developed concerning an omnibus rangelands bill and a land exchange between the BLM and the USFS--both of which would have had significant impacts on the public lands in Nevada.

During the 3-day visit, members of the committee met with eight senators and nine representatives and their staffs, as well as Nevada's congressional delegation. These members of Congress served on the respective committees which consider federal legislation pertaining to public lands--the Senate Committee on Energy and Natural Resources and its Subcommittee on Public Lands, Reserved Water and Resource Conservation; and the House of Representatives' Committee on Interior and Insular Affairs and its Subcommittee on Public Lands.

Members of Nevada's public lands committee also met with key administration officials including: the Secretary of the Department of the Interior; the Director of the BLM; the Assistant Secretary of the Interior; the Chief of the USFS; and representatives from the Department of the Navy.

Members of the committee established contacts at the federal level, obtained updated information, educated officials on the outlook toward public lands issues in Nevada, and explored further directions to improve the effectiveness of the public lands committee. During the meetings, members of

the committee emphasized the need for a reasonable, equitable and timely resolution of the wilderness issue; the impact of continued piecemeal land withdrawals by the military in Nevada; the need for additional land grants to Nevada to provide for the rapid growth in population; and other public lands issues.

Members of the committee learned that many of these congressmen were not interested in pursuing the state's previous directions regarding a large land grant. However, the committee found that several of the congressmen were supportive or receptive to the idea that the state seek gradual land acquisitions based on a selection process which would provide justification and rationale for specific lands to be granted.

Appendix C provides a detailed record of the activities and briefing materials used by the committee during its visit to Washington, D.C., in October 1985.

#### D. THIRD MEETING

The third meeting of the committee was held on December 16, 1985, in Las Vegas, Nevada.

Much of this meeting was devoted to testimony and discussion of the congressional proposals to designate USFS lands in Nevada as wilderness. The effects of wilderness designation on livestock grazing received particular attention.

The committee also received testimony from the Special Assistant to the Director, BLM, and the Director of Range Management, USFS, both from Washington, D.C. These federal officials provided background information and discussed their agencies' perspectives on the water rights issue.

The committee received updated reports on other public lands issues.

#### E. FOURTH MEETING

The fourth regular meeting of the committee was held on February 7, 1986, in Las Vegas, Nevada.

During this meeting, the committee discussed the wilderness issue and approved development of a statement to be read at congressional hearings in Reno and Las Vegas on February 13 and February 14, 1986, respectively, concerning wilderness legislation.

The hearings were conducted by U.S. Senator Chic Hecht with the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the U.S. Senate's Committee on Energy and Natural Resources. A copy of the statement by the Nevada legislature's committee on public lands is provided at Appendix D.

The committee, at this meeting, also heard testimony on the activities of Nevada's commission for the preservation of wild horses, the Memorandum of Agreement between the U.S. Navy and the State of Nevada, the BLM/USFS interchange proposal for Nevada, and the Colorado water rights decision. In addition, the committee discussed and began to explore the idea of gradual land acquisitions from the Federal Government.

#### F. FIFTH MEETING

The fifth meeting of the committee was held on April 3 and April 4, 1986, in Laughlin, Nevada. The committee was conducted on a tour on April 3 to review the development in the Laughlin area. The committee's regular meeting was held on April 4.

This meeting primarily was devoted to two issues:

1. Public lands issues in the Laughlin area; and
2. The congressional proposal to create the Great Basin National Park in the Wheeler Peak area of White Pine County, Nevada.

Subsequent to scheduling this meeting, the committee received a request from U.S. Senator Hecht to conduct a hearing on the proposed national park and to provide a recommendation to Nevada's congressional delegation. Rather than hold a separate hearing in Ely, Nevada, the committee decided to include the park proposal on its regular agenda for the meeting in Laughlin to maintain the committee's schedule and budget, and to avoid duplication. Two congressional hearings already had been held in Ely and the state multiple use advisory committee on federal lands conducted a hearing on the park proposal in Ely the following week.

The committee devoted its morning session to the national park proposal and heard almost 3 hours of testimony from 23 persons. The committee unanimously adopted a motion to endorse the creation of a Great Basin National Park with certain provisions. Appendix E provides a copy of

the committee's letter to Nevada's congressional delegation. The letter includes a summary of the hearing on the park proposal and the complete text of the motion adopted by the committee.

The afternoon portion of the committee's meeting dealt with the Laughlin area and a presentation on the issue of the development of Laughlin Bay on the Colorado River. The committee created a subcommittee to further investigate the Laughlin Bay issue.

A subcommittee also was created to examine the issues and meet with Nellis Air Force Base (AFB) officials regarding buffer zone and noise problems.

#### G. SUBCOMMITTEE MEETING ON NELLIS AIR FORCE BASE

The subcommittee on issues with Nellis Air Force Base met on May 8, 1986, in Las Vegas, Nevada. The subcommittee consisted of Senator James H. Bilbray, Senator John M. Vergiels and Clark County Commissioner Karen W. Hayes. The subcommittee met with the commanding officer and other officials from Nellis AFB, the director of McCarran International Airport, representatives of the BLM and other interested persons.

Appendix F is a report which summarizes the issues and testimony presented at this meeting.

#### H. SIXTH MEETING

The sixth meeting of the committee was held on May 22, 1986, in Reno, Nevada.

Presentations were made to the committee regarding the BLM recreation program and strategic and critical minerals in Nevada. The committee took testimony and reviewed the subcommittee report on issues with Nellis AFB. The committee took no action on these issues.

Testimony was received by the committee concerning the mitigation and monitoring activities for the U.S. Navy's supersonic operations area, the airspace restriction proposal (H.R. 4413) in Congress, and efforts to develop a comprehensive planning process for military land withdrawals in the state.

Proposals by Nevada's commission for the preservation of wild horses and by the Virginia Range Wildlife Protection Association to amend the state's laws relating to wild horses were introduced and explained to the committee. Updated reports on several other public lands issues also were provided.

The committee voted to draft a letter in support of the position of Nevada's department of minerals to oppose federal legislation introduced by Senator Dale Bumpers (D-Arkansas) and Representative Morris K. Udall (D-Arizona) to amend the Mineral Leasing Act. The committee also voted to write a letter in support of a land exchange between Harry Wilson, a Nevada resident, and the U.S. Fish and Wildlife Service on the Sheldon National Wildlife Refuge in Humboldt County, Nevada.

#### I. SUBCOMMITTEE MEETINGS ON LAUGHLIN BAY

The subcommittee on Laughlin Bay held two meetings in Carson City, Nevada, on May 23, 1986, and on June 30, 1986. The subcommittee consisted of Senator Rhoads, Assemblyman Nicholas, Commissioner Hayes, Senator James I. Gibson (ex officio) and Assemblyman John E. Jeffrey (ex officio).

At the first meeting, the subcommittee brought together representatives from Laughlin and the various federal, state and local government agencies to discuss the requirements for the development of Laughlin Bay. The agencies included the Colorado River Commission; the Clark County Department of Comprehensive Planning; U.S. Fish and Wildlife Service; division of state lands and division of state parks, state department of conservation and natural resources; Nevada's department of wildlife; U.S. Corps of Engineers; and the U.S. Bureau of Reclamation. It was generally agreed by most participants that some type of master planning process was needed for the area in and around Laughlin Bay and that money from the Fort Mohave Development Fund and possibly private sources might be used to finance such a study.

During the second meeting, significant differences surfaced among the participants concerning the scope of a planning study and the use of public funds for such purposes. The subcommittee recommended that a second subcommittee be formed, chaired by the Clark County Department of Comprehensive Planning and composed of each agency affected in the area, to advise the citizens of Laughlin in the preparation of a plan to improve Laughlin Bay. Assemblyman Jeffrey was asked to coordinate this subcommittee.

## J. SEVENTH MEETING

The seventh regular meeting of the committee was held on June 30, 1986, in Carson City.

The committee heard a presentation from the Commanding Officer of Fallon Naval Air Station (NAS), concerning naval operations, the supersonic operations area and proposed land withdrawals. The committee discussed these issues with him and heard testimony from other interested individuals. The committee also heard testimony and was apprised of a proposal by the Oregon Air National Guard to establish a Military Operations Area (MOA) which would include airspace over northern Washoe County, Nevada. The committee directed staff to provide more information about this issue.

The committee also delved further into the issue of gradual land acquisitions. A paper prepared by the division of state lands entitled "Alternatives for a Study of the Federal Lands with Potential for State Acquisition" was reviewed by the committee. A copy of this paper is provided at Appendix G.

## K. EIGHTH MEETING

The eighth meeting of the committee was held on September 4 and September 5, 1986, in Fallon, Nevada. The committee received a tour of Fallon NAS on September 4, and conducted its regular hearing on September 5.

The primary purpose of this meeting was to obtain a comprehensive review of the issue of proposed and existing land withdrawals and airspace restrictions in Nevada. The topics addressed included proposed land withdrawals by the U.S. Navy, the supersonic operations areas established by the Navy and U.S. Air Force (USAF), the proposed Hart MOA, the proposed low-level training route by the Strategic Air Command in central Nevada, the effects of locating the Small Intercontinental Ballistic Missile (ICBM) at existing military sites in Nevada, and the status of military land withdrawal legislation pending in Congress.

The committee heard presentations from the commander of Fallon NAS and by USAF officials from Hill AFB, Utah; Klamath Falls, Oregon; Nellis AFB, Nevada; Norton AFB, California; Offutt AFB, Nebraska; and Seattle, Washington. The committee also received extensive public testimony on these issues.

## L. NINTH MEETING

The ninth meeting of the committee was held on December 17, 1986, in Carson City.

The committee again received updated information on a wide variety of public lands issues from the BLM; the state engineer, division of water resources, state department of conservation and natural resources; the USFS and others. Major testimony and discussion took place on the Aerojet land exchange proposal and the issue of mining and ranching conflicts and agreements in Nevada.

The meeting concluded with a work session to decide upon recommendations to be made to the 1987 session of the Nevada legislature. These recommendations are discussed in section VI of this report.

## V. SUMMARY OF SELECTED MAJOR ISSUES

The Nevada legislature's committee on public lands was involved in numerous issues affecting the state. Many of these public lands issues are yet to be resolved, and further actions may be anticipated at the federal and state levels and during the next session of Congress.

The purpose of this section of the report is to provide a summary of background information on selected major public lands issues.

### A. WILDERNESS PROPOSALS

Nevada currently has one USFS area designated as wilderness-- the Jarbidge Wilderness consisting of 64,667 acres in Elko County, Nevada. This area was designated as wilderness on September 3, 1964, when the original Federal Wilderness Act was passed into law.

Several proposals to designate further USFS lands in Nevada were introduced during the last session of Congress. In addition, the BLM is continuing its study of wilderness areas for recommendations to be made in 1990 or 1991.

#### 1. United States Forest Service Wilderness

A wide variety of recommendations and proposals have been made to designate USFS lands in Nevada as wilderness. However, the 99th session of Congress adjourned without taking action on these proposals.

In March 1985, U.S. Senators Hecht and Laxalt and U.S. Representative Vucanovich introduced S. 722 and H.R. 1686 in their respective houses of Congress to designate four wilderness areas for a total of 136,900 acres.

The 1985 Nevada legislature adopted Assembly Joint Resolution No. 1 (File No. 76) to urge Congress to adopt the legislation to designate 136,900 acres in four areas of USFS lands as wilderness. This resolution also urges Congress to designate as wilderness the 1,322,900 acres of the Desert National Wildlife Range which have been recommended for designation as wilderness by the U.S. Fish and Wildlife Service.

In September 1985, U.S. Representative Harry Reid introduced H.R. 3302 to designate 10 wilderness areas for a total of 722,900 acres. At the same time, Representative John F. Seiberling (D-Ohio) introduced H.R. 3304 to designate 19 wilderness areas in Nevada for a total of 1,466,500 acres.

In its final forest plans, the USFS is recommending 11 wilderness areas for a total of 406,900 acres.

On October 31, 1985, and on November 5, 1985, the U.S. House of Representatives' Subcommittee on Public Lands and Committee on Interior and Insular Affairs respectively passed an amended version of H.R. 3302 to designate 14 areas as wilderness for a total of 939,400 acres. This proposal also included the creation of the Great Basin National Park consisting of 174,000 acres.

United States Senator Hecht conducted congressional hearings on the wilderness issue for the Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation in Ely, Elko, Winnemucca, Reno and Las Vegas, Nevada, from February 10 through February 14, 1986. The Nevada legislature's committee on public lands provided a statement to the congressional subcommittee (see Appendix D).

On April 21, 1986, U.S. Representative Reid introduced, and the U.S. House of Representatives subsequently passed, a substitute wilderness and national park bill--H.R. 4642--to designate 11 areas of USFS lands in Nevada as wilderness for a total of 592,400 acres. The U.S. Senate endorsed the 136,900-acre proposal in four wilderness areas. No compromise was reached before Congress adjourned. The wilderness issue, therefore, will be carried over into the next session of Congress beginning in January 1987.

Table 1 provides a complete review of the previous wilderness recommendations and proposals. The Nevada legislature's committee on public lands has taken extensive testimony and will continue to monitor developments on the designation of USFS lands as wilderness in this state.

## 2. Bureau of Land Management Wilderness

Section 603 of the Federal Land Policy and Management Act of 1976 directs the BLM to review its roadless areas of 5,000 acres or more and develop recommendations for designating such areas as wilderness. The law requires the U.S. Secretary of the Interior to report his recommendations to the President no later than October 1991. The President is required to report his recommendations to Congress by October 1993. Congress has the authority to designate wilderness areas and no time limit is specified for its review of these recommendations.

The Nevada office of the BLM completed the inventory phase of the selection process in 1980. The office selected a total of 102 wilderness study areas totaling 5.1 million acres for further analysis. The BLM is recommending 53 of these areas--a total of about 1.9 million acres--as suitable for wilderness designation. A recent lawsuit resulted in the addition of 13 wilderness study areas totaling 193,000 acres located primarily in Clark County, Nevada. These areas will be included in the final wilderness studies and may or may not be recommended as suitable for wilderness designation.

The Secretary of the Interior will begin to file final wilderness environmental impact statements in 1987 to meet legal requirements of the National Environmental Policy Act. Mineral surveys by the U.S. Geological Survey and U.S. Bureau of Mines are being conducted on all areas with suitable recommendations for wilderness designation. The BLM's final recommendation on each area will be made in a statewide report which will be prepared after all of the mineral survey reports are reviewed. No BLM wilderness areas currently exist in Nevada.

The Nevada legislature's committee on public lands will continue to monitor the wilderness review and evaluation process by the BLM.

TABLE 1  
 COMPARISON OF RECOMMENDATIONS AND PROPOSALS TO DESIGNATE  
 USFS LANDS IN NEVADA AS WILDERNESS  
 1985 AND 1986  
 (IN ACRES)

	<u>Possible Wilderness Area</u>	<u>Nevada County</u>	<u>USFS Plan</u>	<u>S. 722 and</u>		<u>H.R. 3304</u>	<u>H.R. 3302 As Amended</u>	<u>H.R. 4642</u>
				<u>H.R. 1686</u>	<u>H.R. 3302</u>			
1.	Alta Toquima (Mt. Jefferson)	Nye	31,000			45,000	45,000	39,000
2.	Arc Dome	Nye	94,400		146,000	146,000	146,000	115,000
3.	Boundary Peak	Esmeralda	6,400	8,900	8,900	8,900	9,400	9,400
4.	Currant Mountain	White Pine/Nye				49,000	49,000	
5.	East Humboldt	Elko	18,500		27,000	27,000	30,000	30,000
6.	Elk Mountain	Elko				12,600		
7.	Excelsior	Mineral				122,000		
8.	Grant Range (Canyon)	Nye	43,100			60,000		
9.	Jarbidge Additions	Elko	26,400	23,000	54,000	54,000	54,000	49,000
10.	Mt. Charleston	Clark	42,500	32,000	47,000	47,000	47,000	43,000
11.	Mt. Moriah	White Pine	60,700	73,000	88,000	98,000	88,000	82,000
12.	Mt. Rose	Washoe	16,000		33,000	35,000	33,000	26,000
13.	Quinn Canyon	Lincoln/Nye				95,000	95,000	27,000
14.	Ruby Mountains	Elko	55,600		74,000	143,000	87,000	75,000
15.	Santa Rosa	Humboldt				80,000	80,000	
16.	Schell Peaks	White Pine				120,000	63,000	
17.	Soldier Lake	Elko	12,300					
18.	South Snake (Wheeler Peak)	White Pine			120,000	120,000	(174,000)*	(174,000)**
19.	Table Mountain	Nye			125,000	125,000	113,000	97,000
20.	Toiyabe Crest	Lander/Nye				79,000		
TOTALS			406,900	136,900	722,900	1,466,500	939,400	592,400

\*National park.

\*\*National park - 129,500 acres and national preserve - 45,500 acres.

## B. GREAT BASIN NATIONAL PARK

Proposals to create a Great Basin National Park in the Wheeler Peak area of White Pine County, Nevada, first surfaced in Congress in 1924 and again in the 1960's. During the 99th session of Congress, the proposal was reintroduced as part of the amended version of H.R. 3302 which was passed out of the House Committee on Interior and Insular Affairs on November 5, 1985. This bill included the designation of certain USFS lands as wilderness and the creation of a Great Basin National Park consisting of 174,000 acres.

A congressional hearing on the park proposal was held in Ely, Nevada, on November 25, 1985, by the Subcommittee on National Parks and Recreation of the House Committee on Interior and Insular Affairs, chaired by U.S. Representative Bruce F. Vento (D-Minnesota). Eight congressmen attended the hearing in Ely.

Further testimony on the park proposal was provided on February 10, 1986, in Ely when U.S. Senator Hecht conducted a hearing for the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the U.S. Senate's Committee on Energy and Natural Resources. Following this and other hearings on the wilderness and park proposals, U.S. Senator Hecht requested that the Nevada legislature's committee on public lands conduct a hearing on the park proposal and provide a recommendation to Nevada's congressional delegation.

As noted previously in this report, the committee's hearing on the park proposal was held in Laughlin, Nevada, on April 4, 1986 (see section IV F of this report). The committee endorsed creation of the Great Basin National Park with certain provisions which included consideration of the park proposal in a separate bill (see Appendix E).

On April 30, 1986, the House of Representatives passed a substitute wilderness and park bill for Nevada--H.R. 4642-- which would have created a 129,000-acre Great Basin National Park and a 45,000-acre national preserve in the southern portion of the Wheeler Peak area.

In May 1986, U.S. Senators Hecht and Laxalt introduced S. 2506--a separate bill to create a 44,000-acre Great Basin National Park. The Senate subcommittee held a hearing on this bill in July 1986. The bill was passed by the full Senate Committee on Energy and Natural Resources in September 1986 and passed by the Senate at the end of that month.

As the congressional session drew to a close, controversy continued concerning the size of the proposed park. However, a compromise was reached in mid-October 1986 to create a 76,000-acre national park; and S. 2506, as amended, the "Great Basin National Park Act of 1986," was passed by both houses of Congress. The bill later was signed into law (Public Law 99-565) to create the country's 49th national park and the first national park in Nevada.

### C. WATER ISSUES

The Nevada legislature's committee on public lands monitored developments on several water issues affecting the public lands, including water rights for federal agencies and the Sierra Club v. Block federal court case in Colorado.

#### 1. Water Rights for Federal Agencies

During the past few years, differences of opinion have surfaced between Nevada's attorney general and the state engineer concerning applications to appropriate the public waters of the State of Nevada by agencies of the Federal Government. The issue essentially revolves around rulings by the state engineer that federal agencies are legal applicants to appropriate water rights under Nevada water law. The attorney general contends that public policy and laws in Nevada prohibit the granting of water rights to federal agencies for certain beneficial uses on the public lands.

Following administrative hearings and rulings by the state engineer in favor of water rights applications by certain federal agencies, the attorney general and others commenced actions for judicial review of these rulings in several state district courts. These actions subsequently were consolidated into one court case before the Elko County District Court.

According to testimony at the committee's December 17, 1986, meeting, oral arguments in this case are set for January 8, 1987, in the Elko County District Court. It is not certain when a decision will be rendered. However, both parties in the case have plans to appeal the decision if it is unfavorable to them so that a final decision may be reached by Nevada's supreme court. It was estimated that the decision and appeal process would take at least another year or more to complete.

## 2. Sierra Club v. Block

On November 25, 1985, Judge John L. Kane, Jr., of the United States District Court for the District of Colorado ruled in the case of Sierra Club v. Block that federal reserved water rights exist in the 24 wilderness areas currently designated in Colorado.

The judge also found that there is a general duty for the federal agencies under the Wilderness Act to protect and preserve wilderness water resources. However, he could not order the agencies directly to claim federal reserved water rights in the wilderness areas because there is no specific statutory duty to do so on the part of the federal agencies. Judge Kane stated that:

Reserved water rights is only one of several tools available to federal defendants to meet their statutory duty to protect and preserve wilderness water resources.

The tools to be used are left to the agencies' discretion. Therefore, Judge Kane ordered the federal defendants to reevaluate their alternatives, including claiming reserved water rights for the wilderness areas, and to submit a plan for complying with their statutory obligations regarding preservation and protection of wilderness water resources.

This ruling was appealed on February 24, 1986, by the Federal Government and the other intervenors in the case. The Tenth Circuit Court of Appeals, on October 8, 1986, dismissed the appeal and sent the case back to the federal district court. The appellate court determined that the district court order was not final until the district court had the opportunity to rule on the plan to be submitted by the federal agencies and to make its decision final. At that time, the district court's ruling then may be appealed to the Tenth Circuit Court of Appeals.

The committee is closely monitoring this case because of the potential effects this ruling might have as a precedent for wilderness areas which may be designated in Nevada. In addition, federal legislation is being considered by several Western congressmen to overturn this federal court ruling.

## D. MILITARY LAND AND AIRSPACE

Throughout the 1985-1986 interim period, the issue of existing and proposed military land withdrawals and airspace

restrictions in Nevada was one of the primary issues in which the committee was involved. As noted earlier, the committee devoted its entire meeting on September 5, 1986, to this issue. Appendix H provides a briefing paper entitled "Existing And Proposed Department Of Defense Activities In Nevada" prepared by the planning staff of Nevada's office of community services for this meeting. This paper provides a summary and overview of the military land and airspace issue.

## 1. Military Airspace

The committee particularly became concerned about the extent of airspace restrictions in Nevada and the procedures used by the Federal Aviation Administration (FAA) and the military to designate airspace. In anticipation of a congressional hearing on this issue, the committee sent a letter dated September 29, 1986, to Congressman Seiberling and the members of the House Subcommittee on Public Lands. This letter expressed the committee's position and concerns on the airspace issue. A copy of the committee's letter is at Appendix I.

The congressional hearing subsequently was canceled as Congress moved to adjourn its session. However, copies of the committee's letter were sent to Nevada's congressional delegation. The committee's action may help prompt consideration of the airspace issue in the next congressional session. In addition, the General Accounting Office (GAO) is investigating FAA airspace procedures at the request of certain members of Congress. Staff of the GAO have been in contact with staff of the committee, officials in the executive branch of government and private citizens in Nevada to gather information for the scope of their study.

## 2. Military Lands Withdrawal Act

In the waning days of its 99th session, Congress passed H.R. 1790, the "Military Lands Withdrawal Act of 1986" which included provisions to renew the 2.9-million-acre Nellis Air Force Range land withdrawal and to withdraw for the U.S. Navy the 21,000-acre Bravo 20 bombing range located in the Carson Sink area of Churchill County. This legislation (Public Law 99-606) is unique because it contains a special "Nevada Report" section. This section requires the Secretary of the Air Force, the Secretary of the Navy, and the Secretary of the Interior to submit a joint report to Congress no later than 5 years after the enactment of this legislation (by November 1991). This joint report is to include:

- a. An analysis and evaluation of the effects on public health and safety of military training operations in Nevada;
- b. An evaluation of the cumulative effects of continued or renewed land withdrawals for military purposes in Nevada on the environment, population, public and private property in this state and on the fish and wildlife, cultural, historic, recreational, scientific, wilderness and other values of the public lands of Nevada; and
- c. An analysis and evaluation of possible measures to mitigate the cumulative effect of the withdrawal of public lands and the use of airspace in Nevada for military and defense-related purposes.

The issue of military land and airspace in Nevada will continue as efforts are undertaken by the federal agencies to develop this joint report. In addition, further action may be anticipated in Congress on legislation to withdraw 89,600 acres in the Groom Mountain Range in Lincoln County, Nevada, for the USAF, and to proceed with the U.S. Navy's proposed 181,000-acre master land withdrawal for Fallon NAS in Churchill County.

## VI. RECOMMENDATIONS

The committee reviewed numerous suggestions pertaining to public lands issues. The committee chose to adopt nine recommendations for consideration by the 1987 session of the Nevada legislature. The committee may meet during the legislative session to discuss and make other recommendations depending on new information and the development of various public lands issues.

Of the nine recommendations in this report, one pertains to a constitutional amendment from the previous legislative session, one recommendation would amend current law, and five recommendations involve the adoption of joint resolutions to urge Congress and federal agencies to take certain actions on specific public lands issues.

### A. CONSTITUTIONAL AMENDMENT

The 1985 session of the Nevada legislature adopted Senate Joint Resolution No. 21 (File No. 68). A copy of this resolution is provided in Appendix J. This resolution is a proposed constitutional amendment which will be returned

to the 1987 session of the legislature and, if adopted, will be placed on the ballot of the 1988 General Election for approval or rejection by the voters.

This resolution was adopted by the 1985 legislature by a vote of 21 yeas and 0 nays in the senate and 40 yeas, 1 nay and 1 absent in the assembly.

Senate Joint Resolution No. 21 proposes to amend section 3 of article 11 of the Nevada constitution to clarify historic language that is obsolete and confusing. Unnecessary references to specific land grants of the 1800's are deleted. The amendment simplifies the remaining provisions. It clarifies the intent to permanently pledge several types of revenue, including all proceeds of school grant lands, for educational purposes. The new language more clearly complements state law, which provides that these revenues are placed in the permanent school fund, and that the interest from that fund is placed in the state distributive school fund.

The committee, therefore, recommends:

1. That the legislature adopt the proposed constitutional amendment--Senate Joint Resolution No. 21 (File No. 68, Statutes of Nevada, 1985)--to clarify those state lands and proceeds which are pledged for educational purposes.

#### B. GRADUAL LAND ACQUISITIONS

During the committee's visit to Washington, D.C., in October 1985, several members of Congress indicated that they would look more favorably upon the acquisition of federal lands by the state if the proposal included a list of specific lands and the reasons those lands are needed. This approach would differ from past proposals by the state to acquire federal lands which were more general in nature.

The committee has been exploring this concept with the administrator of the division of state lands. At its June 30, 1986, meeting, the committee received a paper from the division entitled "Alternatives for a Study of the Federal Lands with Potential for State Acquisition" (see Appendix G). This paper provided background information on previous attempts by Nevada and other Western States to acquire federal lands. The paper also listed numerous questions which would have to be answered in developing a gradual land acquisition process.

The committee agreed that a scoping study or introductory examination would be necessary to evaluate these and other questions and to provide estimates of the cost of such a process. The committee believes that a consultant likely would be necessary to conduct a scoping study. The paper by the division of state lands estimated that:

\* \* \* a well qualified consultant firm could assist the state to complete such a scoping process within several months for less than ten thousand dollars.

The committee also believes that it would be the logical entity to oversee and provide direction for such a study due to the committee's previous involvement and development of this issue.

The committee, therefore, recommends:

2. That the legislative commission, by July 1987, provide additional funds to the Nevada legislature's committee on public lands to conduct a scoping study or introductory examination of the costs and feasibility of the project to gradually acquire specific lands from the Federal Government for the state.

The committee recognizes that this gradual land acquisition process would be a different direction for the state to take in its efforts to acquire its equal share of federal lands. The state previously has simply requested that Congress approve a large 6,000,000-million-acre land grant to the state.

It is anticipated that the gradual land acquisition effort would entail the same general goal but would involve a lengthy commitment and detailed work by the state to identify and obtain suitable lands. The committee understands that it would be advantageous to have the support of the Nevada legislature and to request the support and cooperation of Nevada's congressional delegation, the Congress and the appropriate federal executive branch agencies in this different approach toward state land acquisition.

The committee, therefore, recommends:

3. That the legislature adopt a joint resolution to urge and request Nevada's congressional delegation, the Congress and the appropriate federal executive branch agencies to support and cooperate with the state's efforts to gradually acquire its equal share of federal lands. (BDR R-1148)

### C. BUREAU OF LAND MANAGEMENT WILDERNESS REPORT

The BLM is involved in an extensive effort to analyze roadless areas and to develop recommendations to designate certain BLM-controlled lands as wilderness. This action is mandated by the Federal Land Policy and Management Act of 1976.

The BLM has conducted public hearings and provided a public review process for its series of draft environmental impact statements on potential wilderness areas in specific, limited areas of the state. The BLM will compile a statewide wilderness report following completion of mineral surveys now being conducted for each wilderness study area. However, it appears that the statewide report will not be subject to public comment and review.

Nevada's state multiple use advisory committee on federal lands adopted Recommendation No. 86-5 to recommend that the BLM develop a procedure to provide an opportunity for the citizens of Nevada to directly review and comment on a draft statewide wilderness report. A copy of this recommendation is provided at Appendix K.

The public lands committee believes that the Nevada legislature should adopt a similar recommendation.

The committee, therefore, recommends:

4. That the legislature adopt a joint resolution to urge the U.S. Bureau of Land Management to allow for direct public input on its draft statewide wilderness report. (BDR R-1145)

### D. WATER RIGHTS

As noted in section V-C-2 of this report, a federal district court judge in Colorado ruled in the case of Sierra Club v. Block that federal reserved water rights exist in the wilderness areas currently designated in Colorado. During the 99th session of Congress, several congressmen considered legislation to overrule this court decision, but no action was taken at that time.

The committee believes that this court ruling could set a precedence and have a great effect on existing water rights in Nevada. The committee particularly is concerned about the possibility of federal reserved water rights on BLM lands which may be designated as wilderness in the next few years.

The committee, therefore, recommends:

5. That the legislature adopt a joint resolution to urge Congress to enact legislation to forbid the federal reservation of water rights for wilderness areas. (BDR R-1149)

E. MILITARY LAND AND AIRSPACE

As discussed in section V-D of this report, the committee has devoted extensive time and attention to the issue of existing and proposed land withdrawals and airspace restrictions by the military in Nevada. The committee's position on the airspace issue was explained in a letter dated September 29, 1986, to Congressman Seiberling and the House Subcommittee on Public Lands (see Appendix I).

The committee particularly is concerned about the apparent lack of procedures, control and public input over decisions by the military and the FAA to designate and restrict airspace in Nevada and throughout the Nation.

The committee, therefore, recommends:

6. That the legislature adopt a joint resolution to urge Congress to:
  - a. Investigate the designation and control of military airspace by the Federal Aviation Administration; and
  - b. Enact legislation to enhance public participation in the process of establishing airspace classifications and restrictions. (BDR R-1147)

At its meeting on December 17, 1986, the committee heard testimony from a representative of the office of community services concerning proposed initiatives by the executive branch of government in Nevada to assist in the implementation of the "Nevada Report" section of the "Military Land Withdrawal Act of 1986." The committee agreed that this report should be a valuable resource to the state in assessing the cumulative impacts of military operations. The committee also agreed that the state could benefit by taking steps to help influence and ensure the implementation of this federal legislation.

The committee, therefore, recommends:

7. That the legislature support, and that the committee send a letter to the appropriate federal agencies in support of, efforts by the executive branch of government in Nevada to:

- a. Establish a written agreement with the U.S. Department of Defense and the U.S. Department of the Interior to ensure that the "Nevada Report" section of the "Military Land Withdrawal Act of 1986" is implemented; and
- b. Seek funding from those federal agencies to finance a full-time staff person at the state level in Nevada's office of community services to assist and oversee the implementation of that legislation.

The committee also indicated that a joint resolution in support of these initiatives may be considered during the legislative session depending upon the response by the appropriate federal officials to the committee's letter.

#### F. WILD HORSES

During the 1985 session, the Nevada legislature adopted Senate Bill 485 (chapter 594) to create the commission to administer the Heil bequest for the preservation of wild horses. Section 9 of S.B. 485 repealed the Animals Running At Large Law--formerly NRS 569.360 through NRS 569.430--in its entirety.

The former Animals Running At Large Law gave boards of county commissioners the authority to regulate the capture or disposal of wild, unbranded burros and horses on any of the public lands or ranges in the state. This law had been in effect for 71 years. It apparently filled the void for the regulation of wild horses on state and local public lands and on private lands since the federal Wild Horse and Burro Act only applies to wild horses residing on federal public lands.

Testimony before the committee at its meeting on December 17, 1986, indicated that repeal of the Animals Running At Large Law apparently was a bill drafting error in the mistaken belief that this law no longer was necessary. There is no evidence to indicate that the individuals who participated in the development of S.B. 485 had any intent to repeal the Animals Running At Large Law.

The committee, therefore, recommends:

8. That the legislature adopt a law to restore the authority of boards of county commissioners to establish procedures and enforce laws governing animals-at-large including wild horses. (BDR 45-1150)

The 1985 session of the Nevada legislature adopted Senate Joint Resolution No. 20 (File No. 89). This resolution urged Congress to enact legislation which increases controls on the number of wild horses and burros and which authorizes additional methods of removing those animals from public lands.

The committee observed that the Ninety-ninth Congress took no substantive action on the wild horse issue. The committee believes that adoption of a resolution similar to S.J.R. 20 would be useful to again remind and urge the Congress to address this issue.

The committee, therefore, recommends:

9. That the legislature adopt a joint resolution to urge Congress to enact legislation which increases controls on the number of wild horses and burros and which authorizes additional methods of removing those animals from public lands. (BDR R-1146)



VII. APPENDICES

	<u>Page</u>
Appendix A - List Of Meetings, Issues And Actions Of The Nevada Legislature's Committee On Public Lands From July 1985 Through December 1986.....	33
Appendix B - Letter To Nevada's Congressional Delegation Concerning The Bureau Of Land Management/United States Forest Service Interchange Proposal.....	45
Appendix C - Schedules And Briefing Materials Of The Nevada Legislature's Committee On Public Lands For Its Visit To Washington, D.C., In October 1985.....	51
Appendix D - Statement By The Nevada Legislature's Committee On Public Lands For The Congressional Hearings On The Wilderness Proposals For United States Forest Service Lands In Nevada.....	121
Appendix E - Letter To Nevada's Congressional Delegation Concerning The Committee's Hearing And Recommendation On The Proposal To Create The Great Basin National Park.....	127
Appendix F - Memorandum By Staff To The Committee Entitled "Report on the Meeting of the Subcommittee on Issues with Nellis Air Force Base".....	133
Appendix G - Paper Prepared By The Division Of State Lands Entitled "Alternatives for a Study of the Federal Lands with Potential for State Acquisition".....	141
Appendix H - Briefing Paper Prepared By The Planning Staff Of Nevada's Office Of Community Services Entitled "Existing And Proposed Department Of Defense Activities In Nevada".....	149

	<u>Page</u>
Appendix I -- Letter Dated September 29, 1986, To Congressman John F. Seiberling And Members Of The House Subcommittee On Public Lands Concerning The Designation Of Military Airspace.....	157
Appendix J - Proposed Constitutional Amendment--Senate Joint Resolution No. 21 (File No. 68, <u>Statutes Of Nevada, 1985</u> ).....	163
Appendix K - Recommendation No. 86-5 By The Nevada State Multiple Use Advisory Committee On Federal Lands Concerning The Bureau Of Land Management Statewide Wilderness Report.....	167
Appendix L - Suggested Legislation.....	171

APPENDIX A

List Of Meetings, Issues And Actions Of The Nevada  
Legislature's Committee On Public Lands  
From July 1985 Through December 1986





LIST OF MEETINGS, ISSUES AND ACTIONS OF THE NEVADA LEGISLATURE'S  
COMMITTEE ON PUBLIC LANDS FROM JULY 1985 THROUGH DECEMBER 1986

<u>Issue</u>	<u>Action</u>
<u>August 16, 1985 - Reno, Nevada</u>	
Wilderness proposals for USFS lands in Nevada	Testimony and discussion
Wells Resource Management Plan and Environmental Impact Statement	Testimony and discussion
Senate Concurrent Resolution No. 47 (File No. 132, <u>Statutes of Nevada, 1985</u> )	Study
BLM/USFS interchange proposal	Update; letter to congressional delegation on financial impact
Water rights for federal agencies	Testimony and discussion
Shick Clinic development in Laughlin, Nevada	Testimony
Fallon NAS and the SOA	Update
State commission for the preservation of wild horses	Update
Omnibus Rangelands Bill	Update
Superconducting Super Collider project	Update
Senate Bill 40 land planning process	Update
Fire rehabilitation activities	Testimony
<u>October 7, 1985 - Elko, Nevada</u>	
Wells RMP/EIS	Discussion; letter to state BLM director

Issue	Action
Water rights for federal agencies	Testimony and discussion
Omnibus Rangelands Bill	Update
Public lands resolutions from the Western Legislative Conference of The Council of State Governments	Report
Wilderness proposals	Testimony
Federal response to fires	Testimony
Naval operations and military land withdrawals	Testimony
Senate Concurrent Resolution No. 47	Study
BLM/USFS interchange proposal	Update
State commission for the preservation of wild horses	Update
Federal payments in lieu of taxes	Update
<u>October 16 through October 18, 1985, Washington, D.C.</u>	
Public lands issues including wilderness, land grants, military land withdrawals and other issues	Discussions with congressmen and other federal officials
<u>December 16, 1985 - Las Vegas</u>	
Washington, D.C. visit	Report
Wilderness proposals	Testimony and discussion
Omnibus Rangelands Bill	Update
Water rights for federal agencies	Testimony by BLM and USFS officials from Washington, D.C.

Issue	Action
Fire management	Testimony
USFS program to control noxious weeds and poisonous plants	Testimony
Wells RMP/EIS - response to committee's letter	Testimony
Fallon NAS and SOA	Update
Senate Concurrent Resolution No. 47	Study
BLM/USFS interchange proposal	Update
State commission for the preservation of wild horses	Update
Senate Bill 40 land planning process	Update
Superconducting Super Collider project	Update
<u>February 7, 1986 - Las Vegas</u>	
State commission for the preservation of wild horses	Testimony and discussion
Fallon NAS, SOA and Memorandum of Agreement	Testimony
BLM/USFS interchange proposal	Testimony
Water rights for federal agencies - Colorado water rights decision	Testimony
Wilderness proposals	Discussion; testimony developed for U.S. Senator Chic Hecht's congressional hearings
Senate Concurrent Resolution No. 47	Study

Issue	Action
Gradual land acquisitions from the Federal Government	Discussion; preliminary study
Nellis AFB and private land development	Discussion
<u>April 3 and April 4, 1986 - Laughlin, Nevada</u>	
Development in the Laughlin area	Tour
Hearing on Great Basin National Park proposals	Testimony; recommendation to congressional delegation
Laughlin Bay presentation	Testimony; subcommittee created
Nellis AFB and private land development	Discussion; subcommittee created
<u>May 8, 1986 - Las Vegas (Subcommittee on Issues with Nellis AFB)</u>	
Land exchanges and airport environs plan	Discussion; report to committee
<u>May 22, 1986 - Reno</u>	
Senate Concurrent Resolution No. 47	Testimony and staff reports
Land acquisition matters	Testimony; further study directed
BLM recreation program	Presentation
Nellis AFB and private land development	Subcommittee report
Fallon NAS and the SOA	Testimony

Issue	Action
H.R. 4413 - Airspace Restriction Bill	Testimony
Military land withdrawals/comprehensive planning	Testimony
Strategic and critical minerals in Nevada	Presentation
State commission for the preservation of wild horses	Testimony
Superconducting Super Collider project	Update
Wilderness and national park proposals	Update
Water rights issues	Update
BLM/USFS interchange proposal	Update
Congressional changes	Update
Siting for the small Intercontinental Ballistic Missile System	Update
Grazing fees and advisory boards	Update
Mineral leasing legislation in Congress	Discussion; letter to congressmen
Harry Wilson land exchange with USFWS in Humboldt County	Discussion; letter of support
<u>May 23, 1986 - Carson City (Subcommittee on Laughlin Bay)</u>	
Requirements of federal, state and local government agencies and private landowners and developers for Laughlin Bay area	Discussion; research planning and funding
<u>June 30, 1986 - Carson City</u>	
Naval operations, the SOA and proposed land withdrawals	Testimony from Fallon NAS commander and others

Issue	Action
Proposal for Hart MOA	Testimony; staff directed to provide research
Senate Concurrent Resolution No. 47	Work session
Land acquisition matters	Testimony and discussion of study alternatives
Subcommittee on Laughlin Bay	Discussion of planning process and funding sources; appointed committee to coordinate with private interests and government agencies
<u>September 4 and September 5, 1986 - Fallon, Nevada</u>	
Fallon NAS	Tour
Overview of military land withdrawals and airspace restrictions in Nevada	Presentation by staff
Status and use of the Gandy SOA	Presentation by Air Space Manager, Hill AFB, Utah
Naval operations, the SOA and proposed land withdrawals	Presentation by Fallon NAS commander
Memorandum of Agreement between State of Nevada and U.S. Navy	Update

Issue	Action
USAF operations in Nevada; including the proposed low-level training route (IR-264), the Hart MOA, and the small ICBM project	Presentations by USAF officials from Nellis AFB, Nevada; Offutt AFB, Nebraska; Seattle, Washington; Klamath Falls, Oregon; and Norton AFB, California
Military land withdrawal and airspace legislation in Congress	Update
<u>December 17, 1986 - Carson City</u>	
Congressional legislation on public lands issues	Status report
Laughlin Bay issue	Status report
Superconducting Super Collider project	Update
Economic value of wildlife in Nevada	Report on department of wildlife studies
Nevada Natural Heritage Program	Presentation
Aerojet land exchange proposal	Presentation, discussion and testimony
Groom Mountain land withdrawal	Report on FEIS
Small ICBM project	Update
Memorandum of Agreement between State of Nevada and U.S. Navy	Update
Rayleigh waves	Presentation
Water rights issues to include the Nevada/California water compact, the carbonate aquifer, and federal water rights	Presentations by state engineer and committee staff

<u>Issue</u>	<u>Action</u>
USFS plans and wilderness issue	Report from representative of USFS
BLM issues to include BLM wilderness program, the National Wildlife Federation lawsuit, Indian land claim cases, wild horses and the Fallini lawsuit, and the minerals industry in Nevada	Report from representative of BLM
Wild horse issues in Nevada and the Nevada commission for the preservation of wild horses	Presentations and discussion
Mining and ranching conflicts and agreements in Nevada	Testimony and discussion
Work session	Recommendations for legislation

BD/11p:APPENDA.1-9  
1/9/87

I N D E X

AFB - Air Force Base  
BLM - Bureau of Land Management  
FEIS - Final Environmental Impact Statement  
ICBM - Intercontinental Ballistic Missile  
MOA - Military Operations Area  
NAS - Naval Air Station  
RMP/EIS - Resource Management Plan and Environmental Impact  
Statement  
SOA - Supersonic Operations Area  
USAF - United States Air Force  
USFWS - United States Fish and Wildlife Service  
USFS - United States Forest Service



APPENDIX B

Letter To Nevada's Congressional Delegation Concerning The  
Bureau Of Land Management/United States Forest Service  
Interchange Proposal





September 30, 1985

✓

Dear ✓:

The Nevada Legislature's Committee on Public Lands respectfully requests your assistance to obtain information concerning the financial impact on Nevada of the Bureau of Land Management (BLM)-United States Forest Service (USFS) interchange proposal.

Testimony at the recent meeting of the Public Lands Committee revealed that there is little, if any, information available to state and local officials, as well as the public, to evaluate the economic impact of this proposal. During the public hearings held in Nevada on the interchange proposal, many citizens and officials expressed concerns about the distribution and allocation of the money generated by the public lands. These concerns include the different categories of lands administered by the BLM and the USFS, the distribution of money from minerals and grazing fees, the allocation of payment in lieu of taxes (PILT) money, and other economic impacts. The areas and amounts of savings to be achieved from the interchange proposal in Nevada also should be identified.

We understand that proposed legislation is being developed by the agencies with consideration of the public comments and that a congressional environmental impact statement will accompany the proposed legislation. We request your assistance in obtaining any information pertaining to the economic impact of the interchange proposal which may be available to you or provided by the BLM or USFS.

We also ask that you keep us advised of the progress of the proposed legislation and accompanying materials when they are released.

Page 2

As you know, our committee is vitally interested in the interchange proposal and other public lands issues affecting Nevada which are before the Congress.

We stand ready to provide any assistance that you may need in analyzing and assessing the reaction in Nevada to these public lands issues.

Thank you for your help and consideration.

Sincerely,

Dean A. Rhoads  
Nevada State Senator, Chairman

DAR/11p:L4

ãVThe Honorable Chic Hecht  
United States Senate  
302 Hart Senate Office Bldg.  
Washington, D.C. 20510  
VSenator HechtV

ãVThe Honorable Paul Laxalt  
United States Senate  
Rm. 323A, Russell Office Bldg.  
Washington, D.C. 20510  
VSenator LaxaltV

ãVThe Honorable Harry Reid  
United States House of Representatives  
1530 Longworth House Office Bldg.  
Washington, D.C. 20515  
VRepresentative ReidV

ãVThe Honorable Barbara Vucanovich  
United States House of Representatives  
Rm. 507, Cannon House Office Bldg.  
Washington, D.C. 20515  
VRepresentative VucanovichV



APPENDIX C

Schedules And Briefing Materials Of The Nevada  
Legislature's Committee On Public Lands For  
Its Visit To Washington, D.C.,  
In October 1985



NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS  
Washington, D.C.

October 16 through October 18, 1985

TEAM SCHEDULES

FIRST TEAM

Assemblyman David D. Nicholas  
Senator John M. Vergiels  
Brian L. Davie

SECOND TEAM

Assemblyman Virgil M. Getto  
Clark County Commissioner Karen W. Hayes  
Lyndl L. Payne

W E D N E S D A Y , O C T O B E R 1 6 , 1 9 8 5

F I R S T T E A M

10:00 a.m.	Philip A. Palmer for Senator Lowell P. Weicker, Jr.	Hart 303	Connecticut
11:00 a.m.	Scott J. Cameron for Senator Chic Hecht	Hart 302	Nevada
1:30 p.m.	Representative Mike Strang	Longworth 1331	Colorado
2:00 p.m.	Representative John F. Seiberling and Russ Shay	Longworth 1225	Ohio
2:30 p.m.	Representative George Darden	Longworth 1330	Georgia
3:30 p.m.	Mitch Foushee for Senator Jeff Bingaman	Hart 502	New Mexico
4:30 p.m.	Senator Chic Hecht	Hart 302	Nevada

S E C O N D T E A M

10:00 a.m.	Philip A. Palmer for Senator Lowell P. Weicker, Jr.	Hart 303	Connecticut
11:00 a.m.	Scott J. Cameron for Senator Chic Hecht	Hart 302	Nevada
2:00 p.m.	Senator J. Bennett Johnston	Hart 136	Louisiana
2:30 p.m.	Kelton Abbott for Senator Paul Laxalt	Russell 323A	Nevada
3:30 p.m.	Mitch Foushee for Senator Jeff Bingaman	Hart 502	New Mexico
4:30 p.m.	Senator Chic Hecht	Hart 302	Nevada

THURSDAY, OCTOBER 17, 1985

FIRST TEAM

9:30 a.m.	Representative Peter H. Kostmayer and Cindy Jackson	Cannon 123	Pennsylvania
11:00 a.m.	Representative Barbara Vucanovich	Cannon 312	Nevada
12:00 noon	Luncheon- Representatives Reid, Lehman, Richardson	House Dining Room	Nevada California New Mexico
2:00 p.m.	Mark Trautwein for Representative Morris K. Udall	Longworth 1322	Arizona
3:00 p.m.	Kevin P. Kirchner for Representative James Weaver	Longworth 1226	Oregon
4:00 p.m.	Senator Dale Bumpers	Dirksen 229	Arkansas

SECOND TEAM

9:30 a.m.	Senator Pete V. Domenici and Bruce Blanton	Dirksen 143	New Mexico
10:15 a.m.	Senator Frank H. Murkowski	Hart 317	Alaska
11:00 a.m.	Tony Benivetto and Patty Kennedy for Senator James A. McClure	Dirksen 370	Idaho
12:00 noon	Luncheon- Representatives Reid, Lehman, Richardson	House Dining Room	Nevada California New Mexico
2:30 p.m.	Representative James V. Hansen and James Barker	Longworth 1113	Utah
3:30 p.m.	Senator Malcomb Wallop, Tony Benivetto and Kate Dupont	Russell 206	Wyoming

FRIDAY, OCTOBER 18, 1985

FIRST AND SECOND TEAMS

10:00 a.m.	Mr. Frederick S. Sterns, Director of Installations and Facilities, Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics)	Crystal Plaza, #5 Room 266
1:00 p.m.	Secretary of the Interior Donald Hodel	Interior Department Bldg. Room 6151
1:30 p.m.	Bureau of Land Management Director Robert Burford	Interior Department Bldg. Room 5660
2:00 p.m.	Office of Assistant Secretary Robert N. Broadbent	Interior Department Bldg. Room 6660
3:00 p.m.	United States Forest Service Chief R. Max Peterson,	Agriculture Department Bldg. Room 3008

Ritin:10/24/85



LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
CAPITOL COMPLEX  
CARSON CITY, NEVADA 89710



LOUIS W. BERGEVIN, *Assemblyman, Chairman*  
Donald A. Rhodes, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-

JAMES I. GIBSON, *Senator, Chairman*  
Daniel G. Miles, *Fiscal Analyst*  
Mark W. Stevens, *Fiscal Analyst*

DONALD A. RHODES, *Director*  
(702) 885-5627

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-562  
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-562  
ROBERT E. ERICKSON, *Research Director* (702) 885-562

October 16, 1985

∇

Dear ∇:

The Nevada Legislature's Committee on Public Lands is a permanent statutory committee created by the Nevada State Legislature. Public lands issues are of vital concern to the people of Nevada since the Federal Government controls approximately 86.5 percent of the land in this state. The committee's purposes are to provide oversight and review of federal land management policies and practices and to provide a forum for the discussion and hearing of public land matters, particularly as they affect state sovereignty.

The 1985 Nevada Legislature adopted several resolutions and took other action related to current public lands issues. Enclosed are the following position papers which discuss briefly the public lands issues of concern to the Nevada Legislature, its Committee on Public Lands, and the people of Nevada:

1. Public Lands Issues in Nevada - 1985 - (background);
2. Recommendations Concerning Proposed Wilderness Areas Of United States Forest Service Lands In Nevada;
3. Nevada's Proposal To Obtain An Additional Land Grant From The Federal Government;
4. Nevada's Proposal For Transfers Of Federal Land To Nevada Equal To Certain Federal Land Withdrawals Or Uses;
5. Recommendation Concerning The Proposed Interchange Of Federal Land Between The Bureau Of Land Management And The United States Forest Service;
6. Issues Pertaining To Public Rangelands In Nevada - Grazing Fees And Wild Horses;
7. Nevada's Land Use Planning Program For Public Lands; and

8. Recommendations Concerning Residency Requirement For Desert Lands.

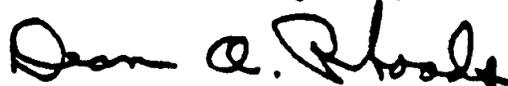
Also enclosed for information purposes are the following:

1. A map of Nevada which shows the pattern of land ownership; and
2. A publication entitled "Request for 6,000,000 Acre Land Grant" prepared by the Nevada State Committee on Federal Land Laws dated February 1970. This publication still is applicable today as justification for Nevada's proposal to obtain an additional land grant from the Federal Government.

We respectfully request your support and ask that you and your staff review these materials to gain a better understanding of the concerns of Nevada as they relate to public lands.

We sincerely appreciate the opportunity to meet with you and to provide you with these materials.

With warmest regards,



Nevada State Senator Dean A. Rhoads  
Chairman, Nevada Legislature's  
Committee on Public Lands

DAR/11p:DC12

## PUBLIC LANDS ISSUES IN NEVADA - 1985

### Background

- Although it lacked the required population for statehood, Congress made Nevada a state in 1864 because of the Civil War. As late as the Census of 1900, Nevada's population was under 43,000. In order to bring settlers into the state, Nevada had to sell most of the lands obtained under its original land grant.
- Nevada continues to be one of the fastest growing states in the Nation in terms of population. According to recent projections of the United States Census Bureau, Nevada's population is expected to more than double in the next 15 years-- increasing to greater than two million people by the year 2000. Nevada had the largest percentage increase in population (63.8 percent) of all the states between 1970 and 1980.
- Approximately 86.5 percent of Nevada's land area is still federal land - a higher percentage than that of any other state. It should be noted that 93 percent of all federal land is located in just 12 western states.
- Nevada's small property tax base (10 percent of the state's land area) caused it to legalize gambling in 1931 to provide needed revenue.
- Nevada and other western states have promoted additional land grants, land reform measures and other proposals to rectify the inequities of the past, to provide for rapid population growth, and to promote efficient state and local land management while protecting the multiple use concept.



RECOMMENDATIONS CONCERNING PROPOSED WILDERNESS AREAS OF  
UNITED STATES FOREST SERVICE LANDS IN NEVADA

- The 1985 Nevada Legislature adopted Assembly Joint Resolution No. 1 (file No. 76, Statutes of Nevada, 1985) with only four dissenting votes out of 63 members. This resolution urges the Congress to enact specific wilderness legislation. This legislation is SB 722, sponsored by Senators Hecht and Laxalt, and HR 1686, sponsored by Representative Vucanovich. The legislation would designate 136,900 acres in four areas of United States Forest Service (USFS) lands in Nevada as wilderness.  
  
This resolution also urges Congress to designate as wilderness the 1,322,900 acres of the Desert National Wildlife Range which have been recommended for designation as wilderness by the United States Fish and Wildlife Service.
- Two other wilderness proposals for USFS lands in Nevada subsequently have been introduced--HR 3302 by Representative Reid to designate 722,900 acres as wilderness in 10 areas and HR 3304 by Representative Seiberling and others to designate 1,466,500 acres in 19 wilderness areas.
- The Nevada Legislature's Committee on Public Lands recognizes the establishment of wilderness areas as an appropriate specific use of some of the public lands in Nevada. However, about 86.5 percent of the land in the state, including over 4,000,000 acres which have been withdrawn from use by the general public, is controlled by the various agencies of the Federal Government. Nevada is particularly vulnerable--more than any other state--to decisions regarding the use of land which are made by federal agencies and not the people or elected officers of the state.
- Wilderness decisions will impact on the economic well-being of this state and particularly some of its more rural communities which are heavily dependent on access to and use of the federal public lands for mining and ranching.
- The future of mining in Nevada is dependent upon the availability of federal lands. The loss of areas with potential for the production of minerals would be harmful to this state and to the economic self-sufficiency of our Nation.
- Nevada faces continued withdrawals of public lands by federal agencies and further wilderness designations of lands controlled by the Bureau of Land Management and the U.S. Fish and Wildlife Service.

- A considerable amount of public discussion in Nevada regarding wilderness designations indicates a general consensus that supports the designation of wilderness areas which are identified in the Hecht-Laxalt-Vucanovich proposal. The citizens of Nevada have a tremendous respect for its lands and strongly support the wise use and conservation of its natural resources
- This committee, therefore, reaffirms the position taken by the Nevada Legislature and urges Congress to designate as wilderness the USFS areas in Nevada identified in the Hecht-Laxalt-Vucanovich proposal.

NEVADA'S PROPOSAL TO OBTAIN AN ADDITIONAL LAND GRANT  
FROM THE FEDERAL GOVERNMENT

Senate Joint Resolution No. 19  
(File No. 92, Statutes of Nevada, 1985)

- The United States Government, after nearly 120 years have elapsed since Nevada became a state, still retains approximately 86.5 percent of the land in Nevada.
- Between 1970 and 1984, the population of Nevada nearly doubled from 489,000 to almost 945,000. The state's population will surpass one million next year and is projected to double again in the next 15 years. This growth in population, and the resulting change in the use of the land, has placed a heavy demand on the state and local governments to provide additional facilities and land needed for governmental services.
- The vast federally owned areas of Nevada create a major tax burden on the owners of private property in this state to meet the needs of children for public schooling and other services.
- Intermingled ownership of land among private persons and federal governmental agencies severely restricts proper practices for the conservation of this state's natural resources and the preservation of recreational, wildlife and environmental areas which are best suited for management by the state and local governments.
- Federal ownership of so much of the land in this state prohibits the orderly expansion of landlocked cities on a planned basis, without an adverse effect on the existing economy of local areas.
- The Nevada Legislature, therefore, memorializes the Congress of the United States to review the 1970 report of the Nevada State Committee on Federal land Laws and, pursuant thereto, grant to Nevada an additional 6,205,522 acres of public land for the benefit of the public schools. This amount of acreage is required to give Nevada parity with the neighboring states of Arizona, New Mexico and Utah.



NEVADA'S PROPOSAL FOR TRANSFERS OF FEDERAL LAND TO NEVADA  
EQUAL TO CERTAIN FEDERAL LAND WITHDRAWALS OR USES

Senate Joint Resolution No. 29  
(File No. 94, Statutes of Nevada, 1985)

- Since the Federal Government controls approximately 86.5 percent of all land in Nevada, the Federal Government may withdraw such land from public use without compensation to this state.
- The Federal Government, in a piecemeal manner, continues to withdraw lands from public use for multiple purposes so that these lands may be used for single purposes. These single purposes include military operations and the training of related personnel, projects relating to nuclear energy, the protection of endangered species of wildlife, and the establishment and maintenance of wilderness areas.
- These withdrawals further restrict the sovereignty of Nevada and the ability of the state to plan for the future and to protect the best interests of its citizens.
- The Nevada Legislature, therefore, urges the Congress of the United States to enact legislation requiring the transfer of federal land to Nevada in the same proportion as federal land in this state is withdrawn from public use for multiple purposes for uses primarily devoted to a single purpose. The Federal Government also is urged to cooperate with the State of Nevada in developing a plan for the disposition and management of federal land proposed for transfer to this state.



## NEVADA'S LAND USE PLANNING PROGRAM FOR PUBLIC LANDS

- With passage and funding of Senate Bill 40 of the Nevada Legislature during the 1983 session, the State of Nevada took another positive step forward in improving state and federal relations concerning the public lands.
- This measure, which now appears as section 321.7355 of the Nevada Revised Statutes, resulted in the preparation of land use plans and policies for the federal land areas of the state. These plans and policies, which have been completed and approved by the Governor and affected units of local government, provide an excellent guide for subsequent planning efforts of the various federal agencies.
- The Federal Land Policy and Management Act of 1976 recognizes the importance of state and local plans in federal land planning programs. Nevada's planning efforts will help inform the federal agencies of state and local needs and desires before future federal plans are formulated.
- Another related measure now being undertaken by the Nevada Legislature's Committee on Public Lands is a study of the state's laws concerning public lands, as directed by the Nevada Legislature during its 1985 session. Under the authority of Senate Concurrent Resolution No. 47 (File No. 132, Statutes of Nevada, 1985), the committee is studying the state's laws concerning public lands including public access, acquisition, management, disposal and planning for the use of public lands. This study will be completed by the fall of 1986 and recommendations to improve the state's land laws will be forwarded to the next session of the Nevada Legislature in January 1987.



RECOMMENDATIONS CONCERNING THE PROPOSED INTERCHANGE OF  
FEDERAL LAND BETWEEN THE BUREAU OF LAND MANAGEMENT  
AND THE UNITED STATES FOREST SERVICE

- The Bureau of Land Management (BLM) and the United States Forest Service (USFS) have proposed to interchange management responsibility for approximately 35 million acres of federally owned land located primarily in the Western States.
- This proposal would include the transfer of Nevada's two national forests comprising approximately 5,000,000 acres of land from the USFS to the BLM. Land administered by the USFS virtually would be eliminated in Nevada.
- The original announcement of the interchange proposal was made without notice to the people of Nevada and other states, without an opportunity for them to be heard and without an adequate evaluation of the costs and economic impacts or of the environmental effects of the proposal.
- The Nevada Legislature adopted Senate Joint Resolution No. 3 (File No. 38, Statutes of Nevada, 1985) urging the Federal Government to delay the interchange proposal until there is a full public disclosure and congressional review of the effects of the transfer.
- Subsequent public hearings around the country revealed that an overwhelming majority of the people--about 90 percent--involved in the hearings were against the interchange proposal. This opposition included about 1,000 people who attended the three public hearings held in Nevada.
- Despite this extensive public opposition, the secretaries of the Department of Agriculture and the Department of the Interior are developing legislation and a congressional environmental impact statement to be introduced in Congress to implement the interchange proposal.
- This committee strongly urges the Congress to defeat the interchange proposal. The committee is supportive of the stated goals of the interchange--to streamline federal land management bureaucracy and to effect cost efficiencies to help reduce the federal deficit. However, the committee requests the BLM and the USFS to pursue further interchange proposals on a state by state basis with:
  1. Increased emphasis on advanced planning to include adequate information concerning economic, environmental and legal effects;

2. Early, meaningful consultation with elected public officials, interest groups and citizens of each state; and
3. Enhanced participation in the selection of lands to be exchanged.

ISSUES PERTAINING TO PUBLIC RANGELANDS IN NEVADA  
- GRAZING FEES AND WILD HORSES -

Grazing Fees - Senate Joint Resolution No. 25 (File No. 53,  
Statutes of Nevada, 1985)

- Because of the limited amount of private land in most parts of rural Nevada, ranching operations are vitally dependent upon supplemental feed for livestock as provided by grazing on the public rangelands. The economy of many of Nevada's rural counties is heavily dependent upon ranching which serves as the stable base of the rural economy.
- Because Nevada is the most arid state in the Nation, livestock grazing in the state is measured by numbers of acres of rangeland needed to maintain each head of livestock. As such, the fees charged by the Federal Government for livestock grazing on public rangelands in Nevada should take into account the economics of permit holders, including factors such as provision of water, fencing, transportation and similar constraints.
- Any change in the fees charged for grazing on public lands should be related to the price of the cattle grazed to protect the stability of the livestock business in Nevada.
- The Nevada Legislature, therefore, urges the Congress to require the Secretaries of the Department of Agriculture and the Department of the Interior to continue the current formula for grazing fees.

Wild Horses - Senate Joint Resolution No. 20 (File No. 89,  
Statutes of Nevada, 1985)

- The Wild, Free-roaming Horses and Burros Act of 1971, 16 U.S.C. 1331 et seq., provides for the protection, management and control of all wild horses and burros on lands administered by the Bureau of Land Management (BLM) and the United States Forest Service (USFS).
- The Act has been overly "successful" and has allowed once threatened populations of wild horses and burros in Nevada to increase to the extent that, according to the BLM, about 31,000 wild horses and 1,700 wild burros inhabited the public lands in this state in fiscal year 1984. These populations are increasing at an annual rate between 12 and 18 percent and will double in the next 5 years without stronger measures to control their numbers.

- Field investigations support the claim that without greater numbers of horses removed from the public lands each year, and without more efficient management of these animals, damage to Nevada's sensitive environment will continue to accelerate because of overgrazing and overuse of certain areas by wild horses.
- The removal of wild horses and burros from the range for adoption is currently the only authorized means of disposing of these animals.
- As of April 1985, there were 5,900 captured wild horses in Nevada awaiting adoption. The feeding of these animals costs the American taxpayers \$11,800 per day. These expenses are unjustifiable when other federal programs are being eliminated to reduce the federal deficit and potential alternatives are available for this program.
- The Nevada Legislature, therefore, urges the Congress to enact legislation to:
  1. Require the Secretary of the Interior and the Secretary of Agriculture to control strictly the populations of wild horses and burros;
  2. Authorize additional or more effective methods for the capture, sale, donation, transfer or other removal of wild horses and burros from public lands in Nevada; and
  3. Require the conveyance of all unadopted wild horses and burros to appropriate agencies for the protection of animals. If the demand for adoption falls below the number of available animals, the legislation should authorize the sale of excess wild horses and burros at public auction or the destruction of those animals in the most humane and economical manner possible.

RECOMMENDATION CONCERNING RESIDENCY REQUIREMENT FOR DESERT LANDS

Senate Joint Resolution No. 22  
(File No. 64, Statutes of Nevada, 1985)

- The Desert Land Act, 43 U.S.C. 321, et seq., was enacted by the Congress in 1877 to encourage the development of desert lands by the residents of states containing arid lands.
- The Congress amended the Act in 1921 to except only Nevada from the requirement that persons entering the lands be residents of the state in which the entry was made. The purpose of the amendment was to encourage persons in other states to develop the desert lands in Nevada because Nevada was too sparsely populated to provide adequate numbers of settlers.
- Nevada's population has grown significantly since 1921, so that the justification for the amendment of the Act in 1921 no longer exists. The resources of the resident citizens of Nevada are more than adequate to develop the desert lands within the state's boundaries.
- The Nevada Legislature, therefore, calls upon Congress to restore equity by removing from the Desert Land Act the exception which allows persons other than resident citizens of Nevada to enter upon the desert lands of Nevada.





**NEVADA LAND OWNERSHIP**

**KEY**

- **FEDERAL LANDS ALL CATEGORIES IN BLACK**
- **CHECKERBOARD IS 20 MILE CORRIDOR ACROSS STATE OF ALTERNATING SQUARE MILES OF BLM & RAILROAD GRANT LAND**
- **WHITE IS PRIVATE AND OTHER NON-FEDERAL LAND**



STATE OF NEVADA

REQUEST FOR 6,000,000 ACRE  
LAND GRANT

February 1970

Prepared by  
Nevada State Committee on Federal Land Laws  
201 So. Fall Street, Room 216  
Carson City, Nevada 89701



Address Reply to  
Nye Building, Room 216  
Carson City, Nevada 89701  
Telephone 882-7482



STANLEY C. ELLISON—Woolgrowers  
PAUL GEMMILL—Mining  
GEORGE E. HARRIS—Education  
SAMUEL G. HOUGHTON—Recreation  
WILLIAM MACDONALD—  
City and County Governments  
JOHN MAEVEL—General Public  
DR. ROBERT V. BROADBENT—Law and Game  
ELWYN TRIGERO—Banking  
PETER E. MARBLE—Livestock  
CARL SORENSEN—Railroads  
ROBERT F. THOMAS—Agriculture

STATE OF NEVADA

## State Committee on Federal Land Laws

CARSON CITY, NEVADA 89701

February 9, 1970

### Summary

STATE OF NEVADA

### Request for 6,000,000 Acre Land Grant

All through the hearings and deliberations of the Public Land Law Review Commission, we in Nevada have been aware of the economic inequities and hardships suffered by the residents of the State of Nevada in having their State 86.7% Federally owned. Nevada State boundaries encompass 70,745,600 acres of which only 9,293,000 are in non-federal ownership. In reality there are two Nevadas--one which ranks 7th in size among the 50 states in total land area and which is 86.7% Federally owned--and the other Nevada, made up of non-federal land composed of 9,293,000 acres which would rank Nevada as the 10th smallest among the 50 states.

These vast federally owned areas create expensive and inefficient operations for state and local governments to provide the needed governmental services. The Revenue Sharing and Payment in Lieu of Taxes Study prepared for this Commission attempted to analyze the additional costs. This was impossible because no detailed records are kept for this purpose. However, everyone knows

those additional costs are there even though the cost of identifying them would be prohibitive.

If the Federal government had disposed to non-federal ownership a reasonable amount of land since Nevada statehood in 1864, this request for an additional land grant would not be made.

Of the 9,293,000 acres in non-federal ownership in Nevada, 1,473,000 acres (or 2.1% of the area of the State) passed directly from federal to private ownership. The remaining area was originally granted land to railroads or the State.

The Nevada State Committee on Federal Land Laws has prepared a brief historical and economic analysis which is attached for your review and evaluation.

The Committee feels that Congress should provide a belated grant of land to Nevada for the benefit of its common schools. A grant of 6,205,522 acres, in addition to the 2,572,478 acres of land previously granted, would give Nevada a total of 8,778,000 acres for the common schools, and would place Nevada on a reasonable par with its neighbor states of Utah, New Mexico and Arizona.

The study reviews the early history of the area to the period of statehood, pointing to the circumstances leading to statehood and to the sacrifices made by the State to meet the responsibilities imposed as a result of the critical condition of the nation during the period of the Civil War.

Note is made of the benefits in land grants other states have received, of the inequities to the State of Nevada in the quantities

and quality of land granted, and of the limited benefits realized. While Nevada was permitted to exchange in-place land for quantity land of better quality, this was done at a sacrifice of approximately 47% of the area of the original grant. This resulted in the State of Nevada receiving a smaller percentage of public land than any other of the land grant states. This exchange also resulted in benefits to the Nation in the retention in Nevada of unbroken expanses of the public domain.

The amount of land granted to all public land states totals 319,759,585 acres, or 17.1%, per state. Nevada received 2,734,158 acres, or approximately 3.9% of its area. This is the least amount and the smallest percentage granted to any of the land grant states. In contrast, Arizona, New Mexico, and Utah, states most nearly comparable to Nevada in location, terrain, and quality of climate and soils, received approximately 11.0% of their area.

While Nevada has received less than its just share of land in land grants, the activities of the Federal government within the State are large and create a major tax burden on the private property owners of the State to meet the needs of children of government employees for public schooling and other services.

A 6 million acre grant to the State of Nevada would cause adjustment problems to the Nevada Highway Department, but the problems created would be minor and could be solved equitably by the Nevada Legislature. The State Committee on Federal Land Laws feels such an adjustment to be in the best interests of the people of the State of Nevada. It would create a new economic incentive

which would, in the long run, offset any temporary disadvantage to the matching funds of the Highway Department.

Calculations show that if the 6 million acres were sold for \$20 per acre, then a capital investment fund for the Permanent School Fund would be created in the amount of \$120,000,000. Investment of the \$120,000,000 at 6% would yield an annual return \$7,200,000 for support of education in Nevada. If 6 million acres were moved out of Federal ownership, the Federal matching share would be reduced \$527,409 annually.

If the State of Nevada chose to retain some of the 6 million acres in State ownership for parks, fish and wildlife, or preservation of special ecological or environmental values, then the "break-even" point of \$527,409 of the State matching for Highway funds would be about 500,000 acres.

$$500,000 \text{ A} \times \$20 = \$10,000,000$$

$$\$10,000,000 \times .06 = \$600,000$$

This shows that 500,000 acres sold at \$20 per acre would bring \$10,000,000 in a capital investment fund. At 6%, the annual rate of return would amount to \$600,000 for the support of education.

The analysis shows that a 6,000,000 acre grant would serve the needs of education, parks, fish and wildlife and preservation of special ecological or environmental areas, and put Nevada on an equal footing with her sister states.

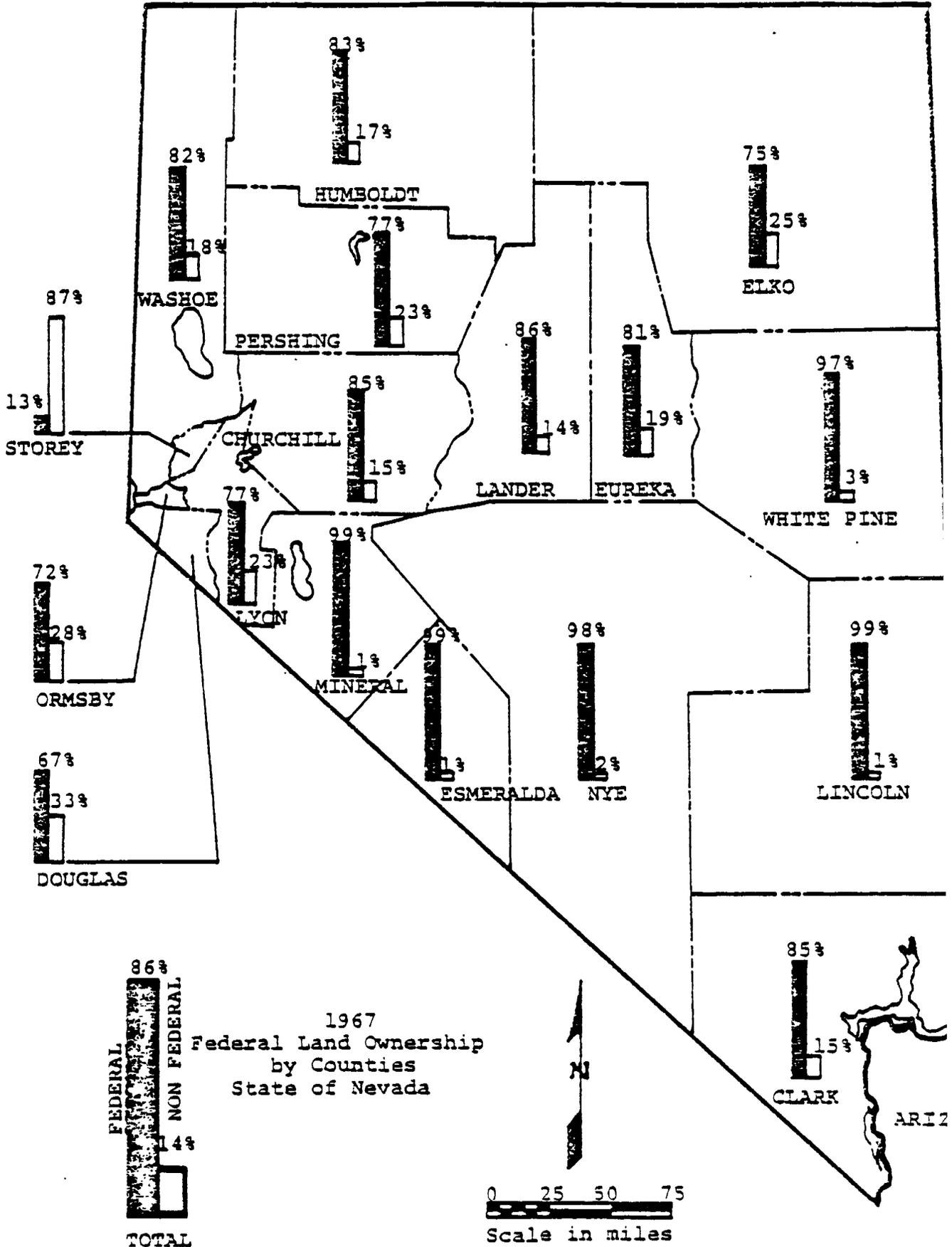
Some of the provisions which we feel should be considered in Federal legislation authorizing this grant are:

1. Before any land could be selected by the State, the Nevada Legislature must authorize a land use planning program to identify those lands most valuable for non-federal ownership. The planning process must have an input by and the concurrence of local and county government to insure compatibility with their planning and zoning programs. The plan must recognize those areas most valuable for permanent State ownership such as key wildlife, recreation, or ecological areas. All lands selected for permanent State ownership must provide for the preservation and enhancement of the environment.
2. After approval of the plan by the Nevada Legislature, those areas considered best suited for private ownership shall be sold through public auction. Funds received would be deposited in the permanent school fund for support of common schools.
3. The type of land to be selected within the State is any land best suited for non-federal ownership as determined by the State plan. It is understood that the plan will avoid selection of any lands needed for the national welfare. In many instances the enhancement of the environment and the preservation of the ecological balance can be best accomplished through non-federal ownership. In this manner, state and local people will have a strong hand in controlling their own environment and destiny. For efficiency of management, fee simple title is requested with no reservations.

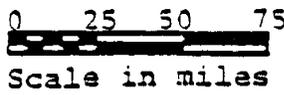
4. We would suggest a realistic time limit of at least 20 year to complete the total program.

In addition to implementing the previously mentioned Federal legislation, State legislation should make additional provisions in authorizing and managing this grant.

1. Some type of acreage limitation on individual sales to prevent speculation and to ensure the highest and best use of this land.
2. With concurrence of local government and their zoning, areas would be identified as suitable for sales as homesites to individuals for rural living environment.
3. Intensive land use planning must coordinate with State water planning, park and recreation planning, fish and wildlife planning, environmental planning, and federal land managing agencies, to ensure compatible total resource planning.



1967 Federal Land Ownership by Counties State of Nevada



LAND OWNERSHIP

Total Federal Ownership	60,573,000 Acres = 36%
Total Non-Federal Ownership	9,691,000 Acres = 14%



February 5, 1970

ECONOMIC IMPACT OF A 6 MILLION ACRE  
LAND GRANT TO STATE OF NEVADA

There are a number of Federal statutes which provide financial assistance to States which are related to Federal land holdings with the States. Thus, payments are made to the states which are related to Federal land ownership in connection with the Federal highway construction program. These payments are not of the revenue sharing or payment in lieu of tax variety. Rather, under this legislation, payments are made to the States on a sliding scale of the costs for Federal highway construction. The percentage is either fifty or ninety percent of the construction costs plus an additional percentage. The additional percentage is based on the ratio of certain Federal land holdings in the State to the total land area of the State.

Similarly, the States benefit from the Forest Highway Program administered by the Bureau of Public Roads. Under this program funds are appropriated for the building of roads in National Forests, half on the basis of the acreage of National Forests within each State, and half on the value of National Forests within each State. The formula allocation was established in 1955 and, with but slight modifications, there have been no changes in the specific percentage apportionments of the appropriations since that date.

In addition, under the Public Lands Highways Program, States having unappropriated and unreserved public lands may receive funds for highway construction. The funds under this program are allocated to the States, when appropriated, "on the basis of need." Finally, under the educational impact legislation (Public Law 874) grants are made to local school districts where the Federal Government has acquired more than ten percent of the assessed value of the land within such district since 1938.

A review of Federal aid programs to states show that the only significant Federal aid program related to Federal land ownership is the Federal Highway Act. All other Federal aid programs are based primarily on population. Educational Aid is based upon the number of children of Federal employees attending public schools and is not related to ownership of land.

The Federal Highway Aid Act has been modified several times since its original passage in 1916. Originally, construction costs were shared on the basis of 50% Federal and 50% State. Today in Nevada, funds which are used for construction of Nevada highways classed as primary, secondary or urban roads are approximately 93% Federal and 7% State. These figures are based upon an area of Federal lands amounting to 61,313,204 acres, the total area of the state being 70,264,960 acres. This area constitutes 87.26% of the State total. The Federal Highway Act permits usage of one-half of this percentage, or 43.63% which, when added to the standard 50 percent matching share, makes the Federal share 93.63%,

and the Nevada share only 6.37%. In other words,  $50\% + \frac{87.26}{2} = 93.63\%$ , is the Federal share of highway construction cost in Nevada.

Matching money for the Interstate highway construction is a separate program and would not be affected until Federal lands are less than 50% of the State's land area. This is not applicable to this discussion.

At this point several conservative assumptions must be made to make a meaningful evaluation. They are:

1. Any land granted to Nevada would be those lands presently administered by the Bureau of Land Management.
2. The lowest land classification permitted by the Nevada Tax Commission would be used to establish tax value for computation. This would be \$1.25 per acre. If this grant is successfully pursued, undoubtedly assessors would place much of it in a higher classification. For this purpose, it is felt to be a conservative estimate.
3. The average tax rate for rural areas of the 17 counties of Nevada are:

Churchill	\$3.35	Lincoln	\$3.35
Clark	4.70	Lyon	3.35
Douglas	3.35	Mineral	3.35
Elko	3.35	Nye	3.35
Esmeralda	3.35	Ormsby	3.35
Eureka	3.35	Pershing	3.35
Humboldt	3.35	Storey	3.35
Lander	3.35	Washoe	4.70
		White Pine	3.35

Therefore a further assumption would be to use rural

area average tax rate of \$3.35 per \$100 assessed valuation. This reflects a conservative approach.

4. Another conservative assumption made was the sale price of \$20.00 per acre. We realize this is extremely conservative but such an assumption must be made to test the economic feasibility of this program.
5. The final assumption would be a 6% return on investing of funds in the permanent school fund.

Based on information supplied by the Nevada Highway Department, movement of Federal land out of Federal ownership would adversely affect the primary, secondary and urban road construction due to loss of Federal matching funds.

According to Table I, under existing conditions 93.63% is the Federal share. With \$10,334,240 in Federal funds available, Table I shows how decreases in Federal acreage would reduce the Federal portion of construction funds. If the State were granted 6 million acres, the Federal highway share would cost the State an additional \$527,409 to match the Federal allotment of \$10,334,240

However, if the State received and then sold to private ownership the 6 million acres and it was classed by the tax assessor at the minimum value of \$1.25 per acre and using the \$3.35 average tax rate in the State, then  $6,000,000 \text{ acres} \times \$1.25 \text{ per acre} \times .0335 = \$251,250$ . This shows that the 6 million acres in private ownership completely undeveloped, and taxed at the \$3.35 average tax rate,

would bring in \$251,250. Subtracting these taxes from the highway fund loss (\$527,409) shows a loss to the State of \$276,159. However, it is unrealistic to think that 6 million acres in private hands would continue undeveloped. It would serve as a new stimulus to the economy and generate much more than the \$276,159 loss to the State highway matching fund.

Assume that the 6 million acres were sold by the State at \$20.00 per acre with the revenue going into the Permanent School Fund; this would be  $6,000,000 \times \$20 = \$120,000,000$ . At 6% this \$120,000,000 capital would yield \$7,200,000 annually. ( $\$120,000,000 \times .06 = \$7,200,000$  annual income.) This \$7,200,000 would be used to support the cost of providing public education.

Undoubtedly, the Nevada legislature would give serious consideration to keeping the State Highway Department "whole" and would allot them \$527,409 to cover their lost Federal contributions. One method would be to increase the present motor fuel tax 0.2¢ per gallon which would raise the \$527,409 loss attributable to 6,000,000 acres removed from Federal ownership.

#### Conclusion:

A 6 million acre grant to the State of Nevada would cause adjustment problems to the Nevada Highway Department. But the problems created would be minor and could be solved equitably by the Nevada Legislature. The State Committee on Federal Land Laws feels such an adjustment to be in the best interests of the people of the State of Nevada. It would create a new economic incentive

which would, in the long run, offset any temporary disadvantage to the matching funds of the Highway Department.

Calculations show that if the 6 million acres were sold for \$20 per acres then a capital investment fund for the Permanent School Fund would be created in the amount of \$120,000,000. Investment of the \$120,000,000 at 6% would yield an annual return of \$7,200,000 for support of education in Nevada.

If the State of Nevada chose to retain some of the 6 million acres in State ownership for parks, fish and wildlife, or preservation of special ecological or environmental values, then the "break-even" point of \$527,409 of the State matching for Highway funds would be about 500,000 acres.

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This shows that 500,000 acres sold at \$20 per acre would bring \$10,000,000 in a capital investment fund. At 6%, the annual rate of return would amount to \$600,000 for the support of education.

This analysis shows that a 6,000,000 acre grant would serve the needs of education, parks, fish and wildlife and preservation of special ecological or environmental values, and put Nevada on an equal footing with her sister states in the Union.

\* \* \*

Table I

TOTAL ACRES 70,264,960

Primary, Secondary, Urban

<u>Acres</u>			
61,313,205 = $\frac{87.26}{2} + 50 = 93.63\%$		Total	\$11,037,317
		Federal	10,334,240
		State	703,077
60,313,205 = $\frac{85.83}{2} + 50 = 92.91\%$		Total	11,122,850
- 1,000,000 increase \$85,533		Federal	10,334,240
		State	788,610
56,313,205 = $\frac{80.14}{2} + 50 = 90.07\%$		Total	11,473,565
- 5,000,000 increase \$436,248		Federal	10,334,240
		State	1,139,325
55,313,205 = $\frac{78.72}{2} + 50 = 89.36\%$		Total	11,564,726
- 6,000,000 increase \$527,409		Federal	10,334,240
		State	1,230,486
51,313,205 = $\frac{73.02}{2} + 50 = 86.51\%$		Total	11,945,717
- 10,000,000 increase \$908,400		Federal	10,334,240
		State	1,611,477
41,313,205 = $\frac{58.79}{2} + 50 = 79.39\%$		Total	13,017,055
- 20,000,000 increase \$1,979,738		Federal	10,334,240
		State	2,682,315
31,313,205 = $\frac{44.56}{2} + 50 = 72.28\%$		Total	14,297,509
- 30,000,000 increase \$3,260,192		Federal	10,334,240
		State	3,963,269
11,313,205 = $\frac{16.10}{2} + 50 = 58.05\%$		Total	17,802,308
- 50,000,000 increase \$6,764,991		Federal	10,334,240
		State	7,468,068
3,513,246 = $\frac{0}{2} + 50 = 50.00\%$		Total	20,668,480
or less		Federal	10,334,240
		State	10,334,240
- 57,599,957 increase \$9,431,163			
or more			



HISTORY OF  
LAND GRANTS IN NEVADA

INDEX

	Page
Introduction	1
Pre-Territorial History	2
Utah Territory	3
Nevada Territory	4
Statehood Efforts	4
Statehood	5
Land Grants	6
Two Million Acre Trade	11
Quantity of Land Granted	12
Quality of Land Granted	15
Federal Land Disposal Laws in Nevada	18
Inequity of Vast Federal Holdings	19
Nevada Claims Justified	21

TABLES

Table 1 - Common School Land Grants to States Admitted After 1864	8
Table 2 - Summary History of Land Grants to States for Common Schools Under Pro- visions of State Enabling Acts	9
Table 3 - Comparison of Land Grants to Nevada and New Mexico	13
Table 4 - Status of Land and/or Permanent Fund, Including Income from Permanent Fund by States (Western Group) as of July 1, 1968	17
Table 5 Federal Agencies Which Rank Among the Major Land Holders in Nevada	18.
Table 6 Land Ownership Pattern in Nevada	19.



## INTRODUCTION

The purpose of this study is the development of a logical case for the correction of inequities suffered by the State of Nevada in the distribution of federal lands for the benefit of the common schools of the State through a grant of additional lands for this purpose.

The study reviews the early history of the area to the period of statehood, pointing to the circumstances leading to statehood and to the sacrifices made by the State to meet the responsibilities imposed as a result of the critical condition of the nation during the period of the Civil War.

Note is made of the benefits in land grants other states have received, of the inequities to the State of Nevada in the quantity and quality of land granted, and of the limited benefits realized. While Nevada was permitted to exchange in-place land for quantity land of better quality, this was done at a sacrifice of approximately 47% of the area of the original grant. This resulted in the State of Nevada receiving a smaller percentage of public land than any other of the land grant states. This exchange also resulted in benefits to the Nation in the retention in Nevada of unbroken expanses of the public domain.

The total amount of land granted to all public land states totals 319,759,585 acres, or 17.1%, per state. Nevada received only 2,734,158 acres, or approximately 3.9% of its area.

This is the least amount and the smallest percentage granted to any of the land grant states. In contrast, Arizona, New Mexico, and Utah, states most nearly comparable to Nevada in location, terrain, and quality of climate and soils, received approximately 11.0% of their area.

While Nevada has received less than its just share of land in land grants, the activities of the Federal Government within the State are large and create a major tax burden on the private property owners of the State to meet the needs of children of government employees for public schooling.

The Nevada State Committee on Federal Land Laws feels that Congress should provide a belated grant of land to Nevada for the benefit of its common schools. A grant of 6,205,522 acres, in addition to the 2,572,478 acres of land previously granted, would give Nevada a total of 8,778,000 acres for the common schools, and would place Nevada on a reasonable par with its neighbor states of Utah, New Mexico, and Arizona.

#### Pre-territorial History

Until the middle of the nineteenth century the lands which now comprise the State of Nevada experienced no organized political control. Nominal ownership of the area passed to the Spanish Empire of Ferdinand in 1494 with the pronouncement by Pope Alexander VI of the Line of Demarcation. The land was unknown and was merely identified as a spot on the map of Western North America. Father Garces approached the area from

the southwest and the party of Escalante and Dominguez explored along its eastern border in 1776.

Jedediah Smith, the first American to visit the area, passed through the southeastern part of the area on his journey from Salt Lake City to California in 1826. His route soon became the Old Spanish Trail from Santa Fe to California. Peter Skene Ogden entered the territory from the north and explored the Humboldt River area in 1828 and 1829. Joseph Redford Walker journeyed down the Humboldt River and over the Sierra Nevada Mountains via Walker Pass. Captain John C. Fremont discovered Pyramid Lake in 1844 and explored the northwest corner of the territory. He passed over the Sierra Nevada via Carson Pass. Emigrants followed the explorers. Bartelson and Bidwell traveled over the northern route, and the Rowland and Workman party followed the old Spanish Trail. The discovery of gold in California in 1848 greatly stimulated emigration to that state in the immediately following years. Discovery of gold and silver in Nevada in the 1850's induced many California gold seekers to journey eastward to the scenes of the newer discoveries and led to the founding of many mining towns.

The Treaty of Guadalupe Hidalgo in 1848 signalled the end of the Mexican War and the transfer of ownership of the territory which now comprises Nevada from Mexico to the United States.

### Utah Territory

Nothing was done with the new territory from 1848 to 1850

while Congress debated the slavery question. The compromise of 1850 temporarily settled this question and permitted the entry of California into the Union. The balance of the new area obtained from Mexico was divided into the territories of Utah and New Mexico. The Utah territory had its beginning with the settlement of the Salt Lake City area by Mormons in 1847.

The attempt to provide a government for the Nevada part of the territory by the Utah territorial authorities was unsuccessful. Salt Lake City was a long distance away from the settlements along the east side of the Sierras and there was a mistrust of the Mormons. This mistrust was mutual and led to the recall in 1857 by the Mormon Church of Mormons who had settled in the valleys along the east face of the Sierras. The exodus of these settlers deprived the new territory of the stabilizing influence of the permanent inhabitant and home builder.

### Nevada Territory

After the recall of the Mormon settlers there was left in the Nevada part of Utah Territory largely miners and politicians. A squatters' government was formed, a delegate sent to Washington, and a request made for Congress to form a new territory. This request was denied, but Congress acted in 1861 to form the Territory of Nevada. James W. Nye of New York was appointed as governor of the new territory.

### Statehood Efforts

In 1863 when the Nevada Territory had been in existence a

little over one year, the citizens of the territory voted in favor of seeking admission to the Union. A constitution was framed and submitted to the people. The people rejected the constitution presumably because of the provision for the imposition of a tax on the proceeds of mines. This effort toward achieving statehood was locally inspired and was not authorized by Washington.

However, by this time the republicans in Washington were concerned about the votes needed for adoption of the 13th Amendment. A new movement for statehood was started, inspired by outside interests, and on March 21, 1864, Congress this time passed an act authorizing the admission of Nevada into the Union as a state on an equal footing with other states in the Union.

### Statehood

The Comstock Lode in 1864 was at the peak of its productivity. Perhaps Congress may have been influenced somewhat in its decision to admit Nevada to the Union by the flow of gold and silver from this area.

Congress made sure that the new state would be republican and anti-slavery by requiring provision in the constitution, when prepared, which would guarantee these requirements. A constitution was drawn, approved by the Legislature, telegraphed to, and approved by Washington. On October 31, 1864, Nevada was admitted to the Union. Thus, in the brief space of sixteen years, the area

comprising the main part of Nevada had passed from Mexican territory, to unorganized American territory, to the organized territories of Utah and New Mexico, to the territories of Nevada and Arizona in 1861 and 1863, and to the State of Nevada in 1864.

### Land Grants

A comparison of the enabling statehood acts, particularly the items pertaining to land grants for support of common schools, and especially for those states entering the Union after Nevada, is indicative of inequities in the grants made to Nevada. While the Nevada enabling act had the appearance of liberality in granting public lands for the use of the common schools and for other purposes, a close scrutiny of the grants made to Nevada in comparison to those made to those states admitted to the Union subsequent to the admission of Nevada belies this appearance. It appears that those states which were admitted during the earlier years were penalized.

Subsequent to the admission of Ohio in 1803, and prior to the admission of California in 1850, all states admitted to the Union had been granted one section of each township for the benefit of the common schools. In the case of California and each of the public land states thereafter admitted, until the admission of Utah in 1894, the enabling acts provided for the granting of Sections 16 and 36 of each township for the benefit of the common schools. In the cases of Utah, New Mexico, and Arizona, four sections of each township were granted to the state for this purpose. Oklahoma, the 46th state to be admitted was granted

two sections in each township in the unreserved public domain of the state, to the public schools. Two sections of Indian lands, when opened to settlement, were granted to the state with proceeds from the sale of these lands to be divided among the University of Oklahoma, and several other state institutions.

Table 1 shows by states the common school land grants made from 1864 to 1912 and shows that in comparison with other states Nevada received the least amount of land and the smallest percentage of its land area of any of the states admitted after 1864.

It should also be noted at this time that the State of Nevada as originally admitted in 1864 consisted of an estimated area of 81,539 square miles. The area was increased by additions in 1866 and in 1867.

The Bureau of Land Management's Public Land Statistics for 1967 gives the total area of Nevada as 110,540 square miles or 70,745,600 acres, of which 481,280 acres are water surface. The same document stated that 51,053,805 acres have been surveyed and 12,201,155 acres, or about 36% of the State, remain unsurveyed. The total area of the State, 70,745,600 acres, less the 481,280 acres of water surfaces, give an area of 70,264,220 acres of land.

There was apparently no change in the public land policy so far as the annexations of 1866 and 1867 were concerned. Provision for the acceptance of the land that was added in 1866 had been written into the constitution as it had been drafted and

TABLE 1

COMMON SCHOOL LAND GRANTS TO STATES ADMITTED

AFTER 1864

States in order of admission	Total area of state (acres)	Area granted to common schools	Percentage of area granted for common schools
Nevada	70,745,600	2,572,478 <u>1/</u>	3.6
Nebraska	49,425,280	2,730,951	5.5
Colorado	66,718,080	3,685,618	5.5
North Dakota	45,225,600	2,495,396	5.5
South Dakota	49,310,080	2,773,084	5.6
Montana	94,168,320	5,198,258	5.5
Washington	43,642,880	2,376,391	5.4
Idaho	53,476,480	2,963,698	5.5
Wyoming	62,664,960	3,470,009	5.5
Utah	54,346,240	5,844,196	10.7
Oklahoma	44,748,160	1,375,000	3.1
New Mexico	77,866,240	8,711,324 <u>2/</u>	11.2
Arizona	72,901,760	8,093,156	11.1

Source - Public Land Law Review Commission, LAND GRANTS TO STATES.  
Table 1 - P. 16.

1/ - All grants, including the 500,000 acre grant originally given for internal improvements.

2/ - New Mexico received 1,000,000 acres for county bonds, which acreage was to revert to the common schools.

SUMMARY HISTORY OF LAND GRANTS TO STATES FOR COMMON SCHOOLS

UNDER PROVISIONS OF STATE ENABLING ACTS.

STATE	DATE OF ADMISSION	GRANT OF ONE SECTION	GRANT OF TWO SECTIONS	GRANT OF FOUR SECTIONS
Ohio	1803	Section 16		
Louisiana	1812	" 16		
Indiana	1816	" 16		
Mississippi	1817	" 16		
Illinois	1818	" 16		
Alabama	1819	" 16		
Maine	1820	Not a public land state		
Missouri	1821	Section 16		
Arkansas	1836	" 16		
Michigan	1837	" 16		
Florida	1845	" 16		
Texas	1845	Not a public land state		
Iowa	1846	Section 16		
Wisconsin	1848	" 16		
California	1850		Sects. 16 & 36	
Minnesota	1858		" 16 & 36	
Oregon	1859		" 16 & 36	
Kansas	1861		" 16 & 36	
West Virginia	1863	Not a public land state		
Nevada	1864		Sects. 16 & 36	1/
Nebraska	1867		" 16 & 36	
Colorado	1876		" 16 & 36	
North Dakota	1889		" 16 & 36	
South Dakota	1889		" 16 & 36	
Montana	1889		" 16 & 36	
Washington	1889		" 16 & 36	
Idaho	1890		" 16 & 36	
Wyoming	1890		" 16 & 36	
Utah	1896			Sects. 2, 16, 32, 36
Oklahoma	1907		" 16 & 36	2/
New Mexico	1912			" 2, 16, 32, 36
Arizona	1912			" 2, 16, 32, 36
Alaska	1959	Twenty-eight per cent of area		
Hawaii	1959	Not a public land state		

1/ Quantity land substituted for in-place grants as previously noted.

2/ Oklahoma was granted two additional sections of Indian reservations when opened to settlement to be applied to University, normal schools, an A & M school, and to charitable and penal institutions.

accepted. Article XIV, which is descriptive of the boundaries of the new state, provided in addition "...And whensoever Congress shall authorize the addition to the Territory or State of Nevada any portion of the territory on the easterly border of the foregoing defined limits, not exceeding in extent one degree of longitude, the same shall thereupon be embraced within and become a part of this state...."

An act of Congress concerning the Boundaries of the State of Nevada, approved May 5, 1866 - made provision for the transfer of the additional territory on the easterly border as anticipated in the above quoted provision of the Nevada constitution as follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, as provided for and consented to in the constitution of the State of Nevada, all that territory and tract of land adjoining the present eastern boundary of the State of Nevada and lying between the thirty-seventh and the forty-second degrees of north latitude and west of the thirty-seventh degree of longitude west of Washington, is hereby added to and made a part of the State of Nevada.\*

By the same act Congress also made provision for the addition of that portion of the present State of Nevada which lies to the south of the thirty-seventh degree of north latitude, west of the thirty-seventh degree of longitude west of Washington, D.C. (approximately the 114<sup>o</sup> of west longitude) and the Colorado River, and east of the eastern boundary of California, to the State. The act provided, however, that this should become a part of the State of Nevada only after the legislature should

\* Koontz, Political History of Nevada 1965 (Fifth Edition)  
P. 90

give consent thereto. The Legislature, by joint resolution on January 13, 1867, accepted the offer of Congress and made this land a part of the State of Nevada.

Positive surveys, made since the annexations of 1866 and 1867 have determined the land area of Nevada at 109,798 square miles, or approximately 70,264,220 acres. Of this total area, Nevada was officially entitled to 3,904,746 acres of land for the benefit of the common schools.

### Two Million Acre Trade

The 1879 regular session of the Nevada Legislature memorialized Congress to permit Nevada to exchange its 16th and 36th section grant for 2 million acres to be selected from unappropriated nonmineral land. In 1880 Congress authorized this exchange. Apparently reasons for this exchange of about 3.9 million acres for the 2 million acres were: (1) long delays in securing surveys to identify the 16th and 36th sections, (2) immediate need for funds for educational purposes, and (3) the feeling that, even after being located, many of the school sections would be remote and worthless.

In 1880, sixteen years after Nevada was admitted to the Union, only about 63,249 acres of the original 3.9 million acre grant had been sold. Another 9,228.62 acres had been selected but not contracted for. Both blocks of land, amounting to approximately 72,478 acres, or 1.8% of the original area, were granted to Nevada in addition to the 2 million acres involved in the exchange.

While the privilege of selecting the land has been referred to as a "unique advantage" for Nevada, it should be pointed out that the advantages were not confined to the State of Nevada. In giving up the in-place sections, valuable areas of national forest lands were returned to the public domain. Other governmental departments and agencies which also have benefited by unbroken expanses of public domain land in Nevada include the Bureau of Land Management, the Fish and Wildlife Service, the National Park Service, the Bureau of Reclamation, the Atomic Energy Commission, and the Department of Defense.

#### Quantity of Land Granted

One of the most prominent of the inequities in the grants of land to the various public land states is in the quantity of land granted.

While this item has been previously reviewed, Table 3 is presented to show the extremes in the land grants and contrasts the land grants made to Nevada with those made to New Mexico. It further points to grants made to the latter state during the period it existed as a territory as well as at the time of statehood.

While this study is directed to the inequities in the acreage of the grants of school lands to the respective states, this table points also to the numerous purposes for which grants were made in the case of New Mexico, and few purposes mentioned in the case of Nevada.

TABLE 3

p. 13

## COMPARISON OF LAND GRANTS TO NEVADA AND NEW MEXICO

Purpose of Grant	N E V A D A		N E W M E X I C O		
	Grants to Territory	Grants under Enabling Act	Grants to Territory	Grants under Enabling Act	
Common Schools	Nevada received no grants as a Territory.	2,072,478 <u>1/</u> acres	4,355,662 acres	4,355,662 acre	
University		46,080 "	65,000 "	200,000 "	
Agri. College			100,000 "		
Capitol Bldg.			32,000 "		
Water Reservoirs			500,000 "		
To increase river flow			100,000 "		
Insane Asylum			50,000 "	100,000 "	
School of Mines			50,000 "	150,000 "	
School for Deaf and Dumb			50,000 " )	100,000 "	
School for Blind			50,000 " )		
Normal School			100,000 "		
Miner's Hospital, Governor's Palace, etc.			50,000 "	50,000 "	
Common School Fund			5% of sales pub. lands	5% of sales pub. lands	5% of sales pub. lands
Public Roads and Ditches			500,000 <u>2/</u>		
Public Buildings		12,800 acres		100,000 "	
Penitentiary		12,800 "		100,000 "	
Charitable, Penal and Reform				100,000 "	
Agricultural and Mechanical College (School of Mines)		90,000 "		150,000 "	
Military Institute				100,000 "	
For County Bonds to revert to Common Sch.				1,000,000 "	
TOTAL		2,734,158 <u>3/</u>	5,502,662 "	<u>5,705,662</u> "	

Footnotes to Table 3, page 13.

- 1/ Consists of 2,000,000 acres exchanged plus 63,249 and 9,228.62 acres sold or selected prior to 1880.
- 2/ Originally granted for internal improvements, but later credited to the common schools.
- 3/ Of the total of 2,734,158 acres of grants to the State, 2,572,478 acres of the grant lands accrued to the common schools, and 161,680 acres of grants were for other purposes.

Source - Public Land Law Review Commission Land Grants to States. April, 1969, and Nevada Department of Conservation and Natural Resources, Division of State Lands.

Nevada has received, in public land grants for all purposes a total of about 2,734,158 acres, or about 3.9% of the land area of the State; in contrast New Mexico has received 12,208,324 acres or about 16% of the land of that state.

In even more striking contrast to the allotment of land to Nevada is the grant of public lands given to the new State of Alaska. The enabling act providing for the admission of Alaska to the Union was approved on July 7, 1958. This State, also comparable to Nevada in the great expanses of open waste lands, was granted 30% of the land area of the State, or some 102,550,000 acres of public land and 400,000 acres of national forest land. Furthermore, in view of the fact that "...Place grants such as school sections given all other states would make little sense in Alaska, given the nature of the vast wasteland, any more than they had in Nevada..."\* the right of selection was left to the State with no restrictions on vacant, unappropriated and unreserved lands at the time of their selection, including mineral lands and lands under oil and gas leases.

#### Quality of Land Granted

Another obvious inequity in the grants of school lands lies in the general category of the quality of the land granted. Although the amount of land originally granted to Nevada was proportionately twice as much as that granted to the State of Ohio, which was admitted in 1803, the land in the two states

\* Public Land Law Review Commission, History of the Public Land Law Development, 1968 - P. 316.

varied greatly in quality. The greater portion of the in-place grant land in Nevada was of little or no value at the time it was granted, and has gained little in value since that time.

The land of Ohio, on the other hand, was quite uniformly of outstanding value. Although presenting a variation in nature of the soils and geological formations, the land provided the basis for a variety of uses and could be adapted to a number of industrial and agricultural pursuits.

The contrast is even more accentuated by the population capacity of the two states. Ohio, with a total land area of 41,222 square miles, ranks sixth among the states in population while the State of Nevada, with a land area of 109,788 square miles, held the position of the least populated state until the census of 1960 placed her third from the bottom.

Although Nevada was given the privilege of selecting the two million acres of land in lieu of the original grant of in-place land, the exchange was made at the expense of 1,832,268 acres of the original grant.

The realities of the dual inequities of quantity and quality of land granted to the various states is well illustrated by Table 4 which reflects the status of the common school lands, the permanent funds or income derived therefrom, and the benefits which accrue to the respective states with which Nevada may be compared.

TABLE 4

Status of Land and/or Permanent Fund, Including Income from Permanent Fund by States (Western Group) as of July 1, 1968 1/

State	Total Land Granted (Acres)	Grant Land Still Owned (Acres)	Permanent Fund Value <u>2/</u> (\$)	Annual Expendable Fund Value <u>3/</u> (\$)
Arizona	10,543,673	9,361,935	19,394,000.00	2,367,086.14
California	8,822,398	617,000	32,983,017.00 <u>4/</u>	2,917,959.00
Colorado	4,433,898	3,021,035	31,884,802.00	3,750,326.00
Idaho	3,639,555	2,533,820	54,820,584.85	2,188,894.57
Montana	5,871,058	5,125,021	47,124,856.59	6,045,889.20
Nevada	2,734,158	1,408	6,821,787.51	694,487.81
New Mexico	12,789,916	9,085,366	356,029,571.42	16,185,194.87
Oregon	4,375,515	723,986	14,726,795.00	3,311,856.00
Utah	7,464,497	3,706,623	11,959,729.81	1,661,395.06
Washington	3,044,471	2,235,572	111,152,243.00	5,079,292.00
Wyoming	4,139,209	3,650,178	75,932,587.30	4,114,647.02

Public Land Law Review Commission.  
Land Grants to States. April 1969.

Par Value used in reporting investments.

Income from rents, royalties, interest, etc.

As of 1965. The fund was abolished  
July 1, 1965.

## Federal Land Holdings in Nevada

Excluding Indian trust property, the holdings of the federal government in Nevada amounts to 60,971,262 acres, or 86.774 percent of the land of the State. The Indian reservations within Nevada amount to about 1.1 million acres. None of these federal lands are taxable. Seventeen agencies of the federal government currently hold and have jurisdiction over this public land. Much of this land does not serve any purpose of the federal government, but could be turned over to the State of Nevada and placed in private hands for development and production.

The federal agencies not only pay no taxes on the land controlled but their employees add to the school population and to the burden of the public schools to provide education.

TABLE 5

### FEDERAL AGENCIES WHICH RANK AMONG THE MAJOR LAND HOLDERS IN NEVADA

Department of Agriculture:		
Forest Service	5,059,461	acres
Department of the Interior:		
Bureau of Land Management	47,749,645	"
Fish and Wild Life	2,909,034	"
National Park Service	115,880	"
Bureau of Reclamation	1,160,812	"
Atomic Energy Commission	817,019	"
Department of Defense	3,149,425	"
Other Agencies	9,986	"
Total	60,971,262	acres

Source: Bureau of Land Management, Public Land Statistics, 1967

## Federal Land Disposal Laws in Nevada

The general land laws for disposal of federal land to private individuals have never worked well in the State of Nevada. Table 6 shows that only 2.1% of the state passed from federal to private ownership through the general land laws.

TABLE 6

### LAND OWNERSHIP PATTERN IN NEVADA

	<u>Million Acres</u>	<u>Percent</u>
Area of Nevada (Land)	70.264 <u>1/</u>	100
Area owned by U.S.	60.971	86.7
Area not owned by U.S.	9.293	13.2
Grants to Railroad	5.086	7.2
Grants to State	2.734	3.9
Area moved from federal to private ownership	1.473 <u>2/</u>	2.1

1/ Land area exclusive of the area of water surface.

2/ This area comprises homesteads, enlarged homesteads, desert land entries, and scripted lands.

Also it should be pointed out that much of the in-place railroad grant of originally 5.086 million acres has been sold. The current railroad grant holdings are about 1.584 million acres. The State of Nevada has sold essentially all of its grant lands.

## The Inequity of Vast Federal Holdings

Public Land Statistics (1967) reveals that of a total acreage of 1,901,756,160 in the contiguous United States, 352,789,100 acres, or in excess of 18%, is held by the federal government. In the Western public land states ownership by the federal government ranges from a low of 29.6% in Montana to a high of 86.7% in Nevada.

The ownership and control of such a large portion of the land area by the federal government has been referred to, and perhaps rightly so, as "Social Ownership" as contrasted to that which should normally be held for essential governmental functions.

This is contrary to American thought and to the American way of life. America has become great as a result of the philosophy and practice of the dignity of the individual, and his inherent right to direct his own destiny and to control his own affairs. Government ownership of vast areas of land when needed by man in his pursuit of happiness denies these inherent rights.

Also significant as an inequity in the State of Nevada is the increased tax burden imposed on the state by the federal ownership of the great portion of the land. Recent and current development and use of large sections of this land within the state has tended to magnify these inequities at the expense of the public schools and local governments.

## Nevada Claims Justified

In support of the claims of Nevada for additional land grants, extracts from an evaluation made in 1916 by Acting Secretary of Interior, Andrieus A. Jones, are cited. This support came in the form of a review and evaluation of Senate Bill 2520 which sought a grant to the State of Nevada of 7,000,000 acres of land for the use and benefit of the public schools of the State.

"...The Federal land grants made by Congress to the more recently admitted States of Arizona, New Mexico, and Utah, to aid in the establishment and maintenance of State educational and other institutions amount to 10,489,000, 12,406,000 and 7,414,000 acres, respectively, or approximately 14 per cent of the gross land areas of these States. Said grants included quantity grants of over 2,300,000 acres to Arizona, over 3,600,000 to New Mexico, and over 1,500,000 to Utah. These states also have the right to claim 1,000,000 acres or more of desert land under the Carey Act. In point of climatic conditions, topography, character of lands, resources, and population, these three states are doubtless more nearly similar to the State of Nevada than any others, though Arizona, according to the 1910 census, has more than double, and Utah and New Mexico more than three times the population of Nevada. Manifestly either the grants to these newer States are excessive or Nevada has hardly received sufficiently liberal assistance from the Federal Government for educational purposes, assuming her needs to be the same or substantially so..."

"...While Congress has made liberal grants for education and support of State institutions, it has consistently held to settlement and development as the primary object in the disposition of the great body of the public lands. So with this bill, I think the only question for consideration is whether or not, under all the circumstances, Nevada has received just and fair treatment in the way of public-land grants for educational and other State institutions. The figures hereinabove given, taken in conjunction with the well-known extreme aridity of large areas of the State and the consequent lower prices that may be realized from the lands granted, rather force the conclusion that the State of Nevada has not received the same liberal treatment as other States similarly situated.

I do not consider, therefore, that a reasonable additional grant to the State within the limitations of the general principles above stated, would be objectionable or a violation of the uniform policy of Congress for many years, but rather a just application of that policy. In this connection I am not unmindful of the fact that no quantity grant as large as that here proposed has ever been made before; on the other hand, under the conditions obtaining in the State of Nevada, doubtless a place grant would be of comparatively small value. I am inclined to the belief, therefore, that while a quantity grant is doubtless preferable, in view thereof, your committee may very properly recommend that the area granted be somewhat reduced from that provided in the bill."

Since the foregoing study was made the conditions and circumstances in Nevada have not changed except for the single one of need. This one has grown tremendously and continues to grow from day to day. Since 1916, the date of the study and recommendation, the population of Nevada has increased in excess of 600 per cent. The enrollments of the public schools have grown apace. The needs of the public schools, because of accelerated demands, have grown at a much greater rate.

In summary, the grants of public land heretofore made to Nevada, while large in quantity, have been small in relation to the area of the State. An additional grant to place the State on an equal basis with the states more recently admitted to the Union is needed and justified.

These data and discussions provide justification for a belated grant of land for the benefit of the common schools of Nevada. A grant of 6,205,522 acres, in addition to the 2,572,478 acres of land previously granted, would give Nevada a total grant of 8,778,000 acres for the benefit of the common schools.

Such an amount of land would place Nevada on a reasonable par with its neighbor states of Utah, New Mexico, and Arizona.

A release of an equitable quantity grant of the public lands of Nevada to the State for aid to the public schools would also serve other purposes. It would make available land for an expanding population within the State and would help also to meet the needs of the Nation.



APPENDIX D

Statement By The Nevada Legislature's Committee  
On Public Lands For The Congressional Hearings  
On The Wilderness Proposals For United States  
Forest Service Lands In Nevada



STATEMENT BY THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS  
TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND  
RESOURCE CONSERVATION OF THE UNITED STATES SENATE'S  
COMMITTEE ON ENERGY AND NATURAL RESOURCES

Reference S.B. 722--The Hecht-Laxalt Wilderness Bill--and other proposals in Congress to designate certain United States Forest Service lands in Nevada as wilderness.

February 13 and 14, 1986  
Reno and Las Vegas, Nevada

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS IS A PERMANENT STATUTORY COMMITTEE CREATED BY THE NEVADA STATE LEGISLATURE TO REVIEW AND COMMENT ON PROPOSALS AND PRACTICES AFFECTING PUBLIC LANDS UNDER THE CONTROL OF THE FEDERAL GOVERNMENT IN THIS STATE. THE COMMITTEE PROVIDES A FORUM FOR THE DISCUSSION AND HEARING OF PUBLIC LANDS MATTERS. IN THIS CAPACITY, THE COMMITTEE SERVES AS AN OFFICIAL LIAISON BETWEEN THE NEVADA LEGISLATURE WHEN THE LEGISLATURE IS NOT IN SESSION AND THE UNITED STATES CONGRESS.

BACKGROUND INFORMATION

THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS HAS HELD FOUR MEETINGS AROUND THE STATE SINCE THE NEVADA LEGISLATURE ADJOURNED IN JUNE 1985. THESE MEETINGS WERE HELD ON AUGUST 16, 1985, IN RENO; OCTOBER 7, 1985, IN ELKO; DECEMBER 16, 1985, IN LAS VEGAS; AND FEBRUARY 7, 1986, IN LAS VEGAS. DURING THESE MEETINGS, THE COMMITTEE HEARD EXTENSIVE TESTIMONY, CONDUCTED RESEARCH AND PROMOTED ACTIVE CONSIDERATION OF THE WILDERNESS ISSUE IN NEVADA.

MEMBERS OF THE COMMITTEE ALSO VISITED WASHINGTON, D.C., FROM OCTOBER 16 THROUGH OCTOBER 18, 1985. DURING THIS VISIT, COMMITTEE MEMBERS MET WITH NEVADA'S CONGRESSIONAL DELEGATION AND WITH 17 SENATORS AND REPRESENTATIVES OR THEIR STAFFS AND FOUR KEY ADMINISTRATION OFFICIALS WHO ARE INVOLVED IN PUBLIC LANDS MATTERS. THE DESIGNATION OF WILDERNESS AREAS IN NEVADA WAS A MAJOR ISSUE DISCUSSED AT THESE MEETINGS.

BASED ON ITS THOROUGH INVOLVEMENT IN THE WILDERNESS ISSUE, THE PUBLIC LANDS COMMITTEE HAS DEVELOPED THE FOLLOWING VIEW CONCERNING THE DESIGNATION OF UNITED STATES FOREST SERVICE LANDS AS WILDERNESS IN NEVADA.

#### THE COMMITTEE'S VIEW

THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS RECOGNIZES THAT THE DESIGNATION OF WILDERNESS AREAS IN THIS STATE MOST LIKELY WILL BE RESOLVED BY COMPROMISE BETWEEN THE DIVERGENT PROPOSALS FROM THE TWO HOUSES OF CONGRESS. THE PUBLIC LANDS COMMITTEE TAKES AN ACTIVE STAND TOWARD A REASONABLE COMPROMISE WHICH TAKES INTO ACCOUNT THE UNIQUE NATURE OF OUR STATE.

THE 1985 SESSION OF THE NEVADA LEGISLATURE ADOPTED ASSEMBLY JOINT RESOLUTION NO. 1 (FILE NO. 76) WITH ONLY FOUR DISSENTING VOTES OUT OF 63 MEMBERS. THIS RESOLUTION URGES THE CONGRESS TO ENACT SPECIFIC WILDERNESS LEGISLATION TO DESIGNATE 136,900 ACRES IN FOUR AREAS OF UNITED STATES FOREST SERVICE LANDS IN NEVADA AS WILDERNESS. THIS LEGISLATION IS REFLECTED IN S.B. 722 AND H.R. 1686, SPONSORED, RESPECTIVELY, BY SENATORS HECHT AND LAXALT AND BY REPRESENTATIVE VUCANOVICH. THIS RESOLUTION ALSO URGES CONGRESS TO DESIGNATE AS WILDERNESS THE 1,322,900 ACRES OF THE DESERT NATIONAL WILDLIFE RANGE WHICH HAS BEEN RECOMMENDED BY THE UNITED STATES FISH AND WILDLIFE SERVICE.

IN A PREVIOUS RECOMMENDATION TO THE MEMBERS OF CONGRESS WHO SERVE ON PUBLIC LANDS COMMITTEES, THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS REAFFIRMED THE POSITION TAKEN BY THE NEVADA LEGISLATURE. THE COMMITTEE RECOGNIZES THAT OTHER PROPOSALS WERE INTRODUCED IN THE U.S. HOUSE OF REPRESENTATIVES AFTER THE NEVADA LEGISLATURE ADJOURNED. HOWEVER, THESE OTHER PROPOSALS MAY NOT ADEQUATELY CONSIDER THE UNIQUE NATURE OF NEVADA.

NEVADA IS UNIQUE AMONG THE STATES BECAUSE ABOUT 86.5 PERCENT OF THE LAND IN THE STATE IS CONTROLLED BY VARIOUS AGENCIES OF THE FEDERAL GOVERNMENT. ALSO, OVER 4 MILLION ACRES HAVE BEEN WITHDRAWN BY THE MILITARY AND OTHER FEDERAL AGENCIES FROM USE BY THE GENERAL PUBLIC. NEVADA FACES CONTINUED WITHDRAWALS OF PUBLIC LANDS BY FEDERAL AGENCIES AND FURTHER WILDERNESS DESIGNATIONS OF LANDS CONTROLLED BY THE BUREAU OF LAND MANAGEMENT, THE U.S. FISH AND WILDLIFE SERVICE AND THE NATIONAL PARK SERVICE. MORE THAN ANY OTHER STATE, NEVADA IS VULNERABLE TO LAND USE DECISIONS MADE BY THE FEDERAL GOVERNMENT AND ITS AGENCIES RATHER THAN THE PEOPLE OR ELECTED OFFICIALS OF THE STATE.

NEVADA'S RURAL COMMUNITIES ALSO ARE HEAVILY DEPENDENT ON ACCESS TO AND USE OF THE FEDERAL PUBLIC LANDS FOR MINING AND RANCHING. ACCORDING TO THE U.S. BUREAU OF MINES, NEVADA HAS POTENTIAL COMMERCIAL PRODUCTION OPPORTUNITIES FOR 17 STRATEGIC OR CRITICAL MINERAL COMMODITIES; AND MANY OF THE WILDERNESS AREAS PROPOSED IN CONGRESS HAVE POTENTIAL FOR THE PRODUCTION OF THESE STRATEGIC AND CRITICAL MINERALS. THE LOSS OF AREAS WITH POTENTIAL FOR THE PRODUCTION OF MINERALS WOULD BE HARMFUL TO THE ECONOMIC WELL-BEING OF THIS STATE AND TO THE ECONOMIC SELF-SUFFICIENCY OF OUR NATION.

THE EXTENSIVE REVIEW OF THE WILDERNESS ISSUE BY THE PUBLIC LANDS COMMITTEE INDICATES THAT COMPROMISE EFFORTS IN CONGRESS MUST TAKE CAREFUL ACCOUNT OF THESE UNIQUE CHARACTERISTICS AND CONTRIBUTIONS OF NEVADA.

### CONCLUSION

THE PUBLIC LANDS COMMITTEE RECOGNIZES THE ESTABLISHMENT OF WILDERNESS AREAS AS AN APPROPRIATE SPECIFIC USE OF SOME OF THE PUBLIC LANDS IN NEVADA. THE COMMITTEE ALSO RECOGNIZES THE POLITICAL REALITIES THAT EXIST IN CONGRESS CONCERNING THE WILDERNESS ISSUE. HOWEVER, THE COMMITTEE BELIEVES THAT THE POLITICAL REALITIES MUST BE TEMPERED BY THE ECONOMIC AND GEOGRAPHIC REALITIES THAT EXIST IN THE STATE OF NEVADA.

THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS, THEREFORE, URGES CONGRESS TO WORK ACTIVELY DURING THIS CONGRESSIONAL SESSION TO ACHIEVE A REASONABLE COMPROMISE ON THE DESIGNATION OF WILDERNESS AREAS IN NEVADA WHICH ADEQUATELY ACCOUNTS FOR THE UNIQUE NATURE OF OUR STATE. THIS COMMITTEE ALSO PLEDGES ITS WILLINGNESS TO PARTICIPATE IN ANY CAPACITY AND TO PROVIDE ANY ASSISTANCE IN EFFORTS BY THE APPROPRIATE MEMBERS AND COMMITTEES OF CONGRESS TO ACHIEVE SUCH A COMPROMISE.

ON BEHALF OF THE NEVADA LEGISLATURE AND THE CITIZENS WHO WE REPRESENT, WE WOULD LIKE TO THANK YOU AND COMMEND YOU FOR BRINGING THESE CONGRESSIONAL HEARINGS TO NEVADA AND FOR PROVIDING THE OPPORTUNITY TO EXPRESS OUR VIEWS.

WITH BEST WISHES AND REGARDS,

SENATOR DEAN A. RHOADS, CHAIRMAN  
ASSEMBLYMAN DAVID D. NICHOLAS, VICE CHAIRMAN  
SENATOR JAMES H. BILBRAY  
ASSEMBLYMAN VIRGIL M. GETTO  
ASSEMBLYMAN JOHN W. MARVEL  
SENATOR JOHN M. VERGIELS  
CLARK COUNTY COMMISSIONER KAREN W. HAYES

APPENDIX E

Letter To Nevada's Congressional Delegation Concerning  
The Committee's Hearing And Recommendation On The  
Proposal To Create The Great Basin National Park





April 9, 1986

∇

Dear ∇:

This letter summarizes the results of the hearing conducted by the Nevada Legislature's Committee on Public Lands on April 4, 1986, in Laughlin, Nevada, concerning the proposal to create the Great Basin National Park in the Mt. Wheeler Peak area of White Pine County, Nevada.

MOTION ADOPTED BY THE COMMITTEE

After due consideration of the letters and documents submitted to the committee and the testimony presented at the hearing in Laughlin, the Public Lands Committee unanimously adopted the following motion:

The Nevada Legislature's Committee on Public Lands endorses the creation of a Great Basin National Park in the Mt. Wheeler Peak area of White Pine County, Nevada, with the following provisions:

1. That the size of the national park be decided by the Nevada congressional delegation with a prime concern being the impact on the ranching and mining activities in the area, giving special consideration toward establishing grazing permit values that could be purchased to help mitigate the implementation of the Great Basin National Park, and further providing that any buffer zone be created wholly within the original boundaries of the national park if buffer zones should ever be established;

2. That a separate bill be drafted and the merits of the proposal to create the Great Basin National Park in Nevada be considered solely on the basis of the withdrawal of the land for that purpose;
3. That a comprehensive environmental and economic impact statement be prepared and published concerning the establishment of the national park; and
4. That the United States National Park Service be required to prepare and publish a detailed plan for the expenditures necessary to develop and use the land as a national park.

#### SUMMARY OF THE HEARING

The Nevada Legislature's Committee on Public Lands heard almost 3 hours of testimony concerning the national park proposal at its meeting on April 4, 1986. A total of 23 persons addressed the park issue with 12 speaking in favor of and 11 in opposition to the proposal to create the Great Basin National Park.

These persons primarily were from the Ely, Mt. Wheeler Peak and Las Vegas areas. They represented themselves and a variety of public and private groups and organizations. The committee also received numerous letters and documents pertaining to the national park proposal from persons who were unable to attend the hearing.

The minutes of this meeting of the public lands committee should be prepared within a couple of weeks. A copy of the minutes will be sent to you upon completion and after review by the members of the committee.

#### CONCLUSION

We appreciate your consideration of the action taken by the public lands committee. We request that you keep the committee informed of the status and progress of the efforts to create the

Great Basin National Park. Members of the committee again express their willingness to work with you and provide any assistance in this effort for the benefit of the citizens of Nevada and White Pine County.

With best wishes and warm regards,

Nevada State Senator Dean A. Rhoads  
Chairman

DAR/11p:RES1  
Enc.

āVThe Honorable Harry Reid  
United States House of Representatives  
1530 Longworth House Office Bldg.  
Washington, D.C. 20515  
VRepresentative ReidV

āVThe Honorable Chic Hecht  
United States Senate  
302 Hart Senate Office Bldg.  
Washington, D.C. 20510  
VSenator HechtV

āVThe Honorable Paul Laxalt  
United States Senate  
Rm. 323A, Russell Office Bldg.  
Washington, D.C. 20510  
VSenator LaxaltV

āVThe Honorable Barbara Vucanovich  
United States House of Representatives  
Rm. 507, Cannon House Office Bldg.  
Washington, D.C. 20515  
VRepresentative VucanovichV

APPENDIX F

Memorandum By Staff To The Committee Entitled  
"Report on the Meeting of the Subcommittee  
on Issues with Nellis Air Force Base"





May 20, 1986

M E M O R A N D U M

TO: Chairman and Members of the Nevada Legislature's  
Committee on Public Lands (NRS 218.536, et seq.)

FROM: Brian L. Davie, Staff Director

SUBJECT: Report on the Meeting of the Subcommittee on Issues  
with Nellis Air Force Base

This memorandum provides a report on the meeting of the subcommittee on issues with Nellis Air Force Base of the Nevada legislature's committee on public lands. This meeting was held at 11 a.m. on May 8, 1986, in the 5th floor conference room of the Bridger Building, 225 Bridger Avenue, Las Vegas, Nevada.

Members of the subcommittee present at this meeting were Senator James H. Bilbray, Senator John M. Vergiels and Clark County Commissioner Karen W. Hayes. A copy of the attendance roster for this meeting is attached.

The subcommittee was created by the public lands committee to review various suggestions and proposals concerning land acquisitions or exchanges in the area around Nellis Air Force Base in Clark County, Nevada. This memorandum provides a statement of the issues, summarizes the testimony presented at the meeting, and lists actions which may be considered by the full committee.

STATEMENT OF THE ISSUES

The issue addressed by the subcommittee primarily involves the creation of a buffer zone between Nellis Air Force Base and the surrounding community. The purpose would be to alleviate current

and potential problems with landowners who are not allowed to develop their property located in the accident potential and high noise zones around Nellis.

Some of the lands in these zones already are developed. According to information from the Clark County Department of Comprehensive Planning, about 6,800 acres of the 22,800 acres in the noise zones around Nellis are developed. Of the remaining 16,000 acres of vacant land, almost 8,000 acres is in primarily federal and other local government ownership.

In nearly every meeting recently, the Clark County Commission has had to review, and in many cases, deny applications for the development of private lands around Nellis. The denials generally have applied to applications for high density and other development proposals which are not compatible with the accident and noise zones around the Air Force Base.

Officials of McCarran International Airport have plans to purchase lands in the noise zones around the airport with the assistance of funds from the Federal Aviation Administration. On May 9, 1986, the Clark County Commission adopted the Airport Environs Plan which restricts development near the McCarran and Nellis airfields. The plan imposes noise-reduction requirements on any future construction and prohibits most residential developments.

Landowners around Nellis generally believe that it is unfair that their development options are restricted and that no plans or mechanisms are available for the purchase or exchange of their lands by the military or the Federal Government.

#### SUMMARY OF TESTIMONY

The following discussion highlights the testimony presented at the subcommittee meeting.

The meeting began with a presentation by staff on the situation and actions taken in regard to Fallon Naval Air Station and the "Memorandum of Agreement" between the United States Navy and the State of Nevada.

Major General Peter T. Kempf, Commanding Officer of Nellis Air Force Base, indicated that differences exist between the Fallon and Nellis issues. The Navy is substantially changing both the character and extent of its operations in the area. Such is not the case with Nellis. With the exception of a very few homeowners in the accident potential zones, Nellis antedates the residents in the area. In that regard, Nellis is unlike the Navy which is moving into a new area which is already inhabited. General Kempf stated that he does not see parallels except as they may point out some way of solving the political problem of dealing with people who, in fact, live there and want some relief from what they perceive to be down zoning of their property. General Kempf indicated that the Air Force is sitting on the sidelines to the extent that it does not own land to be exchanged. Federal agencies also have no incentive to do anything until a proposal is advanced.

In later discussion, General Kempf stated the Air Force does not want the responsibility for managing additional lands. Nellis essentially has all the land it needs. The Administration policy is that you do not have any more acreage than you absolutely need to do the job--and Nellis has that acreage. If mandated by Congress, the Air Force probably would not object to taking lands to prevent encroachment problems unless the Air Force budget was required to support the purchase of land in that area.

General Kempf also pointed out an equal problem for people with developed land if a mechanism is used to purchase undeveloped land around Nellis. Such action could lower the value of the developed area.

Bill Civish with the Bureau of Land Management (BLM) responded to suggestions about special federal legislation to swap BLM land in the Las Vegas Valley for the private lands in the restricted zones around Nellis. Mr. Civish stated that the agency's master plan calls for the disposal of all BLM public lands in the Las Vegas Valley. A mechanism to trade land is provided in the Federal Land Policy and Management Act but not to turn it over to the military. Acquiring land would go against the master plan so special legislation would be needed. The BLM does not want to be put in the position to acquire additional land to manage in the valley.

In later discussion, Mr. Civish pointed out that land exchanges are a low priority in the BLM. If special legislation was passed, it would take a long time to implement. In addition, there would likely be appraisal problems with any land exchanges.

Richard B. Holmes, director of the Clark County Department of Comprehensive Planning, discussed development uses in the various zones around Nellis. Mr. Holmes stated that the only area where development is not allowed is in the clear zone which the Air Force has nearly completed purchasing. Problems exist because the zoning pattern allowable for the airport area does not necessarily match up with today's market conditions.

Robert Broadbent, director of McCarran International Airport, stated that the Federal Government will not want the vacant land around Nellis. Mr. Broadbent indicated that a local government entity would have to take it and try to sell it for compatible uses. To pass special legislation in Congress would not be easy.

Major Frank Arnemann, Chief of Airspace and Flight Activity Management at Nellis Air Force Base, observed that a great deal of development is in place today around Nellis. About 3,000 individuals potentially would be involved to negotiate some type of land swap. The Airport Environs Plan addresses the situation as it exists today in a realistic manner. Major Arnemann indicated that a land swap could create more problems than it solves whereas the environs plan addresses the situation with a mechanism in place if it will be used.

The meeting concluded with a request that Mr. Holmes provide information for the full committee on the number, type and disposition of applications submitted by property owners for zoning and development in the affected zones around Nellis during the past 2 years or so. In addition, staff was requested to prepare a report for the Nevada legislature's committee on public lands concerning the subcommittee's meeting and a review of the recommendations which could be considered.

#### OPTIONS FOR COMMITTEE ACTION

The following actions were suggested or discussed during the meeting concerning options available to the public lands committee.

##### 1. Take No Action

Under this option, the issue would remain in the hands of the Clark County Commission to respond to development requests in the area around Nellis Air Force Base in accordance with the Airport Environs Plan. Affected landowners would retain their land or seek compatible uses for development.

2. Request Further Research

Staff could be requested to conduct research to develop further information on the issues. This research could include federal programs which might be related and how other jurisdictions have addressed similar concerns.

3. Trade Land Under Present BLM Regulations

According to testimony, this option would be very time-consuming and special legislation still would be required since this action would violate the BLM's master plan.

4. Recommend Special Legislation

Under this option, the public lands committee would recommend to Nevada's congressional delegation that special legislation be enacted to swap BLM land in the Las Vegas Valley for private lands around Nellis. This option was the focus of discussion for most of the subcommittee's meeting. Questions were raised about management of the lands, the limits of the area to be exchanged, and the effects on property owners in the area who already have developed their lands.

5. Suggest Purchase By A Local Governmental Entity

This option surfaced during discussion but no details were developed. Officials at McCarran have plans to purchase lands in its noise zones. The intent apparently is to eventually sell these lands for a compatible use when the opportunity arises.

CONCLUSION

This memorandum provides a report, summary and review of options for committee action from the meeting of the subcommittee on issues with Nellis Air Force Base.

Please let me know if you need any further information.

BD/11p:M39

Enc.



APPENDIX G

Paper Prepared By The Division Of State Lands Entitled  
"Alternatives for a Study of the Federal Lands  
with Potential for State Acquisition"





STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Division of State Lands

**Alternatives for a Study of the Federal Lands with Potential for State Acquisition**

**Background:**

For many years, Nevadans have discussed the possibility of transferring federal lands to the state, spurred both by problems related to the large amount of federal lands in the state (87%) and by perceptions that Nevada was shortchanged when it received federal land grants at statehood and that the state's potential for economic development and diversification is hampered by a lack of access to federal lands and their resources.

Among recent efforts were the "Request for 6,000,000 Acre Land Grant" prepared by the Nevada State Committee on Federal Land Laws in 1970, the "Sagebrush Rebellion" bills of 1979, and the Checkerboard Lands proposal of 1983. Senate Bill 40 of the 1983 Legislature also sought to address this question through an identification of federal lands identified to date as being desirable for acquisition by the state, local governments or private interests; this process did result in the identification of several hundred thousand acres of land, much of which is presently available for acquisition through existing federal land disposal programs. (The committee has been provided with a compilation of the lands identified during the Senate Bill 40 planning process.)

These different efforts were in fact directed toward different problems.

1. The 1970 study focused on the state's extremely small school grant land base, and concluded that the state had received some 6 million acres less in school grant lands that it should have been entitled to, in comparison with other western states. If lands had been acquired they would have been held in trust and managed on behalf of the permanent school fund.
2. The Sagebrush Rebellion had a broader focus, citing not only the perceived inequity in grant lands received by the state but also a variety of other complaints, including the very basic contention that federal control of so much land within the state "works a severe, continuous and debilitating hardship upon the people of the State of Nevada" (NRS 321.596). Lands acquired would have been retained and managed by the state for multiple uses.
3. The checkerboard land proposal specifically sought to resolve the land ownership and management problems created by the railroad checkerboard, through state acquisition of the public sections of the checkerboard, and disposal of most of those sections to the private sector through sale or exchange, with revenues to be used to solve railroad crossing safety problems.

4. The lands listed in Senate Bill 40 were, by contrast, primarily lands needed for specific public purposes or for community expansion.

The Legislature's Committee on Public Lands has requested that the Division of State Lands assist them in developing a fuller and more specific list of federal lands with potential for state acquisition. The Committee believes that some members of Congress would look more favorably on such a list of specific lands needed for specific reasons than has been the case with past proposals, which were more general in nature.

The Division of State Lands has done considerable additional work on this issue since the committee's last meeting. In addition to studying Nevada's needs, we have contacted several other western states which have developed lists of federal lands for state acquisition. While not strictly comparable to Nevada's situation, these other states have had to face some of the same issues we face.

Utah has put considerable effort into project BOLD, a proposal to exchange 2,500,000 acres of scattered state school lands for 2,500,000 acres of selected federal lands. The exchange would allow the blocking up of both federal and state ownership to the mutual benefit of both. The effort began in 1981 with widespread support from governmental units and agencies at all levels as well as interest groups. However, as the project proceeded more and more problems developed, including the resolution of difficult controversies relating to livestock use, mineral development, in-lieu taxes, ecological values, etc. Holders of existing rights on federal lands had many problems with the transfer of these lands to the state, even as an exchange. Utah had three full-time staff persons working exclusively on this project, supported by many other staff persons, over a three year period of intensive effort. Much time was spent in working with local governments and with the general public. The state felt that it had successfully resolved most of the problems. Necessary state supporting legislation was adopted. However, the project has not been successful to date. Questions continue to be raised both in Utah and in Washington, D.C., and a new state administration has given the project a lower priority.

Alaska has, since achieving statehood in 1959, been involved in the selection of federal lands to fulfill various federal land grants to the state. Most of this acreage has now been selected, and totals well over 100 million acres. Alaska had a large land staff working on this process, supported by an extensive computerized land inventory system, and including the support of technical personnel in other state resource agencies (wildlife, minerals, etc.), who have done much of the detailed technical work.

Several other western states have been granted the right to select "in-lieu" lands, that is, lands to replace state grant lands that had been lost to the state over the years. Their selection processes have focused on the need to select lands that have potential for producing revenues for the grant land trust funds. Considerable inventory work has been done to identify these lands, including lands with potential for commercial and industrial development as well as lands with natural resource value such as timber, minerals (including oil, gas and geothermal resources), or agricultural potential.

Nevada's checkerboard proposal was also pursued far enough to give us an indication of some of the potential issues that will need to be resolved. As the committee will recall, at the time the proposal was first suggested (1983) it had wide-spread support from interest groups. It was viewed as an innovative approach to solving a long-standing problem in illogical and inefficient arrangement of land ownership, leading to severe and continuing land management problems. Ranchers and

miners felt that a more logical ownership arrangement would benefit them, and welcomed the opportunity to decrease the large federal land base. Environmental groups cautiously accepted the proposal as a small-scale example to show what the state could do in acquiring and managing federal lands. However, as time passed this support gradually disappeared. Ranchers came to fear that the state would raise livestock lease fees and move to competitive bids for letting leases. Miners feared the loss of guaranteed free access to federal lands for prospecting, mineral development, and as mill sites. Hunters similarly feared the loss of access to the federal lands. Environmental groups feared the loss of environmental values now protected by federal land management agencies. By 1985 there were few who would speak in support of the proposal.

Additionally, one of the major issues which must be addressed is that of potential support in Washington, D.C., for whatever proposal Nevada brings forward. Unlike other western states we have contacted, Nevada has no real guarantees that the federal government will be willing to grant to the state the lands selected. Careful consideration must be given to the political feasibility, on the national level, of any land selection proposal.

#### Alternatives:

The many possibilities for proposals to developed a list of potential state selection lands can best be presented as a series of questions.

There are two initial questions which must be answered:

1. Why does the state seek these lands?

The specifics of any proposal will depend upon the purpose, the reasons for initiating the proposal, the criteria that will be used to select the lands. There could be at least three major reasons for seeking federal land for state ownership:

- a) To produce a land grant base for the state school trust (or other trust), with the goal of producing revenue for the trust fund. Lands selected could have potential for long term revenue production (e.g., commercial or industrial leases, mineral leases, agricultural leases) or for disposal to produce short term revenue.
- b) To acquire for permanent state ownership lands needed for public purposes, such as recreation, wildlife, aesthetics, access, etc.
- c) To improve land ownership patterns, in such ways as blocking up scattered parcels, increasing the amount of private lands near growing communities, etc.

2. How much land does the state seek to acquire?

This question is closely related to the first. If the single purpose of a proposal is to produce a land grant base for the school trust, the state may logically wish to seek the 6 million acres identified in the 1970 study. Other goals may more logically lead to larger or smaller grant requests. Whatever the acreage sought, the state will need to be able to justify it.

After these two initial questions, there are many others. We have listed some of these questions below.

3. From which federal lands does the state seek to draw its selections?
4. How does the state wish to make these selections, i.e., what selection process would be followed? How would the public be involved? How closely would local governments be involved?
5. What is the time frame for making the selections?
6. Do we need to decide how the acreage sought should be geographically distributed? Should each county be entitled to a minimum selection? How would the county's selection be related to its existing private land base, its population growth rate, etc.?
7. How detailed an analysis of lands to be selected will be required? Do we need for each parcel a list of all existing encumbrances, e.g., leases, mining claims, road rights-of-way? Do we need to know whether it has potential for water development? Do we need an accurate legal description for each parcel? Do we need to have the lands surveyed? Do we need to have the lands appraised?
8. How would the state manage lands received? This will depend upon the purposes of acquisition. It is a very large question, which in turn raises many specific management questions. For example: Do we need new state land laws, or will our present laws suffice?

Would the division of state lands be the sole managing agency?

What kind of management capability and budget will the management agency need? How intensively does the state wish to manage these lands?

Does the state intend to make in-lieu-of-taxes payments to local governments?

Under what rules will the state allow livestock grazing? What will happen to existing grazing permits and leases?

Under what rules will the state allow mineral development? Oil? Gas? Geothermal? What will happen to existing claims and leases?

Under what conditions would the state dispose of lands? Through what process?

What kinds of guarantees could the state give that environmental values would be protected?

#### Conclusion:

The magnitude and complexity of such an effort would be tremendous. There are dozens, perhaps hundreds of alternatives suggested by the questions above.

It is first necessary that the committee decide whether to continue with such a project at the present time. Technical and fiscal questions need careful consideration, as well as questions of basic policy and political reality, both in Nevada and nationally.

If the decision is made to continue, the first step must be to answer the two initial questions: "Why does the state seek federal lands?" and "How much land does the state seek?"

It would then be possible to conduct a scoping process, that is, an introductory examination of the entire project. The state must decide how to proceed, must answer the questions listed above (and probably many others). It is our estimate that a well qualified consultant firm could assist the state to complete such a scoping process within several months for less than ten thousand dollars. The end product of such a process should be a project plan of work with estimates of funds required to complete the project. It may well suggest a pilot project in a small area of the state to get started.

With so many unanswered questions at this point, it is difficult to give the committee any good estimate of the total costs of such a project. A project to select 6 million acres of federal lands would certainly take years and cost hundreds of thousands of dollars.



APPENDIX H

Briefing Paper Prepared By The Planning Staff Of  
Nevada's Office Of Community Services Entitled  
"Existing And Proposed Department Of Defense  
Activities In Nevada"



EXISTING AND PROPOSED  
DEPARTMENT OF DEFENSE ACTIVITIES  
IN NEVADA

**INTRODUCTION:**

The major Department of Defense (DoD) complexes in Nevada are the Nellis Air Force Base and Range, the Fallon Naval Air Station with its accompanying bombing ranges and helicopter training area, and the Hawthorne Ammunition Depot.

Excluding the Department of Energy, which manages some 800,000 acres of land in southern Nevada for the Nevada Test Site, the DoD controls some three million acres of Nevada land, or nearly 4.5 percent of the State's total land mass. In terms of airspace, DoD now controls nearly 40 percent of all airspace below 18,000 feet; and, in the past few years, Nevadans have seen the creation of two separate military supersonic operations areas which together overlie more than 6,000 square miles.

The following are brief descriptions of existing and proposed DoD land and airspace activities in Nevada:

L A N D

EXISTING LAND USE:

Hawthorne Ammunition Depot  
Naval Air Station and Naval bombing ranges near Fallon  
Nellis Air Force Base and Test Range

PROPOSED LAND USE:

**SMALL INTERCONTINENTAL BALLISTIC MISSILE (SICBM)**

The SICBM, or midgetman missile, weighs 30,000 pounds, is approximately 46 feet in length, has a diameter of 46 inches, contains one reentry vehicle (single warhead), and has a range of 6,000 nautical miles.

In late February, the Air Force issued the Small ICBM Area Narrowing Report (three volumes totaling 1,024 pages). The Report identifies the analyses and criteria used in reducing 51 original candidate areas for deployment of the Small ICBM to 24 locations in 14 states. The Narrowing Report also evaluates each candidate area against three distinct basing modes. The basing mode proposed in Nevada is known as the Hard Mobile Launcher in Random Movement. This mode involves the use of hardened, missile-carrying mobile vehicles dispersed over "government-controlled access land."

The Air Force has determined that each Hard Mobile Launcher would require a 16 square mile area. To be cost-effective in terms of manpower, the Air Force estimates that a minimum of 40 Hard Mobile Launchers are necessary at each deployment installation. In Nevada, the Report selected the Nellis Air Force Range and the Nevada Test Site as potential deployment installations.

In order to meet NEPA ( National Environmental Policy Act ) requirements, the selection of deployment areas for the Small ICBM, as well as full scale development of the missile itself, will be accomplished through a Legislative Environmental Impact Statement (LEIS). The Air Force is planning to file the LEIS in late 1986. If Congressional approval of the LEIS is obtained, it is our understanding that the Air Force will then prepare site specific Environmental Impact Statements for each deployment area.

#### GROOM RANGE LAND WITHDRAWAL

In 1984 Governor Bryan testified in Congress protesting the Air Force's illegal seizure of the Groom Range, allegedly needed by them as a public safety and security buffer zone for national defense programs carried out on the adjacent Nellis Air Force Range. The Governor's testimony, along with others', resulted in passage of Public law 98-485 in October of 1984. The law authorizes temporary use (not a Withdrawal) of the Range by the Air Force (until December 31, 1987) and requires them to prepare an Environmental Impact Statement (EIS). Further, it requires them to recommend mitigation measures to compensate for the loss of the 89,000 acres at Groom Range.

The Air Force issued the Draft Environmental Impact Statement on the Groom Range in October of 1985. Nevada's subsequent review of the document has produced the following recommended mitigation measures,

Rehabilitation of the Kershaw-Ryan State Park in Lincoln County: (As a note, the park was severely damaged by two separate floods in 1984).

Paving of Rachael road: The Governor has recommended the paving of the road from Rachael into the Nevada Test Site. The road, which is now maintained by Lincoln County, is used by over 60 local residents. This is held to be more an improvement than a mitigation.

Opening certain portions of Nellis AF Range to controlled hunts of bighorn sheep, to offset the restriction to hunting land in the Groom Mountain Range area.

Expansion of existing wildlife areas to offset the potential loss of hunting opportunities, with the cooperation of the Bureau of Land Management (BLM) and the Nevada Department of Wildlife. This mitigation would involve developing new water sources (guzzlers) for wildlife.

## U.S. NAVY BRAVO 20 LAND WITHDRAWAL

The Bravo 20 Range is located in Churchill County and is used for training and weapons testing by the U. S. Navy. Although they have used the Range since World War II, the Navy has yet to claim clear title to the land. The Nevada Military Lands Withdrawal Act of 1986 (H.R. 4351) now pending in Congress provides (among other things) for the proper withdrawal of Bravo 20 lands (approx. 8,000 acres of bombing range and 13,000 acres buffer area) from the public domain for a period of ten years. Although the Navy must apply to Congress in order to extend their Withdrawal past ten years, it is doubtful that the range could ever be safely returned to public use, due to the abundance of live ordnance buried there.

## U.S. NAVY'S PROPOSED 181,000 ACRE MASTER LAND WITHDRAWAL

The Navy proposes to withdraw approximately 181,000 acres of federally owned land from the public domain; the land will be used to provide noise and safety buffer areas around existing aerial weapons ranges associated with NAS Fallon. The following ranges are germane to the proposed land withdrawal: B-16 (in the Lahontan Valley near the City of Fallon), B-17 (in Fairview Valley), B-19 (near the Walker River Indian Reservation), the Shoals Site (approximately 20 miles SE of NAS Fallon) and the Electronic Warfare Range (comprised of 36,560 acres in Fairview and Dixie Valleys).

The proposed withdrawal is pending the Navy's publication of a revised Draft Environmental Impact Statement.

## A I R S P A C E

### EXISTING USE:

#### STRATEGIC AIR COMMAND (SAC)

SAC currently utilizes several low-level training routes in Nevada. Specific data on the frequency of use of these routes are not available

#### U. S. NAVY SUPERSONIC OPERATIONS AREA

On June 24, 1985, the Navy issued a Record of Decision which established approximately 5500 square miles of airspace in north central Nevada as a supersonic training area for naval and marine pilots. Thereafter, upon the Governor's insistence, the Navy and the State of Nevada entered into a Memorandum of Agreement in

which the Navy agreed to effect certain measures to mitigate the possible negative impacts of training over human and animal populations, important cultural resources, and mining and geothermal interests. Among the provisions in this Memorandum, in addition to those for health, anthropology, mining, livestock and wildlife studies, is a provision for a Navy buyout of up to 12,100 acres of land and improvements in Dixie and Fairview Valleys, (subject to congressional appropriation). In addition, the Navy has agreed to consider further buyouts, of property owners living outside those Valleys, on a case-by-case basis, upon recommendation by an advisory commission set up for that purpose. Certain property buyouts have already occurred; and, the above-mentioned studies are well underway. It should be noted, the Navy has estimated that from 30 to 100 sonic booms per day will be generated from normal use of the Supersonic Operations Area.

#### NELLIS AIR FORCE RANGE

The Air Force currently operates an extensive pilot and weapons training area in southern Nevada, with both air-to-air and air-to-ground combat training. More specific data is not available for this report.

#### U. S. AIR FORCE GANDY SUPERSONIC OPERATIONS AREA

In its Record of Decision of March 14, 1986, the Air Force extended its pilot supersonic training area (on the Utah Test and Training Range) westward into the Nevada portion of the Gandy Range Military Operations Area (MOA). The rationale was that the Air Force needed to provide more airspace to accommodate both the improved F-16 fighter plane performance and the changing mission/training requirements. The Record of Decision notes that, based on the high level of public concern expressed by residents and other concerned parties, the Air Force scaled down its proposed number of sorties per month from 400 to 150, and reduced its proposed Supersonic Operations Area from 2,478 to 1,360 square miles.

#### PROPOSED AIRSPACE USE:

##### STRATEGIC AIR COMMAND (SAC) Proposed Low Level Training Route (IR 264)

SAC is proposing a low-level training route which would be 360 miles long and eight miles wide. The route would be used by a maximum of ten aircraft per day, five days per week, with roughly 25 percent of all flights occurring at night. The route (IR-264) would be used by B-52 and F-111 bombers, to be flown at 500 feet above ground level at nearly 400 miles per hour.

SAC has two reasons for requesting approval of this route from the FAA. First, they want to enhance air crew training by flying

through the Navy's supersonic operations area. This would allow use of the Navy's electronic warfare range and provide an opportunity to coordinate air-to-air intercepts with Navy pilots. Second, SAC has estimated a savings in fuel costs of \$9,000,000 annually by redirecting existing SAC flights from low-level training routes in Arizona and Oregon to proposed routes in Nevada.

#### HART MOA (OREGON AIR NATIONAL GUARD)

The Oregon Air National Guard is requesting the additional airspace to support increased air-to-air combat training and refueling exercises. If established, the Hart MOA would be used three days per week, 3-4 hours per day for a total of 3,500 missions per year. Flight speeds would be subsonic, approaching .09 MACH; the Oregon Air Guard uses F-4c type aircraft.

The proposal actually is a request to expand the current Hart Air Traffic Control Assigned Airspace (ATCAA). This ATCAA, which overlies portions of south eastern Oregon and north western Nevada (Washoe County), has a lower altitude or floor of 18,000 feet above mean sea level (msl). The Hart MOA proposal would expand the airspace used by lowering the floor of the ATCAA to 11,000 feet msl. By lowering the ATCAA floor in this way, new controlled airspace below 18,000 feet would be created; this action would in effect establish a new military operations area (MOA) in Nevada. The MOA would have an average lower altitude limit, or "floor" of 5,000 feet above ground level, with the actual floor lying about 3,500 feet above existing mountain peaks in the area.

This briefing paper was prepared for the Legislative Committee on Public Lands for use at an open meeting held in Fallon, Nevada on September 5th, 1986. The paper was authored by John B. Walker and Susan Paslov, Nevada Office of Community Services Planning Staff.

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APPENDIX I

Letter Dated September 29, 1986, To Congressman John F.  
Seiberling And Members Of The House Subcommittee On  
Public Lands Concerning The Designation Of  
Military Airspace





September 29, 1986

The Honorable John F. Seiberling  
Chairman, House Subcommittee on  
Public Lands  
United States House of Representatives  
1225 Longworth Building  
Washington, D.C. 20515

Dear Congressman Seiberling and Members of the Subcommittee on  
Public Lands of the U.S. House of Representatives' Committee  
on Interior and Insular Affairs:

This letter is written on behalf of the members of the Nevada  
Legislature's Committee on Public Lands to express our support  
for the concept of H.R. 4413--to amend the Engle Act of 1958-  
(Public Law 85-337) to improve the management of the public  
lands. We respectfully request that this letter be read and  
entered into the record of the hearing of the House Subcommittee  
on Public Lands on October 2, 1986, concerning H.R. 4413.

The Nevada Legislature's Committee on Public Lands is a permanent  
statutory committee created by the Nevada State Legislature.  
The committee's purposes are to provide oversight and review of  
federal land management policies and practices, and to provide  
a forum for the discussion and hearing of public lands matters.  
In this capacity, the committee serves as an official liaison  
between the Nevada Legislature when the legislature is not in  
session and the United States Congress.

#### Background Information

During hearings in recent months, the Nevada Legislature's  
Committee on Public Lands has received extensive testimony from  
citizens and groups who are concerned about continuing proposals  
by the United States military to withdraw land and restrict  
airspace in Nevada. Due to these concerns and widespread  
interest in this issue, the committee devoted its entire meeting  
on September 5, 1986, in Fallon, Nevada, to hearing testimony  
from military representatives and the public pertaining to pro-  
posed and existing land withdrawals and airspace restrictions in  
Nevada.

The major issues and concerns addressed in public testimony before our committee may be summarized to include:

1. The lack of procedures by the military and the Federal Aviation Administration (FAA) to involve the public in decisions concerning the use of airspace;
2. The apparent lack of control exercised by the military and the FAA to enforce the boundary and altitude limits of existing airspace designations and restrictions; and
3. The apparent lack of cooperation or effort within the military branches and between the military and the FAA to minimize further airspace designations and restrictions by sharing or making adjustments to existing airspace.

The proposal in H.R. 4413 is one approach toward addressing the most significant current problem--the lack of adequate procedures to provide for public input on airspace decisions. Citizens in Nevada and in other nearby states have expressed frustration and feelings of being powerless to influence airspace decisions. Two recent examples in Nevada highlight this problem.

A representative from the U.S. Air Force (USAF) Strategic Air Command informed our committee at its meeting on September 5, 1986, that the proposed low-level instrument route (IR-264) in central Nevada would be open for use on October 23, 1986. The USAF failed to respond to the concerns expressed in writing by Nevada's governor--much less those expressed by any citizens of this state--before the announcement of this decision. This proposed training route will allow B-52 bombers and FB-111 fighter bomber aircraft to fly between 400 and 500 feet above the ground along a corridor which traverses 350 miles in central Nevada and crosses a major highway--U.S. Highway 50--in two places. It appears that no effort was made to notify or determine the actual number of people who live and work under this airspace corridor. No public hearings were held on this proposal because the USAF itself made a Finding Of No Significant Impact (FONSI) in its environmental assessment.

The second recent example involves the proposal by the Oregon Air National Guard to establish the Hart Military Operations Area (MOA) to include airspace in the northern portion of Washoe County, Nevada. The FAA conducted an "informal airspace meeting" to obtain "aeronautical comments" for this proposal on July 15, 1986, in Lakeview, Oregon. About 120 people from California, Nevada and Oregon attended this meeting to oppose the proposal. At the request of Nevada's congressional delegation, a second "informal airspace meeting" was held in Reno, Nevada, on

September 17, 1986, and attended by approximately 200 people. Representatives from the FAA made it clear at both meetings that their decision would be based on aeronautical, rather than environmental, considerations. We were informed that no formal public hearings would be held on this proposal because the guidelines of the Environmental Protection Agency provide a categorical exclusion from the environmental assessment process for the MOA because it does not involve flight operations lower than 3,000 feet above ground level.

Despite these FONSI's and categorical exclusions, we have heard increased concerns during recent months about the effects of military aircraft operations on rural citizens. Many incidents have involved low-flying military aircraft in areas which are not designated for military use. Rural citizens generally live in sparsely populated areas to preserve a peaceful and individualistic lifestyle. These citizens should have the opportunity to influence airspace decisions which will affect their lifestyles. They also naturally question the establishment of new airspace designations when the military and the FAA fail to enforce the boundary and altitude limits of existing airspace designations.

Testimony before our committee has revealed that the Department of Defense now controls nearly 40 percent of all airspace in Nevada. Aside from the large MOA's and restricted airspace controlled by the United States Navy and USAF and located wholly within Nevada, portions of MOA's from California, Idaho, Oregon and Utah already extend well into this state. However, we believe that the issue of military airspace designations and restrictions is a national issue, and not solely a Nevada or western regional issue. Testimony has indicated that the military controls about 50 percent of the airspace in the continental United States.

We would like to emphasize that we and most of the people in Nevada support and respect the military, and we understand the need for realistic training to provide for a strong defense. However, the agencies of the Federal Government need to respect and understand the desire of our citizens to have adequate opportunities to influence decisions which affect their ways of life.

#### The Committee's Position

Therefore, the Nevada Legislature's Committee on Public Lands supports the concept of H.R. 4413 to provide an improved mechanism for the public to gain influence over decisions to designate and restrict airspace. We understand that H.R. 4413 may require amendment during the legislative process and that this specific

proposal may not be enacted during the current congressional session. However, we strongly encourage and request the House Subcommittee on Public Lands and the Congress to exercise its oversight function, to continue its investigation, and to strive toward enacting legislation to enhance public participation concerning the airspace issue.

If this issue is carried over into the next congressional session, we strongly urge and request that you or other appropriate congressional committees hold hearings in Nevada so that citizens who do not have the resources to travel to Washington, D.C., may testify on this important topic.

This position of the Nevada Legislature's Committee on Public Lands represents a unanimous decision by the members of the committee based upon a telephone poll conducted on September 26 and September 29, 1986. We believe that the airspace problem is a bipartisan, public issue which should be investigated by the Congress on that basis.

On behalf of the Nevada Legislature's Committee on Public Lands, I would like to thank you for the opportunity to address the airspace issue and to place this issue on the national agenda. We also pledge to provide any assistance necessary to you or your staff.

With warm regards and best wishes,



Dean A. Rhoads  
Nevada State Senator  
Chairman

DAR/dr

cc: U.S. Senator Chic Hecht  
U.S. Senator Paul Laxalt  
U.S. Representative Harry Reid  
U.S. Representative Barbara Vucanovich  
Nevada Governor Richard H. Bryan

APPENDIX J

Proposed Constitutional Amendment--Senate Joint Resolution  
No. 21 (File No. 68, Statutes Of Nevada, 1985)



SENATE JOINT RESOLUTION—Proposing to amend the constitution of the State of Nevada to clarify those state lands and proceeds which are pledged for educational purposes.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY. That section 3 of article 11 be amended to read as follows:

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.] *granted by Congress to this state for educational purposes, all estates that escheat to the state, all property given or bequeathed to the state for educational purposes, and the proceeds derived from these sources, together with 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 and all fines collected under the penal laws of the state are hereby pledged for educational purposes and the money therefrom must not be transferred to other funds for other uses. The interest only earned on the money derived from these sources must be apportioned by the legislature among the several counties for educational purposes, and, if necessary, a portion of that interest may be appropriated for the*

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

19 — 20

APPENDIX K

Recommendation No. 86-5 By The Nevada State Multiple Use  
Advisory Committee On Federal Lands Concerning The  
Bureau Of Land Management Statewide  
Wilderness Report



R E C O M M E N D A T I O N

NEVADA STATE MULTIPLE USE ADVISORY COMMITTEE ON FEDERAL LANDS

088-3

BUREAU OF LAND MANAGEMENT STATEWIDE WILDERNESS REPORT

WHEREAS, passage of the Federal Land Policy and Management Act of 1976 required the Bureau of Land Management to inventory and analyze roadless areas within their jurisdiction and develop recommendations for or against designations of such areas for wilderness consideration; and

WHEREAS, the Bureau of Land Management has systematically inventoried and studied potential wilderness areas and has issued a series of draft environmental impact statements on potential wilderness areas throughout Nevada; and

WHEREAS, each study area included a public hearing and public review process; and

WHEREAS, each draft environmental impact statement evaluated only the potential wilderness areas within a specified, limited area of the state; and

WHEREAS, following completion of mineral surveys now being conducted for each wilderness study area the Bureau will compile a final statewide wilderness report; and

WHEREAS, many people throughout Nevada representing many different concerns and interests have been closely involved in the development and review of the separate wilderness draft environmental impact statements prepared by the Bureau of Land Management.

NOW THEREFORE BE IT RECOMMENDED that the Bureau of Land Management develop a procedure to provide an opportunity for the citizens of Nevada to directly review and comment on a draft statewide wilderness report. The procedure to be developed should include a method so that appropriate public comments on the draft report can be considered and included in the final statewide wilderness report.

  
Julian C. Smith, Jr. Chairman

ADOPTED: OCTOBER 10, 1988



APPENDIX L

Suggested Legislation

<u>Bill Draft Request</u>	<u>Page</u>
BDR R-1145..... Urges Bureau of Land Management to allow direct, public comment on draft report regarding designation of certain federal land as wilderness.....	173
BDR R-1146..... Urges Congress to enact legislation which increases controls on number of wild horses and burros and which authorizes additional methods of removing them from public lands.....	175
BDR R-1147..... Urges Congress to investigate designation and control of military airspace and enact legislation to enhance public participation in process of establishing classifications of airspace and restrictions on its use.....	179
BDR R-1148..... Urges Congress to support and cooperate with efforts of state to acquire gradually its equal share of federal land.....	181
BDR R-1149..... Urges Congress to enact legislation prohibiting federal reservation of water rights within wilderness areas.....	185
BDR 45-1150..... Makes various changes concerning management of wild horses.....	189



SUMMARY--Urges Bureau of Land Management to allow direct, public comment on draft report regarding designation of certain federal land as wilderness. (BDR R-1145)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

SENATE JOINT RESOLUTION--Urging the Bureau of Land Management to allow direct, public comment on the draft report regarding the designation of certain federal land as wilderness.

WHEREAS, Passage of the Federal Land Policy and Management Act of 1976 required the Bureau of Land Management to inventory and analyze roadless areas within its jurisdiction and develop recommendations for or against designation of these areas as wilderness; and

WHEREAS, The Bureau of Land Management has systematically inventoried and studied the areas and has issued a series of draft statements regarding the environmental effect of designating those areas in Nevada as wilderness; and

WHEREAS, Each such study included a public hearing and the solicitation of public comment; and

WHEREAS, Each such statement contained only the evaluations of areas within a specified, limited part of the state; and

WHEREAS, Following the completion of mineral surveys of each area the Bureau of Land Management will compile a final statewide report; and

WHEREAS, Many people throughout Nevada representing many different concerns and interests have been closely involved in each of these studies and desire the opportunity to review and comment upon the draft of the report being prepared by the Bureau of Land Management before it becomes final; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Bureau of Land Management develop a procedure to provide an opportunity for the citizens of Nevada to review directly and comment on the draft report so that appropriate public comments can be considered and included in the final statewide report; and be it further

RESOLVED, That a copy of this resolution be prepared and transmitted by the Secretary of the Senate to the Director of the Bureau of Land Management and to each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

SUMMARY--Urges Congress to enact legislation which increases controls on number of wild horses and burros and which authorizes additional methods of removing them from public lands.  
(BDR R-1146)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

SENATE JOINT RESOLUTION--Urging Congress to enact legislation which increases controls on the number of wild horses and burros and which authorizes additional methods of removing those animals from public lands.

WHEREAS, The Wild Free-roaming Horses and Burros Act of 1971, 16 U.S.C. §§ 1331 et seq., protects wild horses and burros from destruction, capture and sale by any person or governmental entity except when authorized by the Secretary of the Interior or the Secretary of Agriculture in connection with public lands administered by the Bureau of Land Management and the Forest Service; and

WHEREAS, The Wild Free-roaming Horses and Burros Act has been overly successful and has allowed once-threatened populations of wild horses and burros in Nevada to increase to the extent that approximately 29,415 wild horses and 1,160 wild burros inhabited the public lands in this state as of December 1986; and

WHEREAS, The populations of wild horses and burros are increasing at an annual rate of approximately 15 percent absent stronger measures to control their numbers; and

WHEREAS, The Wild Free-roaming Horses and Burros Act requires the Secretary of the Interior and the Secretary of Agriculture to manage the wild horse and burro populations in a manner that protects the natural ecological balance of wildlife inhabiting the public lands; and

WHEREAS, Wild horses and burros are already so numerous that they are destroying the habitat used by wildlife; and

WHEREAS, The removal of wild horses and burros from the range for adoption is currently the only authorized means of disposing of these animals; and

WHEREAS, As of December 1986, there were approximately 2,800 captured wild horses in Nevada awaiting adoption, the feeding of which costs the American taxpayers at least \$2 per day per animal; and

WHEREAS, Another 5,165 wild horses and burros are scheduled to be removed from the public lands in Nevada in fiscal year 1987; and

WHEREAS, The capturing and feeding of wild horses is an unjustifiable expense when other federal programs are being eliminated to reduce the federal deficit and there are potential alternatives to this program which are available; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Legislature of the State of Nevada strongly urges the Congress of the United States to enact legislation which:

1. Requires the Secretary of the Interior and the Secretary of Agriculture to control strictly the populations of wild horses and burros on public lands;
  2. Authorizes additional or more effective methods for the capture, sale, donation, transfer or other removal of wild horses and burros from public lands in Nevada; and
  3. Requires the conveyance of all unadopted wild horses and burros to appropriate agencies for the protection of animals and, if the demand for adoption falls below the number of available animals, authorizes the sale of excess wild horses and burros at public auction or the destruction of those animals in the most humane and economical manner possible;
- and be it further

RESOLVED, That copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the Secretary of Agriculture, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

**SUMMARY--Urges Congress to investigate designation and control of military airspace and enact legislation to enhance public participation in process of establishing classifications of airspace and restrictions on its use. (BDR R-1147)**

**FISCAL NOTE: Effect on Local Government: No.**

**Effect on the State or on Industrial Insurance: No.**

**SENATE JOINT RESOLUTION--Urging Congress to investigate the designation and control of military airspace and enact legislation to enhance public participation in the process of establishing classifications of airspace and restrictions on its use.**

**WHEREAS, The members of the Legislative Committee on Public Lands and the residents of Nevada support and respect the military; and**

**WHEREAS, These groups understand the need for realistic training for pilots in the military to provide for a strong defense; and**

**WHEREAS, The Department of Defense now controls nearly 40 percent of all airspace in Nevada, yet many incidents of low-flying military aircraft occur in areas not designated for military use; and**

WHEREAS, The residents of Nevada question the designation of additional airspace for military use when the Department of Defense and the Federal Aviation Administration fail to enforce the limits on the area and the altitude of existing designations of airspace; and

WHEREAS, The lack of adequate procedures to provide for public comment on proposals concerning airspace results in extreme frustration and feelings of powerlessness over the inability to express opinions before decisions are made; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature urges Congress to investigate the designation and control of military airspace by the Federal Aviation Administration; and be it further

RESOLVED, That the Legislature encourages Congress to enact legislation to enhance public participation in the process of establishing classifications of airspace and restrictions on its use; and be it further

RESOLVED, That a copy of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

**SUMMARY--Urges Congress to support and cooperate with efforts of state to acquire gradually its equal share of federal land. (BDR R-1148)**

**FISCAL NOTE: Effect on Local Government: No.**

**Effect on the State or on Industrial Insurance: No.**

**SENATE JOINT RESOLUTION--Urging Congress to support and cooperate with the efforts of the state to acquire gradually its equal share of federal land.**

**WHEREAS; 122 years have passed since Nevada became a state and the United States Government still retains more than 86 percent of the land in Nevada; and**

**WHEREAS, The growth in population within this state and the resulting change in the use of the land has placed a heavy demand on the state and local services while abandoning existing facilities which have been rendered ineffective by changes in population; and**

**WHEREAS, The vast federally owned areas create a major tax burden for the owners of private property in this state in order to meet their needs for services; and**

WHEREAS, Intermingled ownership of land among private persons and federal governmental agencies severely restricts proper practices for the conservation of the natural resources of the state and the preservation of areas for recreation, wildlife and environmental studies which are best suited for management by the state and local governments; and

WHEREAS, Federal ownership of a majority of the land in this state prohibits the orderly expansion of landlocked cities on a planned basis, without an adverse effect on the existing economy of the local areas; and

WHEREAS, This state has established an innovative program to prepare statements of policy and plans relating to the future jurisdiction of the land, requiring the cooperation of and consultation with all levels of government and members of the general public; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature urges the Congress of the United States to support and cooperate with the efforts of the state to acquire gradually its equal share of federal land so that it has parity with its neighboring states of Arizona, New Mexico and Utah; and be it further

RESOLVED, That copies of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.



**SUMMARY--Urges Congress to enact legislation prohibiting federal reservation of water rights within wilderness areas. (BDR R-1149)**

**FISCAL NOTE: Effect on Local Government: No.**

**Effect on the State or on Industrial Insurance: No.**

**SENATE JOINT RESOLUTION--Urging Congress to enact legislation prohibiting the federal reservation of water rights within wilderness areas.**

**WHEREAS, The designation of areas of wilderness within national forests does not result in the reservation of additional federal water rights because Congress did not expressly reserve these rights and a designation as wilderness of national forest lands fails to meet any of the threshold requirements for the implied reservation of federal water rights; and**

**WHEREAS, The designation of a forest as a wilderness does not by itself constitute a "reservation" of federal land upon which an implied reservation of water rights must be based, but rather is merely a statutory directive for the management of land previously reserved; and**

**WHEREAS, Federal water rights may be impliedly reserved only when necessary to fulfill the "primary purposes" of a reservation of federal land; and**

WHEREAS, The purposes of a designation of wilderness areas within national forests are expressly stated to be "within and supplemental to," rather than "in interference with" the purposes of the original reservation of areas of forest and thus are clearly "secondary" purposes for which no water rights are impliedly reserved; and

WHEREAS, The legislative history of the Wilderness Act of 1964 (16 U.S.C. §§ 1131 et seq.) reflects a clear congressional intent not to preclude or impede permanently the development of water in the wilderness by reserving any or all appurtenant, unappropriated water in designated areas of wilderness; and

WHEREAS, The Wilderness Act and its legislative history demonstrate that Congress determined that controls on the management of land applicable to areas of wilderness would be more than adequate to preserve the characteristics of wilderness within designated areas; and

WHEREAS, Congress has determined that the reservation of additional water rights is not necessary to fulfill the purposes of a designation of a forest as wilderness; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature urges Congress to enact legislation to prohibit the federal reservation of water rights for land designated as wilderness; and be it further

RESOLVED, That a copy of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.



SUMMARY--Makes various changes concerning management of wild horses.

(BDR 45-1150)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to wild horses; authorizing boards of county commissioners to adopt ordinances which pertain to wild horses found within their counties; 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 504 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *The boards of county commissioners may adopt ordinances pertaining to wild horses found within their counties which:*

- 1. Establish procedures for the capture and removal of the horses;*
- 2. Protect the rights of owners of the real property which would be involved in the efforts to capture the horses;*

3. *Protect the interests of owners of claimed horses which are running with the wild horses:*

4. *Establish procedures for the removal of claimed horses:*

5. *Establish standards and requirements for inspection which ensure the use of humane methods of capture and removal and the humane treatment of the horses; and*

6. *Establish procedures whereby property owners are allowed to manage and protect wild horses found on their property.*

**Sec. 3.** *If a person has valid proof of his ownership of a mare, he shall be presumed to own her offspring which are younger than 6 months of age. The statutory presumption of ownership may be rebutted by superior proof.*

**Sec. 4.** NRS 504.430 is hereby amended to read as follows:

504.430 For the purposes of NRS 504.430 to 504.490, inclusive [:] , and sections 2 and 3 of this act:

1. "Heil bequest" means the money bequeathed to the state by Leo Heil for the preservation of wild horses in Nevada.

2. "Trust fund" means the trust fund for the preservation of wild horses.

3. "Unclaimed" means a horse for which no person:

(a) *Can produce a valid proof of ownership; and*

(b) *Has declared it as livestock for purposes of property taxation.*

4. "Valid proof of ownership" means:

*(a) A bill of sale fully describing the claimed horse;*

*(b) A valid brand certificate;*

*(c) Registration papers from a recognized breeder's association; or*

*(d) Other uncontested testimony or evidence of ownership.*

5. "Wild horse" means a horse, mare or colt which is unbranded and unclaimed and [lives on public land.] *runs at large on open range land.*