

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
March 2, 1983

The House Natural Resources Committee convened at 12:30 p.m. on March 2, 1983, in Room 224A of the State Capitol, with Chairman Harper presiding and all members present except Rep. Nordtvedt, who was absent. Chairman Harper opened the meeting to a hearing on Senate Bill 67.

SENATE BILL 67

SENATOR THOMAS KEATING, District 32, chief sponsor, said the measure before the committee was in a bill two years ago and it repealed the prohibition that foreign corporations cannot hold state coal leases. He said it passed the Senate and the House and then was vetoed by the Governor. He said the Governor said it went beyond the federal allowances of foreign corporations holding United States land. The federal restriction says if a foreign country has reciprocal agreements with this country there are no restrictions on them for holding a lease. Senator Keating said this is a similar bill except the Senate Committee felt it should not be a repealer but have similar reciprocal language in it as the federal law. Senator Keating said what is being dealt with is the right to hold a coal lease on state lands. He said there is no prohibition against a foreign corporation holding a state oil and gas lease. He said Shell Oil and Gas is primarily held by the Netherlands and is one of the largest lease holders in the state of Montana. He said they employ about 230 people in the state and they are a good neighbor, but under our law they cannot have a state coal lease. Senator Keating said to have a successful coal operation usually requires leases on several thousands of acres. State leases are usually scattered throughout and in plots of not over 640 acres. He said private and federal are usually this size, also, so to get together a mining plan the operator needs to obtain leases from state lands as well as federal and private. He said it takes a great deal of capital investment to develop a coal mine and, since our capital sources are restricted and we need outside sources of investment, we shouldn't be too particular where that money comes from if it is going to provide jobs for our people and additional revenue. In the oil and gas business 90 percent of the investment comes from outside Montana. He asked the committee to concur in their recommendation of the bill.

JEROME ANDERSON, Shell Oil Company, said since the controlling interests in the company are from the Netherlands, there is no doubt they would be considered a foreign corporation. He said they employ 36,000 people in the United States. He said they are preparing to open coal mines in Texas and Montana. He said they have been in production in the United States for 32 years and currently have oil and gas leases in Montana, including 140,000 state acres. He said they daily produce 24,300 barrels of crude and 66 mcf of natural gas, and this is one-third of the total oil and crude production in Montana.

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So, he said, they are a significant taxpayer. He said this shows that Shell has made an effort to be a good citizen in the United States and Montana and has made a valuable contribution to the industrial development of Montana.

JAMES D. MOCKLER, Montana Coal Council, spoke in support. He said there are large blocks of federal coal being put up for lease and this would involve state school sections to get a logical mining plan. He said Shell has the right to bid on the federal leases but not the state leases. He said if they find a coal seam 30 feet deep and have to skip the state section this could mean a loss to the state in royalties of 54 million and add 105 million more in lost coal severance tax. He said the bill is now in compliance with the federal law and should answer any questions the Governor had with the former bill.

There were no opponents.

SENATOR KEATING closed. He said one thing he would like to share with the committee is in regards to coal mining. He said in watching the activity in our state and knowing the need we have for additional revenue, it seems incongruous to have a 30 percent severance tax on coal. He said Wyoming has an 18 percent severance tax. He said Wyoming's tax revenue was \$180,000,000 last year and ours was \$90,000,000 - half the revenue with twice the tax. He said we have 1200 mining jobs and they have 6,000 jobs in Wyoming. He said he would like to make a plug that maybe we are not developing all the natural resources we could. He said if we could encourage some more mining of coal it could be to our advantage.

Questions were asked by the committee.

Rep. Jensen asked if the Senator felt we should lease our state lands for the same amount that they leased their state lands for. Mr. Mockler said the leases are similar.

Rep. Ream asked how the new language in the bill would change the status with Shell. Mr. Anderson said it would permit Shell to lease coal on state lands as we have a reciprocal agreement between the United States and the Netherlands.

It was asked if this would change our relationship with Canada and Mexico and the answer was no.

Rep. Addy asked if the State Land Department had a stand on this bill as they had not been present. Mr. Mockler said they took no position on the bill. He said he had talked with them.

Chairman Harper closed the hearing on this bill. Vice-Chairman Ream took the chair as Chairman Harper had to leave.

SENATE BILL 118

SENATOR THOMAS TOWE, District 34, chief sponsor, said this bill requires a public hearing prior to the sale or transfer of certain federal land. He said James Watt initiated the procedure to sell 5 percent of the federal land which will amount to 35 million acres. These land sales were to raise 17 billion dollars during the next five years. But the land proposed by the agencies was not sufficient to raise that amount so each federal agency was required to submit more land. Senator Towe said this is what concerns him. Would this additional land become more than just unneeded land and is there anything we could do about it. He said a big problem is the secrecy so the people are not aware of what is being considered as salable. He said we can't stop the federal government from selling the land but if we bring this matter to the open so the public knows what is going on, it may prevent it being done improperly. This may make them a little less anxious to sell critical land that shouldn't be sold as whenever it could cause an impact on the management of state land or natural resources a public hearing is to be held. If there is a federal hearing on the sale, then no other hearing would be needed. The hearing would be held in the county in which the land is located. Senator Towe had several handouts: fact sheet on the sale of public lands, Exhibit 1; Billings Gazette article "Privatization is no panacea for U.S." (Exhibit 2); Independent Record article "BLM head: no secrets in surplus land selection" (Exhibit 3); copy of letter to Robert Burford (Exhibit 4).

DAVE WOODYERD, Department of State Lands, spoke next in support and a copy of his testimony is Exhibit 5.

LUCIANNE BRIEGER, Montana Environmental Information Center, spoke in support. She said the landowner should be consulted before the land is sold or transferred. She said there is no indication that the policy of secrecy of the federal government is likely to change, and she said to the extent that this bill attempts to increase having all proposed sales and transfers in the open they support the bill. She said they would like an amendment to have the notification of the hearing broadcast on state-wide media. She said more people are affected on some of these land deals than just local residents. She said in some cases a second hearing may be needed. If citizens want this additional public hearing, they should be able to submit a petition with a certain number of signatures. She said perhaps the Department of State Lands could figure out where the best place for this meeting would be. She felt a fiscal note was not necessary as she couldn't see the need of a research economist.

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KEN KNUDSON, Montana Wildlife Federation, spoke next in support and a copy of his testimony is Exhibit 6. He said they also support the testimony presented by Ms. Brieger as they would like public notification of larger sales and the need of having additional public hearings on those actions.

MARC LEDBETTER, Northern Plains Resource Council, testified in favor of the bill. He cited an example of the need of the bill. Two months ago about 500 acres were transferred from federal ownership to the city of Miles City. Prior to this the land had special agricultural protection but when given to the city it was designated as an industrial park. He suggested adding language on page 2, following line 4, which would say "If a hearing will be conducted by a federal agency on the proposed sale or transfer of federal land within the state, the commissioner shall require the attendance of a representative of the department of state lands for the purpose of fulfilling the requirements of [section 3]." He said the reason for this is that it would be difficult for the commissioner to carry out section 3 if he didn't have someone present at the hearing.

WILBUR REYMANN, Helena, representing self, said he agreed the advertising should be done in more generally read newspapers. He said this would meet the needs of the citizens of Montana in a more equitable way. He urged the passage of the bill.

JANET ELLIS, Montana Audubon Council, said since Montana citizens and wildlife could be adversely affected, the public should be guaranteed an input into the sale of public lands. She said the Audubon Council has the same concerns as have been voiced and she said they would be happy to work with anyone on amendments.

SENATOR TOWE closed. He said one of the suggested amendments was to require another hearing upon the request of a certain number of people. He said the Senate committee didn't approve that amendment; but if this committee wished to add that, the appropriate place would be on page 2, line 13, following "located" insert "and in the nearest metropolitan area (Billings, Great Falls, Missoula, Havre, Bozeman, Kalispell) if requested by 15 or more people and it". He said he had no objection to the amendment. He said he understood taking out exchanges as that isn't what the bill is really aimed at. He said what they are concerned about is the sale of land that would be substantial enough to make a dent in the federal debt. He said the idea of having a state-wide notice he has no problem with. He said it would be appropriate to say the notice should be published in a regional newspaper that covers that region of the state. He said Marc Ledbetter's amendment is acceptable also, although he was not certain it was that critical.

Questions were asked by the committee.

Rep. McBride asked why Butte was left out of the suggested amendment made by Senator Towe of suggested places for other hearings. Senator Towe said it was only an oversight.

Question was raised as just when the hearing would be held. Senator Towe said it should be held before the transfer or the sale.

Senator Towe said we should be under no pretense as the federal government owns the land and can sell it. He said the bill only brings it out in the open and focuses public attention on it.

Vice-Chairman Ream closed the hearing on this bill and as he had to leave Rep. Addy assumed the chair. He opened the hearing on SB 101.

There was no one present to speak on this bill so Rep. Addy opened the meeting to an executive session.

EXECUTIVE SESSION

SENATE BILL 118 Rep. Jensen moved DO PASS. After discussion it was decided to withhold action on the bill until the amendments suggested could be worked out. Rep. Jensen withdrew his motion.

Meeting adjourned at 1:35 p.m.

Respectfully submitted,



Hal Harper / Chairman

Emelia A. Satre, Sec.

Line

MEMORANDUM

TO: HOUSE NATURAL RESOURCES COMMITTEE MEMBERS

FROM: JOHN CARTER

RE: BILL SUMMARIES FOR SBs 67, 101, 118

DATE: March 2, 1983

SB 67
Keating This bill seeks to modify an existing limitation on the leasing of state lands to foreign interests for coal mining purposes. In addition to expanding the limitation to include noncorporate as well as corporate entities, the bill would provide an exception for foreign entities whose parent country does not restrict United States entities from acquiring similar interests in his country.

SB 101
Graham This bill seeks to clarify existing code sections that pertain to human health and natural resources. (See bill summary prepared by code commissioner.)

SB 118
Towe This bill seeks to require the Commissioner of State Lands to hold a public hearing prior to the sale or transfer of federal lands if it is determined that the transfer of such lands would have an adverse impact on the state.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 67

DATE March 2, 1983

SPONSOR Senator Keating

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

NATURAL RESOURCES

COMMITTEE

BILL SB 118

DATE 3/2/83

SPONSOR SENATOR TOWE

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SALE OF PUBLIC LANDS

III. Proposed Land Sale-- Montana.

A. The Bureau of Reclamation:

1. Manages one million acres of land in Montana, Wyoming, and the Dakotas.
2. Put forth 21,674 acres to sale. This land would transfer to the BLM for management of the sale.
3. The estimated income from this sale of land could range from 5-10 million dollars.
4. Three proposed areas for sale:
 - a. 8,422 acres of an unused dam site along the Powder River on the Montana-Wyoming border.
 - b. 527 acres near the Clark Canyon Reservoir near Dillon.
 - c. 36 acres in Richland County.

B. The Forest Service has 14,000 acres of salable land in Montana.

C. Bureau of Land Management:

1. Manages 8.4 million acres in Montana and in the Dakotas, which compose 10,000 tracts.
2. 2,500 of those 10,000 BLM tracts are considered salable at the rate of \$100-\$150 an acre.
3. The BLM will not disclose where the tracts are located by order of the Federal government.

Information compiled from:

National Parks, September/October 1982. p. 36

Nation's Business, September 1982. pp. 46-7

The Billings Gazette, August 22, 1982.

I. Land ownership by Federal Government.

- A. Federal government owns one third of this country's land.
- B. The land is valued " conservatively " at \$210 billion.
200 528,000
- C. The Federal government owns 135,961 acres in Montana.

II. Proposed Land Sale-- General

- A. Reagan's Executive Order 12348 requires all Federal agencies to review their land holdings and report any unneeded property for sale.
- B. The land sale will be administrated by the Federal Property Review Board as designated by E.O. 12348.
- C. James Watt claims that only 5% of the Federal land holdings will be sold. 5% of the public holdings amounts to 35 million acres.
- D. The Interior Department said that the tracts that would be marketed first would be those around urban or developed areas or tracts of land located off the beaten path.
- E. Predictions for Fiscal Year 1983 state that the land sales would raise \$17 billion during the next five years.
- F. Federal agencies were required to submit more land for sale after their initial numbers did not meet those that the government had established. The locations of the recently submitted lands are being kept very secret, and this secrecy has caused people to fear that tracts that border National Parks will be sold and that development would pollute the parks and mar the scenery.
- G. In previous years, the money from the limited land sales went to the Land and Water Conservation Fund which went to the further acquisition of land to increase the National Park system. E.O. 12348 proposes that the money from the new land sales will go to decrease the national deficit.

6x1

'Privatization' is no panacea for U.S.

"Those who cannot remember the past are condemned to repeat it," George Santayana wrote in 1906.

Our representatives in government might well keep Santayana's words in mind as they consider "privatization," the administration's plan to sell our public lands.

Back in 1803 Napoleon Bonaparte, in order to finance what would ultimately become his Waterloo, sold the United States a huge parcel of land stretching from the Mississippi River to the Rocky Mountains — for \$15 million.

And that figure included the settlement of some American claims against France.

And in 1867, the U.S. bought Alaska from Russia for some \$7.2 million — less than two cents per acre.

At the time Russia was in the midst of a great expansionist fever, and it was believed that she and Britain were on the edge of war over India and Afghanistan.

And now President Ronald Reagan wants to sell an estimated 144 million acres

of national land to help retire the national debt — a debt greatly affected by this country's defense spending.

France would certainly opt now for America's Midwest over Waterloo.

The U.S.S.R. certainly would prefer Alaska now to \$7.2 million.

And 100 years from now, the United States may well wish that it had kept its public lands.

There are, of course, arguments in favor of privatization.

Proponents say that public lands would be better managed by the private sector where they would be subject to property tax and that they are an easy way to reduce the national debt — no increase in taxes, no cut in benefits.

But these arguments are shaky at best. A few years ago when wheat prices jumped to \$4 and \$5 per bushel, some enterprising Montana farmers put the plow to public lands to increase their acreages. But

the marginal prairie grasslands could not support wheat. With no root structure to hold the soil in place, it was carried away by the wind. If our public lands were made private, they would be subject to the pressures of the market place. That doesn't necessarily make for good management.

Some ranches are viable only because of the public lease lands. The staggering state of the agricultural economy would prohibit most ranchers from buying the land on which they depend.

And that would change the character of the West, family farms replaced by corporations with enough assets to tie up the public lands.

And that would further strap the states' economies. Family farms support local economies in many of the state's smaller communities. Large corporate farms would more likely buy directly from suppliers and borrow from larger lending institutions.

And finally, the sale of all these lands,

particularly now in a time of sagging real estate prices, would not dent the national debt.

Total sales of the lands is estimated at \$17 billion over the next five years. That figure represents .003 percent of the \$100 trillion national debt. It has also been estimated that the loss of lease revenue from current federal holdings, particularly from mineral resources, will cost the government some \$1 trillion in the future, much more than the sale of land would take in.

There is another point that Montana sportsmen might keep in mind. Non-fee hunting and fishing areas are fast becoming scarce in the West. The future of those revenue-producing sports may well depend in the future on public lands.

Privatization will be popular in the Eastern states, which have little to lose under the proposal.

But the Western states will suffer greatly if the administration's plan is put into effect.

Opinion

The Billings Gazette

Wed., Jan. 26, 1983

5-A

64-2

AROUND HELENA

The Independent Record, Helena, Mont., Sunday, January 23, 1983 — 6A

BLM head: no secrets in surplus land selection

By BILL SKIDMORE
An SPW Writer

Robert Burford, the director of the Bureau of Land Management, adamantly denied Sunday that the process of selecting surplus federal lands for future sale is secretive. Burford, introduced by state Sen. Tom Toner, Commissioner to determine, through public hearings and other means, whether proposed federal land sales would adversely affect Montana interests is needless, Burford said. Burford was speaking at a Helena press conference.

The bill is a response to President Reagan's order requiring federal agencies to inventory unneeded land holdings for a future sale to help reduce the national budget deficit. It is supported by Montana environmentalists who contend the agencies are denying the public knowledge of the project.

Burford said that "simply is not true." He said all decisions are being made through open, well-announced public hearings at the local level. "We don't have anything to hide," he said.

Burford, who was in Helena to address the state Republican Party's 1983 "mini-convention" at the Colonial Inn, also took some shots at environmentalists.

He was asked to explain a statement that federal lands belong to the people and not "to

been truly managed for the public good. "Instead it has been so regulated that the general public has gotten less and less good out of it."

Burford said the Reagan administration has "allowed the resources of America to serve the American people through stewardship and wise use as opposed to no use and a paralysis by analysis." He said "stewardship" has played a large role in the "stabilization and reduction of gasoline prices throughout this land in the last two years."

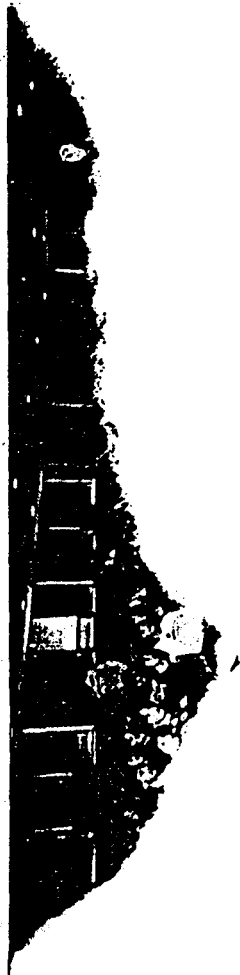
Burford, a 50-year-old Colorado rancher and state legislator whose appointment to the BLM post by Reagan was confirmed in May

1981, praised the administration for reducing inflation and interest rates and tackling the problems of deficit-security.

He said "two problems that linger" — unemployment and an unbalanced budget — "are the legacies of 20 years of abusive management." He said the administration realizes that "constant work and sacrifice is necessary for their control."

"But," he said, "imagine where we would be without the strong leadership of the Reagan team. Imagine where we would be if the give-away-and-lazy boys of the Congress had their own way for many more years. There would be no hope at all. Only despair. No future. Only a painful desperation."

State of City address day



Ex. 3



The Big Sky Country

MONTANA STATE SENATE

SENATOR THOMAS E. TOWE
SENATE DISTRICT 34

HELENA ADDRESS:
P. O. BOX 127
CAPITOL STATION
HELENA, MONTANA 59620
HELENA PHONE (406) 449-4800

COMMITTEES:
TAXATION
STATE ADMINISTRATION
REVENUE OVERSIGHT
RULES

January 28, 1983

Robert Burford, Director
Bureau of Land Management
18 N. C. Street, NW
Washington, D. C. 20240

Dear Mr. Burford:

You were quoted in the Independent Record, Helena, Montana, on Sunday, January 23, 1983, as stating that all decisions regarding the federal agency's sale of federal land holdings are "being made through open, well-announced public hearings at the local level. 'We don't have anything to hide.'"

I am absolutely delighted that the process is going to be open and preceded by well-announced public hearings at the local level. We will amend SB 118 to make sure that no state hearings are required if you hold such public hearings.

Since "all decisions" are being made in the open, I wonder if you could tell me exactly what the BLM is planning to do with regard to the sale of public lands in Montana to balance the federal budget. What sort of lands do you expect to sell? What is the process of selection, and will the public have an opportunity to enter the picture early in this selection process?

Since a number of my friends are very skeptical of your commitment to an open process, I am most anxious to receive your reply.

Sincerely yours,

THOMAS E. TOWE, Senator
District No. 34

TET:go

Howe
Woodward

Ex. 5

DEPARTMENT OF STATE LAND'S TESTIMONY ON SENATE BILL 118

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

The Department of State Lands requested, during the Senate hearing, that the bill be amended to exclude easements and land owed to the state by the federal government pursuant to the Enabling Act. These amendments as well as others were made in committee and the department does support the bill as amended.

The department prepared a fiscal note for this bill which indicates that more than \$40,000 per year will be necessary to evaluate the federal sales and hold public hearings. An amendment to the bill states that no hearing will be required by the state if the federal government conducts a hearing. Although this may cut down the number of hearings, there is no way of being certain to what extent. Therefore, the department will still need a staff person to keep track of any sales and the need for a hearing. Also, the federal government may very well decide to let the state hold any hearings rather than doing it themselves.

The department urges the committee to make certain that funds are provided to the department to carry out the responsibilities imposed by this bill.

TESTIMONY OF THE MONTANA WILDLIFE FEDERATION

SB 118

House Natural Resources Committee

March 3, 1983

Mr. Chairman, members of the committee:

My name is Ken Knudson, representing the Montana Wildlife Federation in support of SB 118.

As we stated in the hearing on this bill before the Senate committee, it is truly unfortunate we have to call upon our state officials to monitor what may happen to federal lands in Montana, but with the attitude of the present administration in Washington, we don't really appear to have much choice. For example, my organization has been left in the dark about even the specific locations of BLM lands rumored to be sold as early as April. If public hearings on these and any future sales or exchanges were held far in advance of the proposed actions, everyone would benefit - local landowners, recreationists or anyone who would like to have a say in what happens to our public trust.

We are pleased to see that language has been inserted into this bill that would evaluate the impact of these proposed actions on agricultural, wildlife and recreational resources and not just leave them to be evaluated in purely fiscal terms.

We are concerned, however, about the deletion of the term "exchange" from this bill. Was this done because the Senate felt that exchange was synonymous with transfer or will deletion of this term not require that hearings be held on such significant actions as the recent trading of BLM lands in eastern Montana for substantially smaller acreages along the Missouri River near Helena?

MWF read about this exchange after the fact in the newspapers, and we definitely would like to be involved from the start through a public hearing process.

MWF appreciates the intent of this bill, which would be to provide public forums to discuss the fate of our public lands. We only hope that all proposed sales and exchanges will be included.

STANDING COMMITTEE REPORT

March 4, 1983

SPEAKER:
MR.

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **67**

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color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE LIMITATION THAT
THE BOARD OF LAND COMMISSIONERS MAY NOT ISSUE COAL LEASES TO
FOREIGN INTERESTS; AMENDING SECTION 77-3-305, MCA."**

Respectfully report as follows: That **SENATE** Bill No. **67**

BE CONCURRED IN

~~XXXXXX~~
DO PASS

STANDING COMMITTEE REPORT

March 9, 1983

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **101**

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color

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; AND REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA."

Respectfully report as follows: That **SENATE** Bill No. **101**

be amended as follows:

1. Page 9, line 3.
Strike: "1-day"
Insert: "5-day"

AND AS AMENDED
BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 23, 19 83

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **118**

third reading copy (blue)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A PUBLIC HEARING
PRIOR TO THE SALE OR TRANSFER OF CERTAIN FEDERAL LAND."**

Respectfully report as follows: That **SENATE** Bill No. **118**

be amended as follows:

1. Page 1, line 22.
Following: **"HEARING"**
Insert: **"or public meeting"**
2. Page 1, line 25.
Following: **"TRANSFER,"**
Insert: **"and that further public input would be desirable,"**
3. Page 2, following line 4.
Insert: **"(3) If a hearing will be conducted by a federal agency on the proposed sale or transfer of federal land within the state, the commissioner shall require the attendance of a representative of the department of state lands for the purposes of fulfilling the requirements of [section 3]."**
Renumber: subsequent subsection
4. Page 2, line 13.
~~Following:~~ Following: **"and"**
Insert: **"in the nearest metropolitan area (Billings, Great Falls, Missoula, Havre, Bozeman, Kalispell, Butte) if sufficient public interest is shown"**

AND AS AMENDED BE CONCURRED IN

HAL HARPER Chairman.

March 23

19 83

**HOUSE NATURAL RESOURCES AMENDMENTS
STATEMENT OF INTENT TO SB 118**

1. Statement of Intent, line 11.
Following: "one"
Insert: "regional"
Following: "newspaper"
Strike: "generally"

Chairman.