

SENATE BILL NO. 26

INTRODUCED BY TOWE

BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Judiciary.
January 11, 1985	Committee recommend bill do pass as amended. Report adopted.
January 12, 1985	Bill printed and placed on members' desks.
January 14, 1985	Second reading, do pass.
January 15, 1985	Considered correctly engrossed.
January 16, 1985	Third reading, passed. Ayes, 34; Noes, 15.
	Transmitted to House.

IN THE HOUSE

January 18, 1985	Introduced and referred to Committee on State Administration.
January 19, 1985	Rereferred to Committee on Judiciary.
March 29, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1985	Second reading, pass consideration.

April 1, 1985

Second reading, concurred in  
as amended.

Third reading, concurred in.

Returned to Senate with  
amendments.

IN THE SENATE

April 1, 1985

Received from House.

April 4, 1985

Second reading, amendments not  
concurred in. Ayes, 50;  
Noes, 0.

April 5, 1985

On motion, Conference  
Committee requested and  
appointed.

April 16, 1985

Conference Committee reported.

Conference Committee report  
adopted by House.

April 17, 1985

Second reading, Conference  
Committee report adopted.

April 18, 1985

Third reading, Conference  
Committee report adopted.

Sent to enrolling.

Reported correctly enrolled.

1                    SENATE    BILL NO.    26  
 2    INTRODUCED BY TOWE  
 3                    BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS  
 4  
 5    A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE BOARD OF  
 6    LAND COMMISSIONERS TO EXCHANGE STATE LANDS LOCATED WITHIN OR  
 7    ADJACENT TO INDIAN RESERVATIONS FOR LANDS OWNED BY TRIBAL  
 8    GOVERNMENTS; PERMITTING THE BOARD TO SELL STATE LANDS  
 9    LOCATED WITHIN OR ADJACENT TO INDIAN RESERVATIONS TO TRIBAL  
 10    GOVERNMENTS; AMENDING SECTIONS 77-2-201, 77-2-306, AND  
 11    77-2-307, MCA."

12  
 13    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14            Section 1. Section 77-2-201, MCA, is amended to read:

15            "77-2-201. Exchange of land with United States or  
 16    tribal governments. (1) (a) The board may enter into  
 17    contracts or agreements with the United States or any  
 18    department thereof having jurisdiction for the waiving and  
 19    relinquishment to the United States of any rights of the  
 20    state in and to sections 16 and 36 of any township and to  
 21    any other parcel of state lands, provided that the state  
 22    shall, in lieu of the rights so waived and relinquished,  
 23    receive from the United States other lands of equal or  
 24    greater value.

25            ~~f2~~(b) The current user of the land transferred to the

1    United States may continue to enjoy the use of the land  
 2    under terms and conditions required by the federal  
 3    government and in accordance with P.L. 88-607, as amended,  
 4    (43 U.S.C. 1411 through 1418), and the current user of the  
 5    land received from the United States may continue to utilize  
 6    the land on the terms and conditions imposed by law or by  
 7    the board.

8            (2) The board may enter into a contract or agreement  
 9    with a tribal government as defined in 18-11-102 or with the  
 10    United States for the relinquishment to the tribal  
 11    government or to the United States in trust for the tribal  
 12    government of any rights of the state to some or all state  
 13    lands located wholly or partially within or adjacent to the  
 14    exterior boundaries of the tribal government's reservation;  
 15    however, the state, in exchange for these relinquished  
 16    rights, must receive from the tribal government or the  
 17    United States lands of equal or greater value."

18            Section 2. Section 77-2-306, MCA, is amended to read:

19            "77-2-306. Who may purchase. (1) State lands shall be  
 20    sold only to citizens of the United States or to persons who  
 21    have declared their intentions to become citizens or to  
 22    corporations organized under the laws of this state. No  
 23    person shall be qualified to purchase state land who has not  
 24    reached the age of 18 years. As far as possible to  
 25    determine, the lands shall be sold only to actual settlers

1 or to persons who will improve the same and not to persons  
 2 who are likely to hold such lands for speculative purposes  
 3 intending to resell the same at a higher price without  
 4 having added anything to their value.

5 (2) State lands may be sold to any sovereign state of  
 6 the United States or to any board of trustees or public  
 7 corporation or agency of such state created by such state as  
 8 an agency or political subdivision thereof. Said lands may  
 9 be purchased in the quantities set forth in 77-2-307 for use  
 10 by such state, board of trustees, public corporation,  
 11 agency, or political subdivision for educational or  
 12 scientific purposes.

13 (3) State lands located wholly or partially within or  
 14 adjacent to the exterior boundaries of the tribal  
 15 government's reservation may be sold to a tribal government  
 16 as defined in 18-11-102."

17 Section 3. Section 77-2-307, MCA, is amended to read:

18 "77-2-307. Limitation on acreage. ~~No (1) Except as~~  
 19 ~~provided in subsection (2), no person or corporation shall~~  
 20 ~~be--entitled--to~~ may purchase more than one section of state  
 21 land, and this area shall not include more than 160 acres of  
 22 land susceptible of irrigation.

23 (2) These The limitations in subsection (1) as to area  
 24 and irrigability shall do not apply to:

25 (a) lands within a federal irrigation project wherein

1 the Congress of the United States of America authorizes  
 2 water to be furnished to an area exceeding 160 irrigable  
 3 acres; or  
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-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

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14 (3) State lands located wholly or partially within or  
 15 adjacent to the exterior boundaries of the tribal  
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3   government and in accordance with P.L. 88-607, as amended,

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-End-

STANDING COMMITTEE REPORT

HOUSE

March 28 19 85

page 1 of 2

March 28 19 85

page 2 of 2  
SB 26

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 26

THIRD reading copy (Blue color)

PERMITTING SALE OR EXCHANGE OF STATE LANDS TO MONTANA INDIAN TRIBES

4. Page 2, line 15.  
Following: "AS"  
Strike: "ESTABLISHED BY ACT OF CONGRESS"  
Insert: "recognized by the federal government"

5. Page 3, line 14.  
Following: "wholly"  
Strike: "or partially"

Following: "within"  
Strike: "or adjacent to"

6. Page 3, line 16.  
Following: "AS"  
Strike: "ESTABLISHED BY ACT OF CONGRESS"  
Insert: "recognized by the federal government"

Respectfully report as follows: That Senate Bill No. 26  
be amended as follows:

1. Title, lines 6 and 7.  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

2. Title, line 9.  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

3. Page 2, line 13.  
Following: "wholly"  
Strike: "or partially"

Following: "within"  
Strike: "or adjacent to"

AS  
XOXOX  
to 3/29

(continued)

REP. TOM HANNAH, Chairman.

AS  
to 3/27  
AND AS AMENDED,  
BE CONCURRED IN

Tom Hannah  
Rep. Tom Hannah, Chairman.

COMMITTEE OF THE WHOLE AMENDMENT

4011244b.cw

HOUSE

4-1-85

DATE

12:44

TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 26

3rd reading copy ( blue ) as follows:  
Color

1. Page 2, line 18.

Following: "value."

Insert: "No contract or agreement may be entered into under this subsection without first obtaining the approval of the board of county commissioners of the county or counties in which the lands exchanged are located."

2. Page 3, line 17.

Following: "18-11-102."

Insert: "No sale may be made under this subsection without first obtaining the approval of the board of county commissioners of the county or counties in which the lands sold are located."

ADOPT  
REJECT

Mercer  
Rep. Mercer

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15 AS ESTABLISHED-BY-ACT-OF-CONGRESS RECOGNIZED BY THE FEDERAL  
16 GOVERNMENT; however, the state, in exchange for these  
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18 or the United States lands of equal or greater value. NO  
19 CONTRACT OR AGREEMENT MAY BE ENTERED INTO UNDER THIS  
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 21 ~~RECOGNIZED BY THE FEDERAL GOVERNMENT~~ may be sold to a tribal  
 22 government as defined in 18-11-102. ~~NO SALE MAY BE MADE~~  
 23 ~~UNDER THIS SUBSECTION WITHOUT FIRST OBTAINING THE APPROVAL~~  
 24 ~~OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OR~~  
 25 ~~COUNTIES IN WHICH THE LANDS SOLD ARE LOCATED."~~

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-End-

# CONFERENCE COMMITTEE REPORT

Report No. ....1.....

.....APR 15,..... 19 85.....

MIR. PRESIDENT

We, you \_\_\_\_\_ Conference Committee on

SENATE BILL NO.26, reference copy,

met and considered \_\_\_\_\_, on April 15, 1985, the House Amendments to

SENATE BILL NO.26.

We recommend as follows:

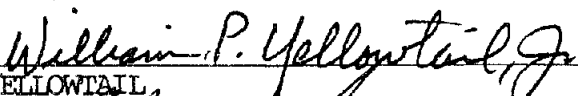
1. Page 2, line 20.  
Following: line 19  
Strike: "SUBSECTION"  
Insert: "section"  
Following: "FIRST"  
Strike: "OBTAINING THE APPROVAL OF"  
Insert: "consulting with"
  
2. Page 3, line 22.  
Following: "SALE"  
Insert: "involving land in excess of the acreage  
limitations in section 3"
  
3. Page 3, lines 23 and 24.  
Following: "THIS" on line 23  
Strike: "SUBSECTION"  
Insert: "section"  
Following: "FIRST"  
Strike: "OBTAINING THE APPROVAL OF"  
Insert: "consulting with"


CCSB26

And that this Conference Committee report be adopted.

FOR THE SENATE

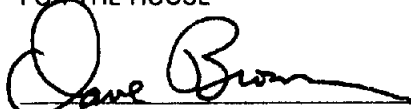
  
\_\_\_\_\_  
TOWE, CHM

  
\_\_\_\_\_  
YELLOWTAIL

  
\_\_\_\_\_  
GAGE

ADOPT      REJECT

FOR THE HOUSE

  
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BROWN, CHM

\_\_\_\_\_  
MARION HANSON

\_\_\_\_\_  
KENNERLY

\_\_\_\_\_  
MERCER

1 SENATE BILL NO. 26

2 INTRODUCED BY TOWE

3 BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE BOARD OF  
6 LAND COMMISSIONERS TO EXCHANGE STATE LANDS LOCATED WITHIN OR  
7 ADJACENT-TO INDIAN RESERVATIONS FOR LANDS OWNED BY TRIBAL  
8 GOVERNMENTS; PERMITTING THE BOARD TO SELL STATE LANDS  
9 LOCATED WITHIN OR-ADJACENT-TO INDIAN RESERVATIONS TO TRIBAL  
10 GOVERNMENTS; AMENDING SECTIONS 77-2-201, 77-2-306, AND  
11 77-2-307, MCA."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 77-2-201, MCA, is amended to read:

15 "77-2-201. Exchange of land with United States or  
16 tribal governments. (1) (a) The board may enter into  
17 contracts or agreements with the United States or any  
18 department thereof having jurisdiction for the waiving and  
19 relinquishment to the United States of any rights of the  
20 state in and to sections 16 and 36 of any township and to  
21 any other parcel of state lands, provided that the state  
22 shall, in lieu of the rights so waived and relinquished,  
23 receive from the United States other lands of equal or  
24 greater value.

25 (2) (b) The current user of the land transferred to the

1 United States may continue to enjoy the use of the land  
2 under terms and conditions required by the federal  
3 government and in accordance with P.L. 88-607, as amended,  
4 (43 U.S.C. 1411 through 1418), and the current user of the  
5 land received from the United States may continue to utilize  
6 the land on the terms and conditions imposed by law or by  
7 the board.

8 (2) The board may enter into a contract or agreement  
9 with a tribal government as defined in 18-11-102 or with the  
10 United States for the relinquishment to the tribal  
11 government or to the United States in trust for the tribal  
12 government of any rights of the state to some or all state  
13 lands located wholly or-partially within or-adjacent-to the  
14 exterior boundaries of the tribal government's reservation  
15 AS ESTABLISHED-BY-ACT-OF-CONGRESS RECOGNIZED BY THE FEDERAL  
16 GOVERNMENT; however, the state, in exchange for these  
17 relinquished rights, must receive from the tribal government  
18 or the United States lands of equal or greater value. NO  
19 CONTRACT OR AGREEMENT MAY BE ENTERED INTO UNDER THIS  
20 SUBSECTION SECTION WITHOUT FIRST OBTAINING-THE-APPROVAL-OF  
21 CONSULTING WITH THE BOARD OF COUNTY COMMISSIONERS OF THE  
22 COUNTY OR COUNTIES IN WHICH THE LANDS EXCHANGED ARE  
23 LOCATED."

24 Section 2. Section 77-2-306, MCA, is amended to read:

25 "77-2-306. Who may purchase. (1) State lands shall be



1 sold only to citizens of the United States or to persons who  
 2 have declared their intentions to become citizens or to  
 3 corporations organized under the laws of this state. No  
 4 person shall be qualified to purchase state land who has not  
 5 reached the age of 18 years. As far as possible to  
 6 determine, the lands shall be sold only to actual settlers  
 7 or to persons who will improve the same and not to persons  
 8 who are likely to hold such lands for speculative purposes  
 9 intending to resell the same at a higher price without  
 10 having added anything to their value.

11 (2) State lands may be sold to any sovereign state of  
 12 the United States or to any board of trustees or public  
 13 corporation or agency of such state created by such state as  
 14 an agency or political subdivision thereof. Said lands may  
 15 be purchased in the quantities set forth in 77-2-307 for use  
 16 by such state, board of trustees, public corporation,  
 17 agency, or political subdivision for educational or  
 18 scientific purposes.

19 (3) State lands located wholly or partially within or  
 20 adjacent---to the exterior boundaries of the tribal  
 21 government's reservation AS ESTABLISHED BY ACT--OF--CONGRESS  
 22 RECOGNIZED BY THE FEDERAL GOVERNMENT may be sold to a tribal  
 23 government as defined in 18-11-102. NO SALE INVOLVING LAND  
 24 IN EXCESS OF THE ACREAGE LIMITATIONS IN 77-2-307 MAY BE MADE  
 25 UNDER THIS SUBSECTION SECTION WITHOUT FIRST OBTAINING--THE

1 APPROVAL---OP CONSULTING WITH THE BOARD OF COUNTY  
 2 COMMISSIONERS OF THE COUNTY OR COUNTIES IN WHICH THE LANDS  
 3 SOLD ARE LOCATED."

4 Section 3. Section 77-2-307, MCA, is amended to read:  
 5 "77-2-307. Limitation on acreage. No (1) Except as  
 6 provided in subsection (2), no person or corporation shall  
 7 be-entitled-to may purchase more than one section of state  
 8 land, and this area shall not include more than 160 acres of  
 9 land susceptible of irrigation.

10 (2) These The limitations in subsection (1) as to area  
 11 and irrigability shall do not apply to:

12 (a) lands within a federal irrigation project wherein  
 13 the Congress of the United States of America authorizes  
 14 water to be furnished to an area exceeding 160 irrigable  
 15 acres; or

16 (b) lands to be sold to a tribal government as  
 17 provided in 77-2-306."

-End-