

1 SENATE BILL NO. 354

2 INTRODUCED BY W. CRISMORE, D. MOOD, BECK, BERRY, COLE, GRIMES, KEENAN, MAHLUM,  
3 K. MILLER, SLITER, F. THOMAS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE STATE BOARD OF LAND COMMISSIONERS  
6 AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM DESIGNATING,  
7 TREATING, OR DISPOSING OF ANY INTEREST IN ~~OR TO ANY STATE TRUST~~ FOREST LANDS FOR  
8 PRESERVATION PURPOSES PRIOR TO OBTAINING THE FULL MARKET VALUE OF THE FOREGONE USES;  
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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11 WHEREAS, no interest in state trust lands or proceeds may be diverted from the trust without  
12 payment of the full market value of that use to the trust pursuant to section 11 of the state's Enabling Act  
13 and Article X, sections 3 and 11, of the Montana Constitution; and

14 WHEREAS, the Montana Supreme Court, in *Montanans for the Responsible Use of the School Trust*  
15 *v. State*, 296 Mont. 402, 989 P.2d 800 (1999), held that state trust land could not be held idle without  
16 the production of revenue pending the arbitration of lease improvements and referenced an earlier Supreme  
17 Court ruling that declared that a "trustee must act with the utmost good faith towards the beneficiary, and  
18 may not act in his own interest, or in the interest of a third person"; and

19 WHEREAS, Attorney General Robert Woodahl, in an opinion issued on July 7, 1976, 36 A.G. Op.  
20 92, held that in order for the state to avoid a breach of trust under the Enabling Act and the Montana  
21 Constitution, the state is required to actually compensate the state school trust with funds for the full  
22 appraised value of any state trust lands designated or exchanged for natural areas pursuant to the Montana  
23 Natural Areas Act of 1974.

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25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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27 NEW SECTION. **Section 1. ~~Deferral~~ STATE FOREST LANDS -- DEFERRAL of management prohibited.**

28 The board and the department are prohibited from designating, treating, or disposing of any interest in ~~or~~  
29 ~~to state trust~~ FOREST lands for the preservation or nonuse of ~~state trust~~ THESE lands prior to obtaining, ~~in~~  
30 ~~cash,~~ funds for the affected beneficiary equal to the full market value of that designation, treatment, or

1 disposition. Unless the full market value of the property interest or of the revenue foregone is obtained,  
2 the board and the department are prohibited from either temporarily or permanently designating, treating,  
3 or disposing of any interest in ~~or to~~ any state ~~trust~~ FOREST lands for the following purposes:

4 (1) as a natural area pursuant to Title 76, chapter 12, part 1, or as otherwise provided for by law;

5 (2) as open-space land as defined in 76-6-104;

6 (3) for old growth timber preservation; AND

7 (4) as a wildlife management area; AND

8 ~~(5) as an example of native prairie or native habitat or as an example of a native plant community~~  
9 ~~as defined in 7-22-2101; or~~

10 ~~— (6) as any other designation, treatment, or disposition that temporarily or permanently impairs,~~  
11 ~~reduces, or limits trust revenue derived from natural resource development on state trust lands.~~

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13 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
14 integral part of Title 77, chapter ~~4~~ 5, part 1, and the provisions of Title 77, chapter ~~4~~ 5, part 1, apply to  
15 [section 1].

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17 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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