

SENATE BILL NO. 511

INTRODUCED BY F. THOMAS, B. DEPRATU

BY REQUEST OF THE SENATE TAXATION STANDING COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL FUNDING THROUGH THE USE OF THE  
6 STATE UNIVERSITY FUND; REVISING THE ~~STRUCTURE OF THE STATE UNIVERSITY FUND;~~  
7 ~~AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PURCHASE THE~~  
8 ~~MINERAL PRODUCTION RIGHTS HELD BY THE STATE UNIVERSITY FUND; PROVIDING THAT A PORTION~~  
9 ~~OF ROYALTY PAYMENTS ON THE PURCHASED MINERAL PRODUCTION RIGHTS MUST BE DEPOSITED~~  
10 ~~IN THE GUARANTEE ACCOUNT; LOANING MONEY FROM THE COAL SEVERANCE TAX PERMANENT~~  
11 ~~FUND TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE PURCHASE OF~~  
12 ~~THE MINERAL PRODUCTION RIGHTS; REQUIRING REPAYMENT OF THE EXPENDED AMOUNTS FROM~~  
13 ~~MINERAL ROYALTY PROCEEDS; AMENDING SECTIONS ALLOCATION OF TIMBER PROCEEDS FOR~~  
14 ~~MONTANA UNIVERSITY SYSTEM LANDS; PROVIDING THAT TIMBER PROCEEDS BECOME A PART OF THE~~  
15 ~~INCOME STREAM RATHER THAN BEING DEPOSITED IN THE CORPUS; AMENDING SECTION 77-1-109,~~  
16 ~~77-2-303, AND 77-2-304, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

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

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20 ~~NEW SECTION. Section 1. Definition. (1) As used in [sections 1 through 3] "distributable~~  
21 ~~revenue" means all revenue from the management of Montana university system trust lands and the~~  
22 ~~permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital~~  
23 ~~gains.~~

24 ~~(2) The term does not include mineral royalties or land sale proceeds that are deposited directly~~  
25 ~~in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized.~~

26  
27 ~~NEW SECTION. Section 2. Permanent fund. (1) The state university fund provided for in Article~~  
28 ~~X, section 10, of the Montana constitution consists of the permanent fund, which consists of the~~  
29 ~~permanent corpus fund.~~

30 ~~(2) The permanent fund must be invested for the purpose of generating future income for~~

1 ~~distribution to the Montana university system.~~

2

3 ~~———— NEW SECTION. **Section 3. Guarantee account.** (1) There is a guarantee account in the state~~  
 4 ~~special revenue fund. The guarantee account is intended to stabilize the long-term growth of the~~  
 5 ~~permanent fund and to maintain a constant and increasing distributable revenue stream. All realized and~~  
 6 ~~unrealized capital gains and all distributable revenue must be deposited in the guarantee account. Except~~  
 7 ~~as provided in subsection (2), the guarantee account must be distributed to the Montana university~~  
 8 ~~system as provided by law.~~

9 ~~———— (2) As long as a portion of the coal severance tax loan authorized in [section 8] is outstanding,~~  
 10 ~~the department shall annually transfer from the guarantee account to the general fund an amount that~~  
 11 ~~represents the amount of interest income that would be earned from the investment of the amount of the~~  
 12 ~~loan that is outstanding in the prior year.~~

13

14 ~~———— NEW SECTION. **Section 4. Purchase of permanent fund mineral estate.** The department of natural~~  
 15 ~~resources and conservation may purchase the mineral production rights held by the state university fund~~  
 16 ~~established in Article X, section 10, of the Montana constitution for fair market value. If the department~~  
 17 ~~of natural resources and conservation purchases mineral production rights, any royalty payments received~~  
 18 ~~by the board that are not used to reimburse the coal severance tax trust fund for the loan used for~~  
 19 ~~purchasing the mineral production rights must be deposited in the guarantee account provided for in~~  
 20 ~~[section 3].~~

21

22 **Section 1.** Section 77-1-109, MCA, is amended to read:

23 **"77-1-109. Deposits of proceeds in trust land administration account.** (1) The department shall,  
 24 until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108, deposit into the  
 25 trust land administration account created by 77-1-108, the following:

26 (a) mineral royalties;

27 (b) the proceeds or income from the sale of easements and timber, except timber from public  
 28 school and Montana university system lands; and

29 (c) 5% of the interest and income annually credited to the public school fund in accordance with  
 30 20-9-341.

1 (2) After the deposits in subsection (1) have been made, the remainder of the proceeds, OTHER  
 2 THAN PROCEEDS FROM TIMBER FROM MONTANA UNIVERSITY SYSTEM LANDS, must be deposited in the permanent  
 3 fund for the appropriate trust and the capitol building land grant trust fund. TIMBER PROCEEDS FROM  
 4 UNIVERSITY SYSTEM LANDS MUST BE PAID OVER TO THE STATE TREASURER, WHO SHALL DEPOSIT THE MONEY TO THE  
 5 CREDIT OF THE PROPER FUND FOR USE AS PROVIDED IN 17-3-1003(1).

6 (3) The amount of money that is deposited into the trust land administration account may not  
 7 exceed 1 1/8% of the book value balance in each of the nine nonexpendable trust funds administered by  
 8 the department on the first day of January preceding the new biennium and 10% of the previous fiscal  
 9 year revenue deposited into the capitol building land grant trust fund."

10

11 ~~Section 6.~~ Section 77-2-303, MCA, is amended to read:

12 ~~"77-2-303. Restrictions on land available for sale. (1) Lands Subject to purchase by the~~  
 13 ~~department pursuant to [section 4], land that in the judgment of the board are department is likely to~~  
 14 ~~contain valuable deposits of coal, oil, oil shale, phosphate, metals, sodium, or other valuable mineral~~  
 15 ~~deposits are is not subject to sale of either the surface land or any of the mineral deposits. However, this~~  
 16 ~~subsection does not prohibit the sale of lands containing sand, gravel, building stone, brick clay, or similar~~  
 17 ~~materials.~~

18 ~~(2) (a) There is reserved from sale from all state lands land bordering on navigable lakes,~~  
 19 ~~nonnavigable meandered lakes, and navigable streams, that if the board considers it to be in the best~~  
 20 ~~interests of the state, a strip of land that includes all the land lying between the low-water mark and the~~  
 21 ~~high-water mark and that extends in width landward from the line of the high-water mark of the lake or~~  
 22 ~~stream the full width of the 40-acre tract or government lot abutting the line of the high-water mark. If~~  
 23 ~~the width of the abutting government lot at its narrowest point is less than 100 feet, then the strip~~  
 24 ~~reserved must extend to and include the next adjoining 40-acre tract or government lot. The land reserved~~  
 25 ~~from sale by this subsection is subject to the granting of easements the same as other state lands.~~

26 ~~(b) Strips of land bordering on meandering lakes or on navigable streams, except the strip lying~~  
 27 ~~between the low-water and high-water mark, whether surveyed and platted into blocks and lots or not,~~  
 28 ~~may be leased as provided in this title for the leasing of other state lands."~~

29

30 ~~Section 7.~~ Section 77-2-304, MCA, is amended to read:

1 ~~—————"77-2-304. Mineral reservations in state lands land. All coal, oil, oil shale, gas, phosphate, sodium,~~  
 2 ~~and other mineral deposits in state lands land, except sand, gravel, building stone, and brick clay, which~~  
 3 ~~that were not reserved by the United States before July 1, 1927, are reserved to the state. All Subject~~  
 4 ~~to [section 4], those deposits are reserved from sale except upon a rental and royalty basis as provided~~  
 5 ~~by law. A purchaser of state lands land acquires no right, title, or interest in or to any of those deposits.~~  
 6 ~~The state also reserves for itself and its lessees the right to enter upon these lands state land to prospect~~  
 7 ~~for, develop, mine, and remove those mineral deposits and to occupy and use so as much of the surface~~  
 8 ~~of the lands land as may be required for all purposes reasonably extending to the exploring for, mining of,~~  
 9 ~~and removal of the deposits therefrom from the land, but the lessee shall make just payment to the~~  
 10 ~~purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the~~  
 11 ~~surface thereof of the land."~~

12

13 ~~———— NEW SECTION. Section 8. Coal severance tax loan -- rate of interest. (1) There is loaned to the~~  
 14 ~~department of natural resources and conservation from the coal severance tax permanent fund an amount~~  
 15 ~~not to exceed \$50 million for the biennium ending June 30, 2003, for the purpose of purchasing mineral~~  
 16 ~~production rights as provided in [section 4]. The department shall deposit the loan proceeds in the~~  
 17 ~~guarantee account provided for in [section 3].~~

18 ~~———— (2) The interest to be paid on the loan authorized under subsection (1) must be at the long-term~~  
 19 ~~investment rate. The interest is payable as of the date of the transfer of the loan proceeds from the coal~~  
 20 ~~severance tax permanent fund to the department.~~

21

22 ~~———— NEW SECTION. Section 9. Loan agreement. (1) In order to make the loan authorized in [section~~  
 23 ~~8], the board of investments shall enter into a contract with the department of natural resources and~~  
 24 ~~conservation pledging the percentage of mineral royalties to the repayment of the loan over a period of~~  
 25 ~~30 years. The loan agreement may not require a payment on the loan until fiscal year 2004. In fiscal~~  
 26 ~~years 2004 and 2005, 20% of the mineral royalties deposited in the guarantee account provided for in~~  
 27 ~~[section 3] must be pledged to the loan repayment. In fiscal years 2006 through 2011, not less than 25%~~  
 28 ~~of the mineral royalties deposited in the guarantee account must be pledged to the loan repayment, and~~  
 29 ~~in succeeding fiscal years, not less than 34% of the mineral royalties deposited in the guarantee account~~  
 30 ~~must be pledged to the loan repayment until the loan is fully paid.~~

1 ~~———(2) The contract must provide that the loan repayment proceeds be deposited in the coal~~  
 2 ~~severance tax permanent fund. To the extent possible, the board of investments shall make the loan from~~  
 3 ~~the portion of the coal severance tax permanent fund invested in the short-term pool. The loan authorized~~  
 4 ~~in [section 8] may not be made until the contract required by this section has become effective.~~

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6 ~~———NEW SECTION. Section 10. Codification instruction. (1) [Sections 1 through 3] are intended to~~  
 7 ~~be codified as an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply~~  
 8 ~~to [sections 1 through 3].~~

9 ~~———(2) [Section 4] is intended to be codified as an integral part of Title 17, chapter 6, part 3, and the~~  
 10 ~~provisions of Title 17, chapter 6, part 3, apply to [section 4].~~

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12 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2001.

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