

SENATE BILL NO. 75

INTRODUCED BY B. HAWKS

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE
6 ADMINISTRATION OF STATE TRUST LAND; PROVIDING A NEW FUNDING FORMULA FOR
7 ADMINISTRATION OF STATE LANDS; PROVIDING A FUNDING FORMULA TO DETERMINE A MAXIMUM
8 FOR APPROPRIATIONS FROM THE TRUST LAND ADMINISTRATION ACCOUNT; CLARIFYING THAT THE
9 BOARD OF REGENTS SHALL DETERMINE HOW TIMBER PROCEEDS FROM MONTANA UNIVERSITY
10 SYSTEM LANDS ARE DISTRIBUTED; PROVIDING FOR THE DEPOSIT OF THE AMOUNT APPROPRIATED
11 FOR A FISCAL YEAR, WHICH MAY NOT BE MORE THAN 25 PERCENT OF GROSS DISTRIBUTABLE
12 REVENUE PLUS ROYALTY REVENUE RECEIVED FROM THE LEASING AND PRODUCTION OF MINERALS
13 GENERATED ANNUALLY ACROSS ALL STATE LAND TRUSTS, EXCEPT MORRILL ACT LANDS, INTO THE
14 TRUST LAND ADMINISTRATION ACCOUNT; ELIMINATING THE RESOURCE DEVELOPMENT ACCOUNT
15 AND ASSOCIATED REQUIREMENTS; ELIMINATING THE RECREATIONAL USE ACCOUNT AND THE
16 REQUIREMENT TO WITHHOLD \$2 FROM EACH LICENSE FEE FOR ADMINISTRATION; ELIMINATING THE
17 STATE TIMBER SALE ACCOUNT; REQUIRING THAT THE COMPENSATION FOR DAMAGES RESULTING
18 FROM RECREATIONAL USE BE PAID OUT OF THE TRUST LAND ADMINISTRATION ACCOUNT;
19 REQUIRING THAT WEED MANAGEMENT NECESSARY BECAUSE OF RECREATIONAL USE ON STATE
20 LANDS BE PAID OUT OF THE TRUST LAND ADMINISTRATION ACCOUNT; REMOVING THE
21 REQUIREMENT TO RETAIN 10 PERCENT OF GROSS RECEIPTS FROM ANY AGREEMENT WITH THE
22 DEPARTMENT OF FISH, WILDLIFE, AND PARKS REGARDING RECREATIONAL USE OF STATE LANDS;
23 REMOVING THE DEPARTMENT'S ABILITY TO RETAIN 10 PERCENT OF ANNUAL RENT RECEIVED FROM
24 COMMERCIAL LEASING FOR ADMINISTRATION; ALLOWING FOR COMMERCIAL LEASE ADMINISTRATION
25 EXPENSES TO BE PAID FROM THE TRUST LAND ADMINISTRATION ACCOUNT; ELIMINATING THE
26 ABILITY OF THE DEPARTMENT TO RETAIN UP TO TEN PERCENT OF PROCEEDS IN THE STATE LAND
27 BANK FUND FOR ADMINISTRATION; ALLOWING FOR THE USE OF FUNDS APPROPRIATED FROM THE
28 TRUST LAND ADMINISTRATION ACCOUNT TO BE USED FOR ADMINISTRATION OF THE LAND BANKING
29 PROGRAM; PROVIDING FOR THE TRANSFER OF UNENCUMBERED FUND BALANCES IN THE REPEALED
30 ACCOUNTS TO THE APPROPRIATE TRUST; AMENDING SECTIONS 17-3-1003, 18-2-107, 20-9-341,

1 20-9-620, 77-1-108, 77-1-109, 77-1-613, 77-1-802, 77-1-808, 77-1-809, 77-1-810, 77-1-815, 77-1-905, 77-2-328,
 2 AND 77-2-362, MCA; REPEALING SECTIONS 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, AND
 3 77-1-609, ~~AND 77-1-613~~, MCA; AND PROVIDING AN EFFECTIVE DATE."

4

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

6

7 **Section 1.** Section 17-3-1003, MCA, is amended to read:

8 **"17-3-1003. Support of state institutions.** (1) For the support and endowment of each state institution,
 9 there is annually and perpetually appropriated, after any deductions made under 77-1-109, ~~Title 77, chapter 1,~~
 10 ~~part 6, and 77-2-362~~, the income from all permanent endowments for the institution and from all land grants as
 11 provided by law. All money received or collected in connection with permanent endowments by all higher
 12 educational institutions, reformatory, custodial, and penal institutions, state hospitals, and sanitariums, for any
 13 purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the
 14 purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for
 15 the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to
 16 withdrawal or repayment, must be paid to the state treasurer who shall deposit the money to the credit of the
 17 proper fund.

18 (2) Except as provided in subsections (1) and (3), all money received from the investment of grants of
 19 a state institution and all money received from the leasing of lands granted to a state institution must be deposited
 20 with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

21 (3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale
 22 of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for
 23 the support of the institution.

24 (4) The board of regents shall designate, at least once a biennium, whether the timber sale proceeds
 25 from Montana university system lands must be distributed to the beneficiaries or placed in the permanent fund."

26

27 **Section 2.** Section 18-2-107, MCA, is amended to read:

28 **"18-2-107. Deposit of capitol building grant revenue.** (1) The state treasurer shall deposit in a capital
 29 projects fund all revenue from the capitol building land grant after any deductions made under 77-1-109, ~~Title 77,~~
 30 ~~chapter 1, part 6, and 77-2-362~~.

1 (2) The funds must be held and dedicated for the purpose of constructing capitol buildings or additions
2 to buildings in accordance with the provisions of section 12 of The Enabling Act."

3

4 **Section 3.** Section 20-9-341, MCA, is amended to read:

5 **"20-9-341. Definition of interest and income money.** (1) ~~As Subject to deductions for administrative~~
6 ~~costs provided for in 77-1-108, as~~ used in this title, the term "interest and income money" means the total of the
7 following revenue, as provided for by Article X, section 5, of the 1972 Montana constitution:

8 (a) 95% of the interest received from the investment of the public school fund;

9 (b) 95% of the interest received from the investment of any other school funds held in trust by the state
10 board of land commissioners;

11 (c) 95% of the income received from the leasing of or sale of timber from state school lands ~~after any~~
12 ~~deductions that may be made under the provisions of Title 77, chapter 1, part 6;~~ and

13 (d) 95% of any other income derived from any other covenant affecting the use of state school lands.

14 (2) The remaining 5% of the revenue described in subsections (1)(a) through (1)(d) must be annually
15 credited to the public school fund ~~after any deductions made under 77-1-109.~~"

16

17 **Section 4.** Section 20-9-620, MCA, is amended to read:

18 **"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue"
19 means, except for that portion of revenue described in 20-9-343(4)(a)(ii) and ~~available on or after July 1, 2003,~~
20 ~~77-1-607, and 77-1-613~~ 77-1-109, 95% of all revenue from the management of school trust lands and the
21 permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

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

24

25 **Section 5.** Section 77-1-108, MCA, is amended to read:

26 **"77-1-108. Trust land administration account.** (1) ~~As used in this section, for all land trusts managed~~
27 ~~by the board, except property held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill~~
28 ~~Act of 1890, 7 U.S.C. 321 through 328, "distributable revenue" includes:~~

29 (a) ~~except for that portion of revenue described in 20-9-343(4)(a)(ii) and the common school fund, the~~
30 ~~interest and income received from the investment of the permanent funds less any unrealized gains or losses;~~

1 (b) 95% of all revenue from the management of school trust lands and the common school permanent
 2 fund;

3 (c) the income received from the leasing, licensing, or other use of state trust lands; and

4 (d) subject to 17-3-1003, the proceeds and income from the sale of timber from common school, capitol
 5 land grant, and university system lands.

6 (2) There is a trust land administration account in the state special revenue fund. Money in the account
 7 is available to the department by appropriation and must be used to pay the costs of administering state trust
 8 lands pursuant to Titles 2, 75, and 77.

9 (2)(3) Appropriations from the account for each fiscal year may not exceed: the sum of 1 1/8% of the
 10 book value balance in the nine permanent funds administered by the department on the first day of January
 11 preceding the new biennium and 10%

12 (A) an amount equal to 25% of the revenue deposited gross distributable revenue generated annually
 13 from the sum of all land trusts for the last completed fiscal year prior to the legislative session that will appropriate
 14 money for the next biennium, except revenue received from:

15 (a)(i) property held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of
 16 1890, 7 U.S.C. 321 through 328; and

17 (b)(ii) the forest improvement fee provided for in 77-5-204 in the capitol building land grant trust fund in
 18 the last completed fiscal year prior to the new biennium; AND

19 (B) ROYALTY REVENUE RECEIVED FROM THE LEASING AND PRODUCTION OF MINERALS, PROVIDED THAT THE
 20 APPROPRIATION OF FUNDS RECEIVED FROM THE SALE OF MINERALS MAY NOT EXCEED 50% OF THE TRUST LAND
 21 MANAGEMENT DIVISION'S APPROPRIATED BUDGET.

22 (3)(4) (A) Unreserved Except as provided in 17-7-304 AND SUBSECTION (4)(B) OF THIS SECTION, unreserved
 23 funds remaining in the account at the end of a fiscal year must be transferred to each of the permanent funds
 24 distributable revenue funds provided for in 77-1-109 in proportionate shares to each fund's contribution to the
 25 account as calculated in 77-1-109(3).

26 (B) FUNDS RECEIVED AS THE RESULT OF ROYALTIES RECEIVED FROM THE LEASING AND PRODUCTION OF
 27 MINERALS THAT ARE UNRESERVED AT THE END OF THE FISCAL YEAR MUST BE TRANSFERRED TO EACH OF THE PERMANENT
 28 FUNDS OR TO THE APPROPRIATE TRUST OR DISTRIBUTED TO THE BENEFICIARY IN PROPORTIONATE SHARE TO EACH FUND'S
 29 CONTRIBUTION TO THE ACCOUNT.

30 (5) (a) Funds in the trust land administration account may be used only for paying actual direct and

1 indirect administrative costs. The administrative costs must be determined for each land trust.

2 (b) (i) For each fiscal year, the department shall compare administrative costs for each land trust to the
 3 amount deposited by that land trust pursuant to 77-1-109. If the amount deposited exceeds the administrative
 4 costs for a specific land trust, the excess funds must be distributed as provided in subsection (4).

5 (ii) If money deposited from a specific land trust is insufficient to defray the administrative costs
 6 associated with that land trust, the board may transfer funds from other trusts TRUSTS' DISTRIBUTABLE REVENUE
 7 ACCOUNTS to offset the difference. Trust accounts from which money is transferred must be reimbursed with
 8 interest. Interest must be paid at the rate earned on the short-term investment pool administered by the board
 9 of investments during the time period that the money was transferred.

10 (c) The department shall adopt rules regarding calculation and determination of administrative costs. The
 11 rules must include but are not limited to the use of proration and to what extent proration may be used."

12

13 **Section 6.** Section 77-1-109, MCA, is amended to read:

14 **"77-1-109. Deposits of proceeds in trust land administration account.** (1) Except as provided in
 15 subsection (2), gross distributable revenue received by the department must be deposited in funds established
 16 for each trust beneficiary. Fund deposits must be identified by revenue source.

17 (2) The department shall, until the deposit equals the amount appropriated for the fiscal year pursuant
 18 to 77-1-108, deposit into the trust land administration account created by 77-1-108 the following:

19 (A) all distributable revenue as defined in 77-1-108;

20 (B) ROYALTY REVENUE RECEIVED FROM THE LEASING AND PRODUCTION OF MINERALS, PROVIDED THAT THE
 21 AMOUNT RESULTING FROM THE SALE OF MINERALS DOES NOT EXCEED 50% OF THE TRUST LAND MANAGEMENT DIVISION'S
 22 APPROPRIATED BUDGET;±

23 (a) mineral royalties;

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

26 (c) 5% of the interest and income annually credited to the public school fund in accordance with
 27 20-9-341; and

28 (d)(c) fees collected pursuant to 77-2-328.

29 (±)(3) After the deposits in subsection (1) (2) have been made, the remainder of the proceeds, other than
 30 proceeds from public school lands required to be deposited in the public school fund, timber from Montana

1 university system lands, and other than those proceeds purchased pursuant to 17-6-340, must be deposited in
 2 the appropriate permanent distributable revenue fund and the capitol building land grant trust fund. Timber
 3 proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to
 4 the credit of the proper fund for use as provided in 17-3-1003(1). Royalty payments purchased pursuant to
 5 17-6-340 must be used as provided in that section and 20-9-622.

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

10
 11 **Section 7.** Section 77-1-613, MCA, is amended to read:

12 **"77-1-613. Deduction of portion of income received from Administrative costs associated with**
 13 **sale of timber from state trust lands --creation of account.** (1) ~~There is an account in the state special~~
 14 ~~revenue fund called the state timber sale account. Money in the account may be appropriated by the legislature~~
 15 ~~for use by the department in the manner set out in this section to enhance the revenue creditable to the trusts.~~
 16 ~~There must be placed in the account an amount from timber sales on state lands each fiscal year equal to the~~
 17 ~~amount appropriated from the account for the corresponding fiscal year. The department may use funds~~
 18 ~~appropriated from the trust land administration account, provided for in 77-1-108, for timber sale preparation and~~
 19 ~~documentation.~~

20 ~~(2) Timber sale program funds deducted under subsection (1) must be directly applied to timber sale~~
 21 ~~preparation and documentation.~~

22 ~~(3)(2)~~ (2) In order to increase the volume of timber sold at the earliest possible time while continuing to meet
 23 the requirements of applicable state and federal laws and in order to avoid unnecessary delays and extra costs
 24 that would result from increasing its permanent staff, the department may contract for services that will enable
 25 achievement of the purposes of this section and that will achieve the highest net return to the trusts.

26 ~~(4)(3)~~ (3) To maximize overall return to the trusts, the timely salvage of timber must be considered. However,
 27 salvage timber sales may not adversely affect the implementation of green timber sales programs conducted
 28 pursuant to 77-5-201."

29
 30 **Section 8.** Section 77-1-802, MCA, is amended to read:

1 **"77-1-802. (Temporary) Recreational use -- fee.** (1) The fee for recreational use on state trust land
 2 must attain full market value whether the license is sold on an individual basis or on a group basis through an
 3 agreement with the department of fish, wildlife, and parks as provided in 77-1-815.

4 (2) Money received by the department from the sale of recreational use licenses must be credited as
 5 follows:

6 (a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the
 7 land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

8 (b) ~~Two dollars from the fee for each license, less 50~~ Revenue received from recreational use license
 9 fees is distributable revenue and must be deposited, as provided in 77-1-109, and used to pay for administrative
 10 costs, as provided in 77-1-108, and 50 cents from the fee for each license to must be returned to the license
 11 dealer as a commission, ~~must be deposited in the state lands recreational use account established by 77-1-808.~~

12 (3) The department may contract with the department of fish, wildlife, and parks for the distribution and
 13 sale of recreational use licenses through the license agents appointed by and the administrative offices of the
 14 department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9. (Void
 15 on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

16 **77-1-802. (Effective on occurrence of contingency) Recreational use license -- fee.** (1) The fee for
 17 a recreational use license must attain full market value.

18 (2) Money received by the department from the sale of recreational use licenses must be credited as
 19 follows:

20 (a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the
 21 land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land
 22 trusts.

23 (b) ~~Two dollars from the fee for each license, less 50~~ Revenue received from recreational use license
 24 fees is distributable revenue and must be deposited, as provided in 77-1-109, and used to pay for administrative
 25 costs, as provided in 77-1-108, and 50 cents from the fee for each license to must be returned to the license
 26 dealer as a commission, ~~must be deposited in the state lands recreational use account established by 77-1-808.~~

27 (3) The department may contract with the department of fish, wildlife, and parks for the distribution and
 28 sale of recreational use licenses through the license agents appointed by and the administrative offices of the
 29 department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."
 30

1 **Section 9.** Section 77-1-808, MCA, is amended to read:

2 "**77-1-808. (Temporary) State lands recreational use account.** ~~(1) There is a state lands recreational~~
3 ~~use account in the state special revenue fund provided for in 17-2-102.~~

4 ~~— (2) There must be deposited in the account:~~

5 ~~— (a) all revenue received from the recreational use license established by 77-1-802;~~

6 ~~— (b) 10% of the revenue received as a result of an agreement with the department of fish, wildlife, and~~
7 ~~parcs for the use and impacts of hunting, fishing, and trapping as provided in 77-1-815; and~~

8 ~~— (c) money received by the department in the form of legislative appropriations, reimbursements, gifts,~~
9 ~~federal funds, or appropriations from any source intended to be used for the purposes of this account.~~

10 ~~(3) Money deposited in the appropriated for the purpose of managing state lands recreational use~~
11 ~~account must be used by the department for the following purposes:~~

12 ~~(a)(1) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been~~
13 ~~proved to be caused by recreational users;~~

14 ~~(b)(2) assistance in weed control management necessary as a result of recreational use of state lands;~~

15 ~~(c)(3) protection of the resource value of the trust assets;~~

16 ~~(d)(4) administration and management for the implementation of recreational use of state lands; and~~

17 ~~(e)(5) maintenance of roads necessary for public recreational use of state trust land. (Void on occurrence~~
18 ~~of contingency--sec. 8, Ch. 596, L. 2003.)~~

19 "**77-1-808. (Effective on occurrence of contingency) State lands recreational use account.** ~~(1) There~~
20 ~~is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.~~

21 ~~— (2) There must be deposited in the account:~~

22 ~~— (a) all revenue received from the recreational use license established by 77-1-802; and~~

23 ~~— (b) money received by the department in the form of legislative appropriations, reimbursements, gifts,~~
24 ~~federal funds, or appropriations from any source intended to be used for the purposes of this account.~~

25 ~~— (3) Money deposited in the appropriated for the purpose of managing state lands recreational use~~
26 ~~account must be used by the department for the following purposes:~~

27 ~~(a)(1) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been~~
28 ~~proved to be caused by recreational users;~~

29 ~~(b)(2) assistance in weed control management necessary as a result of recreational use of state lands;~~

30 ~~(c)(3) protection of the resource value of the trust assets; and~~

1 ~~(d)~~(4) administration and management for the implementation of recreational use of state lands."

2

3 **Section 10.** Section 77-1-809, MCA, is amended to read:

4 **"77-1-809. Compensation for damage to improvements, growing crops, or livestock.** A lessee may
5 apply to the department for reimbursement of documented costs of repair to or replacement of improvements,
6 growing crops, or livestock damaged by recreational users of state lands. The application must include an affidavit
7 by the applicant setting forth the nature of the loss, allegations and reasonable proof supporting the involvement
8 of recreational users, and documentation of repair or replacement costs. Upon review of the application and
9 supporting proof and upon additional investigation as required, the department shall grant, modify, or deny the
10 claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be
11 subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments
12 under this section must be made from appropriations from the ~~state lands recreational use trust land~~
13 administration account established by ~~77-1-808~~ 77-1-108, and the liability of the department for damage
14 payments is limited to ~~the available~~ 10% of revenue received from the recreational use fee and deposited in the
15 account appropriation. Claim applications are to be considered in the order they are received."

16

17 **Section 11.** Section 77-1-810, MCA, is amended to read:

18 **"77-1-810. Weed control management.** (1) The department shall establish a weed control management
19 program for the control of noxious weeds reasonably proved to be caused by the recreational use of state lands.
20 The department may by rule establish a noxious weed management program that may include direct
21 compensation for noxious weed control activities or participation in district and county weed control projects or
22 department-initiated weed control activities.

23 (2) Funding for this program must come from appropriations from the ~~state lands recreational use trust~~
24 land administration account pursuant to ~~77-1-808~~ provided for in 77-1-108."

25

26 **Section 12.** Section 77-1-815, MCA, is amended to read:

27 **"77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally**
28 **accessible state trust land.** (1) The board is authorized to enter into an agreement with the department of fish,
29 wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting,
30 fishing, and trapping on legally accessible state trust land as defined in department rule. The department may

1 impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes
 2 of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with
 3 rules and provisions provided in this part.

4 (2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10
 5 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for
 6 the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. ~~Ten~~
 7 ~~percent of the gross receipts from the agreement must be deposited in the state lands recreational use account~~
 8 ~~established in 77-1-808. The remaining 90%~~ The department may use funds appropriated from the trust land
 9 administration account, provided for in 77-1-108, to implement and manage the agreement. Except as provided
 10 in 17-7-304, any unexpended amount in the account that resulted from recreational use fees must be apportioned
 11 on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total
 12 acreage of all state land trusts.

13 (3) Any agreement entered into is subject to the following conditions:

14 (a) The department maintains sole discretion, throughout the term of the agreement, with regard to
 15 identifying legally accessible parcels, coordinating uses on state trust land, and making any other necessary state
 16 trust land management decisions.

17 (b) An agreement between the department and the department of fish, wildlife, and parks may not convey
 18 any additional authority to the department of fish, wildlife, and parks.

19 (4) During any period that the department of fish, wildlife, and parks and the department have reached
 20 an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or 77-1-802
 21 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust land. (Void
 22 on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

23

24 **Section 13.** Section 77-1-905, MCA, is amended to read:

25 **"77-1-905. Rental provisions for commercial leasing -- payments and credits -- administration --**
 26 **lease options.** (1) The first year's annual rental payment for state trust land leased for commercial purposes must
 27 be paid by cashier's check, and payment is due upon execution of the lease. The department may require the
 28 lessee of state trust land for commercial purposes to pay the department's cost of the request for proposals
 29 process, including publication and other reasonable expenses. Failure to pay the first year's rental at the time of
 30 lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of

1 cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may
 2 enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the
 3 department request for proposals on that tract.

4 (2) The board shall specify in any commercial lease an annual rental equal to the full market rental value
 5 of the land. The annual rent may not be less than the product of the appraised value of the land multiplied by a
 6 rate that is 2 percentage points a year less than the rate of return of the unified investment program administered
 7 by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used
 8 in this subsection must be determined no less than 30 days prior to the execution of the competitive bid. A
 9 commercial lease may include a rental adjustment formula established by the board that periodically adjusts the
 10 annual rent provided for in the lease at frequencies specified in the lease. The board may allow a credit against
 11 the annual rent due for payments made by the lessee on behalf of the state of Montana for construction of
 12 structures and improvements, special improvement district assessments, annexation fees, or other city or county
 13 fees attributable to the state's property interest in land leased for commercial purposes. The board may accept
 14 as lawful consideration in-kind payments of services or materials equal to the full market value of the rent
 15 calculated to be owed on any commercial lease. A lease issued under this part may include an amortization
 16 schedule to be used to determine the value to the lessee of improvements when the lease is terminated.

17 (3) The department may use ~~up to 10% of the annual rent received from a commercial lease funds~~
 18 appropriated from the trust land administration account, provided for in 77-1-108, to contract with realtors,
 19 property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either
 20 singly or in common with other leases, or to provide assistance to the department in the administration of
 21 commercial leases.

22 (4) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental
 23 rate that the board determines to be appropriate. An option to lease may not exceed a term of 2 years. An option
 24 to lease may not be construed to grant a right of immediate possession or control over the land but may only
 25 preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."
 26

27 **Section 14.** Section 77-2-328, MCA, is amended to read:

28 **"77-2-328. Additional rules -- deposit of fees.** The board may prescribe any additional rules for the
 29 conduct of sales of state land as in its judgment the interests of the state may demand. Any fees collected by a
 30 rule adopted pursuant to this section must be deposited in the trust land administration account as provided in

1 ~~77-1-108~~ 77-1-109."

2

3 **Section 15.** Section 77-2-362, MCA, is amended to read:

4 **"77-2-362. State land bank fund -- statutory appropriation -- rules.** (1) There is a state land bank
5 fund. The proceeds from the sale of state trust land authorized by 77-2-361 through 77-2-367 must be deposited
6 into the state land bank fund. The purpose of the state land bank fund is to temporarily hold proceeds from the
7 sale of trust land pending the purchase of other land, easements, or improvements for the benefit of the
8 beneficiaries of the respective trusts. A separate record of the proceeds received from the sale of trust land for
9 each of the respective trusts must be maintained. Proceeds from the sale of lands that are part of a trust land
10 grant may be used only to purchase land for the same trust.

11 (2) (a) Proceeds deposited in the state land bank fund, except earnings on those proceeds, are
12 statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in 77-2-361
13 through 77-2-367. All earnings on the proceeds deposited in the state land bank fund are subject to the provisions
14 of Article X, sections 5 and 10, of the Montana constitution.

15 (b) ~~Except as provided in subsection (2)(c), up to 10% of the proceeds in the state land bank fund~~ Funds
16 appropriated from the trust land administration account, provided for in 77-1-108, may be used by the department
17 to fund the transactional costs of buying, selling, appraising, or marketing real property. Transactional costs may
18 include realtor's fees, title reports, title insurance, legal fees, and other costs that may be necessary to complete
19 a conveyance of real property.

20 (c) Proceeds from the sale of lands held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308,
21 and the Morrill Act of 1890, 7 U.S.C. 321 through 328, may not be used for any transactional costs or trust
22 administration purposes for those lands.

23 (d) The department may hold proceeds from the sale of state land in the state land bank fund for a period
24 not to exceed 10 years after the effective date of each sale. If, by the end of the 10th year, the proceeds from the
25 subject land sale have not been encumbered to purchase other lands, easements, or improvements within the
26 state, the proceeds from that sale must be deposited in the public school fund or in the permanent fund of the
27 respective trust as required by law, along with any earnings on the proceeds from the land sale, unless the time
28 period is extended by the legislature.

29 (3) The board shall adopt rules providing for the implementation and administration of the state land bank
30 fund, purchases, and sales."

1
2 **NEW SECTION. Section 16. Unencumbered fund balances.** (1) Except as provided in 17-7-304, any
3 unencumbered fund balances in the resource development account formerly provided for in 77-1-604, the state
4 timber sale account formerly provided for in 77-1-613, and the state lands recreational use account formerly
5 provided for in 77-1-808 on June 30, 2007, must be transferred to each of the permanent funds or distributable
6 accounts in proportionate shares to each fund's contribution to the accounts. The distribution to the appropriate
7 trusts must take place before October 1, 2007.

8 (2) The department of natural resources and conservation shall submit a written report to the legislative
9 finance committee prior to October 1, 2007, that provides, by account and trust, the amount of money to be
10 transferred, the amount of money encumbered in each account, and the purpose for which the money is
11 encumbered.

12
13 **NEW SECTION. Section 17. Repealer.** Sections 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608,
14 AND 77-1-609, ~~and 77-1-613~~, MCA, are repealed.

15

16 **NEW SECTION. Section 18. Effective date.** [This act] is effective July 1, 2007.

17

- END -