

Unofficial Draft Copy

As of: January 23, 2006 (11:50am)

LC8989

**** Bill No. ****

Introduced By *****

By Request of the *****

EQC STUDY SUBCOMMITTEE
JANUARY 26, 2006
EXHIBIT 3

A Bill for an Act entitled: "An Act revising laws governing state land administration to clarify that land granted pursuant to the Morrill Acts is not subject to deductions of interest or income for purposes of funding the administration of Morrill Act land; amending sections 17-6-201, 77-1-108, 77-1-109, 77-1-602, 77-1-606, 77-1-613, 77-2-328, and 77-5-204, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires an investment manager to:

(a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified

investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

(c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) (a) Retirement funds may be invested in common stocks of any corporation.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies that demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.

(4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise

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provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto investments made under its general supervision.

(5) The board shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made;

(d) prepare the claim to pay for the investment; and

(e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.

(6) The board may:

(a) execute deeds of conveyance transferring real property obtained through investments. Prior to the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a qualified appraiser.

(b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(7) The cost of administering and accounting for each

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investment fund must be deducted from the income from each fund, other than the fund derived from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328."

{ Internal References to 17-6-201:

| | | | |
|------------|------------|-------------|---------------|
| 10-2-703 x | 17-6-305 x | 17-6-308 x | 17-6-308 x |
| 77-1-101 x | 77-1-701 x | 77-1-905 x | 80-6-315 x |
| 80-7-816 x | 80-8-116x | 80-10-207 x | 80-15-302 x } |

Section 2. Section 77-1-108, MCA, is amended to read:

"**77-1-108. Trust land administration account.** (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands.

(2) Appropriations from the account for each fiscal year may not exceed the sum of 1 1/8% of the book value balance in the nine permanent funds administered by the department, other than the fund derived from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328, on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last-completed fiscal year prior to the new biennium.

(3) Unreserved funds remaining in the account at the end of a fiscal year must be transferred to each of the permanent funds in proportionate shares to each fund's contribution to the account as calculated in 77-1-109(3)."

{Internal References to 77-1-108:
77-1-109 a 77-1-109a 77-2-328a }

Section 3. Section 77-1-109, MCA, is amended to read:

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

~~(a)~~ (i) mineral royalties;

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

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

~~(d)~~ (iv) fees collected pursuant to 77-2-328.

(b) The department may not make deductions from interest or income generated from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328.

(2) After the deposits in subsection (1) have been made, the remainder of the proceeds, other than proceeds from timber from Montana university system lands and other than those purchased pursuant to 17-6-340, must be deposited in the appropriate permanent fund and the capitol building land grant trust fund. Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to

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the credit of the proper fund for use as provided in 17-3-1003(1). Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.

(3) The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the nine permanent funds, other than the fund derived from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328, administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund."

{ Internal References to 77-1-109:

| | | | |
|-------------|-------------|-------------|--------------|
| 17-3-1003 x | 17-3-1003 x | 18-2-107 x | 20-9-341 x |
| 20-9-601 x | 20-9-601 x | 20-25-422 x | 77-1-108 x } |

Section 4. Section 77-1-602, MCA, is amended to read:

"77-1-602. Definition of terms. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Account" means the resource development account in the state special revenue fund.

(2) "Income" means all proceeds received for the use of state land except:

(a) revenue required by law to be placed in the permanent fund type; and

(b) revenue from the sale of timber; and

(c) land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7

U.S.C. 321 through 328."

{*Internal References to 77-1-602: None.*}

Section 5. Section 77-1-606, MCA, is amended to read:

"77-1-606. **Restriction on use of income from school and institutional lands.** Money in the resource development account created in 77-1-604 that is derived from the income from public school lands, university lands, other than land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328, agricultural college lands, scientific school lands, normal school lands, capitol building lands, or institutional lands must be expended by the department solely for the purpose of defraying the costs and expenses necessarily incurred in developing public lands of the same trust. If the board determines that public lands in a trust may be developed and ~~moneys~~ money in the account from that trust ~~are~~ is insufficient to defray the necessary costs and expenses incurred, the board may transfer sufficient ~~moneys~~ money from other trusts in the account. Trust accounts from which money is transferred must be reimbursed by a method approved by the board."

{*Internal References to 77-1-606: None.*}

Section 6. Section 77-1-613, MCA, is amended to read:

"77-1-613. **Deduction of portion of income received from sale of timber from state trust lands -- creation of account.** (1)
There is an account in the state special revenue fund called the

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state timber sale account. Money in the account may be appropriated by the legislature for use by the department in the manner set out in this section to enhance the revenue creditable to the trusts. There must be placed in the account an amount from timber sales on state lands, other than land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328, each fiscal year equal to the amount appropriated from the account for the corresponding fiscal year.

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

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

(4) To maximize overall return to the trusts, the timely salvage of timber must be considered. However, salvage timber sales may not adversely affect the implementation of green timber sales programs."

{ Internal References to 77-1-613:
20-9-620 x 77-1-607x }

Section 7. Section 77-2-328, MCA, is amended to read:

"77-2-328. **Additional rules -- deposit of fees.** The board may prescribe any additional rules for the conduct of sales of state land as in its judgment the interests of the state may demand. The rules may not include a deduction of fees from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328. Any fees collected by a rule adopted pursuant to this section must be deposited in the trust land administration account as provided in 77-1-108."

{ *Internal References to 77-2-328:*
77-1-109 a }

Section 8. Section 77-5-204, MCA, is amended to read:

"77-5-204. **Sale of timber -- fee for forest improvement.**

(1) The board may sell timber on state lands, at a price per 1,000 board feet, when appropriate, that, in the board's judgment, is in the best interest of the state, provided that live timber is not sold for less than full market value.

(2) Timber sold or cut from state lands must be cut and removed under rules that may be prescribed by the board for standing timber preservation and fire prevention. In all cases, the board shall require the person cutting the timber to pile and burn or otherwise dispose of the brush and slash in the manner that may be prescribed by the board.

(3) Before the sale of timber is granted, the value of the timber must be appraised under the direction of the department,

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upon the request and subject to the approval of the board. An appraisal must show as nearly as possible the value per 1,000 board feet, when appropriate, of all merchantable timber.

(4) In addition to the price of the timber established under subsection (1), the board may require a timber purchaser to pay a fee for forest improvement unless the timber is to be harvested from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328. Revenue from the fee must be deposited in the state special revenue fund to the credit of the department and, as appropriated by the legislature, may be used only for:

- (a) disposing of logging slash;
- (b) acquiring access and maintaining roads necessary for timber harvesting on state lands;
- (c) reforesting, thinning, and otherwise improving the condition and income potential of forested state lands; and
- (d) complying with legal requirements for timber harvesting."

{ Internal References to 77-5-204:
77-5-208 x }

NEW SECTION. Section 9. {standard} Effective date. [This act] is effective on passage and approval.

- END -

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