EQC STUDY SUBCOMMITTEE
SEPTEMBER 15, 2005
EXHIBIT 7

ENVIRONMENTAL QUALITY

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Memorandum

To: EQC Study Subcommittee members

From: Krista Lee Evans, Research Analyst

RE: Department of Natural Resources and Conservation Funding for Administration of State Trust Lands

Date: August 31, 2005

At the organizational meeting of the study subcommittee you decided to focus a portion of your time on evaluating how DNRC receives funding for administration of state trust lands. There is a lot of history associated with this topic including attorney general opinions, federal law, state law, court cases, etc. The purpose of this paper is to provide some background information for you so that you can make informed decisions throughout the interim.

The Issue

The issue before you is whether it is advisable for DNRC to continue to receive funding from a percentage of the revenue received from the trusts as payment for their administration and management of the property. DNRC retains their administrative fee before depositing the revenue into the various trusts as provided in the Montana Constitution. There is also language in the various federal laws that granted the property that provides some guidance. The legislature has directed the department to keep a certain percentage since the early 1960's. The percentages are different depending on the program and the amount of administration that is required and is provided in more detail later in this paper. Why is this an important issue for the legislature? I've outlined the points below.

1. There is disagreement regarding whether or not it is constitutional to fund the administration of the lands through trust land revenues.
   a. Legislatures that in the past have approved withholding a certain amount of revenue give the impression that they felt it was an appropriate way to fund administration. There are multiple DNRC legal opinions and attorney general opinions that agree that it is not unconstitutional nor does it go against federal law to fund administration this way.

b. The Montana University System (MUS) - whose lands were granted by the Morrill Act and the Enabling Act - has raised the issue. It is the opinion of the MUS that the withholding of revenue to fund administration is contrary to the requirements of the Morrill Act. (*see Memo from Leroy H. Schramm, Chief Legal Counsel, to the Montana Board of Regents dated July 8-9, 2004*) The regents have contemplated litigating the issue.

c. The legislatures chief legal counsel, Greg Petesch, has written numerous legal opinions regarding his concern that it is unconstitutional to withhold any amounts from the revenue from any of the trusts. His opinion points out that the constitution provides that for public schools 95 % is to be disbursed directly to the schools and that 5% must go into the permanent trust. There is no mention in the Montana Constitution regarding administrative costs.

2. Who is right and who is wrong? That is a question that would probably require a Montana Supreme Court case to come to a final answer. However, it is important that the members of the legislature recognize the importance of this issue - no matter who you think is right and who you think is wrong. Without getting into the age old battle of who is right and who is wrong it comes down to the fact that there is a risk involved with funding trust land administration as it is currently done. If there is a court case in the future that addresses this specific issue and the Supreme Court determines that the current framework is unconstitutional the liability facing the State is enormous. The Montana University System as of July 8, 2004 determined that the total amount that would be owed to the University System (in present value at that time) is between $11 and $12 million dollars. (*see Memo from Leroy H. Schramm, Chief Legal Counsel, to the Montana Board of Regents dated July 8-9, 2004*) This does not take into account the common schools and the potential liability associated with those trusts which would be significantly larger. In FY03 DNRC voluntarily stopped making assessments against the Morrill Act Trust. This was a decision made by DNRC and the statute requiring them to charge a fee has not been changed. Since the fee is no longer assessed against Morrill Act lands the administrative costs have been absorbed by the other trusts, including other university trusts.

3. Discussion and study of this issue gets complex very quickly because of the number of trusts, the different federal laws granting the land, varying legal opinions from various entities, etc. The purpose of this paper is to provide the subcommittee with the information that you will need to come to your own conclusion regarding whether or how this issue should be addressed. If the current funding mechanism for management of the trusts is removed then a new funding source for DNRC trust land administration will need to be identified that will not impede the fiduciary responsibility concerning the trusts because it is unstable or not consistent.

4. A working group of interested parties regarding the Morrill Act grants has been formed. Some members of this working group have been working on this issue since before the 2005 session. Members of the working group will be available to answer questions and provide information regarding the issues they have

been working on at the September 15, 2005 subcommittee meeting.

5. In the state of Washington the Attorney General's Office issued an opinion in 1996 stating that revenues received from Morrill Act Trust Lands could not be used for administrative purposes. Washington State University was in the process of hiring legal counsel to contest the state's use of these funds for administrative purposes. In 1997 and 1998 legislation was introduced in Washington and failed. In 1999 there was an appropriation of $20 million as a down payment towards Washington State University as well as specific language regarding what the legislature wanted to see in a settlement agreement. Eventually it was agreed that in addition to the $20 million dollar initial payment the state must pay an additional $16 million over a 3 biennium period for a total cost to the state of $36 million. The $36 million settlement did not include any interest on the amount owed to the University. The Attorney General, acting on behalf of the state, and Washington State University entered into a settlement agreement reflecting the above amounts.

6. Statutory conflicts

(a) Section 20-9-341, MCA defines interest and income money. It also provides that the deposits are made after deductions for provisions of Title 77, chapter 1, part 6 and 77-1-109. However, there are other statutes, primarily the recreational use statutes, the land banking statutes, and the commercial leasing statutes (77-1-802, 808, and 815, 77-1-905, 77-2-362) that are not included in this section. It appears that there is a conflict in the statutes. Some statutes allowing for a percentage to be retained by DNRC others not including those percentages in amounts allowed to be retained.

(b) Section 17-3-1003, MCA provides "For the support and endowment of each state institution, there is annually and perpetually appropriated, after any deductions made under 77-1-109, Title 77, chapter 1, part 6, and 77-2-362, the income from all permanent endowments for the institution and from all land grants as provided by law." The land banking statutes are included in this section as an allowed deduction but the recreational use statutes and the commercial lease statutes are not included. Again, there appears to be a conflict.

(c) In 77-1-109, MCA it provides that mineral royalties are to be deposited in the trust land administration account. However, in 77-3-106, 77-3-206, 77-3-318, 77-3-436, and 77-4-127 provide that all moneys collected as royalties are to be credited to the appropriate permanent fund.

7. Fund Balances. A majority if not all of the statutes that allow for a percentage of revenue to be retained for management do not address what should be done with excess fund balances at the end of the fiscal year or biennium. As of 8/29/05, 4 of the 7 accounts that receive administrative funds have excess fund balances.

Trust Land Data

First, there are multiple trusts that hold land that DNRC manages. The beneficiaries of the various trusts and the acreage amounts as of August 8, 2004 are as follows:

Beneficiary	Granting Act	Original Acreage	Current Surface Acreage	Current Mineral Acreage
Common School	Enabling Act (Section 4)	5,188,000	4,631,820	5,608,537
The University of Montana	Enabling Act (Section 14)	46,720	18,556	33,754
Montana State University	Morrill Act	90,000	63,456	76,960
Montana State University - 2nd Grant	Enabling Act (Section 17)	50,000	31,424	47,077
Montana Tech of The University of Montana	Enabling Act (Section 17)	100,000	59,440	86,267
State Normal Schools (UM-Western and MSU - Billings)	Enabling Act (Section 17)	100,000	63,455	83,540
School for the Deaf and Blind	Enabling Act (Section 17)	50,000	36,461	41,171
State Reform School (Pine Hills)	Enabling Act (Section 17)	50,000	67,795	78,125
Veterans Home		0	1,276	1,276
Capitol Trust (public buildings)	Enabling Act (Sections 12 and 17)	182,000	187,009	228,310

(Source: http://www.dnrc.state.mt.us/trust/acreage.htm)

Federal Law

Enabling Act

The Enabling Act authorized the people of Montana to form a constitution and a state government and allowed the state to be admitted to the union on an equal footing with the original states, and made donations of public land to the state. Pertinent provisions of the enabling act are outlined below.

Section 4. Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said states, and free from sectarian control.

Section 10. That upon the admission of each of said states into the Union sections numbered sixteen and thirty-six in every township of said proposed states, and where such section, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools . . . (emphasis added)

Section 11. [W]ith the exception of the lands granted for public buildings, the proceeds from the sale and other permanent disposition of any of the said lands and from every part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various state institutions for which the lands have been granted. Rentals on leased land, proceeds from the sale of timber and other crops, interest on deferred payments on land sold, interest on funds arising from these lands, and all other actual income, shall be available for the acquisition and construction of facilities, including the retirement of bonds authorized by law for such purposes, and for the maintenance and support of such schools and intuitions. Any state may, however, in its discretion, add a portion of the annual income of the permanent funds

_____The lands hereby granted shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether survey or unsurveyed, but shall be reserved for the purposes for which they have been granted. (emphasis added)

Section 12. That upon the admission of each of said states into the Union, in accordance with the provisions of this act, fifty sections of unappropriated public lands within such states, to be selected and located in legal subdivisions as provided in section 10 of this act, shall be, and are hereby, granted to said states for public buildings at the capital of said states for legislative, executive, and judicial purposes, including construction, reconstruction, repair, renovation, furnishings, equipment, and any other permanent improvement of such buildings and the acquisition of necessary land for such buildings, and the payment of principal and interest on bonds issued for any of the above purposes. (emphasis added)

Section 14. That the lands granted to the territories of Dakota and Montana by the act of February eighteenth, eighteen hundred and eighty-one, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are

hereby vested in the states of South Dakota, North Dakota, and Montana, respectively, if such states are admitted into the union, as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July seventeenth, eighteen hundred and fifty-four, to be reserved for university purposes in the territory of Washington, as, together with the lands confirmed to the vendees of the territory by the act of March fourteenth, eighteen hundred and sixty-four, will make the full quantity of seventy-two entire sections, are hereby granted in the like manner to the state of Washington for the purpose of a university in said state. None of the lands granted in this section shall be sold at less than ten dollars per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June sixteenth, eighteen hundred and eighty, to the territory of Dakota, for an asylum for the insane shall, upon admission of the said state of South Dakota into the Union, become the property of said state. (emphasis added)

Section 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September fourth, eighteen hundred and forty-one, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September twenty-eight, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

[T]o the state of Montana: For the establishment and maintenance of a school of mines, one hundred thousand acres; for state normal schools, one hundred thousand acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, fifty thousand acres; for the establishment of a state reform school, fifty thousand acres; for the establishment of a deaf and dumb asylum, fifty thousand acres; for public buildings at the capital of the state, in addition to the grant hereinbefore made for that purpose, one hundred and fifty thousand acres.

[T]hat the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective

states may severally provide. (emphasis added)

The Morrill Act of July 2, 1862, ch. 130, 12 Stat.503, 7 U.S.C.301 et. seq

The Morrill Act provided for the donation of public lands to states and territories which may provide Colleges for the Benefit of Agriculture and Mechanic Arts. These universities came to be known as the "Land Grant Universities". The Act provided for the sale of the property at a minimum price. However, the proceeds of the sales had to be "applied to the uses and purposes prescribed in the Act, and for no other purposes whatsoever: . . ."

Sec. 3. of the Act provided "That all expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned."

State Law

The Montana Constitution

The Montana Constitution addresses public school fund revenue and how it should be apportioned. However, it does not discuss whether or not administrative costs can be collected prior to the disbursement of the revenue to the appropriate trust or school districts. There is disagreement on whether the Constitution is speaking to "gross" or "net" revenue. Article X, Sections 3, 5, and 10 of the Montana Constitution is provided below.

Article X. EDUCATION AND PUBLIC LANDS
Section 3. Public school fund inviolate. The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

Article X. EDUCATION AND PUBLIC LANDS
Section 5. Public school fund revenue. (1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be equitably apportioned annually to public elementary and secondary school districts as provided by law.

(2) The remaining five percent of all interest received on the public school fund, and the remaining five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolable part thereof. (emphasis added)

Article X. EDUCATION AND PUBLIC LANDS

Section 10. State university funds. The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed by the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

Montana Code Annotated

The Montana Code Annotated also addresses the administrative and management costs that are faced by DNRC for administering and managing the trusts. Over the past 40 years, various bills have been passed into law and have provided that a certain percentage of trust revenue may be retained by DNRC as payment for administration and management. This is where the question of whether or not the Enabling Act, the Morrill Act, and the Montana Constitution have provided some level of constraint regarding the use of the trust revenues and whether or not the use of these revenues to pay for administration and management is a legitimate use of the money or if it is unconstitutional.

There are numerous statutes that outline the percentages or fees that may be retained by DNRC. There are also statutes that similar to the Constitution restrict disbursement of the proceeds of the various trusts. These statutes are provided below:

Title 17. State Finance
Chapter 6. Deposits and Investments
Part 2. Investments

(Board of Investments)

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 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 investment fund must be deducted from the income from each fund.

History: (1), (2), (5) thru (7)En. Sec. 5, Ch. 298, L. 1973; amd. Sec. 1, Ch. 203, L. 1977; Sec. 79-308, R.C.M. 1947; (3), (4)En. 82A-204 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 90, Ch. 326, L. 1974; Sec. 82A-204, R.C.M. 1947; R.C.M. 1947, 79-308, 82A-204(4); amd. Sec. 1, Ch. 395, L. 1981; amd. Sec. 11, Ch. 281, L. 1983; amd. Sec. 19, Ch. 677, L. 1983; amd. Sec. 2, Ch. 183, L. 1985; amd. Sec. 3, Ch. 418, L. 1985; amd. Sec. 1, Ch. 158, L. 1987; amd. Sec. 1, Ch. 335, L. 1987; amd. Sec. 12, Ch. 581, L. 1987; amd. Sec. 1, Ch. 291, L. 1991; amd. Sec. 1, Ch. 46, L. 1993; amd. Sec. 1, Ch. 331, L. 1993; amd. Sec. 2, Ch. 37, Sp. L. November 1993; amd. Sec. 32, Ch. 18, L. 1995; amd. Sec. 1, Ch. 32, L. 1997; amd. Sec. 25, Ch. 422, L. 1997; amd. Sec. 12, Ch. 532, L. 1997; amd. Sec. 3, Ch. 549, L. 1997; amd. Sec. 2, Ch. 330, L. 1999; amd. Sec. 3, Ch. 471, L. 1999; amd. Sec. 5, Ch. 418, L. 2001.

Chapter 3. Federal Revenue and Endowments

Part 10. Endowments

17-3-1003. Support of state institutions. (1) For the support and endowment of each state institution, there is annually and perpetually appropriated, after any deductions made under 77-1-109, Title 77, chapter 1, part 6, and 77-2-362, the income from all permanent

endowments for the institution and from all land grants as provided by law. All money received or collected in connection with permanent endowments by all higher educational institutions, reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to withdrawal or repayment, must be paid to the state treasurer who shall deposit the money to the credit of the proper fund.

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

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

History: (1)En. Sec. 3, Ch. 112, L. 1921; re-en. Sec. 194, R.C.M. 1921; re-en. Sec. 194, R.C.M. 1935; amd. Sec. 3, Ch. 14, L. 1941; amd. Sec. 11, Ch. 147, L. 1963; amd. Sec. 3, Ch. 298, L. 1973; Sec. 79-601, R.C.M. 1947; (2)En. Sec, 1, Ch. 120, L. 1909; re-en. Sec. 1922, R.C.M. 1921; re-en. Sec. 1922, R.C.M. 1935; amd. Sec. 1, Ch. 89, L. 1961; amd. Sec. 24, Ch. 147, L. 1963; amd. Sec. 5, Ch. 286, L. 1977; Sec. 79-1401, R.C.M. 1947; R.C.M. 1947, 79-601, 79-1401; amd. Sec. 2, Ch. 277, L. 1983; amd. Sec. 3, Ch. 700, L. 1989; amd. Sec. 2, Ch. 14, Sp. L. January 1992; amd. Sec. 5, Ch. 533, L. 1993; amd. Sec. 3, Ch. 122, L. 1999; amd. Sec. 1, Ch. 355, L. 2003.

Title 20. Education
Chapter 9. Finance
Part 3. Equalization Aid

20-9-341. Definition of interest and income money. (1) As used in this title, the term "interest and income money" means the total of the following revenue, as provided for by Article X, section 5, of the 1972 Montana constitution:

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

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

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

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

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

History: En. 75-6907 by Sec. 257, Ch. 5, L. 1971; amd. Sec. 9, Ch. 137, L. 1973; R.C.M. 1947, 75-6907; amd. Sec. 3, Ch. 14, Sp. L. January 1992; amd. Sec. 113, Ch. 42, L. 1997; amd. Sec. 5, Ch. 122, L. 1999.

Trust Land Administration Account

Title 77. State Lands
Chapter 1. Administration of State Lands

Part 1. General Provisions

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 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).

History: En. Sec. 1, Ch. 122, L. 1999; amd. Sec. 29, Ch. 34, L. 2001.

77-1-109. Deposits of proceeds in trust land administration account. (1) 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) mineral royalties;

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

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

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

(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 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 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.

History: En. Sec. 2, Ch. 122, L. 1999; amd. Sec. 30, Ch. 34, L. 2001; amd. Sec. 1, Ch. 420, L. 2001; amd. Sec. 2, Ch. 291, L. 2003; amd. Sec. 4, Ch. 355, L. 2003.

Resource Development Account

Part 6. Development of state lands

77-1-604. Resource development account. A resource development account in the state special revenue fund in the state treasury is created to be used solely for the purpose of investing in the improvement and development of state lands acquired by grant or foreclosure in order to increase the revenue to be derived therefrom for common school support and support of the other entities, institutions, and objects for which the lands are held in trust. Appropriations from the account shall be expended for no other purposes.

History: En. Sec. 3, Ch. 295, L. 1967; amd. Sec. 107, Ch. 428, L. 1973; R.C.M. 1947,

81-2403(part); amd. Sec. 1, Ch. 277, L. 1983.

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, 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 in the account from that trust are insufficient to defray the necessary costs and expenses incurred, the board may transfer sufficient moneys from other trusts in the account. Trust accounts from which money is transferred must be reimbursed by a method approved by the board.

History: En. Sec. 4, Ch. 295, L. 1967; amd. Sec. 1, Ch. 180, L. 1973; amd. Sec. 108, Ch. 428, L. 1973; R.C.M. 1947, 81-2404; amd. Sec. 2, Ch. 533, L. 1993.

77-1-607. Deductions from income for development account -- maximum percentage. (1) The board shall determine the amount or percentage of income, not to exceed 3%, that is necessary to achieve the purposes of this part and shall provide by rule for deductions of that amount or percentage from the income that is secured from the lands by the department for the trusts benefited by this part.

(2) The maximum percentage limitation in subsection (1) does not apply to income deducted and expended under the provisions of 77-1-613.

History: En. Sec. 5, Ch. 295, L. 1967; amd. Sec. 109, Ch. 428, L. 1973; R.C.M. 1947, 81-2405; amd. Sec. 3, Ch. 533, L. 1993; amd. Sec. 1, Ch. 247, L. 1997.

77-1-608. Crediting of deductions. All deductions from gross proceeds made in accordance with 77-1-607(1) must be paid into the account, and the balance of the proceeds must be paid into the state treasury to the credit of the proper account.

History: En. Sec. 6, Ch. 295, L. 1967; amd. Sec. 110, Ch. 428, L. 1973; R.C.M. 1947, 81-2406; amd. Sec. 4, Ch. 533, L. 1993.

Timber Sale Account

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 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 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.

History: En. Sec. 1, Ch. 533, L. 1993; amd. Sec. 1, Ch. 157, L. 1995.

Recreational Use Account

Part 8. Recreational Use of State Lands

(Rec Use Fee -- state lands use other than hunting, fishing, and trapping)

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

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

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

(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808.

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

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

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

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

(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808.

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

History: En. Sec. 12, Ch. 609, L. 1991; amd. Sec. 2, Ch. 586, L. 1993; amd. Sec. 5, Ch. 596, L. 2003.

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

(2) There must be deposited in the account:

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

(b) 10% of the revenue received as a result of an agreement with the department of

fish, wildlife, and parks for the use and impacts of hunting, fishing, and trapping as provided in 77-1-815; and

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

(3) Money deposited in the state lands recreational use account must be used by the department for the following purposes:

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

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

(c) protection of the resource value of the trust assets;

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

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

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

(2) There must be deposited in the account:

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

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

(3) Money deposited in the state lands recreational use account must be used by the department for the following purposes:

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

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

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

(d) administration and management for the implementation of recreational use of state lands.

History: En. Sec. 16, Ch. 609, L. 1991; amd. Sec. 68, Ch. 509, L. 1995; amd. Sec. 1, Ch. 117, L. 2001; amd. Sec. 6, Ch. 596, L. 2003.

(State lands access for hunting, fishing, and trapping)

77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally accessible state trust land. (1) The board is authorized to enter into an agreement with the department of fish, wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with rules and provisions provided in this part.

(2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for the use and impacts associated with hunting, fishing, and trapping

on legally accessible state trust land. Ten percent of the gross receipts from the agreement must be deposited in the state lands recreational use account established in 77-1-808. The remaining 90% must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

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

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

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

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

History: En. Sec. 1, Ch. 596, L. 2003.

Commercial Leasing

Part 9. Commercial Leasing of State Trust Land

77-1-905. Rental provisions for commercial leasing -- payments and credits -- administration -- lease options. (1) The first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department's cost of the request for proposals process, including publication and other reasonable expenses. Failure to pay the first year's rental at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

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

(3) The department may use up to 10% of the annual rent received from a commercial

lease to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

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

History: En. Sec. 5, Ch. 404, L. 2003.

Fees Collected by Rule

Chapter 2. Transfers and Reservations of Property Interests

Part 3. Sales

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. 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.

History: En. Sec. 76, Ch. 60, L. 1927; re-en. Sec. 1805.76, R.C.M. 1935; R.C.M. 1947, 81-913; amd. Sec. 59, Ch. 422, L. 1997; amd. Sec. 9, Ch. 355, L. 2003.

Land Banking

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

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

(b) Except as provided in subsection (2)(c), up to 10% of the proceeds in the state land bank fund may be used by the department to fund the transactional costs of buying, selling, appraising, or marketing real property. Transactional costs may include realtor's fees, title reports, title insurance, legal fees, and other costs that may be necessary to complete a conveyance of real property.

(c) Proceeds from the sale of lands held 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, may not be used for any transactional costs or trust administration purposes for those lands.

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

period is extended by the legislature.

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

History: En. Sec. 12, Ch. 355, L. 2003.

Royalty Receipts

Chapter 3. Rock, Mineral, Coal, Oil, and Gas Resources

Part 1. Prospecting permits and mining leases

77-3-106. Disposition of royalties, fees, and penalties. All fees and penalties collected under this part shall be credited to the state general fund; all rentals shall be credited to the income fund of the grant to which the land belongs; and all moneys collected as royalties shall be credited to the permanent fund arising from the grant to which the land belongs under each particular permit or lease; provided, however, that all rentals and royalties received from "mortgage lands" shall be credited to the same fund or funds as other receipts from such lands and that all rentals and royalties received under or in connection with a lease or permit on other lands or mineral rights not acquired through any grant to the state of Montana from the United States shall be paid into the same funds into which such receipts are paid when the land is part of the grant for the benefit of the public schools of the state of Montana.

History: En. Sec. 17, Ch. 148, L. 1937; R.C.M. 1947, 81-617.

Part 2. Nonmetallic minerals, excluding coal, oil, and gas

77-3-206. Disposition of royalties, fees, and penalties. The royalties, fees, and penalties received under these leases shall be credited to the various funds to which they properly belong in the same manner as is now provided for crediting the same under oil and gas leases.

History: En. Sec. 53, Ch. 60, L. 1927; re-en. Sec. 1805.53, R.C.M. 1935; amd. Sec. 2, Ch. 194, L. 1945; amd. Sec. 50, Ch. 428, L. 1973; R.C.M. 1947, 81-702(part).

Part 3. Coal

77-3-318. Disposition of royalties and other receipts. All fees, rentals, royalties, and bonuses collected under state coal leases shall be paid to the department and credited as follows:

(1) All fees shall be credited to the state general fund.

(2) All rentals and bonuses shall be credited to the income fund of the grant to which the lands under each lease belong.

(3) All moneys collected as royalties shall be credited to the permanent fund arising from the grants to which the lands under lease belong.

History: En. Sec. 47, Ch. 60, L. 1927; re-en. Sec. 1805.47, R.C.M. 1935; amd. Sec. 34, Ch. 428, L. 1973; amd. Sec. 5, Ch. 358, L. 1975; R.C.M. 1947, 81-510.

Part 4. Oil and Gas

77-3-436. Disposition of royalties and other money. All fees, rentals, penalties, royalties, and bonuses collected for or under state oil and gas leases shall be paid to the department and credited as follows:

(1) All fees and penalties shall be credited to the state general fund.

(2) All rentals shall be credited to the income fund of the grant to which the lands under each lease belong.

(3) All moneys collected as royalties and bonuses shall be credited to the permanent fund arising from the grant to which the land under each particular lease belongs and become and forever remain an inseparable and inviolable part thereof. However, all royalties and bonuses collected from the lands forming part of the capitol building grant shall be available as income, the same as all other receipts from such lands.

(4) All moneys received as rentals, royalties, and bonuses for or under leases on state lands and not held in trust for the public schools of the state or for any state institution shall be credited to the state general fund unless other disposition is provided by law.

History: En. Sec. 12, Ch. 108, L. 1927; re-en. Sec. 1882.12, R.C.M. 1935; amd. Sec. 44, Ch. 100, L. 1973; amd. Sec. 89, Ch. 428, L. 1973; R.C.M. 1947, 81-1712; amd. Sec. 1, Ch. 353, L. 1985.

Chapter 4. Geothermal and Hydroelectric Resources

Part 1. Geothermal Resources

77-4-127. Disposition of royalties and other receipts. (1) The department shall credit fees collected under geothermal leases to the general fund.

(2) All rentals, penalties, and bonuses shall be credited to the income fund of the grant to which the lands under each lease belong.

(3) All moneys collected as royalties shall be credited to the permanent fund arising from the grant to which the land under each particular lease belongs.

History: En. 81-2610 by Sec. 10, Ch. 111, L. 1974; R.C.M. 1947, 81-2610.

Forest Improvement Fees

Chapter 5. Timber Resources

Part 2. Timber sales and removal

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, 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. 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.

History: En. Sec. 3560, p. 193, L. 1897; re-en. Sec. 2213, Rev. C. 1907; amd. Sec. 53, Ch. 147, L. 1909; amd. Sec. 4, Ch. 118, L. 1911; amd. Sec. 1, Ch. 26, L. 1919; re-en. Sec. 1872, R.C.M. 1921; amd. Sec. 1, Ch. 132, L. 1933; re-en. Sec. 1872, R.C.M. 1935; amd. Sec. 219, Ch. 147, L. 1963; amd. Sec. 82, Ch. 428, L. 1973; R.C.M. 1947, 81-1601; amd. Sec. 1, Ch. 529, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 446, L. 1993; amd. Sec. 2, Ch. 157, L. 1995.

Legal Opinions

(Full copies of the various opinions are available upon request)

Montana Attorney General

There has been one attorney general opinion and one letter from an attorney general regarding this issue. These are briefly summarized below.

Vol. 32, Opinion No. 8 (1967)

Inquiry: "May school lands granted to the State of Montana under the provisions of sections 10 and 11 of the Enabling Act be made subject to Chapter 295, Laws of 1967, without violating either (1) The terms of the grant, or (2) The provisions of our constitution which direct that school land revenues or funds remain inviolate and sacred for school purposes, guaranteed against loss or diversion.

(1) The terms of the grant.

"In the execution of the trust imposed under such a grant, it is now well settled that a state, acting in its role as trustee, has an inherent equitable right to reimbursement from the trust for all charges and expenses necessarily incurred in the execution of the trust where there is no provision to the contrary in the grant creating the trust U.S. v. Swope, C.C.A. 8th 1926)16 F. 2d. 215; State ex rel. Greenbaum v. Rhoades, 4 Nev. 312 (1868); Betts v. Commissioners of the Land Office, 27 Okl. 64, 110 Pac. 766 (1910); Bourne v. Cole, 53 Wyo. 31, 7 P.2d 617 (1938). This rule applies to the trust imposed by the grant of school lands to Montana for there is no provision in the Enabling Act which requires the state to bear the costs of improvement, development, administration or land conservation measures from its general revenues."

(2) The provisions of our constitution which direct that school land revenues or funds remain inviolate and sacred for school purposes, guaranteed against loss or diversion.

"We have found no provision that indicates that our constitutional framers intended to place restrictions upon the trustees right to require payment for the expense of administration, conservation, improvement and development, of the trust lands out of the proceeds of the lands themselves. In the absence of a showing of such intent, it must be concluded that the contrary is true, as it is with any other trust where a denial of that right does not appear in its provisions."

Letter from Attorney General

A letter was sent to the commissioner of the Department of State Lands and Investments on February 24, 1970 from Attorney General Robert L. Woodahl. The letter was almost an exact replica of the opinion issue in 1967 and stated the following in summary:

"You have requested my opinion as to whether school lands granted to the state of Montana under the provisions of sections 10 and 11 of the Enabling Act are subject to Chapter 295, Las of 1967, without violating either: (1) the terms of the grant, or (2) the provisions of our constitution which direct that school land revenues or funds remain inviolate and sacred for school purposes, guaranteed against loss or diversion."

"The state acts as trustee of the school lands under the provisions of Article XI, Constitution of Montana. It is well settled common law principle that the state, as trustee, has an inherent equitable right to reimbursement from the trust for all charges and expenses necessarily incurred in the execution and administration of said trust where there are no provisions to the contrary in the grant of the trust. U.S. v. Swope, C.C.A. 8th, 1926), 16 F. 2d 215."

Code Commissioner

The code commissioner has long stated that he believes that using revenue from the trusts to fund administration is unconstitutional and creates a significant liability for the state. Mr. Petesch bases his opinions on the express language of the Montana Constitution and federal language.

Department of Natural Resources and Conservation

The Department of Natural Resources and Conservation has stated both in legal opinions and before the Senate Natural Resource committee that they believe the use of revenues to fund administration is not unconstitutional and is permissible. The DNRC opinions rely heavily on the general trust doctrine which allows administrative costs to be deducted from revenues of the trust, the 1967 Montana Attorney General Opinion, and other states actions and funding mechanisms.

University System

The University System has stated in a legal opinion that using revenue generated by the Morrill Act lands and other university trusts to fund administration is in violation of the federal law granting the land to the University System to be managed and administered by the state. The University System also followed the actions taken in Washington very closely.

Amount of Funds

(I have requested additional information will make it available to the Subcommittee

upon receipt.)

There are spread sheets attached to this paper addressing the various aspects of administrative costs, actual expenditures, and appropriations. I have pointed out a few things with the tables if I feel they have left out an element. The source of the specific table is provided in parenthesis following each description.

<u>Attached Tables</u>

1. Trust Land Expenditures FY04 and FY 05 and Appropriations for FY06 and FY07 (LFD)
2. Trust Land Administrative Assessments (OBPP)
   -- only includes University System Trusts (missing common school, school for deaf and blind, state reform school, veterans home, and Capitol trusts)
   -- does not include all of the accounts potentially receiving funds (missing recreational use account, land banking account, and commercial leasing)
3. MSU Morrill Grant - ACI (Univ. System)
   -- does not include land banking or commercial leasing -- may not apply to these trusts