



AN ACT PROVIDING AUTHORITY FOR AN AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND 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 LANDS AS DEFINED IN DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION RULES; PROVIDING THAT 10 PERCENT OF THE GROSS REVENUE RECEIVED AS A RESULT OF THE AGREEMENT BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE ACCOUNT AND 90 PERCENT OF THE REVENUE RECEIVED BE ALLOCATED AMONG THE TRUSTS; PROVIDING THAT AN AGREEMENT BETWEEN THE DEPARTMENTS DOES NOT CONSTITUTE CONSIDERATION WITH REGARD TO THE RESTRICTION OF LIABILITY OF A LANDOWNER; INCLUDING FEES FOR HUNTING, FISHING, AND TRAPPING PURPOSES PURSUANT TO AN AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AS ONE OF THE ACTIONS FOR WHICH THE BOARD OF LAND COMMISSIONERS SHALL CONSIDER VARIOUS IMPACTS INCLUDING MANAGEMENT EXPENSES, WATER DEVELOPMENT, WEED CONTROL, AND FIRE CONTROL; PROVIDING AN EXEMPTION TO THE REQUIREMENT FOR A RECREATIONAL USE LICENSE FOR RECREATIONAL USE OF STATE TRUST LAND FOR HUNTING, FISHING, AND TRAPPING PURPOSES IF AN AGREEMENT IS REACHED BETWEEN THE TWO DEPARTMENTS; PROVIDING AN ALLOCATION SCHEME FOR REVENUE RECEIVED AS A RESULT OF AN AGREEMENT; ADDING MAINTENANCE OF ROADS NECESSARY FOR PUBLIC RECREATIONAL USE OF STATE TRUST LAND AS A QUALIFIED USE OF FUNDS IN THE RECREATIONAL USE ACCOUNT; INCREASING THE RESIDENT AND NONRESIDENT WILDLIFE CONSERVATION LICENSE FEES BY \$2 EACH; AMENDING SECTIONS 70-16-302, 77-1-106, 77-1-801, 77-1-802, 77-1-808, AND 87-2-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

WHEREAS, the Department of Natural Resources and Conservation presently authorizes the public to use state school trust land through individual recreational use licenses; and

WHEREAS, the primary recreational uses of state school trust land are hunting and fishing; and

WHEREAS, the Department of Natural Resources and Conservation and the Department of Fish, Wildlife, and Parks wish to provide a more efficient system for authorizing public recreational use for hunting, fishing, and

trapping on state trust land and concurrently provide greater benefit to the institutional beneficiaries of the trust; and

WHEREAS, the Department of Fish, Wildlife, and Parks has the discretionary authority in section 87-1-209, MCA, to enter into an agreement 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 by department of natural resources and conservation rule; and

WHEREAS, the Department of Fish, Wildlife, and Parks needs additional revenue to offset the cost of an agreement with the Department of Natural Resources and Conservation to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land; and

WHEREAS, the Department of Natural Resources and Conservation and the Department of Fish, Wildlife, and Parks have reached an agreement that, given the legislative authority, they intend to enter into an agreement for the recreational use of school trust land parcels for hunting, fishing, and trapping purposes.

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

Section 1. 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.

Section 2. Section 70-16-302, MCA, is amended to read:

"70-16-302. Restriction on liability of landowner. (1) A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property. The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land recreational use license fee imposed under 77-1-802 or other funds provided under [section 1].

(2) As used in this part, "landowner" means a person or entity of any nature, whether private, governmental, or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation easement, water users' association, irrigation district, drainage district, and persons or entities in control of the property or with an agreement to use or occupy property.

(3) As used in this part, "property" means land, roads, water, watercourses, and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on property.

(4) The department of fish, wildlife, and parks, when operating under an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile area operator on the property, does not extend any assurance that the property is safe for any purpose, and the department, the landowner, or the landowner's tenant may not be liable to any person for any injury to person or property resulting from any act or omission of the department unless the act or omission constitutes willful or

wanton misconduct."

Section 3. Section 77-1-106, MCA, is amended to read:

"77-1-106. Setting of rates or fees -- rules. (1) In setting the lease rental rates, agreement rates, or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the production capabilities, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates, agreement rates, and fees established by the board under 77-1-208, 77-1-802, [section 1], 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust.

(3) The board shall comply with Title 2, chapter 4, part 3, in setting rental rates, agreement rates, and license fees pursuant to 77-1-208, 77-1-802, [section 1], 77-6-202, 77-6-501, 77-6-502, and 77-6-507."

Section 4. Section 77-1-801, MCA, is amended to read:

"77-1-801. Recreational use license required to use state lands for general recreational purposes -- penalty -- exemption. (1) ~~A~~ Except as provided in subsection (3), a person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) ~~A~~ Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and game warden, present for inspection ~~his~~ the person's recreational use license.

(3) If the department and the department of fish, wildlife, and parks consent to and sign an agreement for hunting, fishing, and trapping purposes, as provided in [section 1], a person is not required to obtain a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

~~(3)(4)~~ (4) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both."

Section 5. Section 77-1-802, MCA, is amended to read:

"77-1-802. Recreational use license -- fee. (1) The fee for a recreational use license 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 [section 1].

(2) ~~Money~~ 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~~ 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~~ 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."

Section 6. Section 77-1-808, MCA, is amended to read:

"77-1-808. 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) 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 [section 1]; and

~~(b)(c)~~ (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; ~~and~~

- (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."

Section 7. Section 87-2-202, MCA, is amended to read:

"87-2-202. (Temporary) Application -- fee -- expiration. (1) A wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of ~~\$4~~ \$6.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of ~~\$7~~ \$9.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of \$2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of \$10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs

established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Terminates March 1, 2006--sec. 9, Ch. 216, L. 2001; bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)

87-2-202. (Effective March 1, 2006) Application -- fee -- expiration. (1) A wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.

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on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

Section 8. Contingent voidness. (1) If the department of natural resources and conservation and the department of fish, wildlife, and parks do not sign an agreement to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on state trust land by [the effective date of this act], then [this act] is void. The department of natural resources and conservation shall notify the code commissioner of the failure to reach an agreement.

(2) (a) If an agreement between the department of natural resources and conservation and 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 state trust land is terminated prior to the expiration date of the agreement, then [this act] is void upon termination. The department of natural resources and conservation shall notify the code commissioner of the termination.

(b) If the department of natural resources and conservation and the department of fish, wildlife, and parks do not enter into a renewal agreement prior to the expiration date of an agreement, then [this act] is void on the expiration date of the agreement. The department of natural resources and conservation shall notify the code commissioner of the expiration.

(3) If a court of competent jurisdiction determines that the agreement to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on state trust lands is invalid, then [this act] is void on the date the court's judgment is final. The department of natural resources and conservation shall notify the code commissioner of the entry of the judgment.

(4) If the department of natural resources and conservation and the department of fish, wildlife, and parks receive written notice from the regional director of the United States fish and wildlife service that [this act] will result in a loss of federal fish and wildlife funds, then [this act] is void. The department of natural resources and conservation shall notify the code commissioner that the department has received a notice and the date upon which the notice was received.

Section 9. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 77, chapter 1, part 8, and the provisions of Title 77, chapter 1, part 8, apply to [section 1].

Section 10. Coordination instruction. If Senate Bill No. 112 and [this act] are both passed and

approved and if Senate Bill No. 112 includes an amendment to 87-2-202 that increases resident and nonresident wildlife conservation license fees by adding a search and rescue surcharge, then the resident and nonresident wildlife conservation license fees in 87-2-202(3)(a) and (3)(b) of [this act] are increased by the amount of that surcharge.

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Effective date. [This act] is effective March 1, 2004.

- END -

I hereby certify that the within bill,
SB 0130, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 130

INTRODUCED BY MCGEE

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

AN ACT PROVIDING AUTHORITY FOR AN AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND 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 LANDS AS DEFINED IN DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION RULES; PROVIDING THAT 10 PERCENT OF THE GROSS REVENUE RECEIVED AS A RESULT OF THE AGREEMENT BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE ACCOUNT AND 90 PERCENT OF THE REVENUE RECEIVED BE ALLOCATED AMONG THE TRUSTS; PROVIDING THAT AN AGREEMENT BETWEEN THE DEPARTMENTS DOES NOT CONSTITUTE CONSIDERATION WITH REGARD TO THE RESTRICTION OF LIABILITY OF A LANDOWNER; INCLUDING FEES FOR HUNTING, FISHING, AND TRAPPING PURPOSES PURSUANT TO AN AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AS ONE OF THE ACTIONS FOR WHICH THE BOARD OF LAND COMMISSIONERS SHALL CONSIDER VARIOUS IMPACTS INCLUDING MANAGEMENT EXPENSES, WATER DEVELOPMENT, WEED CONTROL, AND FIRE CONTROL; PROVIDING AN EXEMPTION TO THE REQUIREMENT FOR A RECREATIONAL USE LICENSE FOR RECREATIONAL USE OF STATE TRUST LAND FOR HUNTING, FISHING, AND TRAPPING PURPOSES IF AN AGREEMENT IS REACHED BETWEEN THE TWO DEPARTMENTS; PROVIDING AN ALLOCATION SCHEME FOR REVENUE RECEIVED AS A RESULT OF AN AGREEMENT; ADDING MAINTENANCE OF ROADS NECESSARY FOR PUBLIC RECREATIONAL USE OF STATE TRUST LAND AS A QUALIFIED USE OF FUNDS IN THE RECREATIONAL USE ACCOUNT; INCREASING THE RESIDENT AND NONRESIDENT WILDLIFE CONSERVATION LICENSE FEES BY \$2 EACH; AMENDING SECTIONS 70-16-302, 77-1-106, 77-1-801, 77-1-802, 77-1-808, AND 87-2-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

