

SENATE BILL NO. 534  
INTRODUCED BY D. WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE BOARD OF LAND COMMISSIONERS MAY CONVERT COMMON SCHOOL PERMANENT FUND CASH ASSETS BY PURCHASING FEE SIMPLE INTERESTS IN REAL PROPERTY; PROVIDING FOR A COMMON SCHOOL ASSET MANAGEMENT ACCOUNT; PROVIDING A MAXIMUM AMOUNT THAT MAY BE DEPOSITED IN THE ACCOUNT; PROVIDING DIRECTION TO THE BOARD OF LAND COMMISSIONERS REGARDING ISSUES THAT MUST BE CONSIDERED WHEN DETERMINING WHETHER OR NOT TO PURCHASE PROPERTY; AND PROVIDING LIMITATIONS ON HOW THE MONEY IN THE ACCOUNT MAY BE USED."

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

NEW SECTION. **Section 1. Common school permanent fund asset exchange.** The board may convert up to \$100 million of common school permanent fund cash assets by purchasing fee simple interests in real property. Pursuant to Article X, section 3, of the Montana constitution, property purchased remains a part of the permanent trust guaranteed against loss or diversion.

NEW SECTION. **Section 2. Common school asset management account -- maximum deposit.** (1) There is a common school asset management account administered by the department in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the account cash described in [section 1] for the purpose of exchanging the cash assets for fee simple interests in real property.

(3) The maximum amount that may be deposited in this account from the common school permanent fund cash assets over the lifetime of the account is \$100 million.

(4) (a) Money in the account may be used only for the purpose of purchasing fee simple interests in real property.

(b) Money in the account may not be used to pay for costs associated with property transactions, costs associated with managing the property, or other administrative costs.

(5) Five percent of the interest and income earned on the account must be returned, on an annual basis, to the common school permanent fund. The remaining 95% must be distributed to the guarantee account

provided for in 20-9-622.

**NEW SECTION. Section 3. Common school asset management -- property purchases -- considerations -- distribution.** (1) The board shall consider the income potential of the property when determining which property to purchase.

(2) The board or the department at the board's direction must complete a cost-benefit analysis of a property purchase. This cost-benefit analysis must be made available to the public upon request.

(3) Prior to purchasing any land, the board shall determine that the financial risks and benefits of the purchase are prudent and are consistent with the board's fiduciary duty as a reasonably prudent trustee of a perpetual trust. For the purposes of implementing [sections 1 through 3], that duty requires the board to:

(a) discharge its duties with the care, skill, prudence, and diligence that a prudent person acting in a similar capacity with the same resources and familiar with similar matters should exercise in the conduct of an enterprise of similar character and aims;

(b) diversify the land holdings of the common school trust to minimize the risk of loss and maximize the sustained rate of return;

(c) discharge its duties and powers solely in the interest of and for the benefit of the trust;

(d) discharge its duties subject to the fiduciary standards set forth in 72-34-114.

**NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 77, chapter 1, part 2, and the provisions of Title 77, chapter 1, part 2, apply to [sections 1 through 5].

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