

1 SENATE BILL NO. 38

2 INTRODUCED BY B. HAWKS

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO STATE TRUST LAND INTEREST
6 AND INCOME REVENUE; DEFINING "STATE TRUST LAND"; AMENDING SECTIONS 20-9-342 AND 77-1-101,
7 MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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11 **Section 1.** Section 20-9-342, MCA, is amended to read:

12 **"20-9-342. Deposit of interest and income money by state board of land commissioners.** Except
13 as provided in 20-9-516, the state board of land commissioners shall ~~annually~~ deposit the interest and income
14 money for each ~~calendar~~ fiscal year into the guarantee account, provided for in 20-9-622, for state equalization
15 aid by the last business day of February ~~and June following the calendar~~ before the close of the fiscal year in
16 which the money was received."

17
18 **Section 2.** Section 77-1-101, MCA, is amended to read:

19 **"77-1-101. Definitions.** Unless the context requires otherwise and except for the definition of state land
20 in 77-1-701, in this title, the following definitions apply:

21 (1) "Board" means the board of land commissioners provided for in Article X, section 4, of the Montana
22 constitution.

23 (2) "Commercial or concentrated recreational use" means any recreational use that is organized,
24 developed, or coordinated, whether for profit or otherwise. Commercial or concentrated recreational use includes
25 all outfitting activity and all activities not included within the definition of general recreational use.

26 (3) "Department" means the department of natural resources and conservation provided for in Title 2,
27 chapter 15, part 33.

28 (4) "Distributable revenue" applies to all land trusts managed by the board, except property held pursuant
29 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 329, and
30 includes:

1 (a) 95% of all revenue from the management of school trust lands and the common school permanent
2 fund, except for mineral royalties or land sale proceeds that are deposited directly in the permanent fund;

3 (b) ~~95%~~ of the interest and income described in 20-9-341, less any unrealized gains or losses;

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

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

7 (5) (a) "General recreational use" includes noncommercial and nonconcentrated hunting, fishing, and
8 other activities determined by the board to be compatible with the use of state lands.

9 (b) The term does not include the use of streams and rivers by the public under the stream access laws
10 provided in Title 23, chapter 2, part 3.

11 (6) "Legally accessible state lands" means state lands that can be accessed by:

12 (a) dedicated public road, right-of-way, or easement;

13 (b) public waters;

14 (c) adjacent federal, state, county, or municipal land if the land is open to public use; or

15 (d) adjacent contiguous private land if permission to cross the land has been secured from the
16 landowner. The granting of permission by a private landowner to cross private property in a particular instance
17 does not subject the state land that is accessed to general recreational use by members of the public, other than
18 those granted permission.

19 (7) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced
20 in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that
21 may harm native plant communities and that is designated:

22 (a) as a statewide noxious weed by rule of the department of agriculture; or

23 (b) as a district noxious weed by a district weed board organized under 7-22-2103.

24 (8) (a) "State land" or "lands" means:

25 (i) lands granted to the state by the United States for any purpose, either directly or through exchange
26 for other lands;

27 (ii) lands deeded or devised to the state from any person; and

28 (iii) lands that are the property of the state through the operation of law.

29 (b) The term does not include:

30 (i) lands that the state conveys through the issuance of patent;

1 (ii) lands that are used for building sites, campus grounds, or experimental purposes by a state institution
2 and that are the property of that institution;

3 (iii) lands that the board of regents of higher education has authority to dispose of pursuant to 20-25-307;

4 or

5 (iv) lands acquired through investments under the provisions of 17-6-201.

6 (9) "State trust land" means lands or property interests held in trust by the state:

7 (a) under Article X, sections 2 and 11, of the Montana constitution;

8 (b) through The Enabling Act of Congress (approved February 22, 1889, 25 Stat. 676), as amended; and

9 (c) through the operation of law for specified trust beneficiaries.

10 ~~(9)(10)~~ "Weed management" or "control" has the meaning provided in 7-22-2101."

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12 **NEW SECTION. Section 3. Saving clause.** [This act] does not affect rights and duties that matured,
13 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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15 **NEW SECTION. Section 4. Effective date.** [This act] is effective July 1, 2011.

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