

MINUTES

MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on April 10, 1991, at  
11:05 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)  
Bill Yellowtail, Vice Chairman (D)  
Robert Brown (R)  
Bruce Crippen (R)  
Steve Doherty (D)  
Lorents Grosfield (R)  
Mike Halligan (D)  
John Harp (R)  
Joseph Mazurek (D)  
David Rye (R)  
Paul Svrcek (D)  
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion  
are paraphrased and condensed.

Announcements/Discussion: none

EXECUTIVE ACTION ON HOUSE BILL 797

Motion:

Senator Yellowtail made a motion that HB 797 BE TABLED.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Yellowtail's motion to table HB 797 carried  
unanimously.

HEARING ON HOUSE BILL 155Presentation and Opening Statement by Sponsor:

Representative Bill Strizich, District 41, said HB 155 was requested by the County Attorneys, and that it still needs a little work (county attorneys' amendment). He explained that county attorneys have had no statutory salary increase for ten years, and have only received a .07 percent consumer price index (CPI) increase. Representative Strizich stated that he believes it is very important to recognize the job county attorneys do, and said there was not great opposition to the bill until the \$5 increase on surcharge was added. He further stated that he believes the Committee will hear from the Montana Magistrates, but it is not their domain to settle policy or salaries. He said the County Attorneys are trying to do this in a responsible way.

Marc Racicot, Attorney General, said he came from a county attorney office 13-14 years ago, and is now a liaison for them. He stated that there have been 65 county attorneys since that time, and that they are incredibly dedicated. The Attorney General stated that he believes the County Attorneys deserve to be compensated appropriately, and that this would help retention. He said he strongly supported HB 155, and urged the Committee to favorably consider the bill.

Joe Roberts, Montana County Attorneys, told the Committee that several County Attorneys are present, but he would present the bulk of testimony on the bill. He held up a computer printout, about one inch in thickness, detailing the duties of county attorneys by statute, and asked the Committee to bear in mind these duties when they are discussing salaries. Mr. Roberts provided amendments from second reading in the House; 1985 attorney salaries in Montana; and a statement from the Fiscal Analyst on the \$5 increase in surcharge (Exhibits #1, #2, and #3).

Mr. Roberts told the Committee that, originally, salaries were tied to the district judges and the general fund, but on second reading in the House, salaries were tied to other elected county officials in HB 411. He said that the bill, as amended, allows County Commissioners to set salaries from \$44,800 to \$56,000, and that the average now is about \$46,000. Mr. Roberts stated his concerns with this discretion being given to County Commissioners, and said that half of county attorney salaries are paid by the State and the other half are paid through the district judges. He said the funding is there, and that there should be no impact to the counties. Mr. Roberts added that County Commissioners should not set these salaries.

Joe Roberts asked the Committee for a flat salary amount of \$52,000 instead of the amended salary range. He said page 6 has a COLA (cost of living adjustment) in it which is effective July 1, 1991, and suggested that the COLA not apply for the first year if the \$52,000 figure is accepted. Mr. Roberts advised the Committee

that the base salary is \$36,500, but COLA increases didn't keep up, so the County Attorneys are asking to catch up, realizing that it can't be done in one year.

Mr. Roberts further stated that the typical attorney was making about \$70,000 in 1985, and that he doesn't believe county attorneys can reach this. He said he does believe that the 50 percent turnover in county attorneys is due to insufficient salaries, and that there is a need for experienced prosecutors, particularly in the larger counties. He told the Committee that the cost of the bill is not as great as it was in House Appropriations, but the surcharge would provide the necessary revenue.

#### Proponents' Testimony:

Robert Deschamps, Missoula County Attorney, said he opposed the 80-100 percent salary discretion given the County Commissioners, as things aren't always "rosy" between county attorneys and county commissioners, and the State does pay one-half of county attorney salaries. He stated that county attorneys are the watch-dog over elected officials in the counties, and have prosecuted county commissioners, removing them from office. He asked the Committee not to give County Commissioners a stronghold over County Attorneys.

Shaun Donovan, Mineral County Attorney, said he believes there are good reasons for the surcharge, as stated by Joe Roberts, but the best reason is that it is fair, appropriate, and rational to ask that those who use the court's time, pay their share. He asked the Committee to keep in mind that minor cases can take a tremendous amount of time, and asked the Committee to support the bill.

Bill Fleiner, Lewis and Clark County Undersheriff and Montana Peace Officers Association, stated his support of the bill, and said he echoed Mr. Deschamps' statements. Mr. Fleiner said having County Commissioners set salaries is a major stumbling block for both sheriffs and county attorneys. He stated that the Sheriffs and Peace Officers contend that county attorneys must have integrity and honesty, and that they support the salary increase.

Ed Hall, Montana Board of Crime Control, Department of Justice, said he supported the bill with the caution that the crime victims compensation fund not be dropped from 16.9 percent to 15.9 percent to fund this bill (page 2, line 13, third reading copy). Mr. Hall told the Committee that he was assured this was not the intent of the drafters, but he wanted to make certain. He urged concurrence in the bill on this basis.

Gordon Morris, Montana Association of Counties (MACO), said he supported the bill with the amendments proposed by Joe Roberts, and the COLA in HB 497.

Tom Harris, Montana County Attorneys, advised the Committee that one western states uses a flat 37 percent surcharge, and another uses a \$75 surcharge. He further advised them that Idaho's prosecutor in Aida County makes \$56,00, and the next highest paid county prosecutor makes \$51,250. Mr. Harris further stated that Wyoming averages \$48,500 now, and is raising its salaries to \$60,000, and that Oregon and Washington pay between \$60,000 and \$70,000. He asked the Committee to give the bill favorable consideration.

Senator Fred VanValkenburg asked to be considered a proponent of the bill.

#### Opponents' Testimony:

Patricia Bradley, Montana Magistrates, read from prepared testimony in opposition to HB 155 and offered two amendments (Exhibit #4).

Gladys Vance, Justice of the Peace in Cascade County for the past 13 years, said she also served as Belt City Judge for 10 years. Ms. Vance read from prepared testimony in opposition to HB 155 (Exhibit #5). She said she believes imposition of a surcharge is a direct violation of the Constitution, and is not the duty of any court in Montana.

Carol Chagnon, Justice of the Peace in Hill County, said she is opposed to the method of collection, and not the salary increase, and that she believes Hill County's County Attorney is a very fine attorney. She told the Committee she doesn't see how the surcharge can be statutorily enacted, and asked the Committee to consider the burden they are placing on the justices of the peace.

#### Questions From Committee Members:

Senator Svrcek asked Patricia Bradley if her opposition were the official position of the Magistrates or just some of the Magistrates. Ms. Bradley replied that it was the position of the Board of Directors of the Magistrates Association.

Senator Pinsoneault commented that the public defender in Lake County makes \$70,000, and asked Mr. Deschamps to comment on the salaries in Missoula County. Mr. Deschamps replied that the public defender in Missoula County makes the same salary he does, and that he doesn't believe there will be a problem meeting the proposed salary increases, and that there may even be excess revenue.

#### Closing by Sponsor:

Representative Strizich said a lot is expected from the County Attorneys, and the bill seeks to retain experienced attorneys. He told the Committee he believes "separation of powers" is the issue, and that it is not the job of Magistrates to set policy, but is the job of the Legislature. Representative Strizich stated that the

problem has been identified, and a practical solution has been suggested. He said he believes local politics can be remedied by the proposed amendments.

### HEARING ON HOUSE BILL 993

#### Presentation and Opening Statement by Sponsor:

Representative Tom Zook, District 25, said HB 993 requires that parents contribute to the cost of treatment of their children who are in residential facilities, if they have the means to pay. He stated that, right now, the Department of Family Services (DFS), assumes financial responsibility for these children, and that he believes the bill will provide incentives to families to become more involved. Representative Zook told the Committee that the bill is not meant to be punitive, and only puts the responsibility where it belongs.

#### Proponents' Testimony:

Ann Gilkey, Attorney, DFS, said the Department supports HB 993 which clarifies and expands existing law, and ties collection into the Child Support Enforcement Division of the Department of Social and Rehabilitation Services (SRS). She explained that these funds will be used for in-home and family-based services.

Kathy McGowan, Montana Residential Child Care Association, said she represents 23 different youth homes and residential treatment centers in Montana, and supports HB 993 as parents need to be involved in financial support and/or treatment.

Amy Pfeiffer, Child Support Enforcement Division, SRS, said she supports the bill, as amended, and told the Committee that HB 923 provided the way to obtain funds in IV D cases (Exhibit #6).

#### Opponents' Testimony:

There were no opponents of the bill.

#### Questions From Committee Members:

Senator Towe commented that it may not be appropriate in certain instances for the courts to require parents to provide support for their children in residential treatment centers. Ann Gilkey replied that the court can use the formula for Child Support Enforcement, and that there are exceptions outlined on page 8 of the bill. She said the intent is to give the courts discretion in this area.

Senator Towe stated that the language says "shall", and asked if there would be any objection to changing it to "may". Representative Zook replied he would not object to this change.

Senator Halligan asked why this is not addressed after temporary investigating authority instead of waiting until it is adjudicated and the child has been in foster care for a year. He asked if this language could be clarified. Ann Gilkey replied she would look at changing the language.

Closing by Sponsor:

Representative Zook made no closing comments. Senator Pinsoneault offered to carry the bill, if it passes out of the Committee.

HEARING ON HOUSE BILL 778

Presentation and Opening Statement by Sponsor:

Representative Dave Brown, District 72, said HB 778 is a land access compromise bill, and was worked on by the Attorney General, the Secretary of State, and others. He said these people spent many hours with all concerned parties, and that he believes it is a good package. Representative Brown stated that it is a fragile compromise, but is a step forward.

Proponents' Testimony:

Attorney General Marc Racicot, asked for favorable consideration of the bill which, he said, resolves the insurmountable problem that cannot be dealt with by litigation (Exhibit #7 - Attorney General and Secretary of State).

Mike Cooney, Secretary of State, and member of the State Lands Board, said this was the most important issue to people during his 1988 campaign. He said he believes HB 778 is a step in the right direction, and is a very valuable compromise.

John Gibson, Billings Rod and Gun Club and Magic City Trout Unlimited, said he has worked in the Custer National Forest for the past 15 years where there have been thousands of land improvements, but insignificant damage as a result of year-round use. He said he believes the damage issue is overstated, and has little substance (Exhibit #8).

Bill Haldorf, Skyline Sportsmen, Butte, said he wanted to address the spread of noxious weeds by other than sportsmen (Exhibit #9).

Paul Berg, Legislative Chairman, Southeast Montana Sportsmen Association, said he represented about 5,000 sportsmen, and asked the Committee to support the bill (Exhibit #10).

Robert Dupea, White Sulphur Springs, said he represented the Stockgrowers Private Lands Committee, and asked the Committee to support the bill without amendment (Exhibit #11).

Lorna Frank, Montana Farm Bureau, asked the Committee to support the bill as it is now (Exhibit #12).

Ed Lord, Phillipsburg rancher, representing the Montana Stockgrowers, asked the Committee to support HB 778 (Exhibit #13).

Knute Hereim, Martinsdale rancher, asked the Committee to support the bill (Exhibit #14).

Ron Stevens, President, Public Lands Access Association, said he represents 835 members and 6,000 affiliated members (Exhibit #15).

Jack Jones, Skyline Sportsmen's Association, stated his support of the bill and thanked those who worked on it.

Ron Mosher, Augusta rancher, and Montana Stockgrowers Association, stated his support of the bill (Exhibit #16).

Carol Mosier, Montana Cattlemen and Wool Growers thanked Representative Dave Brown for his work on the bill, and asked the Committee to support it.

Kay Norenberg, Women In Farm Economics (WIFE), stated her support of the bill.

Jim McDermond, Great Falls, commented that it was great to see agriculture and sportsmen working together (Exhibit #17).

Alan Rollo, Great Falls, said he represented himself, and asked the Committee to support the bill (Exhibit #18).

Bob Bugm, Prickly Pear Sportsmen, said he represented 400 members, and asked the Committee to support the bill. He provided Legislative Auditor information for the Committee to review (Exhibit #19).

Tony Schoonen, State Lands Coalition, provided information from the State of Wyoming, and asked the Committee to support the bill (Exhibit #20).

Tom Loftsgaard, Land Management Council, stated his support of the bill with the exception of Section 17, line 4. He said there is a chance that a catastrophic situation could occur if a fire set by a recreational user damaged or destroyed farm buildings or machinery (Exhibit #21).

Bob Fouhy, Land Management Council, stated his support of the bill (Exhibit #22).

Joe Gutkoski, Gallatin Wildlife Association, said the Association has been working on this issue for 18 years, and that he believes there will be little or no damage.

Linda Ellison, Land Use Coordinator for the Montana Trail Riders Association, said her concerns were addressed in her written testimony (Exhibit #23).

Laurie Thomas, Anaconda, provided news clippings for Committee review, and asked them to support HB 778 (Exhibit #24).

Representative Ed Grady, District 47, said he wished he had seen the same cooperation in the stream access bill. He stated that if this situation is not resolved, it will end up costing hundreds of thousands of dollars in the court. Representative Grady further stated that landowners will have to make tough votes, just as he did in the House. He said the biggest opposition is to the \$5 fee for land use as the bill affects 5 million acres in Montana.

#### Opponents' Testimony:

Representative Bob Raney, District 82, said he finds the \$5 access fee to state lands appalling. He told the Committee he believes Montanans live here because of recreation and freedom, and that he believes this bill takes that away. He asked if state water would follow, and said he doesn't believe anyone has the right to charge people to use state lands. Representative Raney advised the Committee that he does believe people should pay lessees for damage caused.

Representative Raney said he did not believe in this compromise, that sportsmen are already accustomed to paying for hunting and fishing. He asked if families with kids, berry pickers, and cross country skiers would have to pay these fees, and said the process can't be turned back once it is started. Representative Raney further stated that he was appalled that the Board of State Lands would go for this, and asked the Committee to look at the bill. He said this issue was not covered by the press, and that people don't know about it.

#### Questions From Committee Members:

Senator Svrcek asked if other agricultural users of state lands would be treated the same way in terms of weed infestation. Representative Brown replied they would be.

Senator Doherty asked how the \$300,000 would be spent. Representative Brown replied the answers are not ready yet, but some of the funds would be used to jump-start this legislation.

Senator Doherty asked what would be studied with these funds. Representative Brown replied all uses would be studied.

Senator Doherty asked Secretary of State Mike Cooney if all uses would be studied. Mr. Cooney replied he would need to see how much money there would be for study, and said he would rate economic analysis of values first. He stated he would also like to



do an environmental impact study to cover all uses, and that this would be a major undertaking.

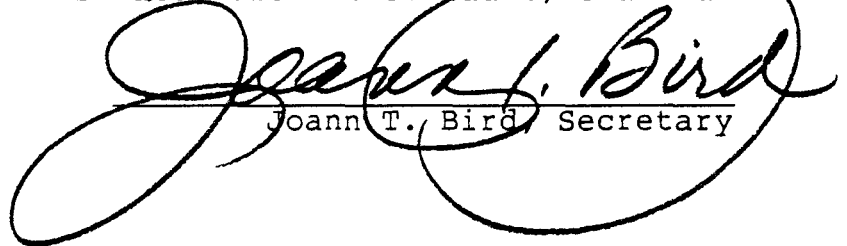
Closing by Sponsor:

Representative Brown offered to be present to answer questions during executive action on the bill, since time was limited this date.

ADJOURNMENT

Adjournment At: 12:40 p.m.

  
Senator Dick Pinsonneault, Chairman

  
Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

51<sup>st</sup> LEGISLATIVE SESSION -- 1998

Date 10 April

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

# 04-10-91 HB 155

## Fiscal Impact - House Bill 155, as Amended

### Assumptions:

- (1) Senate Bill 228 (increasing judges salaries) will be enacted.
- (2) County Attorney salaries set at 90% of District Court Judge salaries.
- (3) County Attorney salaries under current law would increase 3.5% per year.
- (4) Increase local court misdemeanor charge from \$10 to \$15.
- (5) Only charges imposed by justice courts would be available to state.
- (6) Revenues from increased charge will be split 50/50 between state and counties.
- (7) Reallocate state share so general fund is adequate to pay increased salaries.
- (8) County Attorney salaries paid 50% general fund and 50% county funds.

Salaries:	Dist. Court Judges	Full-Time Cty. Attorney	
July 1, 1991	\$57,178	\$51,460	
January 1, 1992	59,178	53,260	
July 1, 1992	61,178	55,060	
January 1, 1993	63,178	56,860	

Costs:	1992	1993	1993 Biennium
House Bill 155 costs	\$1,164,713	\$1,244,792	\$2,409,504
Current law at 3.5% per year	<u>1,093,378</u>	<u>1,131,646</u>	<u>2,225,025</u>
House Bill 155 over current law	71,334	113,145	184,480

Revenue increase:			
Additional revenue (5\$ x 96,604)	483,020	483,020	966,040
Total to state	241,510	241,510	483,020
Total to counties	241,510	241,510	483,020

Reallocation:	Current	Option 1	Option 2
General Fund	23.00%	29.59%	27.88%
Fish, Wildlife and Parks Account	10.00%	8.88%	9.09%
State Highway Account	12.50%	11.48%	11.76%
Traffic Education Account	36.00%	33.06%	33.86%
Department of Livestock Account	0.60%	0.55%	0.56%
Crime Victims Compensation Account	16.90%	15.52%	15.90%
Battered Spouses/Domestic Violence	<u>1.00%</u>	<u>0.92%</u>	<u>0.94%</u>
Total	100.00%	100.00%	100.00%

### Comments:

Increasing misdemeanor charge will also increase city revenues.  
 Without reallocation, general fund increase would be \$107,000 during biennium.  
 HB 2 has insufficient funding under current law for County Attorney salaries.  
 1993 biennium additional general fund costs and new revenues will be:

	Option 1	Option 2
Revenues:	\$483,020	\$385,512
House Bill 155 Cost:	184,480	184,480
House Bill 2 Shortfall:	<u>110,876</u>	<u>110,876</u>
Balance Remaining	\$187,664	\$ 90,156

Exhibit #2  
4-10-91  
+1.B.155

# RESULTS OF SURVEY ON JUDICIAL SALARIES

A survey on judicial salaries was conducted in February 1986. A total of 848 members of the State Bar of Montana responded to the survey. Results of the survey were tabulated by Econosult Inc., Butte.

The State Bar's Committee on the Status, Selection and Compensation of Judges in Montana has written a report using statistics compiled from the survey. In its introduction to the report, the Committee commented that the Justices of the Montana Supreme Court are the lowest paid state Supreme Court Justices in the United States, and that Montana's District Court Judges rank 48th in compensation out of the 50 states.

In analyzing judicial compensation of Montana judges, the Committee included a comparison of judicial salaries to the income of Montana attorneys of an age and experience level that should form the nucleus of Montana's future judges. The statistics on average annual income for attorneys by age and by years of practice are as follows:

## 1985 AVERAGE ANNUAL INCOME FOR ATTORNEYS IN MONTANA BY AGE

AGE	NUMBER	% OF TOTAL	MEAN INCOME	MEDIAN INCOME	RANGE
25-30	109	12.85	\$34,344.56	\$24,000.00	\$4,000 - \$1,000,000
31-35	225	26.53	38,770.33	31,100.00	2,000 - 137,000
36-40	214	25.28	53,224.55	41,000.00	6,000 - 502,000
41-45	102	12.03	57,042.97	46,000.00	1,700 - 194,000
46-50	50	5.90	69,587.94	62,000.00	16,000 - 130,000
51-55	43	5.07	84,567.90	64,000.00	22,000 - 180,000
56-60	45	5.31	72,435.24	55,500.00	3,000 - 175,000
61-65	36	4.25	78,634.08	60,000.00	7,500 - 450,000
66-70	17	2.00	48,292.00	38,000.00	7,320 - 115,000
70 and Above	7	.83	58,428.57	45,000.00	9,000 - 135,000
TOTAL	848	100	52,232.57	40,723.85	

## 1985 ANNUAL INCOME FOR ATTORNEYS IN MONTANA BY YEARS OF PRACTICE

YEARS ADMITTED TO A BAR	NUMBER	% OF TOTAL	MEAN INCOME	MEDIAN INCOME
0-4	197	23.23	\$24,154.72	\$23,750.00
5-9	232	27.36	46,235.60	34,500.00
10-14	163	19.22	59,611.00	47,000.00
15-19	75	8.84	70,053.41	55,000.00
20-29	85	10.50	79,806.53	70,000.00
30-39	75	8.84	76,874.28	60,000.00
40 or More	17	2.00	46,318.82	40,000.00

Amended #3  
4-10-91  
HB. 155

Amendments to House Bill 155  
For Senate Judiciary Committee

Proposed by Montana County Attorneys' Association

1. Amend the title, beginning on line 8 of page 1, by striking everything in the sentence after the word "attorney", and inserting "\$52,000 per year".
2. Amend page 4, beginning on line 22, by striking everything in the sentence after "July 1, 1991", and inserting "shall be \$52,000 per year".

EX #4  
10 April  
HB 155

# Montana Magistrates Association

Proposed amendments to HB 155: No. 1 and No. 2

Page 13, line 19 in Sec. 4(1)(a),

strike: (a) ~~\$10~~ \$15 for each misdemeanor charge; and

Page 14, Sec. 4(6)(a), .strike: lines 24 and 25;

Page 15, Sec. 4(6)(a), strike: lines 1,2 and 3.

Alternatively:

Page 13, Sec. 4(1)(a), line 19,

Strike: \$15 and return to former language of \$10.

(At present, we understand that any money in excess of what is needed for county attorneys salaries as provided for by this surcharge, is returned to the general fund.)

-x. 7  
4/10/91  
HB 155

# Montana Magistrates Association

April 10, 1991, HB 155, Testimony by Pat Bradley before the Senate  
Judiciary Committee

Mr. Chairman and Committee Members:

It is with trepidation that I stand in opposition to HB 155 and these respected, powerful, redoubtable, and able proponents of the bill. It is as if I have a kinship with the young biblical David and his puny slingshot.

But I represent the MMA who opposes this further intrusion into the real functions of our courts. Of all people, these attorneys should understand the separation of power and duties of our three branches of government. But when the legislative branch fails to respond to revenue requests, the county attorneys group manipulates the process by transferring legislative duties to the judicial branch for very specialized purposes. We believe this is wrong, and in Montana, unconstitutional.

We are not opposed to the county attorneys receiving a raise in salary, only that we, the judges, have to raise the money for it. So we do oppose the funding mechanism of the bill for the following reasons:

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1. Consider this scenario. Sen. Rye, while taking a Sunday drive near Helena, is stopped by a Highway Patrolman and is cited for driving 10 miles over speed limit. The H.P. tells Sen. Rye that he may post a \$20 appearance bond, and should also pay a \$15 surcharge for the violation. Upon inquiry, the H.P. explains to Sen. Rye that the tax is for county attorney salaries and retirement benefits. Since Sen. Rye wonders about this 75% extra add-on tax, he decides to visit the judge rather than post bond. At a subsequent appearance in Justice Court, and arraignment, Sen. Rye asks the judge what the possible penalty would be if he pleads not guilty and asks for a bench trial and is found guilty. The judge advises that the usual penalty is a \$20 fine, plus a \$15 surcharge. Sen. Rye asks the purpose of the \$15. The judge explains it is for county attorney salaries and retirement benefits. Sen. Rye asks why it is that he must contribute to his own prosecution costs.

Sen. Rye then decides that he might as well plead guilty, so he won't be involved in any costs of use of a county attorney and asks the judge what the fine will be. The judge states that the usual fine is \$20, plus a \$15 surcharge. Sen. Rye, being quite clever, states that the surcharge must be for the county attorneys' salaries and retirement. He also wonders why he must pay a \$15 tax even when he is not involving the county attorney. The judge feels annoyed and compromised as well, because he or she is trying to run a dignified court of law, not a assessor's office. The judge must also explain to Sen. Rye that if he cannot make a full payment of fine, that the \$15 must be paid up front --that the county or city government may receive their revenue only after the surcharge has first been allocated, even though the governments are financing the courts' operations and judges salaries.

By the way, if Sen. Rye had decided to post his \$20 appearance bond, but not paid the \$15 surcharge, which the highway patrolman is not required to collect, the judge would have to send him a summons to appear in court to pay the \$15. If Sen. Rye did not obey that summons, the court could then issue a warrant of arrest to have him detained until he posted at \$15 bond, taking up valuable jail space, until he could be brought to court. If Sen. Rye refused to pay the surcharge, he could be found in contempt.

This may sound silly but it is actuality. All of this extra workload and expense for the courts, and aggravation to an average Montana citizen is the way HB 155 will work. Sen. Rye, a typical law-abiding citizen, is like the vast majority of the some 150,000 traffic cases our courts hear; mostly people who forfeit bonds never use a jail, or the services of a prosecutor, but must subsidize this huge salary increase.

If any surcharge is justified, and we believe it should *not* be, such "user" fees would be more appropriately "used" by costs of court operations, or law enforcement benefits, but both entities are opposed to collecting these fees.

2. This is the third surcharge bill directed at the judiciary whom revenue-seekers apparently think is a real "live one". It is the fifth surcharge bill since 1985. In 1989 a \$20 surcharge bill was defeated. Two other surcharge proposals have been killed this session.

The judges, facetiously and seriously, have wondered if the purpose of the courts, to dispense justice, may not eventually be subrogated to assess Montana citizens for myriads of charities -- salaries, jails, bonding projects, secondary victim relief, perhaps bailiffs, executive washrooms and courthouse fountains.

Judge Gladys Vance from Great Falls will testify as to the history of the present surcharge bill enacted in 1985 when this self-same group of county attorneys lobbied successfully in the waning days of that session for this form of funding. The original version of HB 155 asked for state funding, but when Appropriations refused, they amended the bill to let the courts do it, as happened in 1985.

3. Money. Everyone wants a salary raise and we appreciate the county attorneys' wishes. The 123 judges of our courts are at the mercy of their commissions who in recent years have had to freeze or give small salary raises. A typical salary of one JP from Roosevelt County has risen from \$6 per hour in 1976 to \$9.13 per hour, 14 years later, in 1990.

I quote from Chief Justice Turnage' State of the Judiciary address to you on Feb. 5. He said in part "the judicial system in Montana is relatively healthy. But there are numerous elements of our system that are showing signs of stress and even crises. This general paucity of resources is equally true in Limited Jurisdiction courts. I mention this because I believe it is necessary for the legislature and other Montanans to understand that this lack of resources is typical of Montana courts and affects our ability to provide modern judicial services. Justice Turnage goes on to say, "It is in the courts of limited jurisdiction that most Montanans see their judicial system up close. With about 120 judges, these courts handle close to 300,000 cases a year. These judges are to be commended for their dedication, hard work and attention to detail. Their commitment to professionalism is high on the list of accomplishments this biennium."



2x.4

4/10/91

HB 155

By the way, Judge Turnage's salary is \$57,772. The Associate Justice' salary is \$56,451. HB 155 proposes that county attorneys should receive salaries of between \$44,800 to \$56,000, a 22.5% to a possible whopping 51% increase. This amounts to raises of between \$8300 to \$19,500. This is an astonishing proposal. And I suppose that you noticed on pages 12 and 13 of HB 155 that revenues to six other special state accounts must be reduced to provide money for these raises, along with the surcharge increase. This is indeed creative accounting. *see fiscal note* The MMA proposes two amendments to HB 155 which have been handed out.

In closing, our courts will continue to oppose any and every effort to make judges assessors for every fund that goes wanting. This is not a judicial function, it is a legislative function. We hope you will grant the County Attorneys a salary increase through the legislative process, as it properly should be done.

I thank you for your time and urge your favorable consideration to our request. Thank you.

*Pat Bradley*

Testimony to the Senate Judiciary Committee In Opposition to HB 155

April 10, 1991 - Gladys M. Vance, Justice of the Peace, Cascade County; City Judge, Belt.

EX 45  
10 April 91  
HB 155

HONORABLE SENATORS, Ladies and Gentlemen:

I am Gladys Vance, Justice of the Peace for Cascade County for 13 years and City Judge in Belt for 10.

I am here in opposiiton to HB155. This should not surprise you because I was here May 10, 1985 in Opposition to SB116, which started this whole mess, before the Governor. Please understand neither myself nor any one of my fellow judges are opposed to anyone getting a raise; but I am here - and we do oppose how you intend to fund this raise - at the expense of the integrity and independence of the Courts in this State!!!

CANON I in the Judicial Code of Ethics says, "A Judge Should Uphold The Integrity and Independence of the Judiciary".

CANON II says, "A Judge Should Avoid Impropriety and the Appearance of Impropriety in All His Activities".

When I run for office one of my platforms is not to be beholden to anyone - but to my electorate (just like You) - and to administer Justice EQUALLY FOR ALL.

When the original surcharge went into effect; and, now this HB155, I am favoring one single entity - from the very beginning of every case - of our law enforcement system - one that already believes it has the Court system in its hip pocket - and in some cases it does - legally at that!

Are not decent salaries and longevity provisions appropriate for the Sheriff, Chief of Police, Montana Highway Patrol, Public Defenders, Fish & Game, Gross Vehicle Weight and Public Service Department and their assistants as important as City and County Attorneys:

What about the Court system itself?

Why should any one entity of city and county governments be provided for over the others? Why shouldn't County and City Attorneys have to fight for their salary monies just like the rest of us - out of General Fund Budgets?

As a matter of fact; if you will read line 21, page 1; and again, on line 1, page 2 of HB155, you will see that salaries of all county officers and specifically including county attorneys are to be paid from the GENERAL FUND.

That is why HB155 ran into trouble - BUT WAIT - Senators and Representatives - this select group of elected officials say - WE HAVE OUR OWN FUNDING MECHANISM and quickly attach Sections 3-10-601 and add another Section to amend Section 46-18-236 to increase their fund raiser to \$15 rather than \$10 and go on further to reduce other existing entities revenues as well. Now, the attorneys have graciously amended

Page Two - Gladys M. Vance - Opposition to HB155

this section in the past sessions to indicate that other county salaries can be included if there is more than enough for them.

In June of 1985 the Montana Magistrates Association voted overwhelmingly through its President to bring suit against the State of Montana because we felt this method of funding is unconstitutional. It's in direct violation of what our forefathers intended and declared in the Constitution of the United States of America and Montana reinforced that intent and position in the Constitutional Convention of 1972 in ARTICLE III, Section 1 which provides for a distinct separation of powers which states as follows:

The power of the government of this state is divided into three (3) distinct branches - legislative, executive and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

The legislature through the fiat of taxation attempts, under the statutes in question, to collect under the guise of a charge, a tax for the maintenance of the county attorneys office. Such an act clearly violates the fundamentals of the division of powers. It is an act to make the courts discharge the function of the executive branch of government and use the Courts as a tax gathering agency and appropriate the monies thus collected for the maintenance of a branch of the executive department of government. It is a veiled effort to pervert the high functions of the courts, infringe upon their sacred responsibility in the administration of justice only, and make them a collection agency for the executive branch of government. Through no stretch of the imagination can such be said to be incident to the prosecution or trial of a criminal case. WHEN SUCH A TAX CAN BE COLLECTED AS A CHARGE AND DISTRIBUTED FOR SUCH A PURPOSE THERE IS NO END TO WHICH THIS METHOD MIGHT BE PURSUED. We have experienced these methods to raise money in this session; through the Court system with other bills and WE ASK WHERE WILL IT ALL END?

The imposition of this charge is violative of the provisions of Section 46-18-232(1) MCA for the reason that the surcharge is designed to constitute a charge or a cost, and said Section 46-18-232(1) provides that such costs shall be limited to expenses specifically incurred by the prosecution in connection with the proceedings against the defendant. However, they have carefully and quickly convinced you to ~~enact~~ enact Section 46-18-236 MCA which says the previous section doesn't say it all and that we must IN ADDITION assess these special interest charges. Two wrongs do not made a right!!!

The surcharge is violative of the provisions of Section 46-12-202 (1)(e) which provides for the right of bail, and is furthermore unconstitutional by reason of

Page Three - Gladys M. Vance - Opposition to HB155

violation of constitutional Article II, Sections 21 and 22, providing for the right to bail and prohibiting excessive sanctions. The surcharge is violative of the express purpose of bail in criminal cases, in that it is charged against forfeiture of bail. BUT - that's okay - they've taken care of it in Section 46-18-236 MCA by saying that forfeiture of bond or bail is included in the assessment of this cost. CONFLICT - WELL, I GUESS!!!!

Take for example, the Officer in the field who stops a person for a violation who chooses to post and forfeit a bail rather than to come to Court. That instance is in the majority rather than the minority and so now we have our officers acting, under the direction of the Court, as a tax collector. When you raise this surcharge and the officer says "Well, sir, that will be a \$20 bond plus the \$15 surcharge for a total of \$35 - the public is going to say - go straight to \_\_\_\_\_!" I'll see the Judge - and the fun and the work begins.

County Attorneys do not take the flak from the public - we do.

The surcharge is violative of the Fifth and Fourteenth Amendments of the Constitution of the United States of America because it makes express provision that the said assessment or surcharge is waived as to certain classes of defenants and charged against others.

The surcharge imposes upon the Judges of the State of Montana an obligation and duty to collect said surcharge as provided therein, and to deal with said charge in the manner provided but NO FUNDING is provided for the Judges, to be used for the purpose of defraying expenses incurred in the collection and imposition of said charge and furthermore requires the Judges to collect the surcharge and distribute the surcharge - up front - before anyone else gets their share of the pot.

This surcharge charges us with the obligation and duty to impose and remit this charge for the purpose of funding salaries of county attorneys in functions other than and in addition to the direct prosecution of the specific case by reason of which the said charge is imposed.

Article II, Section 16 of the Constitution of the State of Montana, provides for the administration of justice as follows:

Courts of justice shall be open to every person and speedy remedy afforded for every injury, of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as fellow employees and his immediate employer who hired him, if such immediate employer provides coverage under the workman's compensation laws of this State. Right and justice shall be administered without sale, denial, or delay.

Page Four - Gladys M. Vance - Opposition to HB155

The imposition of the surcharge is not to constitute a fine, but does in fact, constitute a tax by manner in which you have sought to effect under the guise of a cost, a tax for the maintenance of the county attorneys office, which violates the fundamentals of justice, and creates an insurmountable prejudice against defendants, by denial of justice through the imposition of unreasonable costs and encumbrances repugnant to the American concept that the courts of justice shall be open to every person who seeks a judicial hearing.

The surcharge is violative of Article II, Section 28, of the Constitution of Montana, providing for rights of the convicted, which states as follows:

Laws for the punishment of crimes shall be founded on the principle of prevention and reformation. Full rights are restored by termination of state supervision for any offense against the state.

The surcharge provides that it is appropriate and can be looked upon as a user's fee and that necessary funding derived from a charge assessed against persons convicted of a crime or who forfeit bail or bond provides that the costs of maintaining and improving the quality of the prosecuting function; and that this charge will be borne by those who necessitate the operation of the criminal justice system.

Why then, do you ask, did the Montana Magistrates get their suit dismissed if it had some merit: Well, here it is and I quote,

"Here, there is no pending controversy or legal action involving Chapter 719, Laws 1985. All that is raised by the Complaint is the question of whether the application of Chapter 719 may affect the constitutional rights of some as yet unknown defendants.

Based on the foregoing, it is my conclusion that Plaintiff does not have standing to sue either as an individual or as a public official and that, therefore, the Complaint must be dismissed for lack of jurisdiction. Dated the 11th day of December 1985 - Thomas C. Honzel, District Judge.

At that point we decided that we just could not financially take on 50 some County Attorneys; and, quite frankly, the public while they complain cannot afford to pursue the matter either.

Who are these "unknown defendants"? Why are these surcharge bills so popular with fund raisers?

In Cascade County in 1990 we collected and remitted \$40,680.00 representing 4,068 "unknown defendants". The majority of which are people like you and me who get a ticket and pay the \$10 rather than arguing with the Judge or taking time from our busy schedules. People who do not use the county attorney. This is not true at the District Court level as those offenses are known and those defendants use the system including the County Attorney - and he probably earned every penny of the \$2,700 collected and remitted at the District Court level. (Surcharges)

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Please understand that we do not care - what you choose to fund with the monies we collect after it leaves our hands for the general fund - Just don't make us servants of the executive branch of government and make the judiciary of this State tax collectors.

This entire surcharge business and expecially HB155 is self serving to one entity of government at the expense of the entire law enforcement community - and the public.

I believe this surcharge business is not only unconstitutional - it's unethical - and just plain wrong.

I hope that you will look at this carefully, keeping in mind what you have grown up to believe - in terms of what a Court should do.

Vote "no" on HB155 and help us preserve the integrity of the Montana Court System.

Thank you.

10 Apr 9  
EX #6  
HB 993

DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES  
CHILD SUPPORT ENFORCEMENT DIVISION

STAN STEPHENS  
GOVERNOR

JULIA E. ROBINSON  
DIRECTOR

STATE OF MONTANA

(406) 444-2565

April 10, 1991

INTERSTATE UNIT  
P.O. BOX 5955  
HELENA, MONTANA 59604

TESTIMONY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
CHILD SUPPORT ENFORCEMENT DIVISION  
BEFORE THE SENATE JUDICIARY COMMITTEE

**Subject: HB 993 - An Act to Require a Youth's Parents or Guardian to Pay a Contribution Toward the Cost of Out-of-Home Care Provided by the Department of Family Services.**

The Department of Social and Rehabilitation Services takes a neutral position regarding the passage of House Bill 993. Should this committee give the bill a do-pass recommendation, however, we encourage your support of the bill in its amended form.

The House amended HB 993 to address the Child Support Enforcement Division's (CSED) concerns regarding our ability to enforce the contribution orders entered pursuant the authority of HB 993. The amendments were necessary to allow the Child Support Enforcement Division to provide the collection services necessary to enforce the contribution orders while still receiving federal reimbursement for our collection efforts.

HB 993 creates "contribution orders" while the CSED's authority is generally limited to the enforcement of "support" orders. See MCA §40-5-201. Additionally, MCA §40-5-203 and 45 C.F.R. 302.33 require an application for CSED services if the family is not receiving Aid to Families with Dependent Children (AFDC) or Medicaid benefits. The amendments appearing as new subsection (6) of §41-3-406, new subsection (7) of §41-4-403, and new subsection (12) of §41-5-523 allow the CSED to enforce these contribution orders.

Sec. 101(a) of the federal Family Support Act of 1988 (PL 100-485), (Title I: Child Support and Establishment of Paternity) requires immediate income withholding in all child support orders which are issued or modified on or after November 1, 1990. Child support orders can be exempted from immediate income withholding only if the court finds: (i) good cause or (ii) the parties have agreed to an alternative arrangement in writing. Consequently, the amendments appearing as subsection (4) of §41-3-406, subsection (6) of §41-5-403, and subsection (10) of §41-5-523 are written to conform to the federal requirements and contain language similar to that appearing in the CSED's HB 923.

Submitted by:

*Julia E. Robinson*  
Julia E. Robinson, Director  
Department of Social and  
Rehabilitation Services

"Working Together To Empower Montanans"

EXF7  
10 April  
HB 778

GUEST EDITORIAL OF  
MIKE COONEY AND MARC RACICOT

As two members of the State Land Board, we want to ask the people of Montana for their endorsement of a legislative solution to a difficult problem facing the management of state lands -- recreational access. House Bill 778 is currently before the Montana Senate, having passed the House on April 4, 1991. We encourage your support because the bill represents a fair compromise between the sometimes competing interests of state lessees and hunters and fishermen.

In 1988 a lawsuit was initiated by a coalition of sportsmen who demanded that the State Land Board provide public access to all state lands. The trial of that lawsuit was postponed by the Court this winter in hopes that the Legislature would come up with an acceptable solution. Nearly everyone is in agreement that a court decision will not provide the best solution to the conflict because a court cannot address all of the public policy issues involved in providing a lasting solution to this difficult problem. While everyone agrees it is not in the best interest of all concerned to have the court decide this matter, historically there has been little consensus over how to resolve the issues.

Much of the controversy surrounding state lands lies in a philosophical disagreement over who owns and controls these lands and for what purposes. Historically, people who have leased state lands have held exclusive rights to use the land. While lessees have been given certain management responsibilities, including fencing, weed control and fire suppression, it is important to recognize that school trust lands are meant to benefit all the people of Montana.

State lands were designated for a special purpose which sets them apart from other types of public lands. When the federal government established the state of Montana it anticipated a need for those services, such as schools, which would be necessary for the growth and development of our state. Instead of directly funding needed services, the United States Government gave up certain lands that would generate income for the new state. The federal government granted land to be held in trust, primarily for public education, and Article X of our 1972 Montana Constitution reflects this trust concept. While there is wide latitude in how state lands are managed and used, it is clear that the state public lands differ from federal public lands in that state lands must generate income for public schools while federal lands may be used to benefit the public generally. To the extent that state lands are capable of making money to support the schools, it is incumbent upon the State Land Board to see that the income earned is channeled to the proper trusts.



In an attempt to find a legislative solution that everyone could live with, for the past several months we have worked with Commissioner of State Lands Dennis Casey, Representative Dave Brown, the sportsmen organized to seek public access, and the various organizations representing the agricultural and ranching interests of our state. Testimony from the numerous public hearings on access held throughout the state last summer was reviewed and considered. The goal was to develop a compromise bill that addressed the concerns of all those people involved with the issue.

HB 778, or "the compromise bill," as it has become known, represents the result of our efforts. As with any true settlement between polarized groups, not every individual hunter and rancher in our state will be satisfied with the result. Yet the bill has been endorsed by both the access coalition that brought the 1988 lawsuit and the ranching and agricultural groups who have been involved in addressing expanded recreational access. HB 778 starts with the general concept that all state lands are open and accessible for recreational purposes unless closed by the State Land Board. Recreational purposes are defined as hunting, fishing and other activities designated by the Board. Access to state lands surrounded by private property is not provided by the compromise bill, although a private landowner may grant permission to cross his land to access a state section. This contrasts with the present policy which provides that lands are open or closed at the discretion of the lessee.

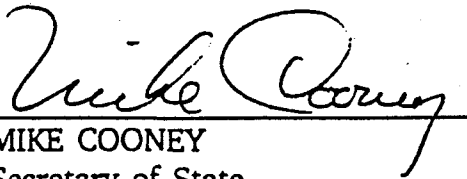
HB 778 assumes that recreational use of state lands carries a value which requires compensation to the school trust, as required in the Montana Constitution. All persons desiring access to state lands for hunting and fishing would be required to purchase a permit. The permit would cost five dollars, with three dollars going to the various school trusts and two dollars going to cover administrative costs and a damage compensation fund for lessees. As other recreational activities are recognized by the Land Board as having income-generating value for the school trusts, they may be included with hunting and fishing in the fee permit system. After considering the scope of access that is provided by the bill, many hunters and fishermen have agreed that a five-dollar annual fee is reasonable.

HB 778 provides many safeguards that protect the lessees from the problems that could occur when recreational users are permitted access to the leased state lands. HB 778 directs the land board to:

- close access to certain state lands under specified conditions;
- prevent off-road motor vehicle use;
- compensate lessees for actual damages caused by recreational users;
- engage in control activities for noxious weeds spread by recreational users;
- provide liability protection;
- require recreational users to provide notice to lessees; and
- provide for enforcement and penalties.

The Board of Land Commissioners is given the authority to make rules addressing the specific details of these provisions. The Board would have until March 1, 1992 to develop rules implementing the new law. The rules would be developed with significant input from all interested parties and only after opportunity for public hearings as required by the Montana Administrative Procedure Act.

We believe this bill represents the best solution for both resolving the recreational access issue and avoiding a lengthy and unpredictable court battle. We thank those sportsmen, ranchers, and farmers who have helped us draft HB 778. With the support of all of you, we will see the bill approved and rules implemented in a spirit of compromise and cooperation that will benefit all Montanans.



MIKE COONEY  
Secretary of State



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MARC RACICOT  
Attorney General

Section by Section Review of HB 778

Statement of intent. The statement of intent is fairly self explanatory. It indicates that state lands are open to the fullest extent possible, unless closed based upon the criterium established in the act. Closure would occur due to conflicts between recreational access and the existing leased activities. The statement of intent provides some directive for the rule making process and outlines the areas that rules must address.

Section 1. The amendment in this section is a technical change for codification purposes.

Section 2. This section amends the definitions section in title 77 (state lands). It defines "**commercial or concentrated use**" so that those activities will not be permitted on state lands unless specifically authorized by the department. "**General Recreational Use**" is defined as hunting and fishing and other compatible activity. This makes general recreational access to leased lands limited to hunting and fishing unless the Land Board expands the activities. If expanded then the other users will have to pay for access. The definition of "**legally accessible state lands**" makes it clear that access to state lands can be made only via public roads or by permission from the landowner across private land that is adjacent and contiguous to public access lands. Under no circumstances does this authorize trespass across private lands.

Section 3. This makes it clear that people are entitled to recreational use to state lands so long as the school trust is compensated.

Section 4. This provision makes it clear that all state land is open for recreational use unless closed pursuant to rules. State land leases must reflect this condition that the state lands are open unless closed by written approval of the department.

Sections 5 and 6. These are technical codification sections.

Section 7. This is the criminal penalty section for failure to have a permit for access to state lands for recreational purposes.

Sections 8 and 9. These sections provide for the authority of game wardens to enforces recreational access violations.

Section 10. This section provides for the distribution of money collected from fines. Fifty percent of this money goes to FWP and the remainder goes to the recreational use account (see Section 16).

Section 11. This is the specific penalty section for failure to have a recreational access permit when using state lands for recreational purposes.

Section 12. This section establishes the license fees and the distributions for those fees. The fee is established at \$ 5 with \$ 3 going to the school trust funds and \$ 2 going to the recreational use account, which covers administrative costs and actual damage compensation.

Section 13. This section authorizes the Land board to establish rules for closure and penalties for violations of the rules. The board can close sections of state land from recreational uses on a emergency, seasonal, temporary or permanent basis. The section specifically provides for the categorical closure of land leased for cabin sites, military, commercial, and mineral activities. The Board can also close lands during the seasonal presences of growing crops or livestock.

The board also can close lands on a case by case basis for the many reasons listed in subsection 5. It also can restrict uses based on the specific circumstances surrounding the tract of land.

Subsection (7) permits the board to establish rules for concentrated or commercial uses and the criterium for issuing permits for those activities.

Subsection (8) permits the board to establish civil penalties for violations of the act, and requires enforcement actions must be made pursuant to MAPA.

Section 14. This section limits the liability of the state and the lessee for injuries that occur to recreational uses of state lands. This section also removes the responsibility from lessees for fire control for fires caused by recreational uses.

Section 15. This section requires prior notification to the lessees before access may occur to leased sections. It requires the recreational user to provide his name and address to the lessees. The lessee is required to be available to receive notice from the recreational user or provide other means for notice. Subsections 2 and 3 provide strict liability for trespass from state lands to private lands.

Section 16. This section creates the recreational use account This is a special income account which permits money to come into the account from fees and fines and other sources. The money then go to run the program and to compensate lessee for actual damages they suffer as a result of recreation access to their leased lands. Money also can be used for a noxious weed control program.

Section 17. This section provides for reimbursement to lessees who suffer actual damages to their improvements and personal property on the leased sections. They must present their claim to the department. If the claim is paid then they subrogate their claim to the state.

Section 18. This section establishes a weed control program to control noxious weeds caused by recreational users.

Section 19. This is the necessary language to create statutory authority for the account created in Section 16.

Section 20. This section is the codification instruction section.

Section 21. This section is the severability section.

Section 22. This section gives the departments of state lands and fish wildlife and parks the authority to commence rule making activities so that the rules can be in place by the effective date.

Section 23. This section makes the act effective March 1, 1992.

EX 46  
10 April  
HB 778

TESTIMONY SUPPORTING PUBLIC ACCESS TO MONTANA STATE SCHOOL LAND  
H.B.778

By John Gibson, Secretary Billings Rod And Gun Club.

One of the arguments used to discourage public access to Montana State School Land involves the intolerable amount of vandalism and other damage that would occur to property that the lessee leaves upon the land.

I would like you to look at this argument a little closer.

The Custer National Forest, where I worked for 15 years provides grazing for over 130,000 livestock on about 2 million acres of land. There are more than a thousand structural range improvements on this land. These structures include windmill, solar panels and propane tanks to power water pumps, stock water tanks, loading corrals, oilers, and thousand of miles of fences and water lines. Every one of these structures is on land where the public has year-round access. There is almost no damage to these improvements as a result of hunters, fishermen and other recreation users.

Another example of multiple uses was cited by the District Ranger of the Sheridan District, Beaverhead National Forest. During General Big Game Season an average of 156 vehicles per day enter the Upper Ruby Grazing Allotment. Most years show no damage to range improvements attributed to hunters.

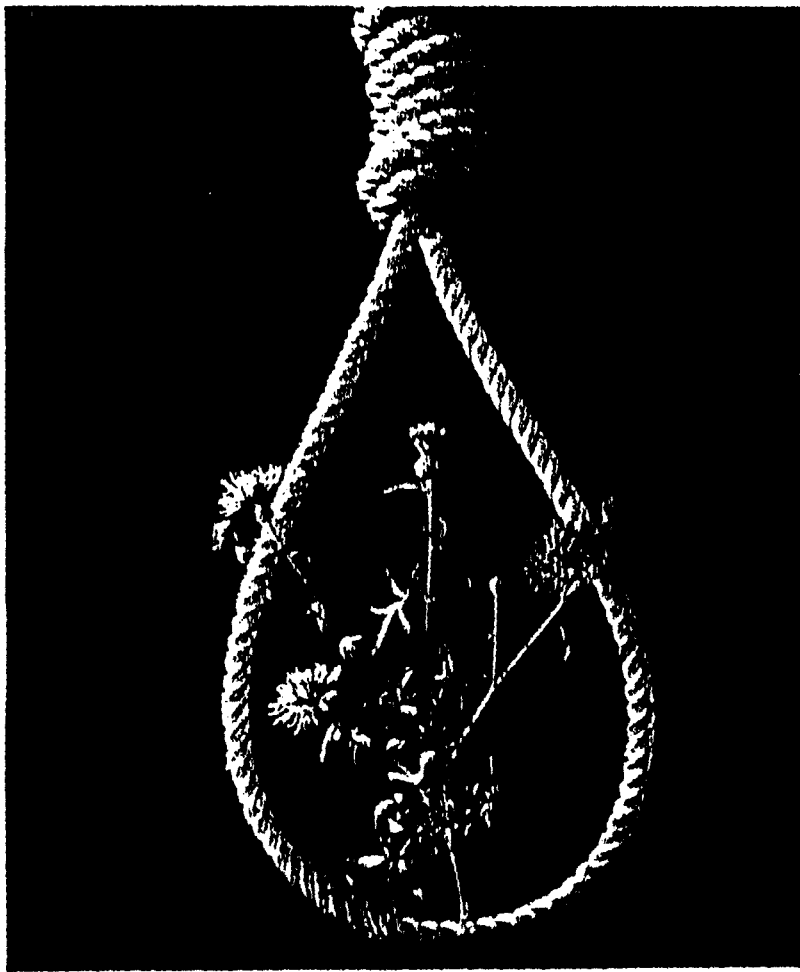
It is my opinion that there is little substance to this argument or any argument that suggests a public resource must be protected from the public by restricting it's use to a select few.

As I understand it over 70% of the comments from the public hearings favored reasonable public access to Montana State School Lands. Let government of the people prevail.

I ask you, on behalf of the Billings Rod and Gun Club and many other Montana citizens, to open this land to the public. It is time we followed the example of the majority of other western states and began to practice Multiple Use on public land.

EX. 47  
W April 91  
HB778

CONTROLLING  
**KNAIPWEED**  
ON MONTANA RANGELAND



Cooperative Extension Service  
Montana State University, Bozeman

Bozeman, Mont.  
1972

Ex. 9  
10-Apr 91  
HB 778

14

If the rest period is followed with another period of grazing in the fall, livestock has an opportunity to utilize the basal leaves of rosettes at least twice during the year. This may reduce the competitive ability of the knapweed plants. While partial control may be possible in small, intensively managed pastures, there is no evidence that control of knapweed by sheep or any other livestock is feasible on extensively-managed rangelands.

### Strategies to Slow Knapweed Spread

The spread of spotted knapweed by people must be addressed in any knapweed control project. Elimination of public access through infested areas would reduce the rate of spread.

Knapweed also has been introduced to new areas by the movement of contaminated grain seed and hay. These problems were magnified by the large shipment of hay from western to eastern Montana during the 1984 and 1985 drought. The subdivision of rural areas is another serious problem. Subdivision activity disturbs soil, creating an ideal seedbed conducive to weed invasion. The problem is compounded by owners of small tracts who do not recognize the need for weed control.

Good grazing management often is the first defense to the rapid spread of spotted knapweed on rangeland. While knapweed can invade excellent condition range, its rate of spread is slower than it appears to be on poor condition range. Although it is not known how much of the recent spread of knapweed can be attributed to poor condition range, the invasion is accelerated by any soil disturbance (Morris and Bedunah, 1984).

Grazing systems, or alternating periods of grazing use in a pasture with periods of rest to allow desirable plants to regain vigor, are an important tool for keeping rangeland in good and excellent condition. The rest rotation system, which allows one pasture to be rested from livestock use for a full year, has proved highly useful on Montana ranges. However, several Montana ranchers have observed that rest rotation is not effective on knapweed-infested range. They report that year-long rest allows knapweed seed production, and seed planting then is aided by hoof action the following year. This may indicate the need of a rotation system that allows repeated periods of grazing and non-grazing during each growing season on knapweed-infested range. A herbicide program should be implemented in conjunction with a grazing system, because competition by native forage species alone will not lower knapweed density.

### Summary

Successful control of knapweed in Montana requires cooperation between private landowners, public land users and governmental agencies. To minimize the future spread of knapweed, each of us must do our part:

- Avoid driving motorized vehicles across knapweed infested areas.
- Do not purchase or transport hay or grain contaminated with knapweed.
- Minimize soil disturbance on range and other non-crop land.
- Use herbicides to eliminate small patches of knapweed.

Very little  
knapweed on Mt.  
5/19/91  
Rest-rotation grazing  
e.g. Mt. HAC6  
C1929H-1.6.9



Ex. 10

10 Apr 91

HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10<sup>th</sup> day of April, 1991.

Name: Paul F. Berg

Address: 3708 Harry Cooper Place  
Bellings Mt. 59106

Telephone Number: 656-2015

Representing whom?

Southeastern Mt. Sportsman Assn.

Appearing on which proposal?

HB 778

Do you: Support? X Amend? \_\_\_\_\_ Oppose? \_\_\_\_\_

Comments:

This is a compromise bill worked out after  
20+ years of negotiations between all affected  
parties. It has some questionable contents,  
but we can work them out to everyone's  
satisfaction at a later date.

Passage of HB 778 will result in a major  
contribution to Montana's economy via grantman  
expenditures for travel, lodging, supplies, etc  
much of which will filter down through the  
economy to local levels, and <sup>help</sup> support our  
schools - that need more dollars.

See my two statements attached for  
details —

EX#10  
10 April  
HB 778

# RECREATIONAL USE REPORT

## BACKGROUND

Access to Montana's 5.2 million surface acres of school trust lands has become a highly controversial and complex issue and is presently the subject of a lawsuit between a group of sportsman's organizations and the Board of Land Commissioners and the Department of State Lands. While Montana's land area is made up of over 93 million acres of land, the wide dispersal of the state's 16,000 plus parcels of school trust lands place some tracts in close proximity to almost every Montana citizen. Sportsmen throughout the state are demanding access to the school trust lands for hunting, fishing and other recreational uses. Past and current Department policy has been to allow the existing surface lessee the authorization to preclude public access to the school trust lands if needed to protect the leasehold interest and reduce the liability imposed under stipulations of the lease. This has resulted in conflicts and disagreements between lessees, sportsmen and the Department over the management and use of state trust lands. The predominant question is: Is the Department going to authorize the recreational use of state trust lands by the public? And if the answer is "yes", how can this use be made compatible with other existing uses?

Most of the almost 28 million acres of federal land (excludes National Parks and Indian Reservations) in Montana are open to public access and recreational use. The fact that school trust land is different from federal public land and has different management objectives is oftentimes not well understood or accepted by the general public. Many see the large amount of state owned trust land as public domain and feel it should be open for their use. Sportsmen's groups are concerned with the increasing amount of private land being closed to public hunting and the blocked access to large tracts of federal lands. Sportsmen feel it is unlawful for lessees of state owned lands to be allowed to close state owned lands from public access and use.

Trying to determine which tracts of state owned trust land may be open for access can be confusing to the public. Currently the public may access and hunt on unleased or unlicensed state lands. This includes much of the state forested lands and also the unleased or unlicensed grazing and agricultural tracts. Those lands that are leased or licensed, however, may be posted by the lessee/licensee<sup>1</sup> who may either 1) allow no one or 2) everyone access to hunt. This variability in access causes con-

<sup>1</sup> Hereafter the term "lessee" will include both lessees and licensees and the term "leases" will include both leases and licenses. A lease is a land use authorization for the primary classified use of the land and a license is a land use authorization for other than the primary use.

The controversy surrounding the public use and recreational access of state trust lands is not a new issue however. It has been an issue with at least two legislative sub-committees over the past 25 years. In 1967 Senate Joint resolution No. 19 of the Fortieth Legislative Assembly resulted in the Committee to Study the Diversified Uses of State Lands, whose charge it was to develop a means to provide for the overall use of the State-owned lands for both public recreation and agricultural pursuits. This committee was responsible for drafting the present multiple use concept language in the present statute (77-1-203, MCA). During the 1975-77 legislative interim, the Subcommittee on Agricultural Lands was also directed to study the scope and possible solutions to the problem of public recreational access to school trust lands. Both committees prepared reports and recommendations but neither study has ended the controversy.

A major problem affecting the management and income producing capability of school trust lands shortly after statehood was finding someone with an interest in the widely scattered tracts. Over time the majority of the state's trust lands became leased to farmers and ranchers and became an integral part of their overall ranch or farm operations. Generally, because of personnel and funding levels, the Department of State Lands has historically allowed the lessee to manage the state's land because the lessee is on the property and closest to the land. This has resulted in a proprietary feeling among many of the lessees over "their" state land. The Department has exercised its management control in the past through the lease agreement and has designated the lessee to be largely the responsible party for fire, noxious weeds, and for damage to the property. This effectively resulted in an almost exclusive use right for the lessee.

In the mid-sixties the Board looked at the issue of access to school trust lands and determined that this access represented a compensable asset of the trust and that, at that time, it was not in the best interest of the trust to dispose of that asset.

In 1969 the multiple use concept was embodied in law and opened the way for consideration of a variety of resources other than direct products of the land.

In 1971 the Department began a survey, titled the "Recreation Inventory Program", to identify the types of recreational opportunities, locations of uses and general recreation potential existing on state trust lands. The survey evaluated recreation potential in terms of physical characteristics and potential or actual use to locate state lands that have great multiple use potential. The survey was completed in 1979 and the report titled Summary of Recreation Inventory was completed in 1982.

In 1979, the board adopted the surface leasing rules which reserved hunting and fishing access and authorized the lessee to post the lease to protect the leasehold interests.

With increasing demands by sportsmen for access, many landowners concerned with the problems of vandalism, carelessness, littering, and closed access to the state land. Sportsmen soon began to complain about state land lessees denying them access or charging them a fee for access to state owned land. In some cases complaints were made that landowners were blocking access to isolated tracts of federal lands by posting adjoining state lands against trespass.

In 1982 the State Land Department sent a letter to all lessees of state land stating that it had come to the Department's attention that some lessees of grazing or agricultural land were under a misunderstanding concerning hunting access rights on state trust land. The letter stated that the state has not issued hunting access rights on any state trust land and that the grazing or agricultural lessee could prevent unauthorized trespass on state land by hunters, but could not charge for hunting access without jeopardizing the lease.

In 1985 the Department developed a written policy on hunting on school trust lands in response to further questions and complaints by sportsmen. The Department's policy states:

The Board has reserved hunting and fishing access. Strictly speaking no one is allowed to hunt or fish on state land. However, it is not realistic to expect the lessee to keep everyone off. The lessee may post the lease to protect his leasehold interest. If it is posted no one, including the lessee may hunt on the lease. The lessee may allow hunting on the tract. However, if hunting is allowed, everyone must be allowed to hunt. The lessee may require everyone to check in before going on the tract to keep track of who is on it. However, no one may be denied. The lessee may not charge for hunting. All evidence that a lessee is charging for hunting should be submitted to the Department. The evidence will be pursued, and if there is sufficient evidence, the lease will be canceled. Any trespasser should be directed to leave the tract if it is posted.

On classified forest lands that do not have an exclusive license or lease for a particular purpose, the Department has generally allowed the public to engage in most types of recreational activities in addition to hunting and fishing without compensation or permit. For example, horseback riding, cross country skiing, and snowmobiling have been allowed to the general public unless an exclusive license for those purposes has been issued to a particular individual or group on a specific tract. On classified grazing and agricultural lands the Department's procedures require a land use license to be obtained for any

recreational use other than hunting before access and use are formally permitted.

Lessees have generally been supportive of the present policy regarding recreational access and use of state trust lands and are opposed to allowing unrestricted public access on lands they lease from the state. They are concerned that increased traffic will bring increased weeds, erosion, fires, vandalism, litter, unwanted roads, trespass on private lands, increased administrative burdens, and a greater overall risk to them under the liability imposed by the terms of their state lease.

Sportsmen are generally opposed to the present policy which allows lessees the right to restrict the public from access to state trust lands. Sportsmen generally want access privileges to hunt and fish on state owned lands. Many do not feel compensation should be required for recreational uses as they are already paying taxes to support the land.

In February of 1988, a group of sportsman's organizations, organized as the Montana Coalition for the Appropriate Management of State Lands, filed suit in state district court in Helena against the Department of State Lands and the State Board of Land Commissioners. The Coalition alleges that trust land must be open to the public for recreational purposes without compensation to the trust, that the Department must prepare an environmental impact statement on its grazing lease program, and that the minimum rates for grazing land must be increased. As an alternative to the first allegation the Coalition alleges that, if the state must charge for recreational access, it must develop a system whereby state lands are available and compensation is secured. The Montana Stockgrowers Association, Montana Farm Bureau Federation, and certain individuals intervened as defendants.

In October of 1989 the Board directed the Department to explore parameters for settlement of the access suit and negotiations toward settlement were begun.

In March of 1990, after much progress had been made toward settlement of the access lawsuit, negotiations broke down over the issue of compensation to the lessees. The Coalition's position was that compensation to the lessees should occur only when physical damage had occurred on the lease. The view of the Montana Stockgrowers Association, was that all lessees who were impacted by increased accessibility by recreationists should receive compensation. The Board felt that, regardless of the impasse in negotiations, it should proceed towards resolving the access issue.

In April of 1990, the Department was directed by the Board to conduct public meetings to gather public input towards resolving the access issue and to accept written comments, summarize

in forming a recommendation to the Board. The following questions were asked:

1. How should the Department administer recreational uses of school trust lands(i.e. leasing by competitive bid, licensing for limited uses during specific timeframes, open public access at specific times of year, open public access at all times, others)?
2. At what monetary level should the school trusts be compensated for recreational uses?
3. What, if any recreational uses of school trust lands, would you be willing to pay for?
4. Should existing lessees be compensated for damages incurred by recreational users, and if so, in what form should this compensation be?
5. Under what conditions, if any, should school trust lands be closed to public recreational uses?
6. How should the issues of fire control, weed control, erosion control, and vehicle control regarding recreational uses be addressed?
7. Additional comments.

The Department accepted public comment through June 5, 1990 and received 150 public comment forms. In summarizing the comments, responses for each question were grouped into like categories and then totaled by category. Percentages were then determined for each category based upon the total number of responses received for each question. In questions where more than one response was appropriate, each response was noted in the appropriate category.

Responses to the first question, How should the Department administer recreational uses of school trust lands(i.e. leasing by competitive bid, licensing for limited uses during specific timeframes, open public access at specific times of year, open public access at all times, others)?, were as follows:

Open access at all times	79%	86%
Open access at specific times	7%	
Leasing by competitive bidding	7%	
No change	5%	
Licensing for limited uses	3%	

In reviewing the comments to the first question it appears that the majority of the respondents favored open public access

to state trust lands and did not favor individual leases by competitive bid.

Responses to the second question, At what monetary level should the school trusts be compensated for recreational uses?, were as follows:

1-10 dollars on conservation license	20%
Competitive with Federal and State park fees	2%
No Charge	23%
Reasonable rate	33%
Don't know	19%
25-100% of agricultural lease rate	3%

In reviewing the comments to the first question it appears that the majority of the respondents felt that the school trusts should be compensated but were not in any agreement as to the amount.

Responses to the third question, What, if any recreational uses of school trust lands, would you be willing to pay for?, were as follows:

Damages	11%
All recreational uses	29%
Camping or skiing	1%
Hunting and fishing only	8%
None	31%
Don't know	19%

In reviewing the responses to the third question it appears that the question was interpreted several different ways. Eleven percent felt that they would be willing to compensate lessees for damages on private improvements. Thirty one percent were not willing to pay for any recreational use while twenty nine percent were willing to pay to conduct all recreational uses. Eight percent were only interested in hunting and fishing access.

Responses to the fourth question, Should existing lessees be compensated for damages incurred by recreational users, and if so, in what form should this compensation be?, were as follows:

Yes, amount of damages	55%
Yes, reduced AUM payment	4%
No	28%
Don't know	13%

In reviewing the fourth question it appears that the majority of the respondents felt that the surface lessees should be compensated for damages incurred by recreationists to their privately owned improvements but only for the amount of damages.

EX#11  
10 April  
HB 778

## TESTIMONY ON H.B. 778

## RECREATIONAL ACCESS ON STATE LANDS

APRIL 10, 1991

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE, I APPRECIATE THIS OPPORTUNITY TO TESTIFY ON HOUSE BILL 778. MY NAME IS ROBERT DUPEA AND I OWN A RANCH NEAR WHITE SULPHUR SPRINGS. I APPEAR TODAY ON BEHALF OF THE MONTANA STOCKGROWERS AND AS CHAIRMAN OF THE STOCKGROWERS PRIVATE LANDS COMMITTEE.

AS MOST OF YOU MAY ALREADY KNOW, IN 1988 A GROUP CALLED THE COALITION FOR APPROPRIATE MANAGEMENT OF STATE LANDS INSTITUTED A LAWSUIT AGAINST THE STATE OF MONTANA CHALLENGING THE MANNER IN WHICH STATE LANDS HAVE HISTORICALLY BEEN MANAGED. SPECIFICALLY, THE COALITION WANTED RECREATIONAL ACCESS TO STATE LANDS HELD BY LESSEES. THE LAWSUIT WAS SCHEDULED FOR THIS MONTH AND HAS BEEN TEMPORARILY POSTPONED DUE TO THIS PENDING LEGISLATION. THE POINT I AM MAKING IS -- STATUS QUO IS PROBABLY NOT AN OPTION IN THE RESOLUTION OF THIS MATTER.

AS A RESULT OF THIS LAWSUIT -- AND THE POLARIZED ISSUE -- REPRESENTATIVE DAVE BROWN CAME OUT WITH TWO BILLS GRANTING ACCESS TO STATE LANDS. THE BILL YOU HAVE BEFORE YOU TODAY IS THE RESULT OF HOURS AND HOURS OF NEGOTIATIONS AND COMPROMISE BY BOTH SIDES. THERE ARE MANY GROUPS AND STATE AGENCIES INVOLVED IN THIS COMPROMISE LEGISLATION, INCLUDING THE STOCKGROWERS, THE WOOL



GROWERS, THE SKYLINE SPORTSMEN, THE WILDLIFE FEDERATION, THE ATTORNEY GENERAL, THE GOVERNOR'S OFFICE, THE DEPARTMENT OF STATE LANDS, THE MONTANA CATTLEWOMEN, THE SECRETARY OF STATE, THE OFFICE OF PUBLIC INSTRUCTION, THE DEPARTMENT OF FISH, WILDLIFE AND PARKS, AND MANY OTHERS.

WE BELIEVE THAT THIS LEGISLATION PROVIDES ADEQUATE PROTECTION FOR LESSEES OF STATE LANDS, ALLOWS THE NECESSARY PROVISIONS FOR CLOSURE DUE TO THE PRESENCE OF BUILDINGS, GROWING CROPS AND LIVESTOCK, AND WE ARE RELATIVELY COMFORTABLE WITH THE COMPENSATION ACCOUNT SET UP FOR DAMAGE TO IMPROVEMENTS ON LEASEHOLD LANDS WHICH MAY BE CAUSED BY RECREATIONAL USE. FURTHERMORE, THE STATE LAND BOARD WILL PROVIDE MUCH OF RULES AND REGULATIONS THROUGH THE RULEMAKING PROCESS AND WE INTEND TO BE ACTIVELY INVOLVED IN THAT PROCESS.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I WOULD LIKE TO CLOSE MY REMARKS BY URGING THE COMMITTEE TO PASS THIS BILL WITHOUT AMENDMENTS. WE COMMEND DAVE BROWN FOR HIS STATESMANSHIP AND DIPLOMACY IN BRINGING THE PARTIES INVOLVED IN THE LAWSUIT TO THE TABLE. I BELIEVE THERE IS GENERAL AGREEMENT THAT THE LEGISLATION ADDRESSES THE CONCERNS WHICH PRECIPITATED THE LAWSUIT. THE PRECEDENT OF RANCHERS AND SPORTSMEN IN AGREEMENT ON A POLARIZED ISSUE IS ONE YOU MAY NOT HAVE SEEN IN RECENT YEARS. WE HOPE IT WON'T BE THE LAST TIME, AS WE BELIEVE THAT WE ARE NATURAL ALLIES.

THANK YOU.



**MONTANA FARM BUREAU FEDERATION**

502 South 19th • Bozeman, Montana 59715  
Phone: (406) 587-3153

Exhibit #12  
10 April 91  
HB 778

BILL # HB-778; TESTIMONY BY: Lorna Frank

DATE April 10, 1991; SUPPORT Yes; OPPOSE \_\_\_\_\_

Mr. Chairman, members of the committee for the record, I am Lorna Frank, Director of Information for the Montana Farm Bureau. *I am also representing A.P.A.*  
Farm Bureau supports HB-778 as you see it today without any amendments. This bill represents a compromise by all parties involved. Any amendments to the bill could dissolve those compromises and I am afraid we could have another stream access, which none of us want.

We support this bill because the money to do an EIS or economic analysis is in the Governor's budget. We believe an EIS or economic study should be done by the state to determine the recreational values of school trust lands and that the uses are compatible with the agriculture leases. There are many questions an economic study can answer.

The bill provides for a report by the Board of State Land Commissioners of its findings and recommendations to the 53rd. Legislature. If the board finds that a part of this bill will not work, the legislature can change it at that time.

Farm Bureau wants to be involved in the rule making process and will participate as much as possible with our limited resources.

Thank you.

SIGNED: Lorna Frank

Good morning Mr. Chairman and Members of the Committee. For the record my name is Ed Lord, a rancher from Philipsburg, MT currently serving as First Vice President of Montana Stockgrowers Association. I am testifying in favor of Amended HB 778 on behalf of my family and the Montana Stockgrowers Association. We lease a Section 16 of school trust lands from the State of Montana as part of our ranching operation.

As you have heard or will hear, Amended HB 778 is an equitable compromise resulting from many hours of hard work on the part of State Land lessees and the people desiring recreational access to those lands.

This morning, I am here to talk about the \$5.00 fee as spelled out in Section 12 and prior notification referred to in Section 15. As you know, the State Land Board is bound by both the United States Constitution and the Montana Constitution to derive income for the schools from the trust lands. A \$5.00 fee is very reasonable when you consider that in the Environmental Impact Statement on the Upper Ruby Grazing Allotment, the U. S. Forest Service determined the value of one hunter day to be worth \$50.00.

We also feel that having the recreationist give prior notification to the lessee is very appropriate. Since the lessee has the responsibility for the upkeep and maintenance of the State Land lease, he needs to know who is using it.

For a moment, I would like to have you consider this analogy. Think about school trust lands as being like your local high school gymnasium. As a member of the public, you own it but you certainly don't have the right to use it any time you wish. If you do get limited use, you must give the school prior notice and in many cases pay a fee.

In closing, I would again repeat that Amended HB 778 is a fair compromise resulting from many hours of hard work on behalf of all parties involved. I urge you to support this bill without further amendments. Thank you for your attention.

10 April 91

Exhibit 14 (Knut Hereim) was not transmitted with the minutes.

Ex. 15  
10 Apr 91  
HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants  
their testimony entered into the record.

Dated this 10th day of April, 1991.

Name: Ronald B. Stevens

Address: 3745 Deer Creek Drive, Breckenridge, Montana 59715

Telephone Number: 586-7810

Representing whom?

Public Land Access Association, Inc.

Appearing on which proposal?

HB 778

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

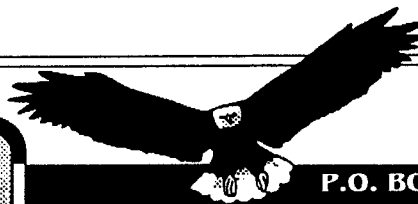
See attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

CA # 15  
10Cm #9  
HB 778



**PUBLIC LAND  
ACCESS  
ASSOCIATION  
INC.**



**P.O. BOX 3902 • Bozeman, Montana • 59772-3902  
(406) 587-2736 or 586-7810**

10 April 1991

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Colonel, USA, Ret.  
Bozeman, MT

**1st VICE PRESIDENT**

**William A. Fairhurst**  
Three Forks, MT

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Bozeman, MT

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Bozeman, MT

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Forester, Ret. District Ranger  
Ennis, MT

**Robert E. Olson**  
Ret. NP - BN Switchman  
Livingston, MT

**Edward W. Osborn**  
School Bus Contractor  
Alder, MT

Senator Dick Pinsoneault  
Chairman  
Senate Judiciary Committee

I am Ron Stevens, President of the Public Land Access Association, INC. (PLAAI) representing approximately 835 individual and 6,000 affiliate members, all public land users.


Approximately 2½ years ago then Governor Schwinden said access was the most important issue facing the Montana recreationist. Shortly thereafter Jim Flynn, then Director of the Montana Dept of Fish, Wildlife and Parks, when asked to identify the most important problem facing his department stated, "In a word, access." On 5 December last year K. L. Cool, current Department Director announced, "The number one Sportsman issue in Montana is access. It overrides everything else."

On 10 December 1990 I accepted Governor Stephen's invitation to attend a three day conference in Billings. The governor's invitation read, "It is my pleasure to invite you to what I feel is one of the most important conferences of the year-- the Governor's Conference on Rangelands." The conference theme was "Building Partnerships for the 90s." Sixty one speakers emphasized the importance of working together to solve rangeland management problems. At an appropriate time during the last day of the conference I noted the attendees prevailing fear of the "Cattle Free By '93" and "No More Moo By '92" movements. I stated that we public land users also believe the animal rights and anti-hunting groups will soon introduce another catchy slogan like "No More Boomin in the Bloomin." I said then, and I repeat it now, if the Governor and the rangeland community are serious about building partnerships for the 90s, what better group to woo than the 53% of Montana's population which annually purchases conservation licenses and has a stake in the husbandry of rangelands?

HB 778 offers a marvelous opportunity to establish the first and most important, partnership for the 90s, a partnership between landowners and sportsmen of this great state, a partnership Governor Stephens challenged Director Cool to make his number one priority upon his appointment.

PLAAI strongly supports HB 778 and urges its passage!

Respectfully submitted.

  
Ronald B. Stevens  
President

Ex # 16  
10 APR - 91  
HB 778

TESTIMONY ON H.B. 778

RECREATIONAL ACCESS ON STATE LANDS

APRIL 10, 1991

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE, MY NAME IS ROLAND MOSHER AND I AM A RANCHER FROM AUGUSTA. I APPEAR TODAY AS A BOARD MEMBER ON BEHALF OF THE MONTANA STOCKGROWERS.

AS YOU HAVE HEARD IN PREVIOUS TESTIMONY, THE MT STOCKGROWERS SUPPORTS HOUSE BILL 778. SEVERAL WEEKS AGO OUR BOARD OF DIRECTORS MET WITH DAVE BROWN, MARC RACICOT, DENNIS CASEY AND THE ATTORNEY REPRESENTING OUR ASSOCIATION IN THE PENDING LAWSUIT. EACH PRESENTED US WITH WHAT THEY BELIEVED TO BE OUR OPTIONS REGARDING RECREATIONAL ACCESS TO STATE LANDS. WITH THE STREAM ACCESS ISSUE FRESH IN OUR MINDS, WE CONCLUDED THAT THE COURT MAY NOT BE THE MOST PRUDENT COURSE FOR RESOLUTION OF THE ACCESS ISSUE.

SUBSEQUENTLY, WE SAT DOWN AT THE SUBCOMMITTEE TABLE AND WORKED SIDE BY SIDE WITH OUR ADVERSARIES IN THE LAWSUIT AND NEGOTIATED A COMPROMISE BILL FOR RECREATIONAL ACCESS THAT WE FEEL WE CAN LIVE WITH. THERE MAY BE SOME RANCHERS WHO WILL DIFFER FROM OUR POSITION, BUT OUR OFFICE HAS NOT HAD A SINGLE CALL IN OPPOSITION TO THIS BILL. THE LESSEE CLOSURE PROVISIONS AND DAMAGE COMPENSATION ASSURANCES ARE INCORPORATED IN THE BILL AND WE BELIEVE THAT THOSE ARE ADEQUATE TO PROVIDE THE LESSEE WITH THE LEGAL PROTECTION NECESSARY TO ALLOW FOR RECREATIONAL ACCESS TO STATE LEASED LANDS.

416  
10 Apr 91  
HB 778

I HAVE ATTACHED A FACT SHEET ON HOUSE BILL 778 TO MY TESTIMONY FOR YOUR CONVENIENCE AND I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE. I WOULD RESPECTFULLY URGE YOU TO PASS THIS BILL WITHOUT AMENDMENTS FROM COMMITTEE AND ALSO SUPPORT IT ON THE SENATE FLOOR. THANK YOU FOR YOUR CONSIDERATION.



Ex. 16  
10-Apr-91  
HB 778

REVIEW OF HB 778 WITH BROWN AMENDMENTS  
RECREATIONAL ACCESS TO STATE LANDS

HISTORY OF SCHOOL TRUST LANDS

The school trust lands were granted to the State of Montana in 1889 by the federal government in the MT Enabling Act, to benefit the "common schools". These lands were granted in trust with the state, through the Board of Land Commissioners (BLC), serving as the trustee. Montana statutory law mandates that the BLC "shall administer this trust to secure the largest measure of legitimate and reasonable advantage to the state", and the MT Supreme Court has long held that "an interest in school land cannot be alienated unless the trust receives adequate compensation for that interest." As recently as 1983, the Attorney General addressed the issue of compensation to the school trust. He stated that "the mandate to obtain fair market value, because of its fundamental sources, cannot be negated nor diminished by statute."

In 1988, a group called the Coalition for Appropriate Management of State Lands instituted a lawsuit against the state, challenging the manner in which school trust lands have historically been managed. The focus of the litigation is a demand that the lands be open to public recreational access. The court date, originally set for April 1991, may be rescheduled due to pending legislation. The issues involved in the lawsuit are within the discretion of the BLC and the DSL and should be addressed through the legislative and administrative processes, rather than in a court of law.

Two state land access bills were originally introduced and heard in the House Natural Resources Committee. As a result of deliberations by concerned parties, a compromise bill was developed. In full committee the compromise was not accepted, but the bill was amended by Rep. Ben Cohen to reflect his amendments. Rep. Dave Brown, the bill sponsor, favors the compromise amendments and will attempt to incorporate them on second reading. Following is an overview of Brown's amendments.

GENERAL OVERVIEW

HB 778 (with Dave Brown's amendments) requires the BLC to adopt rules to implement provisions for recreational use of state lands and to govern the actions of the recreational user. The rules will address protection of the resource value, compensation for damage to improvements, criteria of closure, restriction of recreational use to hunting and fishing and, when requested by a lessee, a provision for the recreational user to provide prior notice of the type and extent of use.

Certain state lands will merit closure from recreational use due to the presence of growing crops and livestock and the proximity of dwellings and agricultural buildings.

PROVISIONS OF CLOSURE

- o All state leased or licensed land will not be closed without prior written permission by the Department of State Lands.
- o Closures may be of an emergency, seasonal, temporary or permanent nature.
- o State lands may only be closed after public notice and opportunity for public hearing, except in the case of an emergency closure or other circumstances deemed necessary by the BLC.
- o Categorical closure: Cabin site and home site leases and licenses, the seasonal presence of growing crops, and active military, commercial or mineral leases.
- o Case-By-Case closure: Damage attributable to recreational use that diminishes the income-generating potential of state lands, damage to surface improvements of the lessee, the presence of buildings, structures and facilities, and noxious weed control.
- o The BLC, through rules, may impose restrictions upon general recreational activities including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the presence of livestock.
- o The BLC may restrict access on state lands in block management program areas.

#### MOTORIZED VEHICLES

- o All off-road use prohibited.
- o Restricted to Federal, state, and dedicated county roads.

#### PRIOR NOTIFICATION & TRESPASS

- o Lessee must post land with pertinent information if lessee desires to be notified prior to anyone entering the leasehold.
- o When land is posted, recreational user must contact and identify themselves to lessee. However, lessee must be available or provide adequate method for notice to be given.
- o Entry onto private lands, without landowner permission is trespass, punishable under current law.
- o If the lessee posts the leasehold for notification, it does not give permission to enter adjacent private lands. Entry without permission, **regardless of the absence of fencing or "no trespass" signs**, is a misdemeanor. (Current trespass law.)

#### STATE LANDS RECREATIONAL USE ACCOUNT

- o \$5 fee charged for recreational access.
- o \$2 of the fee is deposited in a State Lands Recreational Use Account and \$3 to school trust account.

These monies are used for:

1. Compensation for damage to improvements on leasehold lands which have been caused by recreational use.
  - a) Will provide reimbursement to lessee for documented costs of repair or replacement of improvements including growing crops, livestock damaged by recreational use.
2. Assistance in weed control management necessary as a result of recreational use of state lands.
  - a) Adopt weed control program.
  - b) Payments for weed control assistance.
  - c) Payments to county weed boards.
3. Protection of the resource value of the trust assets.
4. Administrative costs of recreational use on state lands.

#### ECONOMIC ASSESSMENT/ENVIRONMENTAL IMPACT STATEMENT

Any type of responsible recreational access legislation must be accompanied by funding for an assessment of the impact to the environment and/or economy. This proposed change of use involves more than 5 million acres of school trust land which is reason enough for a social and economic assessment and legally, the State's trust responsibility must be met. The only way to determine this is by a assessment of the impact of the new use to the trust lands.

Currently the Governor's budget includes \$300,000 for this type of study. This has passed the House and is headed for the Senate.

EFFECTIVE DATE OF PROGRAM: MARCH 1, 1992

Ex. #17  
10 Apr 91  
HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10<sup>th</sup> day of April, 1991.

Name: James W. McDermond

Address: 3805 4<sup>th</sup> Ave South

Great Falls, MT 59405

Telephone Number: 761-0303

Representing whom?

Montana Coalition for Appropriate Mgmt. of State Land

Appearing on which proposal?

H.B. 778

Do you: Support? X Amend?        Oppose?       

Comments:

Written Testimony attached

April 10, 1991

CX #17  
10 Apr 91  
HB 778

Senate Judiciary Committee  
State Capitol  
Helena, Montana

Chairman Pinsonneault and Members of the Committee:

My name is Jim McDermid and I am the spokesman for the Great Falls chapter of the Montana Coalition for Appropriate Management of State Land.

We support HB778 for many reasons, but allowing recreational use of state lands under the multi-use concept as prescribed by law is the most important consideration.

Most of our surrounding states have their state lands open to all citizens for recreational use under the multi-use concept. While we have this same mandated multi-use concept in Montana, it has only been in theory and not in fact; based, we have been told, on economic factors. HB778 addresses this economic issue by having the sportsmen pay for this right of multi-use. Sportsmen have, and are still willing to pay for what they use.

While sportsmen in surrounding states have enjoyed the benefits of true multi-use with no financial re-imbursement, the sportsmen of Montana have addressed this financial quantum by assessing a fee for recreational use of state lands. A portion of the money goes to the Department of State Lands for management, and the remainder goes to the state school trust, the ultimate benefactor.

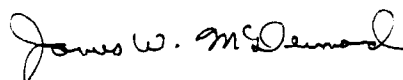
The intent of this bill is not to interfere with the rights of the leasee, but to comply with the multi-use concept. We acknowledge that there may be a compelling need to restrict or close public access for a specific classification of land, i.e. the 12% of state lands utilized for crops should be denied access during the growing period. This bill addresses this issue, enabling the board to close any section when convincing evidence dictates.

There is also a concern of potential property damage and liability. There are existing laws to protect the leasee, which should keep this problem to a minimum through proper enforcement of these appropriate regulations. This bill allows access only to those sections that can be reached by a public right of way, not through private property. It also states that vehicle use would be limited to existing roads and trails, with no expansion of off-road vehicle use allowed.

CFR 17  
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For more than a decade we have attempted to resolve this matter through the State Lands Board to no avail. This bill, has been thoroughly researched to eliminate those potential problems that the State Lands Board and others are concerned about. Let us all put this issue behind us by passing HB778.

Sincerely yours,



James W. McDermid  
3805 4th Ave So  
Great Falls, Mt 59405

Ex. 18

10 Apr 91

HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10<sup>th</sup> day of April, 1991.

Name: Alan W. Rollo

Address: 808 52<sup>nd</sup> St So

Great Falls, Mt 59405

Telephone Number: 727-4437

Representing whom?

self

Appearing on which proposal?

HB 778

Do you: Support? V Amend?      Oppose?     

Comments:

see attached testimony

April 10, 1991

EX 710  
10 Apr 91  
HB 778

Senate Judiciary Committee  
State Capitol  
Helena, Montana

Chairman Pinsonneault and Members of the Committee:

My name is Alan Rollo and I am representing myself as one who enjoys the splendors of Montana.

I support HB778 which will allow the use of State Lands for all us to enjoy.

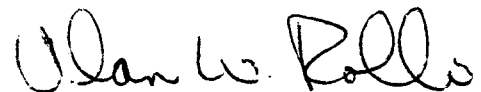
This bill addresses the issues of concern to the present leasee, while at the same time opens the land for the enjoyment of the general public. I truly believe that this bill will accomplish both in a harmonious way.

House Bill 778 appropriately limits access to the public to only those lands that are accessible by existing public right away. It does not take away any rights of landowners but does allow use of state lands by the general public.

Public use of these lands will benefit people in many ways. Bird watchers, photographers, and all of those who enjoy the scenery of Montana will benefit from this bill. They all of course will contribute their share to the state school trust for this privilege.

The passage of HB778 would enhance the enjoyment of state lands by all Montanans. Please support this bill.

Sincerely,



Alan W. Rollo  
808 52nd St So  
Great Falls, Mt 59405

Ex. 19

4/9/91

HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10TH day of APRIL, 1991.

Name: BOB BUGNI

Address: 2545 PRICKLY PEAR AVE  
EAST HELINA

Telephone Number: 227-8749

Representing whom?

PRICKLY PEAR SPORTSMAN ASSN - HELINA

Appearing on which proposal?

HB 778

Do you: Support? X Amend?        Oppose?       

Comments: AS AMENDMENT IN HOUSE

EVEN THOUGH THIS BILL HAS SOME  
PROVISIONS THAT OUR MEMBERS DO  
AGREE WITH ALL PROVISIONS OF THE BILL  
NOT THAT IT IS A COMPROMISE  
SOLUTION TO STATE LAND MANAGEMENT  
AND ACCESS. & WE ARE ASKING FOR YOUR SUPPORT.  
WE WOULD LIKE THE COMMITTEE  
TO REVIEW A MEMORANDUM FROM  
THE LEGISLATIVE AUDITORS SHOWING  
A NUMBER OF IMPORTANT FACTS  
(1) THE MOST IMPORTANT BEING  
THAT THE GENERAL FUND SUPPORTS  
ABOUT 50% OF DEPARTMENT OF STATE  
LANDS BUDGET. SPORTSMEN THROUGH

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

OVER



THE GENERAL FUND HAVE BEEN  
SUPPORTING STATE LANDS FOR YEARS  
WHILE THE ACCESS ISSUE HAS  
BEEN STALLED. CURRENTLY THE  
GENERAL FUND PAYS FOR THE LAND  
ADMINISTRATION PROGRAM & SIGNIFICANT  
PARTS OF THE CENTRAL MANAGEMENT  
AND FORESTRY PROGRAMS. REPORT SHOWS

1987-88

117.7 million OF WHICH 46.2% GENERAL FUND

1988-9

28.2 million " " 63.3% " "

THE LARGE INCREASE BETWEEN 1987-88 & 1988-9  
WAS DUE TO HIGHER SUPPRESSION COSTS FOR FIRES.

- (2) OTHER ITEMS OF INTEREST IN AUDITORS REPORT  
INCLUDE THE 1983 PERFORMANCE AUDIT SHOWING  
GRAZING RATES WERE NOT MAXIMIZING INCOME  
TO THE TRUST FUND
- (3) ALSO THAT DEPARTMENT DID NOT SEEK  
COMPETITIVE BIDS ON STATE LEASES
- (4) AT TIME OF PERFORMANCE AUDIT THE DEPARTMENT  
DID NOT HAVE A PLAN FOR MULTIPLE USE  
OF STATE LANDS AS REQUIRED UNDER MCA  
77-1-203 LEGISLATIVE AUDITOR RECOMMENDED  
TO DEPARTMENT THAT ~~A PLAN~~ DEPARTMENT  
DEVELOP PLANS & POLICIES FOR THE MULTIPLE-  
USE OF TRUST LAND

TO CLOSE THIS IS A COMPROMISE BILL THAT PROVIDES  
FOR MULTIPLE USE OF STATE LAND & INCREASES INCOME



STATE CAPITOL  
HELENA, MONTANA 59620  
406/444-3122

EX #190  
100 Apr 9  
HB 778

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON  
Operations and EDP Audit  
JAMES GILLET  
Financial-Compliance Audit  
JIM PELLEGRINI  
Performance Audit

LEGISLATIVE AUDITOR:  
SCOTT A. SEACAT

LEGAL COUNSEL:  
JOHN W. NORTHEY

*Federal Funds what strings  
How much money from Dept. FWR*

January 16, 1991

Representative Robert Pavlovich  
Capitol Station  
Helena, MT 59620

Dear Representative Pavlovich:

Enclosed is a memorandum discussing the issues you raised related to the Department of State Lands. Also enclosed is a copy of our latest financial-compliance audit of the department and our 1983 performance audit of "State-Owned and Leased Land." Most of the issues in your request have been previously examined and debated.

We found the various trust funds are showing a stable gain in both income and fund balance. The combined trusts are currently earning over \$50 million a year with the largest beneficiary being common schools.

The questions related to the potential of increasing trust income are hard to answer. Currently leases on trust lands are raising about 26 percent of trust income. By far, investment earning is the largest contributor to trust income.

Currently the General Fund supports about 50 percent of the Department of State Land's budget. We have made some recommendations in our reports that could reduce the use of the General Fund. The Governor has also proposed changing some of the department's funding source to reduce the use of the General Fund. The Legislative Fiscal Analyst questions whether the change will really reduce overall General Fund expenditures.

Recreation access may be the most controversial issue covered. It appears this issue is on hold, at least until the Environmental Impact Statement (EIS) requested by the Board of Land Commissioners is completed.

Office of the Legislative Auditor

Various Topics Related to the Department of State Lands

Legislative Request 90L-89  
January 16, 1991

Introduction

The Department of State Lands (DSL) is responsible for the care, management, and disposition of state trust lands. Trust lands are acreages granted to the state by the U.S. Congress for common school support and for support of other educational and state institutions. Each land grant has a permanent fund (except for the public building grant) which is to remain intact for the purposes for which it is dedicated. Permanent funds consist of money received from land sales and mineral royalties. The permanent fund for common schools also receives 5 percent of the interest from the fund and 5 percent of the income from leasing of the land. Each grant also has an income fund which is used for maintaining and sustaining the corresponding university or institution, or for common school support. The income fund for each grant consists of money from leasing the land, interest earned on the investment of the permanent fund, and other income sources such as timber sales.

The Office of the Legislative Auditor was requested to examine various topics related to the Department of State Lands and the management of trust lands. Many of these issues have been examined and debated for several years. This memorandum presents information on some of the topics from our 1983 performance audit of "State-Owned and Leased Land." Some of this information has been updated using our latest financial-compliance audit of the department (for fiscal year-end June 30, 1989), the Governor's Executive Budget for the 1993 biennium, and the budget analysis by the Legislative Fiscal Analyst. Information on trust fund balances and income was obtained from the Montana Comprehensive Annual Financial Reports and the Supplemental Financial Schedules issued by the Department of Administration.

Financial Condition of the Trust Funds

The following chart shows a summary of overall trust land income and fund balances for the last four fiscal years. The amount of revenue raised has been steadily increasing along with the fund balance.

fund. Appendix A shows the various sources of income from each of the trusts for FY 1989-90.

Exhibit # 19a  
4/10/91 HB 778

Use of General Fund Moneys for DSL Operations

Questions were raised about the use of General Fund moneys to support the Department of State Lands. Currently the department funds its Land Administration program entirely from the General Fund. The General Fund is also used for significant parts of the Central Management and Forestry programs. The following chart shows the percent of General Fund used by each DSL program for FY 1987-88 and FY 1988-89.

Department of State Lands  
Expenditures by Program and Fund  
Fiscal Years 1987-88 and 1988-89

Fiscal Year 1987-88

Program	General Fund Expenditures	All Other Fund Expenditures	Total Expenditures	Percent General Fund
*****				
Central Management	\$1,058,184	\$ 413,266	\$ 1,471,450	71.9%
Reclamation	82,797	6,018,566	6,101,363	1.4%
Land Administration	544,506	0	544,506	100.0%
Resource Development	0	234,594	234,594	0.0%
Forestry	<u>6,470,984</u>	<u>2,836,274</u>	<u>9,307,258</u>	<u>69.5%</u>
Total	<u>\$8,156,471</u>	<u>\$9,502,700</u>	<u>\$17,659,171</u>	46.2%

Fiscal Year 1988-89

Central Management	\$ 1,061,811	\$ 346,677	\$ 1,408,488	75.4%
Reclamation	83,975	6,958,828	7,042,803	1.2%
Land Administration	556,443	0	556,443	100.0%
Resource Development	0	263,319	263,319	0.0%
Forestry	<u>16,132,137</u>	<u>2,760,696</u>	<u>18,892,833</u>	<u>85.4%</u>
Total	<u>\$17,834,366</u>	<u>\$10,329,520</u>	<u>\$28,163,886</u>	63.3%

Source: OLA F/C Audit of the Department of State Lands FYE June 30, 1989

Our F/C audit of DSL for fiscal years 1987-88 and 1988-89 noted the department could have reduced its General Fund expenditures and used funds available in the Special Revenue Fund for both the Central Management and Forestry programs. The law requires the department to apply expenditures against non-General Fund money wherever possible before using the General Fund Appropriation. The potential General Fund savings amounted to approximately \$250,000.

The department's expenditures for the Forestry program were significantly higher in FY 1988-89 due to higher fire suppression costs. Because of the unpredictable nature of fires, it is difficult to budget fire suppression costs. Often the department must request approval for supplemental appropriations. During the 1989 session the department was granted a supplemental appropriation of approximately \$12.6 million in General Fund money. The current executive budget requests a supplemental appropriation of approximately \$2.5 million for the 1991 biennium for fire suppression costs. In our F/C audit we recommended the department work with the Office of Budget and Program Planning to find a funding source to build a reserve fund for payment of future fire suppression costs. Eventually the department could build a large enough reserve fund to replace the General Fund as the source of fire suppression funding.

#### Proposed Funding Changes

The executive budget for the 1993 biennium proposes replacing General Fund money with trust fund interest for department functions related to the management of trust lands (\$3.39 million in each year of the biennium). The budget states it is customary for governmental and private trusts to finance management of these trusts with a portion of the earnings generated. Ten other western states use trust revenues to finance trust management activities. The money would be raised by diverting up to 10 percent of trust lands income that is not designated for placement in the permanent funds.

The 1993 biennium LFA budget analysis states the Governor's proposal raises constitutional issues since the full 95 percent of interest and income from the common school trust would not be deposited in the school equalization account (SEA). The LFA discusses how this will not really save General Fund moneys even though the department will not be spending the money because more General Fund will be needed to fund the SEA. This use of trust lands income will also affect the other agencies that receive trust income.

#### Are Lease Rates Too Low?

Questions were raised about whether farmers and ranchers are paying their fair share when leasing trust lands. Are trust lands to support public schools or to subsidize agriculture? The question of fair lease rates for trust lands has been debated for years. In our 1983 performance audit, we found grazing rates were not maximizing income to the trust fund because the department charges below fair market value for its leases. The Board of Land Commissioners is required to "administer this trust to secure the largest measure of legitimate and reasonable advantage to the state." The department sets a minimum lease rate based on a formula tied to the price of beef. The department only charges the minimum rate unless the lease has been let through competitive bid. We recommended the department raise the grazing rate to a level that provides the "largest ... reasonable advantage to the state."

Our report also noted one way to help maximize the trust fund would be to seek competitive bids on state leases. At the time of our audit the department did not seek competitive bids. We found only 5 percent of grazing leases and

2 percent of agricultural leases were competitively bid. Department officials stated the lack of competitive bidding is largely due to two factors: the statutory provision allowing the current lessee to meet the high bid, and people do not want to create problems with their neighbors by bidding on their lease. We recommended the department advertise the leases that are coming up for renewal each year to encourage competitive bidding.

### Management of Trust Lands

The lease rate issue is only part of the larger issue of the department's overall management approach to trust lands. In our report we had several other recommendations related to increasing income from trust lands and improving management of the lands. For example, we found the department managed many parcels which were less than 40 acres each. Many of state's small isolated parcels were unproductive, yet the department had not specifically evaluated what to do with these lands. Statutes allow the Board of Land Commissioners to exchange land in order to consolidate state lands and to sell land when it is in the best interest of the state. We recommended the department establish a program to remove unproductive small parcels from the inventory and consolidate lands into more manageable tracts.

We also recommended the department develop a plan to provide for active management of the state's trust lands. Implementation of such a plan could require legislative direction and changes in funding and staffing patterns. The Governor's budget states that public demand for a multitude of uses and the proper management of trust lands has increased in recent years. Increased management can be expected to produce greater long-term revenues to the trusts. These new uses and management efforts have created needs for updating procedures, changing lease stipulations, and conducting field reviews and investigations. To address these trust management needs the Governor proposes to add 3 FTE land use specialists, 2 FTE land use technicians, and 1.75 FTE clerical positions

### Leasing of Recreation Access

The request mentioned that one way to increase trust lands income would be to have leases for recreation access. Again this has been a controversial issue for many years. In August 1990 the Board of Land Commissioners considered a report prepared by the department on the issue. The report listed several options to handle recreation access including recreation leases. The Board determined that an Environmental Impact Statement would be necessary before decisions are made on public access to trust lands. The EIS will assess social, economic, and environmental impacts of providing the public with recreational access to trust lands. The Governor's budget includes \$300,000 in General Fund biennial appropriation for the study.

The issue of recreation access is part of the larger issue of multiple-use management of trust lands. Section 77-1-203, MCA, requires the department to manage state lands under the multiple-use management concept. Multiple-use management of state land involves using all of the various resources of the lands in the combination that best meets the needs of the people and the beneficiaries

of the trust. If a parcel with one classification, for example grazing, has other multiple uses or resource values, then it should be managed to maintain or enhance these multiple-use values. Other multiple uses include recreation use, wildlife use, and public use.

At the time of our performance audit the department did not have a plan for the multiple use of state land. Individual parcels were generally not used for multiple purposes other than the leasing of surface and mineral rights. Partly in response to the enactment of the multiple-use statute, the department conducted an inventory of state trust land to determine the recreational potential of the land. From this study some fishing access sites were leased by the Department of Fish, Wildlife and Parks. We recommended the department develop plans and policies for the multiple-use of trust land.

### Conclusion

The various trust funds are showing a stable gain in both income and fund balance. The combined trusts are currently raising over \$50 million a year with the largest beneficiary being common schools. Should lease rates be increased to provide more money to the trusts? Would improved management practices increase trust income? These are hard questions to answer. Appendix A shows that for FY 1989-90 leases on trust lands raised about 26 percent of trust income. By far, investment earnings are the largest contributor to trust income. The Governor has proposed increasing staffing levels for land management efforts.

Currently the General Fund supports about 50 percent of the department's budget. This can vary considerably depending on the amount of money needed for fire suppression costs. OLA has made some recommendations that could reduce the use of the General Fund. The Governor has also proposed changing the department's funding source for land management functions.

Recreation access may be the most controversial issue covered. It appears this issue is on hold, at least until the EIS requested by the Board of Land Commissions is completed.

v/v9.mem

Exhibit # 19a  
4/10/91 HB 778

Ex. 20

4-10-91

HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10<sup>th</sup> day of April, 1991.

Name: Jack Schoonen

Address: Box 2

Ramsay MT 59748

Telephone Number: 782-1560

Representing whom?

Skyline Sportsmen

Appearing on which proposal?

HB 778

Do you: Support? X Amend?        Oppose?       

Comments:

This bill is a compromise  
bill between agriculture groups  
and sportsmen. This bill will solve  
a lot of problems regarding access  
and is an excellent bill. We  
would like you to support this  
bill.





# Wyoming State Land and Farm Loan Office

122 WEST 25TH STREET, HERSCHLER BUILDING  
CHEYENNE, WYOMING 82002-0600  
PHONE 307/777-7331

ex # 20  
10 April  
HB 778

HOWARD M. SCHRINAR, COMMISSIONER, 777-6629  
PAUL R. CLEARY, DEPUTY COMMISSIONER, 777-6629  
BRYCE E. LUNDELL, STATE FORESTER, 777-7586  
SHARON S. GARLAND, ASSISTANT COMMISSIONER, 777-6629  
ACCOUNTING & ADMINISTRATION  
DAVE W. FORCE, ASSISTANT COMMISSIONER, 777-6638  
FARM LOANS & SURFACE LEASING  
DON L. COLLAMORE, ASSISTANT COMMISSIONER, 777-7309  
GOVERNMENT GRANTS & LOANS  
HAROLD D. KEMP, ASSISTANT COMMISSIONER, 777-6643  
MINERAL LEASING & ROYALTY COMPLIANCE

January 10, 1990

Mr. Jack Atcheson  
The Montana Coalition for Appropriate  
Management of State Lands  
P.O. Box 173  
Butte, Montana 59701

Dear Mr. Atcheson:

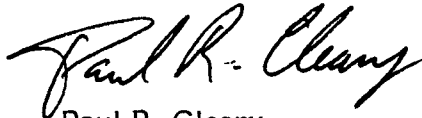
This is in response to your recent letter regarding the Wyoming Board of Land Commissioners rules controlling public hunting, fishing, and casual recreational use of state land (Chapter XIII). Enclosed for your information are:

- 1) The Board's Chapter XIII rules.
- 2) A letter which provides important background to the Board's rules.
- 3) A "Dear Sportsman" letter from the Commissioner which explains the Board's rules and encourages cooperation, courtesy and common sense on behalf of sportsmen using state land.
- 4) A "Public Land Access" brochure that was jointly prepared by several state and federal land and resource management agencies in Wyoming.
- 5) An August 3, 1989 Board Matter regarding several proposed road closures and public travel restrictions on state land.
- 6) A listing of potential public use activities already prohibited by Wyoming statute, and related penalties.
- 7) A September 7, 1989 Board Matter regarding Wyoming state land outfitting/guiding temporary use permits.
- 8) A December 2, 1989 Casper Star-Tribune article regarding the 1989 big game hunting season experience.
- 9) A December 21, 1989 press release from the Wyoming Range Management Coordinating Committee entitled "1989 Sees Few Access Conflicts".

With regard to your three specific questions, first, to our knowledge, no lessees have given up their leases as a result of the Board's Chapter XIII rules. Second, as indicated by enclosures #8 and #9, there were fewer conflicts and complaints last fall than in prior years. We believe there are several factors behind this reduction in conflicts and complaints, including the Board's rules clarifying what is and isn't allowed on state land and a strong spirit of cooperation and desire to get along between our lessees/landowners and sportmen. Third, the lease value concerns which lessees expressed during the adoption of the Board's Chapter XIII rules focused on potential damages to forage and improvements, potential loss and injury of livestock, and potential for increased trespass onto adjacent deeded lands.

I hope this information helps. Since I haven't faxed this information, I am returning the \$3.00 you submitted with your letter. Dennis Hemmer says, "Hello". Please do not hesitate to contact me if you have any further questions in this regard.

Sincerely,

A handwritten signature in cursive script that reads "Paul R. Cleary". The signature is fluid and stylized, with the first and last names being more prominent than the middle initial.

Paul R. Cleary  
Deputy Commissioner

PC/lb

EX # 30  
10 Jan 91  
RECEIVED  
HB 778

JAN 29 '90

GOVERNOR'S  
OFFICE

January 26, 1990

Governor Mike Sullivan  
State Capitol  
Cheyenne, WY 82002

Dear Governor Sullivan:

At the November 20 meeting of the Wyoming Rangeland Management Coordinating Committee, the subject of public lands access was a topic of discussion. Several state and federal agencies, as well as interest groups represented, reported that the situation is vastly improved. In fact, the number of access-related conflicts reported during the 1989 field season was the smallest in recent memory.

\* ON " (Mike Montana)  
The WRMCC believes that this progress is directly attributable to efforts by several state agencies to better inform the public about access laws and regulations. The State Lands Department's work to inform the public about the new regulations regarding recreational access on state lands is one example. Additionally, the State Land Office, the Wyoming Game and Fish Department, the Wyoming Recreation Commission and the State Planning Coordinator's Office cooperated with the U. S. Forest Service and BLM in the publication and distribution of a Wyoming Public Land Access brochure. This brochure is a very valuable tool for increasing the public's understanding of the complex legal and regulatory nature of the access issue and the work of these state agencies is appreciated.

These efforts, along with the BLM's Operation Respect, have served to significantly reduce the confrontational nature of the public land access question. The WRMCC wanted to make you aware of progress in this regard.

Sincerely,

Bob

Bob Budd, Chairman  
WRMCC

cc: WRMCC Members

01-11-85

EX #20  
10 April 91  
AB78

24 Mar 84 UPDATE OF MONTANA FUTURES STUDY-1984  
UNIVERSITY OF MONTANA DECSYSTEM-2060

TOPS-20

FILE:

RECACC PUBLIC ACCESS ACROSS PRIV TO PUB LANDS

VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
FOR AGAINST	1	206	51.1	51.9	51.9
	2	165	40.9	41.6	93.5
	9	26	6.5	6.5	100.0
	0	6	1.5	MISSING	
	TOTAL	403	100.0	100.0	
VALID CASES	397	MISSING CASES	6		

SLSTAX STATE SALES TAX ON NON-FOOD

VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
FOR AGAINST	1	121	30.0	30.1	30.1
	2	270	67.0	67.2	97.3
	9	11	2.7	2.7	100.0
	0	1	.2	MISSING	
	TOTAL	403	100.0	100.0	
VALID CASES	402	MISSING CASES	1		

PUBACC PUB ACCESS TO LEASED STATE LAND FOR REC

VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
FOR AGAINST	1	292	72.5	73.4	73.4
	2	79	19.6	19.8	93.2
	9	27	6.7	6.8	100.0
	0	5	1.2	MISSING	
	TOTAL	403	100.0	100.0	
VALID CASES	398	MISSING CASES	5		

Ex #21  
10 April  
HB 778

CHAIRMAN PINSONEAULT AND MEMBERS OF THE SENATE JUDICIARY  
COMMITTEE. MY NAME IS TOM LOFTSGAARD, I'M A STATE LAND LESSEE  
AND ALSO REPRESENT THE LAND MANAGEMENT COUNCIL.

WE SUPPORT HB 778 AS IT IS PRESENTED, WITH ONE AREA OF  
CONCERN IN SECTION 17 LINE 4, IT STATES: "THE LIABILITY OF THE  
DEPARTMENT FOR DAMAGE PAYMENTS IS LIMITED TO THE EXISTING BALANCE  
OF THE ACCOUNT." ALTHOUGH IT MAY BE A REMOTE POSSIBILITY, THERE  
IS A CHANCE THAT A CATASTROPHIC SITUATION COULD RESULT. FOR  
EXAMPLE: A FIRE CAUSED BY A RECREATIONAL USER, CONSUMES A  
COMBINE, TRACTOR, OR SET OF FARM BUILDINGS; ANY ONE OF THESE  
LOSSES COULD EASILY EXCEED \$100,000.

WE DO NOT FEEL ANY LESSEE SHOULD SUFFER ANY LOSS CAUSED BY  
THE RECREATIONAL USERS OF STATE LAND.

THIS BILL ADDRESSES MANY OF OUR CONCERNS AS STATE LAND  
LESSEES. WE FEEL IT IS A FAIR COMPROMISE TO THIS LEGISLATION AND  
SHOULD BE PASSED WITHOUT AMENDMENTS.

THANK YOU.

Ex #23  
10 Apr  
HB 778

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE,  
MY NAME IS BOB FOUHY AND I REPRESENT THE LAND MANAGEMENT COUNCIL.  
WE SUPPORT HB 778/03 AS IT PRESENTLY STANDS EXCEPT AS PREVIOUSLY  
NOTED BY TOM LOFTSGAARD AND THE MONTANA STOCKGROWERS ASSOCIATION.

THIS LEGISLATION WILL MAKE IT DIFFICULT AT BEST BUT WE  
RECOGNIZE THE FACT THAT IT IS ALMOST IMPOSSIBLE TO ADEQUATELY FIT  
THE RAMIFICATIONS OF THIS BILL TO THE SPECIFIC PROBLEMS OF EACH  
AREA.

THIS BILL SPECIFICALLY ADDRESSES THE NEED OF COMPENSATING  
THE SURFACE USE LESSEE FOR DAMAGES TO PERSONAL PROPERTY AND TO AN  
EXTENT, SATISFIES THE BENEFICIARIES OF THE TRUST WHICH ARE  
PRIMARILY THE COMMON SCHOOLS OF THE STATE.

THEREFORE WE FEEL THE HB 778/03 AS IT READS AT THIS TIME,  
REPRESENTS A COMPROMISE WE HOPE IS AGREEABLE AND WORKABLE TO ALL  
PARTIES CONCERNED.

WE ALSO BELIEVE THAT THIS BILL WOULD ACTUALLY IMPROVE AND  
INCREASE THE QUALITY OF HUNTING IN OUR AREA.

THANK YOU FOR YOUR TIME.

Exhibit 229  
10 Apr 91  
HB 778

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10th day of April, 1991.

Name: Joe Gutkoski

Address: 300 N. 13th St.

Bozeman MT 59715

Telephone Number: 537-3242

Representing whom?

Gallatin Wildlife Association.

Appearing on which proposal?

HB 778 D. Brown

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

I approve HB 778 because it will benefit the state  
School Foundation Program through additional funds.

The compromises with the grazing permittees  
have been successful. There was give & take on both  
sides.

EX #25  
10 April 91  
HB 778

SE

# MONTANA TRAIL VEHICLE RIDERS ASSN.

3301 W. Babcock  
Bozeman, MT 59715

Linda Y. Ellison

Land Use Coordinator

April 10, 1991

Before the Senate Judiciary Committee in Support of HB 778

I believe we can all agree that access is a key piece in Montana's land management puzzle. Access is very competitive in nature. The land resource on which Montana's agricultural, mining, timber, oil and gas, and recreation industries is based is a finite matter. The distribution of those various uses does change from time to time, and this legislation properly addresses that distribution.

There are two major aspects of this bill which address our particular concerns.

First of all, it is important that an adequate fee fulfil the requirement to support the trust, and it is appropriate that a portion of that fee be set aside to address potential adverse impacts of recreational use. It is also important that that fee be separate and distinct from other fees which are required for the purchase of big game hunting and fishing licenses.

As an off-road motorcyclist, I use my machine to enhance my opportunities to reach the places in Montana where I like to hunt and fish. If off-road use is deemed not appropriate for lands which will be accessible by this act, then I appreciate not having to shoulder the burden of a fee from which I will not benefit.

A second important point is the language which establishes rulemaking authority. Allocation of land resources for off-road vehicle use is nearly always controversial in nature, and while off-road vehicle use may not be a factor at the onset, <sup>if implementation</sup> this <sup>we would</sup> ~~establishes~~ <sup>appreciate</sup> an avenue for future consideration should that be deemed appropriate.

The motorized recreation community appreciates the long hours that have gone into the construction of this particular bill.



— addendum —

Ex. 23  
4-10-91  
HB 778

With implementation of this action, our organization recommends special attention be paid to clarifying the fact that this access fee is not a substitute for the fees covering camping at state campgrounds. There is apparent misunderstanding on that issue already.

S. Ellison

MTURA

## Rancher bids \$29 per AUM and he probably won't get it

A Great Falls area rancher has bid more than \$29 per animal unit month (AUM) in an attempt to obtain a tract of state grazing land, probably the highest bid recorded in the state.

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It was Jacobs who bought that ranch, and said Halko was given an opportunity to bid on that.

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Casey said Monday his agency has its own legal opinion to the contrary, but he acknowledged that legislators would be more apt to

heed the conclusion of their own staff attorney.

He told the Land Board that certain provisions in the department's preliminary program for allowing public access to state lands also may be construed as violating the same constitutional requirement.

For example, any fees paid for recreational use of state land would be used for such things as weed control and to compensate landowners for damage caused by the public access, Casey said.

But, the board decided not to alter its access plan.

Gov. Stan Stephens, board chairman, said the agency should not abandon those provisions just because of a legal conclusion.

"We shouldn't simply back off because of one legal opinion," he said. "If we are to run for cover every time we get an opposing legal opinion, we're not going to accomplish very much."

Secretary of State Mike Cooney, another board member, agreed that the department should let the legislative process proceed.

### No guarantee

Casey suggested the issue of what represents a constitutional use of the state lands money may have to be settled in court.

State Superintendent of Schools Nancy Keenan later said she was glad the administration changed its mind on funding for the department. There was no guarantee that the Legislature would replace the money diverted from schools to the agency, she said.

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## State Lands audit advises multiple use

2

2—The Montana Standard, Butte, Thursday, March 7, 1990

# Multiple-use of public lands, leasing fees addressed in State Lands audit

By Eric Williams  
Standard Staff Writer

An audit of the Department of State Lands (DSL) shows that 100 percent of the money used to administer state school trust lands comes from general taxpayer dollars.

To change that, the Stephens administration's budget initially proposed that revenue produced from those lands be used for administration.

However, the administration has removed that suggestion from its budget proposal, which will be considered soon by the Legislature.

A main reason the proposal was dropped, said Jeff Hagener of DSL, is it would simply be a "tradeoff" that would have little practical or fiscal effect.

Less money would go to public schools, which rely heavily on funds generated by school trust lands if lease revenues were used to administer those same lands generating the money.

Therefore, a like amount would have to be transferred from the general fund into the school equalization pot.

Revenue from state land leases and interest from the trust pumped more than \$55 million into schools in fiscal 1989-90.

According to the audit, done by Deputy Legislative Auditor Jim Pellegrini and completed in mid-January, up to 10 percent of the lands-generated money would go toward administering that ground.

Hagener said that roughly \$5 mil-

lion "would need to be replaced by general fund dollars to the schools."

The audit, which was done at the request of Rep. Bob Pavlovich, D-Butte, shows that in fiscal 1987-88, all of the \$544,506 used for land administration came from the general fund, as did the \$556,443 needed in fiscal 1988-89.

Sportsmen and other recreationists, who have sued the state for access to state trust lands, contend that the fact taxpayer dollars are used to administer those lands only serves to bolster their argument that the ground should be open to the public.

In total, the general fund paid for 46.2 percent of all DSL functions in 1987-88, and 63.3 percent in 1988-89. The entire department needed \$17.7 million in 1987-88, and \$28.2 million in 1988-89.

Other areas are central management, \$1.4 million in 1988-89; reclamation \$7 million; resource development, \$263,000; and forestry, \$18.9 million.

The audit also found that DSL does "Not have a plan for the multiple use of state land."

Hagener said that in the sense say, the Bureau of Land Management has an overall land management plan, DSL does not have a multiple use plan for grazing and agriculture ground. For the forestry land, he said, DSL's management is similar to the BLM's.

On the grazing and agriculture ground — which accounts for about three-fourths of the 5.2 million state-owned acres — Hagener said he feels DSL manages the whole under a multiple-use concept, but

individual tracts are managed for their primary value, generally grazing or growing crops.

In the audit, Pellegrini said, "We recommend the department develop plans and policies for the multiple use of state lands."

Hagener said at this point, DSL has no plans to substantially alter its management plans.

However, two bills being considered by the Legislature could affect that. Both are carried by Butte Democrat Dave Brown, and to varying degrees would open the land to public access.

Another question addressed by the audit is, "Are lease rates too low?"

Pellegrini wrote that "We recommend the department raise the grazing rate to a level that provides the 'largest ... reasonable advantage to the state.'"

Hagener said the auditors may believe lease rates — set at a minimum of \$4.14 an animal unit month (AUM) this year — may be too low.

But, he said the Legislature and the State Board of Land Commissioners are the only bodies legally able to raise rates. The department has no ability to do so, Hagener said.

Hagener pointed to a recent private study, done for the Land Board, which determined that the state leases were too high, when compared to private lease arrangements and improvements such as fencing and weed control were factored in.

Hagener said he didn't agree with all aspects of that study, but said it

indicates a variety of views on the price of state leases.

The minimum leases are established through a formula which includes the price of beef, and the audit noted "The department only charges the minimum rate unless the lease has been let through competitive bid."

The audit noted that "only 5 percent of grazing leases and 2 percent of the agriculture leases of agricultural leases are competitively bid."

The auditor said that is probably due to two factors: "The statutory provision allowing the current lessee to meet the high bid, and people do not want to create problems with their neighbors by bidding on their lease."

The auditor recommended DSL advertise the generally 10-year leases which are coming up for renewal/bid.

Hagener said he has no objections to advertising leases which are coming open. But said he's not sure there would be enough of an increase in competitive bidding — and presumably higher lease rates — to pay for the advertising.

The minimum estimate is that advertising would cost \$38,000 a year, Hagener said. Also, soon-to-be-due leases are posted in county courthouses, and current leaseholders, past bidders and anyone requesting so are on a mailing list which tells each parcel open for bidding.

The number of competitive bids has been steadily increasing, Hagener said, to 80 last year, though there were 56 this year.

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2—The Montana Standard, Butte, Wednesday, May 23, 1990

## Butte / Area

A BID SYSTEM ON RECREATION

NON RESIDENT

HUNTING CLUB! WOULD TAKE OVER!

# Public access to school trust lands urged

By Eric Williams  
Standard Staff Writer

The state of Montana isn't getting a good monetary return on its state school trust lands, officials were told Tuesday in Butte, and one way to increase revenues is give the public access to that property.

Gary Sturm of Helena told Department of State Lands (DSL) Commissioner Dennis Casey "some one is not a very good manager" if DSL can't reap more rewards than it does from leasing property for grazing, cropping, timber, minerals, oil and gas and others.

Using a 1988 Legislative Fiscal Analyst's evaluation that the 5.1 million acres of state school trust land is worth \$661 million, Sturm said DSL is making just 3.6 percent interest. And, he said, he believes that \$661 is a low estimate.

"Give me that \$661 million, and I'll double it," he said.

Sturm and more than 100 others attended the fourth of a series of meetings DSL is conducting to gain comment for the State Board of Land Commissioners.

The meetings are in response to a lawsuit filed by a coalition of

sportsmen groups that want access restrictions eased on the land the state leases to ranchers and others.

The most coveted access is on grazing lands. Sturm said he feels the \$3.29 average paid to feed one cow a month doesn't meet a state requirement that the property fetch "fair market value."

Grazing brings in about \$1 million annually, while crops reap nearly \$5 million a year.

Casey told Sturm the fee is set by the Legislature.

Bob Bugni of the Prickley Pear Sportsmen Club in Helena said he feels the state is abrogating its "fiduciary responsibility" to bring in more money.

During recently failed negotiations between the state and the suing sportsmen groups, Bugni said, "The coalition offered to compensate" the state to help defray costs and bring in more money from the school trust lands.

"If you have a fiduciary responsibility, how could you turn that offer down?" he asked.

Casey said the proposal wasn't exactly turned down, but the proposal was part of a package that fell apart when negotiations reached an impasse over whether

## Hearing results won't be ready before case goes to trial

A lawsuit over access to state school trust lands was the main reason for a series of statewide hearings on the issue.

However, recommendations that come out of the meetings probably won't be made before the matter goes to trial.

State Lands Commissioner Dennis Casey said Tuesday that a July 9 trial date has been set for the lawsuit.

The public hearings continue this week. Then, state officials must comb through the transcripts of hundreds of citizen comments and put them into a form that can be evaluated.

After that, he said, one or more recommendations will be submitted to the State Land Board for consideration before a decision is made.

"It could be recommendations will be taken to the board by August," Casey said.

Whatever decision the land board reaches must undergo environmental review and more public comment, Casey said. "My best judgement is the trial will proceed before this is completed."

leaseholders themselves — along with the state — should be paid if access is granted.

Kim Enkerud of the Montana Stockgrowers Association said her group opposes changes to the existing system of leasing state lands. She said it has worked well for decades — for landowners and recreationists alike.

But, Enkerud said, if changes are made, she would like officials to consider creating a system that in effect would create two leases for state tracts.

One would be the standard lease — mostly for grazing or growing crops. The second would be a recreational lease.

As an example, Enkerud said, the

recreational lease might be bought by a hunting club, which would be responsible for any damage, additional weed infestation or other degradation caused by recreation. Likewise, the agriculture leaseholder would take care of damage from that side.

The two leases, Enkerud said, could "double" the income on state lands recreationists yearn to use.

The sportsmen's camp, however, has proposed tacking a fee — say \$1 for Montanans, \$2 for out-of-staters — onto the \$2 conservation licenses. More than 400,000 such licenses were sold last year.

"We're willing to pay," said Tony Schoonen of Ramsay, a coalition member.

But the group, called the Coalition for the Appropriate Management of State Lands, has not agreed to the direct compensation of landowners or lessees.

But several ranchers marched to the microphone to say that their "stewardship responsibilities" will expand if the public is allowed to use the lands they've leased and tended for years.

They said the increased traffic would cause erosion, bring in more noxious weeds, result in downed fences and more work.

Sportsmen said rules would preclude such deportment, but Enkerud countered, "While reasonable rules may be implemented, it does not mean they will be followed."

Van Davis of Twin Bridges told sportsmen, "You brought a lot of this on yourselves ... you just keep pushing and pushing." Soon, Davis said, sportsmen may gain access to state school trust lands, but will alienate themselves to the point they won't be allowed on any private ground.

Jack Atcheson of Butte told the group that hunters and ranchers had better quit fighting between themselves because they've got a bigger, common enemy.

He said out-of-state land buyers will own most of the prime private ground and will hold many public leases, "and we'll all be locked out."

Also, Atcheson produced articles from numerous newspapers and magazines telling of Westerners who kill animals and damage the landscape with their livestock.

"The same people who hate hunters hate cows," he said.

## English postage

England introduced the first postage stamp in 1840.

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WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10th day of April, 1991.

Name: Gary Sturm

Address: 146 Brierwood

Helena MT 59601

Telephone Number: (406) 442-5487

Representing whom?

Packly Pear Sportmen's Association

Appearing on which proposal?

HB 778

Do you: Support? X Amend?        Oppose?       

Comments:

This bill as amended represents a fair,  
equitable compromise which can and should be  
supported by all sportmen's and leaseholders.  
The sportmen have agreed to pay for the privilege  
of accessing State land both to provide money  
to State School Trust Fund and to help offset  
some of the cost of managing these lands. The  
leaseholders are recognizing the right of Montana  
sportmen to access these lands. All Montana  
citizens win with this bill.

DATE 10 April 91 1 of 2  
 COMMITTEE ON HB 778 - Senate Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Walter Herlein	MT Stockgrowers	HB 778	✓	
Poland Mosher	MT Stockgrowers	HB 778	✓	
Robert Cooper	mt Stockgrowers	HB 775	✓	
RAROL MOSHER	MT CATTLE WOMEN	HB 778	✓	
Arthur Roth	Mont Stockgrowers	# 778	✓	
James W. McDonald	MT. Wildlife Fed.	HB 778	✓	
Alan W. Pello	Self	HB 778	✓	
Thomas Loftsgaard	Land Mgmt Council	HB 775	✓	
Robert Foubey	Land Management Council	HB 778	✓	
Gar Bradley	MT Magistrate Assn	HB 155		X
Glady Vance	MT Magistrate Assoc.	HB 155		X
Frank Whigmore	MT Magistrate Assoc	HB 155		X
DAVE BROWN	sponsor - HB #72	HB 778	X	
Morvin Barber	H. P. A.	HB 778	X	
Lynna Frank	mt Farm Bureau	HB 778	X	
William H. Turkist	Ther. Tok. Sportsman	778	X	
Kay Norberg	WIFE	778	X	
Erica Elfgren	MT Trail Vehicle Riders Assn	778	X	
Tom Schonen	Stz. Land (Coz). from	778	X	
Paul F. Berg	Southern Montana Sportsman Assn	778	X	
Joe Gutkoski	Gallatin Wildlife Assoc.	778	✓	
Tim Hiron	MT Stockgrowers	778	X	
Gordon Mares	MACO	155	X	
Satchel L. Paul	Cons. Com. Atty. MCA	155	X	
K. Amy Pfeifer	PO Box 5955 Child Support Enforcement Div	993		
Russell R. Andrews	Box 889 Choteau Mont. Co. Atty Assoc	155	X	

(Please leave prepared statement with Secretary)

DATE 10 April 91 2 of 2  
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# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)