

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator Blaylock, on December 3, 1993, at 11:07 a.m.

ROLL CALL

Members Present:

Sen. Chet Blaylock, Chair (D)
Sen. Harry Fritz, Vice Chair (D)
Sen. John Brenden (R)
Sen. Bob Brown (R)
Sen. John Hertel (R)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)
Sen. Bill Wilson (D)
Sen. Bill Yellowtail (D)

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Sylvia Kinsey, Committee Secretary

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

Committee Business Summary:

Hearing: SJR 1
Executive Action: None

HEARING ON SENATE JOINT RESOLUTION 1

Opening Statement by Sponsor: Senator Toews, SD 9, said SJR 1 would start a systematic disposition of certain state lands. The Board of Land Commissioners would review the lands held in the school trust and arrange sale or transfer of certain holdings. He handed out information on Montana State Lands (exhibit 1) which gave the acres, value and gross estimated return on state lands. He said the return on investment in state lands is low, there is a sportsman land ownership problem and we also have a tax problem. Some parcels were in the middle of private property, poor lease areas, scattered small pieces, etc. It would be much more practical to trade land tracts and have a larger tract that could be leased at a higher rate of return. A 1% rate of return is the average on timber lands and grazing

lands with a 4.8% on agriculture and did not believe that was a realistic return on an investment today. He pointed out page 6 listed the amount of state land in the counties and the last page showed a map of the scattered state lands throughout the state.

Proponents' Testimony: Bud Clinch, Commissioner of State Lands, said he was neither a proponent nor an opponent. He offered his assistance as well as that of John North, Legal Counsel, State Lands, to the committee. He pointed out there were several technical corrections in the joint resolution. He said in line 8 and line 22 the language refers to the School Trust Fund, the revenue we are talking about here goes to multiple funds. There is not a single school trust account, but multiple accounts. On line 23, the language that refers to the revenue deposited from disposition shall go into the State Equalization Aid Account, it is his understanding that language refers to what they commonly call the distributable account and there is specific language in both the enabling act and the Montana Constitution that says revenues generated from the disposition of any state lands must be deposited into the permanent trust account. He said he had prepared appropriate amendments if the committee should wish to act on this resolution.

Madalyn Quinlan, OPI (Office of Public Instruction) said Nancy Keenan, State Superintendent of Schools, serves on the State Land Board and was not completely for or against SJR 1. She said the Land Board at the present time is looking at these issues and would try to put into perspective the exchange criteria the Land Board is currently working on and a concept of land banking. She handed out an executive summary from the report John Duffield, who owns Bioeconomics, did for the state (exhibit 2) after incorporation was made last session, and talks about land exchanges. She said the State Land Board is currently working on trying to streamline the exchange criteria that a private land owner would have to go through in order to exchange their state land for private land. There has been guidelines in the past but not a set of minimum criteria that a person proposing an exchange would have to go through. The Dept. of State Lands could then review a proposal, and if it did not meet the minimum criteria they could send it back to the person before it ever gets to the Land Board, asking for renegotiation and relieve the Land Board of the extra review and paper work.

Ms. Quinlan said another concept the Land Board has been interested in is that of land banking. Under this concept, the state would sell state land but the money from that sale would be held in an account and used to purchase other land that would generate revenue for schools. Superintendent Keenan is not in favor of just selling lands and putting that money into accounts. She believes it is important to hold on to the land and the physical property because it creates the diversity of revenue sources for schools that is needed in this state.

Ms. Quinlan commented on the staff to do this study. The staff of State Lands is already tight and there has been criticism about not enough land being proposed for timber sales, etc. This would impose one more duty for either the Land Board staff or the Dept. of State Lands, and she believed the committee should be aware there would be a cost involved. The good part of this resolution is that it looks at putting land back into private ownership that will generate property taxes for schools and local government services. She said this becomes more critical when there is a bill coming out of the House that proposes to eliminate state lands equalization payments. She mentioned Daniels County, where the state distributes \$265,000 a year in State Land Equalization payments which is a payment in lieu of taxes, if they no longer receive that money and do not have the land in private property, they will lose in both accounts.

Don Waldron, MREA (Montana Rural Education Association) said in the past they have been on record as supporting a little more freedom to better manage and maximize our return of these lands and they support this resolution for the same reason.

Eric Feaver, MEA (Montana Education Association), said they rise in support of this resolution. He pointed out this was a resolution and did not have much impact. We are in a position where we do not have access to a sales tax in the foreseeable future, our income tax is in jeopardy, and he was not certain in the next decade there would even be a property tax. In looking at the shape of things to come, holding things like our school lands sacrosanct on a 1% rate of return, may not be the best way of doing business. He urged the committee to give a do pass recommendation to this resolution.

Jim Peterson, Montana Stock Growers Association, said he believes there is some merit in looking into this issue. It is not as simple as selling it, but there are probably very valid circumstances, where the sale of state land might be an isolated section in the middle of a ranch, and would be a "win-win" situation for both the private land owner and for the state of Montana. He said there are other instances, such as in Daniels County, where the sale of land would not make sense at all.

Rusty Harper, representing the State Auditor's office said Mark O'Keefe is a member of the State Land Board. He said Mr. O'Keefe is in favor of this resolution, but with an amendment to take out the part about selling. Mr. O'Keefe agrees entirely on the philosophy and the language in the resolution as to land exchange in regard to what it could accomplish. This could go a long way to not resolving, but greatly lessening the access problems. He said Mr. O'Keefe is not opposed to looking at the sales, but they may or may not help the trust fund in the long run. Lands are going to be increasing in value in the next 20 to 50 years in Montana. If the advice of the Advisory Council is taken seriously by the Land Board, and raises fees, income will likely go up. He agreed with Ms. Quinlan that simply passing the

resolution would help the debate, but does not mean anything will happen wholesale on selling or on exchanges because the Department does not have the personnel. We will have to find a mechanism for funding that and it probably needs to happen outside the regular budget and we will need to put it together before much is accomplished.

Bob Anderson, Montana School Boards Association, said they support this resolution. Their only concern would be how the revenue would be distributed, and would support the resolution.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: Senator Fritz said opponents have said the State Land Commissioners do not have the staff or the budget to engage in any wholesale bureaucratic work and said the resolution on page 2, lines 20-21, imposes a pretty stiff administrative burden on that Board. They have to document reasons why any particular state lands have not been sold. He asked the sponsor how they were going to sell or exchange lands and bureaucratically administratively documents as to why every other piece of state land in Montana has not been sold. Senator Toews said on the second page there is an assumption there would be a 5% selling cost on property. The revenue is there and you do not have to go back into the general fund budget nor raise more funds to pay state lands. They are already entitled to pay these fees and would start small with something that is manageable, you would wait until a lease has terminated, and you are not going to do this in one grandiose scheme of things. He pointed out if ten pieces of land every week were sold it would take 30 years to sell off all the state land. In regard to documenting the reason for not selling state lands, we do a lot of things "just cuz" and if they are doing something "just cuz" why not put it in a folder for that plot of land.

Senator Stang said he would agree with the Auditor's office on the sale of lands. He gave an example of an isolated parcel that has no access and asked what is to prevent anyone except the person who has the lease or ownership of the property, from putting in a minimum or below minimum bid and getting the property. He said a lot of this is in eastern Montana where it is wide open and flat, but in western Montana, what is to prevent someone from buying a strip of land that has all access to the forest land behind it and preventing sportsmen from getting to that land. He said this has already occurred in numerous areas in western Montana already. George Schenk, Atty Gen. office said if you have land you cannot get to already, the value of the property is minimal anyway. There is no thing as "no access". That is a misnomer and is used quite freely, but you cannot withhold access to property. You may have to buy access or pay

for the damages of going through the property, but by law you have access to the property and you cannot hold people off the property.

Chair Blaylock asked the sponsor what his answer was to selling these lands, and as Mr. Clinch pointed out it is in the constitution, if you sell any of the lands that money cannot be put aside to buy a big ranch or block. That money has to go into the permanent school trust fund. That money will not be available to put together the scheme of buying a large block of land. Senator Toews said he believed it could be done but would take a little more creativity than is being done now. He suggested the possibility of a pre-sale agreement for cash and purchase as well as sale of other land prior to putting the land on the market. We would sell the property and transfer those funds to the purchase, he said he believed this would actually be a land exchange.

Senator Stang said it appears from what Ms. Quinlan said that the State Land Board is already looking at doing some of these things and asked Mr. Clinch if they cannot offer the sale or trade of state land now. Mr. Clinch said that is correct. It is the result of some of the applications we received that we began to develop more comprehensive criteria to evaluate exchanges. He told of several exchanges they are currently evaluating and said currently the statutes allow the Land Board to sell state land with the exception of classified forest land as well as other stipulations in regard to tracts of land that are along navigable waterways. Other than that the Land Board currently has the authority to proceed much along the way this bill is intending.

Senator Stang asked why we need a resolution to encourage them to do what they already have the authority to do. Mr. Clinch said he assumed the purpose of the resolution is give increased emphasis to the Land Board to act in a more prioritized fashion along these lines.

Senator Stang pointed out that everyone but Mr. Clinch had talked about staffing problems and asked if he saw a staffing problem with this. Mr. Clinch said the reason he had not responded was they have become relatively used to having the Legislature delegate increased responsibilities without any increased funding and pleas in the past have not been answered. He said the question is correct, even simple exchanges demand a considerable amount of work on the part of department in terms of doing the environmental analysis and other aspects required under MEPA (Montana Environmental Protection Agency). Land appraisals, public hearings on the disposition of the land, etc. is a considerable process and requires more staff time. An isolated 40 acres or so is much smaller, but a process like the Ted Turner land exchange they fully expect that to take in excess of a year just to go through the necessary procedures to consummate the exchange.

Chair Blaylock mentioned SB 424 last time which went through. Sen. Mesaros asked for an advisory committee and he had worked closely with the Montana Stockgrowers Association. Chair Blaylock said the Governor has appointed that advisory committee to the State Land Board and both he and Senator Mesaros are on it. He believed all the things required in this resolution will be very strongly suggested to the State Land Board. He did not know what the end result would be since they would only be advising, which is what this resolution also does. He believes there are a number of state school lands it would be inefficient to try to do anything with, and referred to the 40 acre plots out in the Missouri Breaks that we never get anybody to and we would be better off selling them. In addition, on the Advisory Committee, he would be advising the State Land Board to come to the State Legislature to beef up our Land Commission. He said it is foolish for us to be saying we want more efficiency and a better job done with our state lands and they do not have the people to do it.

Senator Brenden said while a resolution has little impact, if this would push it to get more monies and help all the parties concerned, he would support it.

Senator Yellowtail said he believed there is an implication of this whole process that needs to be aired. Consider if he has a little native family ranch in Montana and happens to be adjacent to one of these state sections, he stands some fighting chance under the present structure of law of having the use of that land. If it is offered for public competitive bid, he could not possibly compete against an oil-rich, out of state absentee neighbor. The direct implication is that the native family ranch in this state will absolutely lose access to the use of state land as we have carefully guarded it over the decades.

Chair Blaylock said no executive action would be taken on this resolution today precisely on the point Senator Yellowtail is making as to whether this should be left in to sell this land. There is a lot of thought which must go into this.

Closing by Sponsor: Senator Toews closed by saying we have this idea that if we sell state land it will all be bought by out of state people with lots of money. Actually, we have 90% of the state already in private hands that is being sold and they will be buying that up as well. He agreed with the state in regard to the permanent trust and was willing to accept the amendments to do so. This concept is not new, and we have to be careful on the idea of rate of return and getting the best use of our land. He pointed out in his family there was a bank holding a family trust that over a period of time had a rate of return of 1%. They took it to court and asked to be their own trustee to get a better rate of return. The Judge ruled the trust was incompetent and withdrew the trust from the bank. If you use the same logic, we could conclude we are not using an acceptable practice and must be careful because some day we will have to account for where

this is going. He did not bring this as a bill because if this legislative body does not want to sell state lands, and it is not the mood of the people to do so, why go through the legal expense, drafting bills, etc. if the will to do so is not present. His aim was that this resolution would state the will of this legislature is that we do something about the state lands issue.

Chair Blaylock said there will be a meeting at 10:30 Monday with SB 30, and because there will be a lot of school board members and school administrators in town that day, we will have a hearing on his school transportation bill. If that bill should pass it would stop all state aid for school bus transportation.

ADJOURNMENT

Adjournment: 12:04 p.m.


SENATOR BLAYLOCK, Chair


SYLVIA KINSEY, Secretary

CB/sk

ROLL CALL

SENATE COMMITTEE EDUCATION AND CULTURAL RESOURCES DATE

12-3-93

[illegible]

1/
SENATE EDUCATION

EXHIBIT NO. 1

DATE 12-3-93

BILL NO. SJR 1

MONTANA STATE LANDS

Total acres 5,172,839

<u>LAND TYPES</u>	<u>ACRES</u>		<u>APPROX. PRESENT VALUE</u>
Timber	500,514	\$1,000/acre	\$500,514,000
Agriculture	559,954	\$ 285/acre	\$159,586,890
Grazing	4,172,371	\$ 75/acre	\$308,427,825
			=====
			\$968,528,715

Total Tracts - 41,000

6% of all lands in Montana

90% of all trust land is common school trust

Gross return on estimated value 1992-1993

	<u>INCOME</u>	
Timber	\$4,562,732	.928%
Agriculture	\$7,660,483	4.8%
Grazing	\$4,178,056	1.36%

*Department of State Lands estimated values 9-2-92

STATE GRAZING LANDS

1,000 Acres NE Montana

	<u>PRESENT</u>	<u>LAND SOLD</u>	<u>CONSOLIDATED</u>
Lease	1,007		2,015
Interest on principle		3,000	
Tax on PILT	(28)	669	(28)
Administration	(197)	(12)	(197)
	=====	=====	=====
	782	3,657	1,790
Return on Investment	1.56%	7.3%	3.6%

Assumptions

\$52,700 less 5% selling cost = \$50,000 net

Interest on principle 6% (Board of Investments)

Administration 1994 budget state lands

Taxes - 371 mills

The current acreage owned by all trusts is 5,131,686 acres. This is approximately 5.5 percent of the total land area of Montana. The largest land trust continues to be the common school trust which today owns 4,597,691 acres or approximately 90 percent of all trust lands. Table 1 details the original 5,863,646 acres granted to Montana by grantee and the current surface acres.

Table 1
Surface Acreage of Original and Remaining Trust Lands by Grantee

<u>Grantee</u>	<u>Original Grant Acres</u>	<u>Remaining Acres</u>
Public School	5,188,000	4,597,691
University of Montana	46,720	17,981
Montana State University - Morrill Grant	90,000	62,977
Montana State University - Second Grant	50,000	32,408
Montana College of Mineral Science & Tech.	100,000	59,606
Eastern and Western Montana Colleges	100,000	62,890
School for the Deaf and Blind	50,000	36,236
Pine Hills School	50,000	68,744
Public Buildings	182,000	186,227
Veteran's Home	1,276	1,276
Montana Agricultural Experiment Station	640	640
Agricultural and Manual Training School	5,000	5,000
State Penitentiary	10	10
TOTAL ACRES	<u>5,863,646</u>	<u>5,131,686</u>

Source: Compiled by the Office of the Legislative Auditor from Department of State Lands records, June 30, 1982.

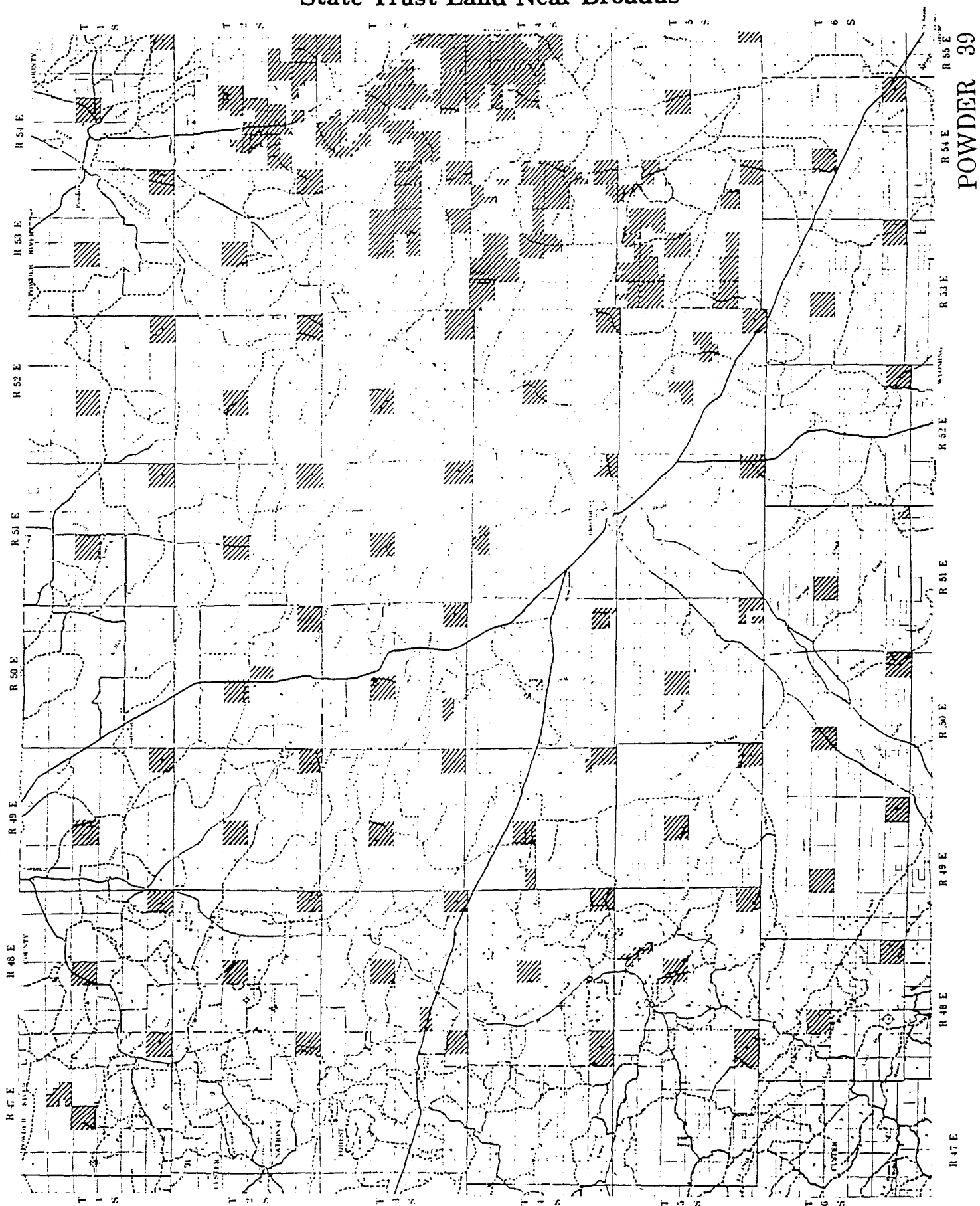
Of the original 5.9 million acres granted, there remains today 5.1 million of surface acres. There are three causes of the 0.7 million acre difference between the land originally granted and the acres that remain today. First, land sales have reduced the trust acreage. Second, land exchanges have both added and subtracted acreage. Third, land was added to the trust through a program in the early 1900's in which funds

Table 2
Ranking of Montana's Counties by the Amount of State Land In the County

Counties	Acreage of State Land	Total County Acreage	Percentage of County Owned by State	Percentage of State Acres
1 Beaverhead	332,640	3,552,640	9.4%	6.45%
2 Chouteau	267,697	2,513,280	10.7%	5.19%
3 Daniels	221,115	923,520	23.9%	4.29%
4 Valley	214,597	3,183,360	6.7%	4.16%
5 Phillips	189,799	3,336,320	5.7%	3.68%
6 Blaine	181,028	2,736,000	6.6%	3.51%
7 Rosebud	177,600	3,223,680	5.5%	3.44%
8 Garfield	167,061	2,851,200	5.9%	3.24%
9 Fergus	156,687	2,714,880	5.8%	3.04%
10 Hill	155,585	1,873,280	8.3%	3.02%
11 Carter	143,199	2,120,320	6.8%	2.78%
12 Powder River	140,860	2,104,320	6.7%	2.73%
13 Custer	140,420	2,403,840	5.8%	2.72%
14 Lewis and Clark	133,821	2,224,640	6.0%	2.60%
15 Flathead	130,630	3,287,680	4.0%	2.53%
16 Madison	124,887	1,668,480	7.5%	2.42%
17 Teton	104,001	1,468,160	7.1%	2.02%
18 Toole	98,842	1,248,000	7.9%	1.92%
19 Judith Basin	98,511	1,203,200	8.2%	1.91%
20 McCone	94,169	2,257,920	4.2%	1.83%
21 Meagher	90,430	1,506,560	6.0%	1.75%
22 Dawson	87,707	1,516,800	5.8%	1.70%
23 Big Horn	87,032	3,214,720	2.7%	1.69%
24 Liberty	86,684	920,960	9.4%	1.68%
25 Richland	80,971	1,330,560	6.1%	1.57%
26 Yellowstone	79,127	1,690,880	4.7%	1.53%
27 Cascade	77,183	1,703,040	4.5%	1.50%
28 Prairie	76,423	1,107,200	6.9%	1.48%
29 Musselshell	75,970	1,207,680	6.3%	1.47%
30 Wheatland	72,778	908,800	8.0%	1.41%
31 Missoula	69,575	1,671,680	4.2%	1.35%
32 Fallon	68,093	1,045,120	6.5%	1.32%
33 Lincoln	65,314	2,376,960	2.7%	1.27%
34 Sanders	63,493	1,777,920	3.6%	1.23%
35 Petroleum	63,471	1,059,200	6.0%	1.23%
36 Lake	59,624	956,160	6.2%	1.16%
37 Powell	58,909	1,495,040	3.9%	1.14%
38 Pondera	56,730	1,052,800	5.4%	1.10%
39 Gallatin	52,176	1,610,880	3.2%	1.01%
40 Golden Valley	48,291	752,640	6.4%	0.94%
41 Sweet Grass	47,077	1,177,600	4.0%	0.91%
42 Sheridan	45,787	1,084,160	4.2%	0.89%
43 Stillwater	45,161	1,148,160	3.9%	0.88%
44 Carbon	42,994	1,322,240	3.3%	0.83%
45 Treasure	37,364	630,400	5.9%	0.72%
46 Jefferson	34,255	1,057,280	3.2%	0.66%
47 Park	33,134	1,852,800	1.8%	0.64%
48 Wibaux	32,670	569,600	5.7%	0.63%
49 Ravalli	30,845	1,524,480	2.0%	0.60%
50 Broadwater	24,509	763,520	3.2%	0.48%
51 Mineral	21,957	782,080	2.8%	0.43%
52 Roosevelt	19,944	1,526,400	1.3%	0.39%
53 Granite	18,718	1,109,120	1.7%	0.36%
54 Silver Bow	13,264	457,600	2.9%	0.26%
55 Glacier	8,312	1,896,960	0.4%	0.16%
56 Deer Lodge	7,656	473,600	1.6%	0.15%

EMDID 1
12-3-93
SSR 1

State Trust Land Near Broadus



Source: Bureau of Land Management Map, 1978.
Illustration 4

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SENATE EDUCATION
EXHIBIT NO. 2
DATE 12-3-93
BILL NO. SJR1

FINAL REPORT

Economic Analysis of the Values of Surface Uses of State Lands

Task 2

(Three final reports bound in this volume.)

Analysis of Cabin Lease Rates

Montana Outfitter Survey: Land Use Fees and Trip Characteristics

Survey of Western State Land Managers

Report for Montana Department of State Lands
January 1993

Bioeconomics, Inc.
250 Station Drive
Missoula, MT 59801

EXECUTIVE SUMMARY

Introduction

This report describes the results of a survey of land managers in the state lands departments of 22 western states. The purpose of this survey was to examine surface land management and land use practices used by other western states as one approach to examining policy options for state lands management in Montana. The focus here is on grazing, cropland, commercial, recreational and cabin uses. Additionally, some generic issues are addressed, including interpretation of the constitutional mandate that guides state lands management and choices concerning sales, acquisition and exchanges of lands. This study is one element of a larger project to examine values and procedures for obtaining fair market value for surface land uses of school trust lands in Montana.

The survey was conducted during June-August 1992 by James Boyer.

In this report we suggest possible changes that may have the potential for increasing the revenues achieved on state lands. Our focus is on highlighting policy options that may be worthy of further consideration. A comparison of alternative approaches to management across states is in some ways simplistic. Circumstances, institutional setting, market prices for resources and resource qualities will vary considerably from state to state. One can not simply assert that because a given policy works in one state, that it will work the same way in Montana. Nonetheless, there is a great deal to be learned by looking at the experience in other states. At a minimum, examining management approaches in other states greatly helps to enrich and define the options that are at least plausible for Montana to consider. This study is not a substitute for studies of fair market value and land management alternatives specific to Montana, but rather is intended to put such studies in a larger perspective.

Policy Options Recommended for Legislative Consideration

In this section we briefly summarize policy options that appear promising for further consideration by the State of Montana. Our criteria for including a given option is simply that it has proved successful in other states and would be likely to increase revenues to Montana's school trust fund. The latter would seem to be a compelling justification for any given change and is consistent with the so-called doctrine of "undivided loyalty". This doctrine is simply the view that state lands should be managed with only one constituency in mind, in this case the beneficiaries of the trust (students in Montana's schools).

We explicitly note our criteria because it is fairly narrow, and (given many current policies) perhaps politically unworkable. In fact, other considerations inevitably arise in setting policy for managing state lands. An important issue tends to be the well-being of the leasor. Certain policy changes may negatively impact, for example, long-time holders of state grazing leases or families that have held cabin leases for many years. Every dollar raised for the trust is

inevitably a dollar extracted from some other constituency. Ultimately only the legislature can make choices that tradeoff the well-being of trust beneficiaries against other groups.

The following summary recommendations are based on trust land administrative policies of other western states. Details on each of these ideas, including identification of the states where the policy is practiced, is provided in the main body of the report.

Funding of State Land Administration

1. State administration of trust lands should be funded from the income generated by the lands (e.g. 1 percent of revenues from state lands), rather than by legislative appropriation. For Montana to cultivate and administer more profitable uses of trust lands, it must increase the breadth and sophistication of the land management services it provides. DSL will need to strengthen internal staff capabilities and, in some instances, retain outside specialists to establish and manage more intense and lucrative uses of trust lands.

The transition from an appropriated budget to a self-funding agency should be phased in over a period of years (e.g. 4 years). Self-funding would allow the State Lands' agency budget and staffing to grow commensurate with the additional income it generates for the trust fund, creating incentive for aggressive-moneymaking land management practices by state personnel. Self-funding of DSL land management activities would also free up general fund monies for other uses.

Land Sales, Exchanges and Purchases

1. DSL should be authorized to use revenues from sales of state lands to purchase replacement lands for the school trust. DSL should then sell off less profitable parcels and use these revenues to purchase new lands which will generate significantly greater long-term income for the trust.

2. The legislature should authorize DSL to establish a "Land Banking," system. Such a land bank would allow income from sales of trust lands be placed in an escrow account. Escrow account revenues could subsequently be used to purchase new higher value replacement lands for the trust. If land sale revenues were not used to purchase replacement lands within a specified time, for example 2 years, they would be transferred to the permanent trust fund.

3. The state should execute land purchases and exchanges which consolidate its land holdings. The objective of the land acquisitions should be to create fewer, but significantly larger parcels. In addition, the state should seek holdings which are accessible by public roads. Road access will increase the likelihood of in competitive bidding for agricultural leases and also insure access for recreational users (which should increase sales of state land recreational permits).

4. When land sales are made, the state should receive at least "full market" value for the land. Montana should not sell or exchange mineral rights as part of a sale or exchange of surface lands, except where it is confident that it will acquire mineral rights of equivalent or greater value. The costs and time necessary to accurately evaluate subsurface mineral development potential would greatly impair sales and exchanges of surface lands.

5. The state should not sell state trust lands at below market value to local governments or schools. State lands within urbanizing areas are potentially the most profitable surface rights belonging to the school trust. Selling this land could result in major long-term loss of income for the trust. The only way the state should sell these properties if it is fully compensated for the "full market value" of the land, based on its "highest and best use".

Agricultural Lands

1. In some states, minimum grazing and cropland lease fees are set at the rates for comparable privately owned land. Minimum rates can be based on USDA surveys of land rents within an agricultural region. Adjustment of fees could be considered for the absence of fencing and other factors which cause operation costs to be higher on public lands. States with much higher AUM rates than Montana continue to lease all of their state lands.

States which base grazing fees on actual studies of lease rates for comparable private lands tend to have higher lease rates than states using formula systems. Where states use market comparisons to set lease rates, they are able to vary minimum fees to account for regional and local differences in costs of ranching and market conditions. Montana, and other states which use formulas to set minimum grazing fees, set minimum fees to accommodate for worst case statewide grazing conditions. This approach undervalues the state's productive grazing lands.

2. Where states have been able to encourage competitive bidding for grazing and cropland leases, they tend to achieve considerably higher rents from their leases. State leases should be awarded to the highest bid at public auction. Montana should diligently advertise when leases are up for bid. States which have eliminated the preference right system (for lease renewal) tend to have higher lease rates. Leaseholder preference rights have the effect of discouraging competition for leases and have been found to be unconstitutional in some other states.

3. Based on the experience in other states, cropland leases based on cash rents appear to yield higher revenues than crop share systems. Cash rents could be a fixed payment, irrespective of year-to-year use of land or land productivity. Montana and the few other states which are still using crop shares are unable to effectively monitor production on state tracts. On the other hand, it is possible that the "honor system" is working.

4. The state could sell or exchange its less profitable agricultural parcels. The focus should be on selling or exchanging state lands where competitive bidding for grazing or cropland

leases is unlikely (these are often lands which are not accessible by public roads). Montana receives only about \$1.00 per acre per year for grazing leases (4.3 million acres). As a simplified example, selling land at even \$50 an acre and investing revenues at 6 percent would produce three times the states current annual return. (These are conservative estimates of sale prices and investment returns.) This issue would, of course, require detailed study.

5. The state should use land exchanges and purchases to acquire large grazing and cropland tracts that can be leased as single agricultural units. Larger land parcels are more likely to attract competitive bidding. The state should strive to acquire agricultural lands which are accessible by public roads, in order to increase the likelihood of competitive bidding for leases.

6. The legislature should require that the state trust receive all or nearly all of the "sandwich" profits resulting from the subleasing of trust lands. When leaseholders are able to profit from subleases, it is apparent that state agricultural land leases are being awarded at less than market value.

Commercial Land Development

1. Some states aggressively pursue commercial development where this is the highest and best use of a given tract of state land. DSL field offices could conduct assessments of all state owned lands for the purpose of identifying parcels with significant potential for commercial, residential, or other higher return uses. The DSL could develop and implement long-range plans for encouraging commercial and other land uses which increase trust income.

2. The DSL could use revenues from less profitable state tracts to purchase replacement parcels with commercial development potential. Where it is advantageous for the trust, the state could also acquire ownership of commercial improvements located on state lands, such as golf courses and even major buildings.

3. Experience is mixed in other states with regard to development of single family homes, due to the high costs of administering such programs and the problems of homeowners obtaining financing for construction on leased property. It appears that the state should sell properties suitable for single family home development rather than attempt to develop and lease these properties to individual home owners. Some states are successfully leasing property for apartment-type development, and Montana could consider this option where appropriate.

4. The state should concentrate resources on development of a few large commercial projects in lieu of numerous small projects. By implementing a few large projects a year, the state will minimize its administrative cost and maximize trust fund profits.

5. Some states receive an annual rent of 8 to 10 percent of the market value its commercial lands and as well as a small percent of the gross sales (1-2 percent) for large commercial projects. This could be a target return for Montana.

6. The state should coordinate land use planning with local governments. Local government planning and public works agencies should be involved in the analysis of land use alternatives, land use planning, and implementation of transitions to commercial and other high value uses of state lands.

Recreational Uses

1. Where the state holds publicly accessible parcels containing potentially productive wildlife and fish habitat, it should implement land management practices which enhance hunting and fishing resources. This practice will likely increase sales of state land recreational permits and also increase guiding permit sales to outfitters.

2. The state should consolidate trust land holdings to create larger, more publicly accessible tracts. This is also likely to increase recreation permit sales and permit sales to outfitters.

Cabin Leases

1. Montana DSL should carefully plan for and implement development of additional lands suitable for recreational home sites. The state should allow only developments which are compatible with its overall plans for an area. The state should practice the clustering of new leases in order to maximize revenues, minimize environmental effects, and provide for administrative efficiency. Commercial leases should be allowed where they would generate additional revenue for the trust, provided they are compatible with the state's overall development plans for an area. The Department of State Lands should coordinate its cabin lease plans with activities of other local, state, and federal government agencies.

2. Due to increasing market values for Western Montana recreational properties, the DSL, Department of Revenue, and the legislature will likely experience pressures to reset appraisal values and reduce the lease rate. Yearly rents for cabin site leases are currently set as 3 1/2 percent of appraised value, as determined by the Montana Department of Revenue. In Minnesota, the rate is 5 percent, but in Idaho 2 1/2 percent. If upcoming DOR appraisals accurately reflect selling prices for comparable privately owned recreation properties, many existing lease holders will soon be experiencing major increases in their annual rents. Instead of paying \$250 a year, annual rents on some properties will be \$1,000 to \$3,000 a year. The higher rents are likely to create financial burden for some lease holders. Nonetheless, the higher lease rates will more accurately reflect the true value of the land being leased from the state.

3. As with agricultural leases, the trust should receive profits resulting from the subleasing of state owned cabin leases. As with agricultural lease, any subleasing of a cabin site could

receive formal approval from the state, to insure the trust is being properly compensated for the value of its land.

Using State Lands for Environmental Mitigation

1. Trust lands could be made available for purchase or lease by public and private entities seeking lands to mitigate environmental impacts. Construction of highways, transmission lines, and other major public and private facilities often require public acquisition and subsequent preservation of lands with particular environmental qualities. The trust has considerable holdings which could be used for this purpose. The state should receive "full market value," for lands used for environmental mitigation.

DATE 12-3-93

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: SJR 1

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Check One

Name	Representing	Bill No.	Support	Oppose
George Schunk	Atty Gen	SJR 1		
Don Selini	Robert T. Moore ^{with} FORSTEL	SJR 1		
Rusty Hays	St. Auditor	SJR 1	<input checked="" type="checkbox"/> with amendment	
Bob Anasco	MSBA	SJR 1	<input checked="" type="checkbox"/>	

VISITOR REGISTER

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