

1 *Senate* BILL NO. *264*  
 2 INTRODUCED BY *McCallum, Robert Graham,*  
 3 *Nathan Thier*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BOARD OF  
 5 COUNTY COMMISSIONERS TO CLASSIFY AND MANAGE COUNTY OWNED  
 6 LANDS AND TO RETAIN, LEASE, OR DISPOSE OF INTERESTS IN SUCH  
 7 LANDS; REPEALING SECTIONS 84-4193, 84-4194, AND 84-4198,  
 8 R.C.M. 1947."

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

11 Section 1. Purpose. The purpose of this act is to  
 12 authorize a board of county commissioners to establish  
 13 criteria for the classification of unsold tax deed lands and  
 14 other county owned lands, however acquired, and to classify  
 15 such lands for retention or disposal in accordance with such  
 16 criteria so that county owned lands shall be used in the  
 17 best interests of the county and for the public benefit and  
 18 welfare, to encourage the application of a "multiple use"  
 19 principle in the utilization and administration of such  
 20 lands so that the administration of lands classified for  
 21 retention can be coordinated with land use planning, zoning,  
 22 grazing and agricultural land improvement, fish and wildlife  
 23 habitat improvement and enhancement, recreation, access to  
 24 other intermingled or adjacent multiple use areas, and for  
 25 any other appropriate uses which are in the best interests

1 of the county or which will advance the public benefit and  
 2 welfare, and to grant sufficient powers to the board of  
 3 county commissioners to enable the board to achieve the  
 4 foregoing purpose.

5 Section 2. Definitions. As used in this act:

6 (1) "Multiple use" means the management of the various  
 7 surface and subsurface resources so that they are utilized  
 8 in the combination that will best meet the present and  
 9 future needs of the county; the most judicious use of the  
 10 land for some or all of these resources or related services  
 11 over areas large enough to provide sufficient latitude for  
 12 periodic adjustments in use to conform to changing needs and  
 13 conditions; the use of some land for less than all of the  
 14 resources; and harmonious and coordinated management of the  
 15 various resources, each with the other, without impairment  
 16 of the productivity of the land, with consideration being  
 17 given to the relative values of the various resources, and  
 18 not necessarily the combination of uses that will give the  
 19 greatest dollar return or the greatest unit output; and the  
 20 use of said lands, where possible, to afford access in  
 21 multiple use areas to federal and state lands.

22 (2) "Board" means the board of county commissioners.

23 Section 3. There is a new R.C.M. section numbered  
 24 84-4192.1 that reads as follows:

25 84-4192.1. Powers and duties of board regarding county

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lands. (1) Any lands previously or hereafter offered for sale by the county commissioners of any county under section 84-4190, and not sold at such sale, or any lands concerning which the preferential right to purchase has been terminated and barred under the provisions of section 84-4190, and any other lands owned by the county, however acquired may, in the discretion and at the election of the board, be administered by the board under this section. The board may, in its discretion, elect to exercise all or any of the powers and authority granted to it by this act, and to the extent it so elects, the provisions of this act shall be controlling and shall supersede all conflicting provisions of other acts. The board may:

(a) establish criteria for the classification of such lands;

(b) classify such lands, surface and subsurface, for retention or disposal, and for such purposes and uses as the board may determine are in the best interests of the county, and for the public benefit and welfare, and in so doing, the board shall consider the multiple use potential of said lands, and the potential of said lands as access to other intermingled or adjacent multiple use lands or areas;

(c) grant permits or licenses to use the lands in such manner as the board may determine and in the best interests of the county, and for the public benefit and welfare, fix

the terms, conditions, and price of such permits or licenses;

(d) enter into cooperative use agreements with individuals, groups of individuals, corporations, associations, cooperative state grazing districts, the state of Montana, the United States of America, and any state or federal subdivision, department, bureau, commission, or agency, including, but not limited to, the Montana department of fish and game, the bureau of land management, conservation districts, and the Montana department of state lands;

(e) trade or exchange such lands with individuals or other governmental agencies, state or federal, such trades or exchanges to be made pursuant to terms, conditions, and procedures adopted by the board;

(f) grant leases of the lands for such purposes and uses as the board may determine are in the best interests of the county, including the exploration and development of oil, gas, and other minerals, and to fix the terms and conditions of such leases and the consideration to be paid by any lessee, and when for oil, gas, or other mineral exploration or development to reserve to the county a royalty interest as fixed by agreement between the board and the lessee;

(g) sell such lands or any part thereof pursuant to

1 the procedures hereinafter provided;

2 (h) in trading, exchanging, or selling such lands, to  
3 make such reservations in favor of the county as the board  
4 considers proper, including, but not limited to, reserving  
5 to the county of any or all oil, gas, or other mineral or  
6 royalty interests, sand, gravel, clay, or other material,  
7 right-of-ways or easements for roads, utility lines, and  
8 other purposes or uses; and

9 (i) promulgate rules and regulations for the  
10 administration of such lands.

11 (2) Leases, permits, and licenses shall not extend for  
12 a period longer than ten (10) years, except that oil, gas,  
13 and other mineral leases may be for a term of ten (10) years  
14 and as long thereafter as oil, gas, or other minerals are  
15 produced in commercial quantities. However, the board may  
16 provide for the renewal of such leases, permits, and  
17 licenses.

18 (3) The board may authorize a lessee to place upon the  
19 lands improvements directly related to conservation of the  
20 land or necessary for proper utilization of the land for the  
21 purposes for which it is leased. Whenever another person  
22 becomes the lessee of such land, such other persons shall  
23 pay to the former lessee the reasonable value of such  
24 improvements at the time the new lessee takes possession of  
25 such lands. In case the former lessee and the new lessee

1 are unable to agree on the reasonable value of such  
2 improvements, then such value shall be ascertained by three  
3 (3) arbitrators, one (1) of which shall be appointed by the  
4 former lessee, one (1) by the new lessee and the third by  
5 the two (2) arbitrators so appointed. The reasonable  
6 compensation that such arbitrators may charge for their  
7 services shall be paid in equal shares by the former lessee  
8 and the new lessee. The value of the improvements so  
9 ascertained and fixed by the arbitrators shall be binding on  
10 both parties; provided, however, that if either party is  
11 dissatisfied with the valuation so fixed, the dissatisfied  
12 party may, within ten (10) days of being notified of the  
13 arbitrators' decision, appeal from that decision to the  
14 board, and the decision of the board shall be final. Any  
15 costs incurred by the board in reexamining the decision of  
16 the arbitrators shall be borne by the former lessee and the  
17 new lessee in such proportions as the board may determine.  
18 The former lessee may, at the former lessee's option, remove  
19 or dispose of the movable improvements, but the same must be  
20 removed within sixty (60) days from the date of the  
21 expiration of the lease and, if not so removed, then all  
22 such improvements shall become the property of the county  
23 unless the board for good cause grants additional time for  
24 the removal thereof. Before a lease is issued to the new  
25 lessee, the new lessee shall show that the former lessee has

1 been paid the value of the improvements as agreed upon by  
2 them or as fixed and determined as herein provided, or that  
3 the former lessee has elected to remove the improvements.

4 (4) The provisions of subsection (3) shall apply to  
5 the holders of permits or licenses for the use of county  
6 lands.

7 (5) The board shall make an order for public auction  
8 of any lands classified for sale, such sale to be held at  
9 the front door of the county courthouse. Notice of the sale  
10 shall be given by publishing a notice in a newspaper  
11 published in the county once a week for three (3)  
12 consecutive weeks preceding the date fixed for the sale.  
13 The first publication of the notice shall be made not more  
14 than thirty (30) days prior to the sale date. If there is  
15 no newspaper published in the county, the notice shall be  
16 given by posting copies at three (3) of the most public  
17 places in the county at least twenty (20) days, but not more  
18 than thirty (30) days, preceding the sale date. The notices  
19 shall describe the land to be sold and the appraised value  
20 thereof and no sale may be made for less than the appraised  
21 value thereof as fixed by the board. The sale shall be for  
22 cash, or on such terms as the board may approve, provided at  
23 least twenty percent (20%) of the purchase price shall be  
24 paid in cash. The lessee, permittee, or licensee of any of  
25 the lands, then subject to a lease, permit, or license,

1 shall have a preference to purchase the lands at an amount  
2 equal to that bid by the highest bidder at the sale.

3 (6) Any of the lands classified for exchange by the  
4 board may be exchanged for any other lands pursuant to such  
5 procedures as the board may adopt, and all such exchanges  
6 must be for equivalent value. If the lands sought to be  
7 exchanged are not of equivalent value, any difference may be  
8 equalized by a cash payment.

9 (7) The board may appoint not less than three (3) nor  
10 more than five (5) residents of the county to act as an  
11 advisory committee to the board in implementing the  
12 provisions of this act. The duties of the advisory  
13 committee are to be established by the board. The board may  
14 provide for the payment of expenses incurred by the advisory  
15 committee in the carrying out of their duties.

16 (8) When considered in the best interests of the  
17 county, the board may enter into agreements for the pooling  
18 of acreage with others for unit operations for the  
19 production of oil or gas, or both, and for the apportionment  
20 of oil or gas royalties, or both, on acreage or other  
21 equitable basis, and may modify existing leases and leases  
22 hereafter entered into with respect to delay rentals, delay  
23 drilling penalties and royalties in accordance with such  
24 pooling agreements, and such unit plans of operation;  
25 provided, however, that such agreements shall not change the

1 percentages of royalties to be paid to the county from the  
2 percentages as fixed in its leases.

3 (9) All proceeds from any use or disposition of lands  
4 pursuant to the terms of this act shall be apportioned and  
5 distributed according to the provisions of section 84-4195.

6 Section 4. Severability. It is the intent of the  
7 legislature that if a part of this act is invalid, all valid  
8 parts that are severable from the invalid part remain in  
9 effect. If a part of this act is invalid in one (1) or more  
10 of its applications, the part remains in effect in all valid  
11 applications that are severable from the invalid  
12 applications.

13 Section 5. Sections 84-4193, 84-4194, and 84-4198,  
14 R.C.M. 1947, are repealed.

-End-

Approved by Committee  
on Taxation

SENATE BILL NO. 264

INTRODUCED BY MCCALLUM, KOLSTAD, GRAHAM,

HAZELBAKER, THIESSEN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO CLASSIFY AND MANAGE COUNTY OWNED LANDS AND TO RETAIN, LEASE, OR DISPOSE OF INTERESTS IN SUCH LANDS; REPEALING SECTIONS 84-4193, 84-4194, AND 84-4198, R.C.M. 1947."

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Section 1. Purpose. The purpose of this act is to authorize a board of county commissioners to establish criteria for the classification of unsold tax deed lands and other county owned lands, however acquired, and to classify such lands for retention or disposal in accordance with such criteria so that county owned lands shall be used in the best interests of the county and for the public benefit and welfare, to encourage the application of a "multiple use" principle in the utilization and administration of such lands so that the administration of lands classified for retention can be coordinated with land use planning, zoning, grazing and agricultural land improvement, fish and wildlife habitat improvement and enhancement, recreation, access to other intermingled or adjacent multiple use areas, and for

any other appropriate uses which are in the best interests of the county or which will advance the public benefit and welfare, and to grant sufficient powers to the board of county commissioners to enable the board to achieve the foregoing purpose.

Section 2. Definitions. As used in this act:

(1) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the county; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output; and the use of said lands, where possible, to afford access in multiple use areas to federal and state lands.

(2) "Board" means the board of county commissioners.

Section 3. There is a new R.C.M. section numbered 84-4192.1 that reads as follows:

SECOND READING

1       84-4192.1. Powers and duties of board regarding county  
 2 lands. (1) Any lands previously or hereafter offered for  
 3 sale by the county commissioners of any county under section  
 4 84-4190, and not sold at such sale, or any lands concerning  
 5 which the preferential right to purchase has been terminated  
 6 and barred under the provisions of section 84-4190, and any  
 7 other lands owned by the county, however acquired may, in  
 8 the discretion and at the election of the board, be  
 9 administered by the board under this section. The board  
 10 may, in its discretion, elect to exercise all or any of the  
 11 powers and authority granted to it by this act, and to the  
 12 extent it so elects, the provisions of this act shall be  
 13 controlling and shall supersede all conflicting provisions  
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 21 board shall consider the multiple use potential of said  
 22 lands, and the potential of said lands as access to other  
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 25 manner as the board may determine and in the best interests

1 of the county, and for the public benefit and welfare, fix  
 2 the terms, conditions, and price of such permits or  
 3 licenses;

4       (d) enter into cooperative use agreements with  
 5 individuals, groups of individuals, corporations,  
 6 associations, cooperative state grazing districts, the state  
 7 of Montana, the United States of America, and any state or  
 8 federal subdivision, department, bureau, commission, or  
 9 agency, including, but not limited to, the Montana  
 10 department of fish and game, the bureau of land management,  
 11 conservation districts, and the Montana department of state  
 12 lands;

13       (e) trade or exchange such lands with individuals or  
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 22 by any lessee, and when for oil, gas, or other mineral  
 23 exploration or development to reserve to the county a  
 24 royalty interest as fixed by agreement between the board and  
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15 board, and the decision of the board shall be final. Any  
16 costs incurred by the board in reexamining the decision of  
17 the arbitrators shall be borne by the former lessee and the  
18 new lessee in such proportions as the board may determine.  
19 The former lessee may, at the former lessee's option, remove  
20 or dispose of the movable improvements, but the same must be  
21 removed within sixty (60) days from the date of the  
22 expiration of the lease and, if not so removed, then all  
23 such improvements shall become the property of the county  
24 unless the board for good cause grants additional time for  
25 the removal thereof. Before a lease is issued to the new



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5 board may be exchanged for any other lands pursuant to such  
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11 more than five (5) residents of the county to act as an  
12 advisory committee to the board in implementing the  
13 provisions of this act. The duties of the advisory  
14 committee are to be established by the board. The board may  
15 provide for the payment of expenses incurred by the advisory  
16 committee in the carrying out of their duties.

17 (8) When considered in the best interests of the  
18 county, the board may enter into agreements for the pooling  
19 of acreage with others for unit operations for the  
20 production of oil or gas, or both, and for the apportionment  
21 of oil or gas royalties, or both, on acreage or other  
22 equitable basis, and may modify existing leases and leases  
23 hereafter entered into with respect to delay rentals, delay  
24 drilling penalties and royalties in accordance with such  
25 pooling agreements, and such unit plans of operation;

1 provided, however, that such agreements shall not change the  
2 percentages of royalties to be paid to the county from the  
3 percentages as fixed in its leases.

4 (9) All proceeds from any use or disposition of lands  
5 pursuant to the terms of this act shall be apportioned and  
6 distributed according to the provisions of section 84-4195.

7 SECTION 4. THERE IS A NEW R.C.M. SECTION THAT READS AS  
8 FOLLOWS:

9 THE SALE, EXCHANGE, LEASE OR ISSUANCE OF LICENSES AND  
10 PERMITS OF COUNTY LANDS AS PROVIDED IN THIS ACT SHALL EXTEND  
11 ONLY TO THOSE LANDS NOT NECESSARY TO THE CONDUCT OF THE  
12 COUNTY'S BUSINESS.

13 (2) THE COUNTY COMMISSIONERS SHALL, BEFORE THEY SELL,  
14 EXCHANGE OR LEASE LANDS UNDER THE PROVISIONS OF THIS ACT,  
15 CAUSE SUCH LANDS TO BE APPRAISED TO DETERMINE THE VALUE OF  
16 SUCH LANDS FOR THE PURPOSE OF SUCH SALE, EXCHANGE OR LEASE.  
17 FOR THE PURPOSES OF THIS SUBSECTION A RENEWAL OF THE LEASE  
18 SHALL BE CONSIDERED AN INITIAL LEASE, IF THE RENEWAL IS FOR  
19 A TERM EXCEEDING FIVE (5) YEARS.

20 Section 5. Severability. It is the intent of the  
21 legislature that if a part of this act is invalid, all valid  
22 parts that are severable from the invalid part remain in  
23 effect. If a part of this act is invalid in one (1) or more  
24 of its applications, the part remains in effect in all valid  
25 applications that are severable from the invalid

1 applications.

2 Section 6. Sections 84-4193, 84-4194, and 84-4198,  
3 R.C.M. 1947, are repealed.

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HAZELBAKER, THIESSEN

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any other appropriate uses which are in the best interests of the county or which will advance the public benefit and welfare, and to grant sufficient powers to the board of county commissioners to enable the board to achieve the foregoing purpose.

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(1) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the county; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output; and the use of said lands, where possible, to afford access in multiple use areas to federal and state lands.

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4 84-4190, and not sold at such sale, or any lands concerning  
5 which the preferential right to purchase has been terminated  
6 and barred under the provisions of section 84-4190, and any  
7 other lands owned by the county, however acquired may, in  
8 the discretion and at the election of the board, be  
9 administered by the board under this section. The board  
10 may, in its discretion, elect to exercise all or any of the  
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12 extent it so elects, the provisions of this act shall be  
13 controlling and shall supersede all conflicting provisions  
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22 lands, and the potential of said lands as access to other  
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25 manner as the board may determine and in the best interests

1 of the county, and for the public benefit and welfare, fix  
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3 licenses;

4       (d) enter into cooperative use agreements with  
5 individuals, groups of individuals, corporations,  
6 associations, cooperative state grazing districts, the state  
7 of Montana, the United States of America, and any state or  
8 federal subdivision, department, bureau, commission, or  
9 agency, including, but not limited to, the Montana  
10 department of fish and game, the bureau of land management,  
11 conservation districts, and the Montana department of state  
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19 the county, including the exploration and development of  
20 oil, gas, and other minerals, and to fix the terms and  
21 conditions of such leases and the consideration to be paid  
22 by any lessee, and when for oil, gas, or other mineral  
23 exploration or development to reserve to the county a  
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7 royalty interests, sand, gravel, clay, or other material,  
8 right-of-ways or easements for roads, utility lines, and  
9 other purposes or uses; and

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12 (2) Leases, permits, and licenses shall not extend for  
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14 and other mineral leases may be for a term of ten (10) years  
15 and as long thereafter as oil, gas, or other minerals are  
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17 provide for the renewal of such leases, permits, and  
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23 becomes the lessee of such land, such other persons shall  
24 pay to the former lessee the reasonable value of such  
25 improvements at the time the new lessee takes possession of

1 such lands. In case the former lessee and the new lessee  
2 are unable to agree on the reasonable value of such  
3 improvements, then such value shall be ascertained by three  
4 (3) arbitrators, one (1) of which shall be appointed by the  
5 former lessee, one (1) by the new lessee and the third by  
6 the two (2) arbitrators so appointed. The reasonable  
7 compensation that such arbitrators may charge for their  
8 services shall be paid in equal shares by the former lessee  
9 and the new lessee. The value of the improvements so  
10 ascertained and fixed by the arbitrators shall be binding on  
11 both parties; provided, however, that if either party is  
12 dissatisfied with the valuation so fixed, the dissatisfied  
13 party may, within ten (10) days of being notified of the  
14 arbitrators' decision, appeal from that decision to the  
15 board, and the decision of the board shall be final. Any  
16 costs incurred by the board in reexamining the decision of  
17 the arbitrators shall be borne by the former lessee and the  
18 new lessee in such proportions as the board may determine.  
19 The former lessee may, at the former lessee's option, remove  
20 or dispose of the movable improvements, but the same must be  
21 removed within sixty (60) days from the date of the  
22 expiration of the lease and, if not so removed, then all  
23 such improvements shall become the property of the county  
24 unless the board for good cause grants additional time for  
25 the removal thereof. Before a lease is issued to the new

1 lessee, the new lessee shall show that the former lessee has  
2 been paid the value of the improvements as agreed upon by  
3 them or as fixed and determined as herein provided, or that  
4 the former lessee has elected to remove the improvements.

5 (4) The provisions of subsection (3) shall apply to  
6 the holders of permits or licenses for the use of county  
7 lands.

8 (5) The board shall make an order for public auction  
9 of any lands classified for sale, such sale to be held at  
10 the front door of the county courthouse. Notice of the sale  
11 shall be given by publishing a notice in a newspaper  
12 published in the county once a week for three (3)  
13 consecutive weeks preceding the date fixed for the sale.  
14 The first publication of the notice shall be made not more  
15 than thirty (30) days prior to the sale date. If there is  
16 no newspaper published in the county, the notice shall be  
17 given by posting copies at three (3) of the most public  
18 places in the county at least twenty (20) days, but not more  
19 than thirty (30) days, preceding the sale date. The notices  
20 shall describe the land to be sold and the appraised value  
21 thereof and no sale may be made for less than the appraised  
22 value thereof as fixed by the board. The sale shall be for  
23 cash, or on such terms as the board may approve, provided at  
24 least twenty percent (20%) of the purchase price shall be  
25 paid in cash. The lessee, permittee, or licensee of any of

1 the lands, then subject to a lease, permit, or license,  
2 shall have a preference to purchase the lands at an amount  
3 equal to that bid by the highest bidder at the sale.

4 (6) Any of the lands classified for exchange by the  
5 board may be exchanged for any other lands pursuant to such  
6 procedures as the board may adopt, and all such exchanges  
7 must be for equivalent value. If the lands sought to be  
8 exchanged are not of equivalent value, any difference may be  
9 equalized by a cash payment. ANY PROCEDURES ADOPTED BY THE  
10 BOARD FOR THE EXCHANGE OF LAND MUST INCLUDE PUBLIC NOTICE AS  
11 PROVIDED UNDER SUBSECTION (5) OF THIS SECTION AND  
12 OPPORTUNITY FOR PUBLIC HEARING ON THE PROPOSED EXCHANGE.

13 (7) The board may appoint not less than three (3) nor  
14 more than five (5) residents of the county to act as an  
15 advisory committee to the board in implementing the  
16 provisions of this act. The duties of the advisory  
17 committee are to be established by the board. The board may  
18 provide for the payment of expenses incurred by the advisory  
19 committee in the carrying out of their duties.

20 (8) When considered in the best interests of the  
21 county, the board may enter into agreements for the pooling  
22 of acreage with others for unit operations for the  
23 production of oil or gas, or both, and for the apportionment  
24 of oil or gas royalties, or both, on acreage or other  
25 equitable basis, and may modify existing leases and leases

hereafter entered into with respect to delay rentals, delay drilling penalties and royalties in accordance with such pooling agreements, and such unit plans of operation; provided, however, that such agreements shall not change the percentages of royalties to be paid to the county from the percentages as fixed in its leases.

(9) All proceeds from any use or disposition of lands pursuant to the terms of this act shall be apportioned and distributed according to the provisions of section 84-4195.

SECTION 4. THERE IS A NEW R.C.M. SECTION THAT READS AS FOLLOWS:

THE SALE, EXCHANGE, LEASE OR ISSUANCE OF LICENSES AND PERMITS OF COUNTY LANDS AS PROVIDED IN THIS ACT SHALL EXTEND ONLY TO THOSE LANDS NOT NECESSARY TO THE CONDUCT OF THE COUNTY'S BUSINESS.

(2) THE COUNTY COMMISSIONERS SHALL, BEFORE THEY SELL, EXCHANGE OR LEASE LANDS UNDER THE PROVISIONS OF THIS ACT, CAUSE SUCH LANDS TO BE APPRAISED BY A QUALIFIED, INDEPENDENT PERSON OR PERSONS WHO MAY BE BUT IS NOT REQUIRED TO BE AN AGENT OF THE STATE DEPARTMENT OF REVENUE, TO DETERMINE THE VALUE OF SUCH LANDS FOR THE PURPOSE OF SUCH SALE, EXCHANGE OR LEASE. FOR THE PURPOSES OF THIS SUBSECTION A RENEWAL OF THE LEASE SHALL BE CONSIDERED AN INITIAL LEASE, IF THE RENEWAL IS FOR A TERM EXCEEDING FIVE (5) YEARS.

SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS

FOLLOWS:

SALE, LEASE OR EXCHANGE OF DEDICATED PARK LANDS.

(1) FOR THE PURPOSES OF THIS ACT, LANDS DEDICATED TO THE PUBLIC USE FOR PARK OR PLAYGROUND PURPOSES UNDER SECTION 11-3864, OR A SIMILAR STATUTE, OR PURSUANT TO ANY INSTRUMENT NOT SPECIFICALLY CONVEYING LAND TO BE A GOVERNMENTAL UNIT OTHER THAN A COUNTY, ARE DEEMED TO BE COUNTY LANDS. A COUNTY MAY NOT SELL, LEASE OR EXCHANGE LANDS DEDICATED FOR PARK OR PLAYGROUND PURPOSES EXCEPT AS PROVIDED UNDER THIS ACT.

(2) PRIOR TO SELLING, LEASING, OR EXCHANGING ANY COUNTY LAND DEDICATED TO PUBLIC USE FOR PARK OR PLAYGROUND PURPOSES, A COUNTY SHALL:

(A) COMPILE AN INVENTORY OF ALL PUBLIC PARKS AND PLAYGROUNDS WITHIN THE COUNTY;

(B) PREPARE A COMPREHENSIVE PLAN FOR THE PROVISION OF OUTDOOR RECREATION AND OPEN SPACE WITHIN THE COUNTY;

(C) DETERMINE THAT THE PROPOSED SALE, LEASE, OR EXCHANGE FURTHERS OR IS CONSISTENT WITH THE COUNTY'S OUTDOOR RECREATION AND OPEN SPACE COMPREHENSIVE PLAN;

(D) PUBLISH NOTICE OF INTENTION TO SELL, LEASE OR DISPOSE OF SUCH LANDS, GIVING THE PEOPLE OF THE COUNTY OPPORTUNITY TO BE HEARD REGARDING SUCH ACTION;

(E) IF THE LAND IS WITHIN AN INCORPORATED CITY OR TOWN, SECURE THE APPROVAL OF THE GOVERNING BODY THEREOF FOR

1 THE ACTION; AND

2 (F) COMPLY WITH ANY OTHER APPLICABLE REQUIREMENTS

3 UNDER THIS ACT.

4 (3) ANY REVENUE REALIZED BY A COUNTY FROM THE SALE,

5 EXCHANGE OR DISPOSAL OF LANDS DEDICATED TO PUBLIC USE FOR

6 PARK OR PLAYGROUND PURPOSES SHALL BE PAID INTO THE PARK FUND

7 AND USED IN THE MANNER PRESCRIBED IN SECTION 11-3864 FOR

8 CASH RECEIVED IN LIEU OF DEDICATION.

9 Section 6. Severability.. It is the intent of the  
10 legislature that if a part of this act is invalid, all valid  
11 parts that are severable from the invalid part remain in  
12 effect. If a part of this act is invalid in one (1) or more  
13 of its applications, the part remains in effect in all valid  
14 applications that are severable from the invalid  
15 applications.

16 Section 7. Sections 84-4193, 84-4194, and 84-4198,  
17 R.C.M. 1947, are repealed.

-End-



March 25, 1975

HOUSE OF REPRESENTATIVES

Committee of the Whole Amendment to SENATE BILL NO. 264,  
third reading copy, as follows:

1. Amend page 10, Section 5, line 3

Following: "DEDICATED TO THE"

Insert: "COUNTY FOR"

AND AS SO AMENDED

BE CONCURRED IN

March 25, 1975

HOUSE OF REPRESENTATIVES

Committee of the Whole Amendment to SENATE BILL NO. 264,  
third reading copy, as follows:

1. Amend page 4, Section 3 (1) (f), line 25

Following: "lessee"

Insert: ", provided any consideration received for lease of the lands shall include an amount equal to the sum realized from the application of levies under sections 75-6912, 75-6913, and 84-3804, R.C.M. 1947, to forty percent (40%) of the full and true value of the lands so leased, and provided further, the county shall pay the equivalent sums as specified in sections 75-6912, 75-6913, and 84-3804, R.C.M. 1947, as if the property leased were taxable property"

AND AS SO AMENDED

BE CONCURRED IN

## SENATE BILL NO. 264

INTRODUCED BY MCCALLUM, KOLSTAD, GRAHAM,

HAZELBAKER, THIESSEN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO CLASSIFY AND MANAGE COUNTY OWNED LANDS AND TO RETAIN, LEASE, OR DISPOSE OF INTERESTS IN SUCH LANDS; REPEALING SECTIONS 84-4193, 84-4194, AND 84-4198, R.C.M. 1947."

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

Section 1. Purpose. The purpose of this act is to authorize a board of county commissioners to establish criteria for the classification of unsold tax deed lands and other county owned lands, however acquired, and to classify such lands for retention or disposal in accordance with such criteria so that county owned lands shall be used in the best interests of the county and for the public benefit and welfare, to encourage the application of a "multiple use" principle in the utilization and administration of such lands so that the administration of lands classified for retention can be coordinated with land use planning, zoning, grazing and agricultural land improvement, fish and wildlife habitat improvement and enhancement, recreation, access to other intermingled or adjacent multiple use areas, and for

any other appropriate uses which are in the best interests of the county or which will advance the public benefit and welfare, and to grant sufficient powers to the board of county commissioners to enable the board to achieve the foregoing purpose.

## Section 2. Definitions. As used in this act:

(1) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the county; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output; and the use of said lands, where possible, to afford access in multiple use areas to federal and state lands.

(2) "Board" means the board of county commissioners.

Section 3. There is a new R.C.M. section numbered 84-4192.1 that reads as follows:

84-4192.1. Powers and duties of board regarding county lands. (1) Any lands previously or hereafter offered for sale by the county commissioners of any county under section 84-4190, and not sold at such sale, or any lands concerning which the preferential right to purchase has been terminated and barred under the provisions of section 84-4190, and any other lands owned by the county, however acquired may, in the discretion and at the election of the board, be administered by the board under this section. The board may, in its discretion, elect to exercise all or any of the powers and authority granted to it by this act, and to the extent it so elects, the provisions of this act shall be controlling and shall supersede all conflicting provisions of other acts. The board may:

(a) establish criteria for the classification of such lands;

(b) classify such lands, surface and subsurface, for retention or disposal, and for such purposes and uses as the board may determine are in the best interests of the county, and for the public benefit and welfare, and in so doing, the board shall consider the multiple use potential of said lands, and the potential of said lands as access to other intermingled or adjacent multiple use lands or areas;

(c) grant permits or licenses to use the lands in such manner as the board may determine and in the best interests

of the county, and for the public benefit and welfare, fix the terms, conditions, and price of such permits or licenses;

(d) enter into cooperative use agreements with individuals, groups of individuals, corporations, associations, cooperative state grazing districts, the state of Montana, the United States of America, and any state or federal subdivision, department, bureau, commission, or agency, including, but not limited to, the Montana department of fish and game, the bureau of land management, conservation districts, and the Montana department of state lands;

(e) trade or exchange such lands with individuals or other governmental agencies, state or federal, such trades or exchanges to be made pursuant to terms, conditions, and procedures adopted by the board;

(f) grant leases of the lands for such purposes and uses as the board may determine are in the best interests of the county, including the exploration and development of oil, gas, and other minerals, and to fix the terms and conditions of such leases and the consideration to be paid by any lessee, and when for oil, gas, or other mineral exploration or development to reserve to the county a royalty interest as fixed by agreement between the board and the lessee, ~~PROVIDED-ANY-CONSIDERATION-RECEIVED-FOR-LEASE-OF~~

1 ~~THE LANDS SHALL INCLUDE AN AMOUNT EQUAL TO THE SUM REALIZED~~  
 2 ~~FROM THE APPLICATION OF LEVIES UNDER SECTIONS 75-6912,~~  
 3 ~~75-6913, AND 84-3884, R.C.M. 1947, TO FORTY PERCENT (40%) OF~~  
 4 ~~THE FULL AND TRUE VALUE OF THE LANDS SO LEASED, AND PROVIDED~~  
 5 ~~FURTHER, THE COUNTY SHALL PAY THE EQUIVALENT SUMS AS~~  
 6 ~~SPECIFIED IN SECTIONS 75-6912, 75-6913, AND 84-3884, R.C.M.~~  
 7 ~~1947, AS IF THE PROPERTY LEASED WERE TAXABLE PROPERTY~~ ,  
 8 PROVIDED THAT LEASE OF LANDS, UNDER THIS ACT, SHALL NOT BE  
 9 MADE FOR A CONSIDERATION LESS THAN AN AMOUNT EQUAL TO THE  
 10 TAXES THESE LANDS WOULD HAVE LEVIED UPON THEM IF THEY WERE  
 11 PRIVATE LANDS, AND THE PROCEEDS OF ANY SUCH LEASE SHALL BE  
 12 APPORTIONED ON THE CURRENT YEAR'S LEVY AS PROVIDED UNDER  
 13 SECTION 84-4195, R.C.M. 1947;

14 (g) sell such lands or any part thereof pursuant to  
 15 the procedures hereinafter provided;

16 (h) in trading, exchanging, or selling such lands, to  
 17 make such reservations in favor of the county as the board  
 18 considers proper, including, but not limited to, reserving  
 19 to the county of any or all oil, gas, or other mineral or  
 20 royalty interests, sand, gravel, clay, or other material,  
 21 right-of-ways or easements for roads, utility lines, and  
 22 other purposes or uses; and

23 (i) promulgate rules and regulations for the  
 24 administration of such lands.

25 (2) Leases, permits, and licenses shall not extend for

1 a period longer than ten (10) years, except that oil, gas,  
 2 and other mineral leases may be for a term of ten (10) years  
 3 and as long thereafter as oil, gas, or other minerals are  
 4 produced in commercial quantities. However, the board may  
 5 provide for the renewal of such leases, permits, and  
 6 licenses.

7 (3) The board may authorize a lessee to place upon the  
 8 lands improvements directly related to conservation of the  
 9 land or necessary for proper utilization of the land for the  
 10 purposes for which it is leased. Whenever another person  
 11 becomes the lessee of such land, such other persons shall  
 12 pay to the former lessee the reasonable value of such  
 13 improvements at the time the new lessee takes possession of  
 14 such lands. In case the former lessee and the new lessee  
 15 are unable to agree on the reasonable value of such  
 16 improvements, then such value shall be ascertained by three  
 17 (3) arbitrators, one (1) of which shall be appointed by the  
 18 former lessee, one (1) by the new lessee and the third by  
 19 the two (2) arbitrators so appointed. The reasonable  
 20 compensation that such arbitrators may charge for their  
 21 services shall be paid in equal shares by the former lessee  
 22 and the new lessee. The value of the improvements so  
 23 ascertained and fixed by the arbitrators shall be binding on  
 24 both parties; provided, however, that if either party is  
 25 dissatisfied with the valuation so fixed, the dissatisfied

1 party may, within ten (10) days of being notified of the  
 2 arbitrators' decision, appeal from that decision to the  
 3 board, and the decision of the board shall be final. Any  
 4 costs incurred by the board in reexamining the decision of  
 5 the arbitrators shall be borne by the former lessee and the  
 6 new lessee in such proportions as the board may determine.  
 7 The former lessee may, at the former lessee's option, remove  
 8 or dispose of the movable improvements, but the same must be  
 9 removed within sixty (60) days from the date of the  
 10 expiration of the lease and, if not so removed, then all  
 11 such improvements shall become the property of the county  
 12 unless the board for good cause grants additional time for  
 13 the removal thereof. Before a lease is issued to the new  
 14 lessee, the new lessee shall show that the former lessee has  
 15 been paid the value of the improvements as agreed upon by  
 16 them or as fixed and determined as herein provided, or that  
 17 the former lessee has elected to remove the improvements.

18 (4) The provisions of subsection (3) shall apply to  
 19 the holders of permits or licenses for the use of county  
 20 lands.

21 (5) The board shall make an order for public auction  
 22 of any lands classified for sale, such sale to be held at  
 23 the front door of the county courthouse. Notice of the sale  
 24 shall be given by publishing a notice in a newspaper  
 25 published in the county once a week for three (3)

1 consecutive weeks preceding the date fixed for the sale.  
 2 The first publication of the notice shall be made not more  
 3 than thirty (30) days prior to the sale date. If there is  
 4 no newspaper published in the county, the notice shall be  
 5 given by posting copies at three (3) of the most public  
 6 places in the county at least twenty (20) days, but not more  
 7 than thirty (30) days, preceding the sale date. The notices  
 8 shall describe the land to be sold and the appraised value  
 9 thereof and no sale may be made for less than the appraised  
 10 value thereof as fixed by the board. The sale shall be for  
 11 cash, or on such terms as the board may approve, provided at  
 12 least twenty percent (20%) of the purchase price shall be  
 13 paid in cash. The lessee, permittee, or licensee of any of  
 14 the lands, then subject to a lease, permit, or license,  
 15 shall have a preference to purchase the lands at an amount  
 16 equal to that bid by the highest bidder at the sale.

17 (6) Any of the lands classified for exchange by the  
 18 board may be exchanged for any other lands pursuant to such  
 19 procedures as the board may adopt, and all such exchanges  
 20 must be for equivalent value. If the lands sought to be  
 21 exchanged are not of equivalent value, any difference may be  
 22 equalized by a cash payment. ANY PROCEDURES ADOPTED BY THE  
 23 BOARD FOR THE EXCHANGE OF LAND MUST INCLUDE PUBLIC NOTICE AS  
 24 PROVIDED UNDER SUBSECTION (5) OF THIS SECTION AND  
 25 OPPORTUNITY FOR PUBLIC HEARING ON THE PROPOSED EXCHANGE.

(7) The board may appoint not less than three (3) nor more than five (5) residents of the county to act as an advisory committee to the board in implementing the provisions of this act. The duties of the advisory committee are to be established by the board.. The board may provide for the payment of expenses incurred by the advisory committee in the carrying out of their duties.

(8) When considered in the best interests of the county, the board may enter into agreements for the pooling of acreage with others for unit operations for the production of oil or gas, or both, and for the apportionment of oil or gas royalties, or both, on acreage or other equitable basis, and may modify existing leases and leases hereafter entered into with respect to delay rentals, delay drilling penalties and royalties in accordance with such pooling agreements, and such unit plans of operation; provided, however, that such agreements shall not change the percentages of royalties to be paid to the county from the percentages as fixed in its leases.

(9) All proceeds from any use or disposition of lands pursuant to the terms of this act shall be apportioned and distributed according to the provisions of section 84-4195.

SECTION 4. THERE IS A NEW R.C.M. SECTION THAT READS AS FOLLOWS:

The sale, exchange, lease or issuance of licenses and

permits of county lands as provided in this act shall extend only to those lands not necessary to the conduct of the county's business.

~~(2)~~ The county commissioners shall, before they sell, exchange or lease lands under the provisions of this act, cause such lands to be appraised by a qualified, independent person or persons who may be but is not required to be an agent of the state department of revenue, to determine the value of such lands for the purpose of such sale, exchange or lease. For the purposes of this subsection a renewal of the lease shall be considered an initial lease, if the renewal is for a term exceeding five (5) years.

SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS FOLLOWS:

Sale, lease or exchange of dedicated park lands.  
(1) For the purposes of this act, lands dedicated to the ~~COUNTY-FOR~~ public use for park or playground purposes under section 11-3864, or a similar statute, or pursuant to any instrument not specifically conveying land to be a governmental unit other than a county, are deemed to be county lands. A county may not sell, lease or exchange lands dedicated for park or playground purposes except as provided under this act.

(2) Prior to selling, leasing, or exchanging any county land dedicated to public use for park or playground

1 purposes, a county shall:

2 (a) compile an inventory of all public parks and  
3 playgrounds within the county;

4 (b) prepare a comprehensive plan for the provision of  
5 outdoor recreation and open space within the county;

6 (c) determine that the proposed sale, lease, or  
7 exchange furthers or is consistent with the county's outdoor  
8 recreation and open space comprehensive plan;

9 (d) publish notice of intention to sell, lease or  
10 dispose of such lands, giving the people of the county  
11 opportunity to be heard regarding such action;

12 (e) if the land is within an incorporated city or  
13 town, secure the approval of the governing body thereof for  
14 the action; and

15 (f) comply with any other applicable requirements  
16 under this act.

17 (3) Any revenue realized by a county from the sale,  
18 exchange or disposal of lands dedicated to public use for  
19 park or playground purposes shall be paid into the park fund  
20 and used in the manner prescribed in section 11-3864 for  
21 cash received in lieu of dedication.

22 Section 6. Severability. It is the intent of the  
23 legislature that if a part of this act is invalid, all valid  
24 parts that are severable from the invalid part remain in  
25 effect. If a part of this act is invalid in one (1) or more

1 of its applications, the part remains in effect in all valid  
2 applications that are severable from the invalid  
3 applications.

4 Section 7. Sections 84-4193, 84-4194, and 84-4198,  
5 R.C.M. 1947, are repealed.

-End-