

*Senate* BILL NO. 264

1 INTRODUCED BY Malvina Tolstad Goodman  
2 Walters Stevens

3  
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

INTRODUCED BILL

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

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

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

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

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

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

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

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

25 (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.N. 1947, are repealed.

-End-

Approved by Committee  
on Taxation

1                   SENATE BILL NO. 264  
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3                   HAZELBAKER, THIESSEN  
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18   best interests of the county and for the public benefit and  
19   welfare, to encourage the application of a "multiple use"  
20   principle in the utilization and administration of such  
21   lands so that the administration of lands classified for  
22   retention can be coordinated with land use planning, zoning,  
23   grazing and agricultural land improvement, fish and wildlife  
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3   welfare, and to grant sufficient powers to the board of  
4   county commissioners to enable the board to achieve the  
5   foregoing purpose.

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11   land for some or all of these resources or related services  
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22   multiple use areas to federal and state lands.

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

24               Section 3. There is a new R.C.M. section numbered  
25   84-4192.1 that reads as follows:

1       84-4192.1. Powers and duties of board regarding county  
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4       (d) enter into cooperative use agreements with  
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 6 associations, cooperative state grazing districts, the state  
 7 of Montana, the United States of America, and any state or  
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 9 agency, including, but not limited to, the Montana  
 10 department of fish and game, the bureau of land management,  
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10      (i) promulgate rules and regulations for the  
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 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  
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 7 compensation that such arbitrators may charge for their  
 8 services shall be paid in equal shares by the former lessee  
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 10 ascertained and fixed by the arbitrators shall be binding on  
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 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  
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 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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 2 been paid the value of the improvements as agreed upon by  
 3 them or as fixed and determined as herein provided, or that  
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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)  
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 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

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 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  
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 8 exchanged are not of equivalent value, any difference may be  
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 13 provisions of this act. The duties of the advisory  
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 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  
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 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,  
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13       (e) trade or exchange such lands with individuals or  
 14 other governmental agencies, state or federal, such trades  
 15 or exchanges to be made pursuant to terms, conditions, and  
 16 procedures adopted by the board;

17       (f) grant leases of the lands for such purposes and  
 18 uses as the board may determine are in the best interests of  
 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  
 24 royalty interest as fixed by agreement between the board and  
 25 the lessee;

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

3       (h) in trading, exchanging, or selling such lands, to  
 4 make such reservations in favor of the county as the board  
 5 considers proper, including, but not limited to, reserving  
 6 to the county of any or all oil, gas, or other mineral or  
 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

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

12      (2) Leases, permits, and licenses shall not extend for  
 13 a period longer than ten (10) years, except that oil, gas,  
 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  
 16 produced in commercial quantities. However, the board may  
 17 provide for the renewal of such leases, permits, and  
 18 licenses.

19      (3) The board may authorize a lessee to place upon the  
 20 lands improvements directly related to conservation of the  
 21 land or necessary for proper utilization of the land for the  
 22 purposes for which it is leased. Whenever another person  
 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

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

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

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

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

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

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

1 FOLLOWS:

2 SALE, LEASE OR EXCHANGE OF DEDICATED PARK LANDS.  
 3 (1) FOR THE PURPOSES OF THIS ACT, LANDS DEDICATED TO THE  
 4 PUBLIC USE FOR PARK OR PLAYGROUND PURPOSES UNDER SECTION  
 5 11-3864, OR A SIMILAR STATUTE, OR PURSUANT TO ANY INSTRUMENT  
 6 NOT SPECIFICALLY CONVEYING LAND TO BE A GOVERNMENTAL UNIT  
 7 OTHER THAN A COUNTY, ARE DEEMED TO BE COUNTY LANDS. A  
 8 COUNTY MAY NOT SELL, LEASE OR EXCHANGE LANDS DEDICATED FOR  
 9 PARK OR PLAYGROUND PURPOSES EXCEPT AS PROVIDED UNDER THIS  
 10 ACT.

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

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

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

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

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

24 (E) IF THE LAND IS WITHIN AN INCORPORATED CITY OR  
 25 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

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

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

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

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

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

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

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

24 Section 3. There is a new R.C.M. section numbered  
25 84-4192.1 that reads as follows:

REFERENCE BILL  
Second Printing- Conference Report Included

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  
 14 of other acts. The board may:

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

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

24        (c) grant permits or licenses to use the lands in such  
 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  
 14 other governmental agencies, state or federal, such trades  
 15 or exchanges to be made pursuant to terms, conditions, and  
 16 procedures adopted by the board;

17        (f) grant leases of the lands for such purposes and  
 18 uses as the board may determine are in the best interests of  
 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  
 24 royalty interest as fixed by agreement between the board and  
 25 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--75-69<sup>1/2</sup>r  
 3     75-69<sup>1/2</sup>r, AND 84-3004, R.R. & 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--75-69<sup>1/2</sup>r,--75-69<sup>1/2</sup>r, AND 84-3004, R.R. & 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.

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

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

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

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

25       The sale, exchange, lease or issuance of licenses and

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

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

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

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

24       (2) Prior to selling, leasing, or exchanging any  
 25 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-