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INTRODUCED BY House BILL NO. 703
Frederick Vincent Foster

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE RECREATIONAL USE OF CERTAIN STATE LANDS; PROVIDING FOR MANAGEMENT, RELIEF FROM LIABILITY, AND A BALANCE BETWEEN VARIOUS USES; AMENDING SECTION 81-405, R.C.M. 1947."

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

Section 1. Section 81-405, R.C.M. 1947, is amended to read as follows:

"81-405. Renewal leases -- preference right of lessee.

(1) A lessee of state land classed as agricultural, grazing, town lot or city lot, who has paid all rentals due from him to the state, and who has not violated the terms of his lease, is entitled to have his lease renewed for a five

(5) or ten (10) year period at the rental rate provided by law for the renewal period, and subject to any other conditions at the time of the renewal imposed by law as terms of the lease at any time within thirty (30) days prior to its expiration if no other applications for lease of the land have been received thirty (30) days prior to the expiration of his lease. If other applications have been received, the holder of the lease has the preference right to lease the land covered by his former lease by meeting the

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highest bid made by any other applicant, except as provided in subsection (2). Applications for lease of lands in this section shall be given preference in the order of their receipt at the office of the department.

(2) When competitive bids for grazing leases or timber permits on a parcel of state land, including school trust lands, 640 acres or larger in area, are equal in cash value either in the original bid submission or when a prior lessee chooses to exercise the option to meet a higher competitive bid, the following conditions apply:

(a) Any bid that includes a provision that the bidder will allow public recreational use of the state parcel and provide a means of public access, vehicular or otherwise, to the state land shall be awarded the bid by the board on the grounds that the requirement for substantial financial return to the state or school trust has been met and that the additional value to the public welfare warrants automatic priority.

(b) In cases where the lessee agrees to allow recreational use and public access to the state land, the department of state lands in cooperation with the department of fish and game shall regulate such public use to ensure a reasonable and harmonious balance between the lessee's grazing or timber operations and the public recreational use according to the conditions established in [section 2 of

1 this act].

2 ~~(2)~~ (3) Notwithstanding the foregoing provisions, the
3 board may withdraw any agricultural or grazing land from
4 further leasing for such period as the board determines to
5 be in the best interest of the state. Bids for leases and
6 applications for renewals of leases of state agricultural
7 lands or state grazing lands shall be in writing and sealed
8 and shall be submitted to the board at the office of the
9 department."

10 Section 2. There is a new R.C.M. section that reads as
11 follows:

12 Management of state lands for public recreational use.
13 In managing state lands for public recreational use,
14 protection of the resource is the primary consideration. To
15 accomplish this management goal, the following conditions
16 apply:

17 (1) The department of state lands may close lands to
18 public recreational use when factors such as weather, time
19 of year, availability of wildlife, and others intervene.

20 (2) The state shall relieve the lessee from liability
21 for damage to the parcel by wildfire and malicious mischief.
22 No tort liability rests with the leaseholder when he
23 voluntarily allows the public to use the tract according to
24 the provisions of 67-808.

25 (3) Upon request by the lessee, the department of fish

1 and game shall supply the necessary supervision of
2 recreational activities, including but not limited to
3 providing signs, restriction of certain areas, and
4 regulating vehicular use.

5 (4) The department of state lands shall locate the
6 corner boundaries of the applicable state parcels and
7 provide any other reasonable assistance within its
8 authority.

-End-