

CHAPTER NO. 15

HOUSE BILL NO. 10

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Judiciary.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to prefiled bill.
January 12, 1979	Committee recommend bill do pass as amended. Report adopted.
January 15, 1979	Printed and placed on members' desks.
January 16, 1979	Second reading, do pass.
January 17, 1979	Considered correctly engrossed.
January 18, 1979	Third reading, passed. Transmitted to Second House.

IN THE SENATE

January 19, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
January 25, 1979	Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
January 27, 1979	Motion pass consideration.
January 29, 1979	Consent Calendar discussion.

January 30, 1979

Bill concurred in.

IN THE HOUSE

January 31, 1979

Returned from second house.  
Concurred in. Sent to  
enrolling.

Reported correctly enrolled.

House BILL NO. 10

INTRODUCED BY \_\_\_\_\_  
BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO STATE LANDS; AMENDING SECTIONS 77-1-112, 77-1-113, 77-1-114, 77-1-115, 77-1-117, 77-2-201, 77-2-214, AND 77-3-424, MCA, AND REPEALING SECTION 84-510, R.C.M. 1947."

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

Section 1. Section 77-1-112, MCA, is amended to read:

"77-1-112. Violations classified. (1) Any officer, employee, or representative of the state of Montana who directly or indirectly accepts any money or any other valuable thing, except his regular and lawful compensation, for performing or not performing an official act under the provisions of Chapter 607, Laws of 1927, this title or for modifying the performance thereof shall be is guilty of a felony and punishable as provided in 77-1-115.

(2) Any officer, employee, or representative of the state who knowingly and willfully makes any false classification or appraisal of any state land or of any land offered the state for sale or offered as security for a loan from the state or who falsely classifies or scales any

timber on state lands or from state lands or any timber in which the state is interested or who knowingly and willfully makes any false report of any such classification or appraisal or scaling shall be is guilty of a felony and punishable as provided in 77-1-115.

(3) (a) Any officer, employee, or representative of the state who otherwise violates any of the provisions of Chapter 607, Laws of 1927 and such violation results in a loss to the state of \$1,000 or more shall be guilty of a felony, but if such violation results in a loss to the state of less than \$1,000 or in no pecuniary loss, then he shall be guilty of a misdemeanor this title

(i) is guilty of a felony if the violation results in a loss to the state of \$1,000 or more or

(ii) is guilty of a misdemeanor if the violation results in a loss to the state of less than \$1,000 or in no pecuniary loss.

(b) The punishment shall be as provided in 77-1-115.

(2) Any officer or employee of the state of Montana guilty of a violation of any of the provisions of Chapter 447, Laws of 1989 and not herein otherwise provided for is hereby declared guilty of a felony and shall be punished by imprisonment in the state prison for a term not exceeding 10 years or by a fine not exceeding \$5,000 or by both fine and imprisonment"

1 Section 2. Section 77-1-113, MCA, is amended to read:

2 "77-1-113. Restrictions on who may buy or lease state  
3 lands. It is unlawful for any member of the board, or any  
4 person appraising lands or in the employ of the state for  
5 the selection, classification, appraisal, sale, or leasing  
6 of any state lands or the timber thereon, or of any person  
7 connected with the department of state lands as an officer  
8 or employee to purchase or lease, directly or indirectly,  
9 any of the land of the state or any timber thereon."

10 Section 3. Section 77-1-114, MCA, is amended to read:

11 "77-1-114. Prosecutions. (1) Whenever an arrest shall  
12 be made for any violation of the provisions of this ~~act~~  
13 title or whenever any information of such violations shall  
14 be lodged with him, the county attorney of the county in  
15 which this act was committed must prosecute the offender or  
16 offenders if in his judgment the facts warrant the same.

17 (2) If any county attorney shall fail to comply with  
18 the provisions of this section, he shall be guilty of a  
19 misdemeanor and, upon conviction, shall be fined not less  
20 than \$100 or more than \$1,000. Upon his conviction, the  
21 district court wherein he is convicted shall forthwith  
22 declare his office vacant and notify the proper appointing  
23 power thereof. Actions against the county attorney shall be  
24 brought by the attorney general in the name of the state.

25 (3) The penalties of this section shall also apply to

1 any magistrate with proper authority who refuses or neglects  
2 to cause the arrest and prosecution of any person when a  
3 complaint under oath of a violation of any of the provisions  
4 of this ~~act~~ title has been lodged with him."

5 Section 4. Section 77-1-115, MCA, is amended to read:

6 "77-1-115. Punishments. (1) Any officer, employee, or  
7 representative of the state who is found guilty of a felony  
8 as defined in 77-1-112~~(1)~~ ~~shall~~ ~~be~~ is punishable by  
9 imprisonment in the state penitentiary for not less than 1  
10 or more than 10 years or ~~with~~ by a fine which shall neither  
11 be less than \$500 nor less than twice the amount of the loss  
12 that resulted to the state through the crime of which he has  
13 been convicted or by both such imprisonment and fine.

14 (2) Any officer, employee, or representative of the  
15 state who is found guilty of a misdemeanor as defined in  
16 77-1-112~~(1)~~ ~~shall~~ ~~be~~ is punishable by imprisonment in a  
17 county jail not to exceed 1 year or by a fine which shall  
18 neither be less than \$100 nor less than twice the amount of  
19 the loss that resulted to the state through the crime of  
20 which he has been convicted or by both such imprisonment and  
21 fine."

22 Section 5. Section 77-1-117, MCA, is amended to read:

23 "77-1-117. Disposition of fines. ~~All~~ ~~money~~ Unless  
24 otherwise provided, all money received as fines, fees, and  
25 forfeitures under this title or as penalties for the

1 violation of any of the land laws of this state shall be  
2 paid to the state treasurer and by him deposited to the  
3 credit of the general fund."

4 Section 6. Section 77-1-203, MCA, is amended to read:

5 "77-1-203. Multiple-use management. (1) The board  
6 shall manage state lands under the multiple-use management  
7 concept defined as the management of all the various  
8 resources of the state lands so that:

9 (a) they are utilized in that combination best meeting  
10 the needs of the people and the beneficiaries of the trust,  
11 making the most judicious use of the land for some or all of  
12 those resources or related services over areas large enough  
13 to provide sufficient latitude for periodic adjustments in  
14 use to conform to changing needs and conditions ~~†-††~~ and  
15 ~~realizing that some land will~~ ~~may~~ be used for less than all  
16 of the resources; and

17 (b) harmonious and coordinated management of the  
18 various resources, each with the other, will result without  
19 impairment of the productivity of the land, with  
20 consideration being given to the relative values of the  
21 various resources.

22 (2) ~~Should~~ ~~if~~ a parcel of state land in one class ~~have~~  
23 ~~has~~ other multiple use ~~uses~~ or resource values which are of  
24 such significance that they do not warrant classification  
25 for the value, the land shall, nevertheless, be managed

1 insofar as is possible to maintain or enhance these  
2 multiple-use values."

3 Section 7. Section 77-2-201, MCA, is amended to read:

4 "77-2-201. Exchange of land with United States. (1)  
5 The board may enter into contracts or agreements with the  
6 United States or any department thereof having jurisdiction  
7 for the waiving and relinquishment to the United States of  
8 any rights of the state in and to sections 16 and 36 of any  
9 township and to any other sections of state lands, provided  
10 that the state shall, in lieu of the rights so waived and  
11 relinquished, receive from the United States other lands of  
12 equal or greater value.

13 (2) The current user of the land transferred to the  
14 United States may continue to enjoy the use of the land  
15 under terms and conditions required by the federal  
16 government and in accordance with the ~~Multiple-Use Act P.L.L.~~  
17 ~~88-607, as amended, (43 U.S.C. 1411 through 1418),~~ and the  
18 current user ~~on~~ of the land received from the United States  
19 may continue to utilize the land on the terms and conditions  
20 imposed by law or by the board."

21 Section 8. Section 77-2-214, MCA, is amended to read:

22 "77-2-214. Investigation and findings concerning  
23 exchange of land. (1) The department of natural resources  
24 and conservation shall, as soon as it concludes its  
25 investigation thereof, report to the board the facts

1 disclosed by its investigation and include in its report a  
2 recommendation concerning the proposal, including its  
3 reasons therefor in writing. ~~If the board after~~

4 (2) After considering the report and recommendation  
5 and making such further investigation as it considers  
6 advisable, is of the opinion that the exchange is in the  
7 public interest, the board shall consider the entire matter  
8 and make findings and conclusions concerning the proposal  
9 and make an order rejecting the proposal and dismiss the  
10 same, or if in the judgment of the board the exchange is in  
11 the public interest and should be made, the order shall so  
12 state and the board shall consider the entire matter, make  
13 findings and conclusions concerning the proposal, and make  
14 an order:

15 (a) rejecting and dismissing the proposal if in the  
16 judgment of the board the exchange is not in the public  
17 interest; or

18 (b) accepting the proposal and ordering the exchange  
19 to be made if in the judgment of the board the exchange is  
20 in the public interest and should be made.

21 (3) An order accepting the proposal shall contain an  
22 accurate description of all lands to be exchanged."

23 Section 9. Section 77-3-424, MCA, is amended to read:

24 "77-3-424. Power to terminate lease in absence of  
25 commencement of drilling or payment of delay drilling

1 penalty. (1) In every oil and gas lease granted after March  
2 3, 1955, under this part there shall be reserved to the  
3 board full power to declare termination of the lease at the  
4 end of the second ~~fifth~~ year or any subsequent year of the  
5 primary term of the lease upon failure of the lessee to  
6 either:

7 (a) commence the drilling of a well for oil and gas  
8 upon the leased premises; or

9 (b) pay a delay drilling penalty as follows:

10 (i) for the sixth year of the lease \$1.25 per acre per  
11 year; and

12 (ii) for the remainder of the primary term of the lease  
13 an amount per acre per year as the board may in its  
14 discretion determine.

15 (2) Notice of that determination shall be given to the  
16 lessee, and if the lessee applies for a hearing thereon  
17 within 10 days after receipt of the notice, the  
18 determination shall become final only after such hearing has  
19 been held.

20 (3) This annual delay drilling penalty shall be paid  
21 each year in advance.

22 (4) If a well for oil and gas is commenced, the  
23 drilling of the well shall be prosecuted with due diligence  
24 and dispatch to such depth as is necessary to make a  
25 reasonable test for oil or gas."

LC 0022/01

1       Section 10. Repealer. Section 84-510, R.C.M. 1947, is  
2 repealed.

3       Section 11. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-

LC 0022

Section 7. 77-2-201. "The Multiple Use Act" is changed to "P.L. 88-607, as amended, (43 U.S.C. §§1411-1418)" to provide a correct reference as there is no official short title.

Section 8. 77-2-214. This section is rewritten for clarity.

Section 9. 77-3-424. In subsection (1), "second year" is changed to "fifth year" for consistency with later amendments which were made to subsection (1)(b)(i) referring to the sixth year of a lease.

Section 10. Repealer. Section 84-510, R.C.M. 1947, is repealed as obsolete and superseded by 77-2-313 (former 81-928, R.C.M. 1947).



Approved by Committee  
on Judiciary

HOUSE BILL NO. 10

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO STATE LANDS; AMENDING SECTIONS 77-1-112, 77-1-113, 77-1-114, 77-1-115, 77-1-117, 77-2-201, 77-2-214, AND 77-3-424, MCA, AND REPEALING SECTION 84-510, R.C.M. 1947."

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

Section 1. Section 77-1-112, MCA, is amended to read:

"77-1-112. Violations classified. (1) Any officer, employee, or representative of the state of Montana who directly or indirectly accepts any money or any other valuable thing, except his regular and lawful compensation, for performing or not performing an official act under the provisions of ~~Chapter--60--laws-of-1927~~ this title or for modifying the performance thereof ~~shall be is~~ guilty of a felony and punishable as provided in 77-1-115.

(2) Any officer, employee, or representative of the state who knowingly and willfully makes any false classification or appraisal of any state land or of any land offered the state for sale or offered as security for a loan from the state or who falsely classifies or scales any

timber on state lands or from state lands or any timber in which the state is interested or who knowingly and willfully makes any false report of any such classification or appraisal or scaling ~~shall be is~~ guilty of a felony and punishable as provided in 77-1-115.

(3) (a) Any officer, employee, or representative of the state who otherwise violates any of the provisions of ~~Chapter--60--laws--of--1927--and--such--violation--results--in--a--loss--to--the--state--of--\$1,000--or--more--shall--be--guilty--of--a--felony--but--if--such--violation--results--in--a--loss--to--the--state--of--less--than--\$1,000--or--in--no--pecuniary--loss--then--he--shall--be--guilty--of--a--misdemeanor~~ this title:

(i) is guilty of a felony if the violation results in a loss to the state of \$1,000 or more; or

(ii) is guilty of a misdemeanor if the violation results in a loss to the state of less than \$1,000 or in no pecuniary loss.

(b) The punishment shall be as provided in 77-1-115.

(2) ~~Any officer or employee of the state of Montana guilty of a violation of any of the provisions of Chapter 147--laws-of-1989--and--not--herein--otherwise--provided--for--is hereby--declared--guilty--of--a--felony--and--shall--be--punished--by imprisonment--in--the--state--prison--for--a--term--not--exceeding--10 years--or--by--a--fine--not--exceeding--\$5,000--or--by--both--fine--and imprisonment."~~

1 Section 2. Section 77-1-113, MCA, is amended to read:

2 "77-1-113. Restrictions on who may buy or lease state  
3 lands. It is unlawful for any member of the board, or any  
4 person appraising lands or in the employ of the state for  
5 the selection, classification, appraisal, sale, or leasing  
6 of any state lands or the timber thereon, or of any person  
7 connected with the department of state lands as an officer  
8 or employee to purchase or lease, directly or indirectly,  
9 any of the land of the state or any timber thereon."

10 Section 3. Section 77-1-114, MCA, is amended to read:

11 "77-1-114. Prosecutions. (1) Whenever an arrest shall  
12 be made for any violation of the provisions of this ~~act~~  
13 ~~title~~ or whenever any information of such violations shall  
14 be lodged with him, the county attorney of the county in  
15 which this act was committed must prosecute the offender or  
16 offenders if in his judgment the facts warrant the same.

17 (2) If any county attorney shall fail to comply with  
18 the provisions of this section, he shall be guilty of a  
19 misdemeanor and, upon conviction, shall be fined not less  
20 than \$100 or more than \$1,000. Upon his conviction, the  
21 district court wherein he is convicted shall forthwith  
22 declare his office vacant and notify the proper appointing  
23 power thereof. Actions against the county attorney shall be  
24 brought by the attorney general in the name of the state.

25 (3) The penalties of this section shall also apply to

1 any magistrate with proper authority who refuses or neglects  
2 to cause the arrest and prosecution of any person when a  
3 complaint under oath of a violation of any of the provisions  
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5 Section 4. Section 77-1-115, MCA, is amended to read:

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11 be less than \$500 nor less than twice the amount of the loss  
12 that resulted to the state through the crime of which he has  
13 been convicted or by both such imprisonment and fine.

14 ~~(2)~~ Any officer, employee, or representative of the  
15 state who is found guilty of a misdemeanor as defined in  
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17 county jail not to exceed 1 year or by a fine which shall  
18 neither be less than \$100 nor less than twice the amount of  
19 the loss that resulted to the state through the crime of  
20 which he has been convicted or by both such imprisonment and  
21 fine."

22 Section 5. Section 77-1-117, MCA, is amended to read:

23 "77-1-117. Disposition of fines. ~~At--moneys~~ ~~Unless~~  
24 ~~otherwise provided, all money~~ received as fines, fees, and  
25 forfeitures under this title or as penalties for the

1 violation of any of the land laws of this state shall be  
2 paid to the state treasurer and by him deposited to the  
3 credit of the general fund."

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6 shall manage state lands under the multiple-use management  
7 concept defined as the management of all the various  
8 resources of the state lands so that:

9 (a) they are utilized in that combination best meeting  
10 the needs of the people and the beneficiaries of the trust,  
11 making the most judicious use of the land for some or all of  
12 those resources or related services over areas large enough  
13 to provide sufficient latitude for periodic adjustments in  
14 use to conform to changing needs and conditions ~~and~~ ~~and~~  
15 ~~realizing that some land will~~ ~~may~~ be used for less than all  
16 of the resources; and

17 (b) harmonious and coordinated management of the  
18 various resources, each with the other, ~~will result~~ without  
19 impairment of the productivity of the land, with  
20 consideration being given to the relative values of the  
21 various resources.

22 (2) ~~Should~~ If a parcel of state land in one class ~~have~~  
23 ~~has~~ other multiple use ~~uses~~ or resource values which are of  
24 such significance that they do not warrant classification  
25 for the value, the land shall, nevertheless, be managed

1 insofar as is possible to maintain or enhance these  
2 multiple-use values."

3 Section 7. Section 77-2-201, MCA, is amended to read:

4 "77-2-201. Exchange of land with United States. (1)

5 The board may enter into contracts or agreements with the  
6 United States or any department thereof having jurisdiction  
7 for the waiving and relinquishment to the United States of  
8 any rights of the state in and to sections 16 and 36 of any  
9 township and to any other sections PARCEL of state lands,  
10 provided that the state shall, in lieu of the rights so  
11 waived and relinquished, receive from the United States  
12 other lands of equal or greater value.

13 (2) The current user of the land transferred to the  
14 United States may continue to enjoy the use of the land  
15 under terms and conditions required by the federal  
16 government and in accordance with the ~~Multiple-Use Act~~ ~~PL~~  
17 ~~88-607, as amended, (43 U.S.C. 1411 through 1418)~~, and the  
18 current user ~~on~~ of the land received from the United States  
19 may continue to utilize the land on the terms and conditions  
20 imposed by law or by the board."

21 Section 8. Section 77-2-214, MCA, is amended to read:

22 "77-2-214. Investigation and findings concerning  
23 exchange of land. (1) The department of natural resources  
24 and conservation shall, as soon as it concludes its  
25 investigation thereof, report to the board the facts

1 disclosed by its investigation and include in its report a  
 2 recommendation concerning the proposal, including its  
 3 reasons therefor in writing. ~~if the board after~~

4 (2) After considering the report and recommendation  
 5 and making such further investigation as it considers  
 6 advisable, ~~is of the opinion that the exchange is in the~~  
 7 public interest, the board shall consider the entire matter  
 8 and make findings and conclusions concerning the proposal  
 9 and make an order rejecting the proposal and dismiss the  
 10 same or if in the judgment of the board the exchange is in  
 11 the public interest and should be made, the order shall so  
 12 state and the board shall consider the entire matter, make  
 13 findings and conclusions concerning the proposal, and make  
 14 an order:

15 (a) rejecting and dismissing the proposal if in the  
 16 judgment of the board the exchange is not in the public  
 17 interest; or

18 (b) accepting the proposal and ordering the exchange  
 19 to be made if in the judgment of the board the exchange is  
 20 in the public interest and should be made.

21 (3) An order accepting the proposal shall contain an  
 22 accurate description of all lands to be exchanged."

23 Section 9. Section 77-3-424, MCA, is amended to read:

24 "77-3-424. Power to terminate lease in absence of  
 25 commencement of drilling or payment of delay drilling

1 penalty. (1) In every oil and gas lease granted after March  
 2 3, 1955, under this part there shall be reserved to the  
 3 board full power to declare termination of the lease at the  
 4 end of the second ~~fifth~~ year or any subsequent year of the  
 5 primary term of the lease upon failure of the lessee to  
 6 either:

7 (a) commence the drilling of a well for oil and gas  
 8 upon the leased premises; or

9 (b) pay a delay drilling penalty as follows:

10 (i) for the sixth year of the lease \$1.25 per acre per  
 11 year; and

12 (ii) for the remainder of the primary term of the lease  
 13 an amount per acre per year as the board may in its  
 14 discretion determine.

15 (2) Notice of that determination shall be given to the  
 16 lessee, and if the lessee applies for a hearing thereon  
 17 within 10 days after receipt of the notice, the  
 18 determination shall become final only after such hearing has  
 19 been held.

20 (3) This annual delay drilling penalty shall be paid  
 21 each year in advance.

22 (4) If a well for oil and gas is commenced, the  
 23 drilling of the well shall be prosecuted with due diligence  
 24 and dispatch to such depth as is necessary to make a  
 25 reasonable test for oil or gas."

1       Section 10. Repealer. Section 84-510, R.C.M. 1947, is  
2 repealed.

3       Section 11. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-

1 HOUSE BILL NO. 10  
 2 INTRODUCED BY KVAALEN  
 3 BY REQUEST OF THE CODE COMMISSIONER  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAWS RELATING TO STATE LANDS; AMENDING SECTIONS  
 7 77-1-112, 77-1-113, 77-1-114, 77-1-115, 77-1-117, 77-2-201,  
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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 77-1-112, MCA, is amended to read:  
 13 "77-1-112. Violations classified. (1) Any officer,  
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 16 valuable thing, except his regular and lawful compensation,  
 17 for performing or not performing an official act under the  
 18 provisions of Chapter--60, laws of 1927, this title or for  
 19 modifying the performance thereof ~~shall be~~ is guilty of a  
 20 felony and punishable as provided in 77-1-115.

21 (2) Any officer, employee, or representative of the  
 22 state who knowingly and willfully makes any false  
 23 classification or appraisal of any state land or of any land  
 24 offered the state for sale or offered as security for a loan  
 25 from the state or who falsely classifies or scales any

1 timber on state lands or from state lands or any timber in  
 2 which the state is interested or who knowingly and willfully  
 3 makes any false report of any such classification or  
 4 appraisal or scaling ~~shall be~~ is guilty of a felony and  
 5 punishable as provided in 77-1-115.

6 (3) ~~(a)~~ Any officer, employee, or representative of  
 7 the state who otherwise violates any of the provisions of  
 8 Chapter--60, laws of 1927 ~~and such violation results in a~~  
 9 ~~loss to the state of \$1,000 or more shall be guilty of a~~  
 10 ~~felony but if such violation results in a loss to the state~~  
 11 ~~of less than \$1,000 or in no pecuniary loss, then he shall~~  
 12 ~~be guilty of a misdemeanor~~ this title:

13 (i) is guilty of a felony if the violation results in  
 14 a loss to the state of \$1,000 or more or  
 15 (ii) is guilty of a misdemeanor if the violation  
 16 results in a loss to the state of less than \$1,000 or in no  
 17 pecuniary loss.

18 (b) The punishment shall be as provided in 77-1-115.  
 19 (2) ~~Any officer or employee of the state of Montana~~  
 20 ~~guilty of a violation of any of the provisions of Chapter~~  
 21 ~~147, laws of 1909 and not herein otherwise provided for is~~  
 22 ~~hereby declared guilty of a felony and shall be punished by~~  
 23 ~~imprisonment in the state prison for a term not exceeding 10~~  
 24 ~~years or by a fine not exceeding \$5,000 or by both fine and~~  
 25 ~~imprisonment."~~

1 Section 2. Section 77-1-113, MCA, is amended to read:

2 "77-1-113. Restrictions on who may buy or lease state  
3 lands. It is unlawful for any member of the board, or any  
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5 the selection, classification, appraisal, sale, or leasing  
6 of any state lands or the timber thereon, or of any person  
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8 or employee to purchase or lease, directly or indirectly,  
9 any of the land of the state or any timber thereon."

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12 be made for any violation of the provisions of this ~~act~~  
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14 be lodged with him, the county attorney of the county in  
15 which this act was committed must prosecute the offender or  
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4 of this ~~act~~ title has been lodged with him."

5 Section 4. Section 77-1-115, MCA, is amended to read:

6 "77-1-115. Punishments. 11 Any officer, employee, or  
7 representative of the state who is found guilty of a felony  
8 as defined in 77-1-112~~(1)~~~~---she++-be~~ is punishable by  
9 imprisonment in the state penitentiary for not less than 1  
10 or more than 10 years or with by a fine which shall neither  
11 be less than \$500 nor less than twice the amount of the loss  
12 that resulted to the state through the crime of which he has  
13 been convicted or by both such imprisonment and fine.

14 121 Any officer, employee, or representative of the  
15 state who is found guilty of a misdemeanor as defined in  
16 77-1-112~~(1)~~~~---she++-be~~ is punishable by imprisonment in a  
17 county jail not to exceed 1 year or by a fine which shall  
18 neither be less than \$100 nor less than twice the amount of  
19 the loss that resulted to the state through the crime of  
20 which he has been convicted or by both such imprisonment and  
21 fine."

22 Section 5. Section 77-1-117, MCA, is amended to read:

23 "77-1-117. Disposition of fines. ~~At--moneys~~ Unless  
24 otherwise provided, all money received as fines, fees, and  
25 forfeitures under this title or as penalties for the

1 violation of any of the land laws of this state shall be  
 2 paid to the state treasurer and by him deposited to the  
 3 credit of the general fund."

4 Section 6. Section 77-1-203, MCA, is amended to read:

5 "77-1-203. Multiple-use management. (1) The board  
 6 shall manage state lands under the multiple-use management  
 7 concept defined as the management of all the various  
 8 resources of the state lands so that:

9 (a) they are utilized in that combination best meeting  
 10 the needs of the people and the beneficiaries of the trust,  
 11 making the most judicious use of the land for some or all of  
 12 those resources or related services over areas large enough  
 13 to provide sufficient latitude for periodic adjustments in  
 14 use to conform to changing needs and conditions; ~~(b) and~~  
 15 ~~realizing that some land will~~ ~~may~~ be used for less than all  
 16 of the resources; and

17 (b) harmonious and coordinated management of the  
 18 various resources, each with the other, will result without  
 19 impairment of the productivity of the land, with  
 20 consideration being given to the relative values of the  
 21 various resources.

22 (2) ~~Should~~ ~~if~~ a parcel of state land in one class have  
 23 ~~has~~ other multiple use ~~uses~~ or resource values which are of  
 24 such significance that they do not warrant classification  
 25 for the value, the land shall, nevertheless, be managed

1 insofar as is possible to maintain or enhance these  
 2 multiple-use values."

3 Section 7. Section 77-2-201, MCA, is amended to read:

4 "77-2-201. Exchange of land with United States. (1)  
 5 The board may enter into contracts or agreements with the  
 6 United States or any department thereof having jurisdiction  
 7 for the waiving and relinquishment to the United States of  
 8 any rights of the state in and to sections 16 and 36 of any  
 9 township and to any other sections ~~PARCEL~~ of state lands,  
 10 provided that the state shall, in lieu of the rights so  
 11 waived and relinquished, receive from the United States  
 12 other lands of equal or greater value.

13 (2) The current user of the land transferred to the  
 14 United States may continue to enjoy the use of the land  
 15 under terms and conditions required by the federal  
 16 government and in accordance with ~~the Multiple-Use Act 211~~  
 17 ~~88-607, as amended, (43 U.S.C. 1911 through 1918),~~ and the  
 18 current user ~~on~~ of the land received from the United States  
 19 may continue to utilize the land on the terms and conditions  
 20 imposed by law or by the board."

21 Section 8. Section 77-2-214, MCA, is amended to read:

22 "77-2-214. Investigation and findings concerning  
 23 exchange of land. (1) The department of natural resources  
 24 and conservation shall, as soon as it concludes its  
 25 investigation thereof, report to the board the facts



1 disclosed by its investigation and include in its report a  
 2 recommendation concerning the proposal, including its  
 3 reasons therefor in writing. ~~if the board, after~~

4 ~~(2) After~~ considering the report and recommendation  
 5 and making such further investigation as it considers  
 6 advisable, ~~is of the opinion that the exchange is in the~~  
 7 ~~public interest, the board shall consider the entire matter~~  
 8 ~~and make findings and conclusions concerning the proposal~~  
 9 ~~and make an order rejecting the proposal and dismiss the~~  
 10 ~~same or if in the judgment of the board the exchange is in~~  
 11 ~~the public interest and should be made, the order shall so~~  
 12 ~~state and the board shall consider the entire matter, make~~  
 13 ~~findings and conclusions concerning the proposal, and make~~  
 14 ~~an order:~~

15 ~~(a) rejecting and dismissing the proposal if in the~~  
 16 ~~judgment of the board the exchange is not in the public~~  
 17 ~~interest; or~~

18 ~~(b) accepting the proposal and ordering the exchange~~  
 19 ~~to be made if in the judgment of the board the exchange is~~  
 20 ~~in the public interest and should be made.~~

21 ~~(3) An order accepting the proposal shall contain an~~  
 22 ~~accurate description of all lands to be exchanged."~~

23 Section 9. Section 77-3-424, MCA, is amended to read:

24 "77-3-424. Power to terminate lease in absence of  
 25 commencement of drilling or payment of delay drilling

1 penalty. (1) In every oil and gas lease granted after March  
 2 3, 1955, under this part there shall be reserved to the  
 3 board full power to declare termination of the lease at the  
 4 end of the second ~~fifth~~ year or any subsequent year of the  
 5 primary term of the lease upon failure of the lessee to  
 6 either:

7 (a) commence the drilling of a well for oil and gas  
 8 upon the leased premises; or

9 (b) pay a delay drilling penalty as follows:

10 (i) for the sixth year of the lease \$1.25 per acre per  
 11 year; and

12 (ii) for the remainder of the primary term of the lease  
 13 an amount per acre per year as the board may in its  
 14 discretion determine.

15 (2) Notice of that determination shall be given to the  
 16 lessee, and if the lessee applies for a hearing thereon  
 17 within 10 days after receipt of the notice, the  
 18 determination shall become final only after such hearing has  
 19 been held.

20 (3) This annual delay drilling penalty shall be paid  
 21 each year in advance.

22 (4) If a well for oil and gas is commenced, the  
 23 drilling of the well shall be prosecuted with due diligence  
 24 and dispatch to such depth as is necessary to make a  
 25 reasonable test for oil or gas."

1       Section 10. Repealer. Section 84-510, R.C.M. 1947, is  
2 repealed.

3       Section 11. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-

## 1 HOUSE BILL NO. 10

2 INTRODUCED BY KVAALEN

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAWS RELATING TO STATE LANDS; AMENDING SECTIONS  
7 77-1-112, 77-1-113, 77-1-114, 77-1-115, 77-1-117, 77-2-201,  
8 77-2-214, AND 77-3-424, MCA, AND REPEALING SECTION 84-510,  
9 R.C.M. 1947."

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

12 Section 1. Section 77-1-112, MCA, is amended to read:

13 "77-1-112. Violations classified. (1) Any officer,  
14 employee, or representative of the state of Montana who  
15 directly or indirectly accepts any money or any other  
16 valuable thing, except his regular and lawful compensation,  
17 for performing or not performing an official act under the  
18 provisions of Chapter--60v--laws-of-1927, this title or for  
19 modifying the performance thereof ~~shall be is~~ guilty of a  
20 felony and punishable as provided in 77-1-115.

21 (2) Any officer, employee, or representative of the  
22 state who knowingly and willfully makes any false  
23 classification or appraisal of any state land or of any land  
24 offered the state for sale or offered as security for a loan  
25 from the state or who falsely classifies or scales any

1 timber on state lands or from state lands or any timber in  
2 which the state is interested or who knowingly and willfully  
3 makes any false report of any such classification or  
4 appraisal or scaling ~~shall be is~~ guilty of a felony and  
5 punishable as provided in 77-1-115.

6 (3) (a) Any officer, employee, or representative of  
7 the state who otherwise violates any of the provisions of  
8 Chapter--60v--laws-of--1927-and-such-violation-results-in-a  
9 loss-to-the-state-of-\$1,000-or-more-~~shall be~~ guilty of a  
10 felony-but-if-such-violation-results-in-a-loss-to-the-state  
11 of--less--than-\$1,000-or-in-no-pecuniary-loss-then-he-~~shall~~  
12 be-guilty-of-a-misdemeanor this title

13 (i) is guilty of a felony if the violation results in  
14 a loss to the state of \$1,000 or more; or

15 (ii) is guilty of a misdemeanor if the violation  
16 results in a loss to the state of less than \$1,000 or in no  
17 pecuniary loss.

18 (b) The punishment shall be as provided in 77-1-115.

19 (2)--Any-officer-or-employee-of-the--state--of--Montana  
20 guilty--of--a--violation-of-any-of-the-provisions-of-Chapter  
21 147v--laws-of-1989-and-not-herein-otherwise-provided--for--is  
22 hereby--declared-guilty-of-a-felony-and-~~shall be~~ punished-by  
23 imprisonment-in-the-state-prison-for-a-term-not-exceeding-10  
24 years-or-by-a-fine-not-exceeding-\$5,000-or-by-both-fine--and  
25 imprisonment"

1 Section 2. Section 77-1-113, MCA, is amended to read:

2 "77-1-113. Restrictions on who may buy or lease state  
3 lands. It is unlawful for any member of the board<sub>1</sub> or any  
4 person appraising lands or in the employ of the state for  
5 the selection, classification, appraisal, sale, or leasing  
6 of any state lands or the timber thereon<sub>1</sub> or of any person  
7 connected with the department of state lands as an officer  
8 or employee to purchase or lease, directly or indirectly,  
9 any of the land of the state or any timber thereon."

10 Section 3. Section 77-1-114, MCA, is amended to read:

11 "77-1-114. Prosecutions. (1) Whenever an arrest shall  
12 be made for any violation of the provisions of this ~~act~~  
13 title or whenever any information of such violations shall  
14 be lodged with him, the county attorney of the county in  
15 which this act was committed must prosecute the offender or  
16 offenders if in his judgment the facts warrant the same.

17 (2) If any county attorney shall fail to comply with  
18 the provisions of this section, he shall be guilty of a  
19 misdemeanor and, upon conviction, shall be fined not less  
20 than \$100 or more than \$1,000. Upon his conviction, the  
21 district court wherein he is convicted shall forthwith  
22 declare his office vacant and notify the proper appointing  
23 power thereof. Actions against the county attorney shall be  
24 brought by the attorney general in the name of the state.

25 (3) The penalties of this section shall also apply to

1 any magistrate with proper authority who refuses or neglects  
2 to cause the arrest and prosecution of any person when a  
3 complaint under oath of a violation of any of the provisions  
4 of this ~~act~~ title has been lodged with him."

5 Section 4. Section 77-1-115, MCA, is amended to read:

6 "77-1-115. Punishments. ~~(1)~~ Any officer, employee, or  
7 representative of the state who is found guilty of a felony  
8 as defined in 77-1-112~~(1)~~ ~~shall~~ ~~be~~ is punishable by  
9 imprisonment in the state penitentiary for not less than 1  
10 or more than 10 years or with ~~by~~ a fine which shall neither  
11 be less than \$500 nor less than twice the amount of the loss  
12 that resulted to the state through the crime of which he has  
13 been convicted or by both such imprisonment and fine.

14 ~~(2)~~ Any officer, employee, or representative of the  
15 state who is found guilty of a misdemeanor as defined in  
16 77-1-112~~(1)~~ ~~shall~~ ~~be~~ is punishable by imprisonment in a  
17 county jail not to exceed 1 year or by a fine which shall  
18 neither be less than \$100 nor less than twice the amount of  
19 the loss that resulted to the state through the crime of  
20 which he has been convicted or by both such imprisonment and  
21 fine."

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23 "77-1-117. Disposition of fines. ~~At~~ ~~money~~ ~~unless~~  
24 otherwise provided, all money received as fines, fees, and  
25 forfeitures under this title or as penalties for the

1 violation of any of the land laws of this state shall be  
 2 paid to the state treasurer and by him deposited to the  
 3 credit of the general fund."

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 6 shall manage state lands under the multiple-use management  
 7 concept defined as the management of all the various  
 8 resources of the state lands so that:

9 (a) they are utilized in that combination best meeting  
 10 the needs of the people and the beneficiaries of the trust,  
 11 making the most judicious use of the land for some or all of  
 12 those resources or related services over areas large enough  
 13 to provide sufficient latitude for periodic adjustments in  
 14 use to conform to changing needs and conditions ~~and~~ ~~and~~  
 15 ~~realizing that some land will~~ ~~may~~ be used for less than all  
 16 of the resources; and

17 (b) harmonious and coordinated management of the  
 18 various resources, each with the other, will result without  
 19 impairment of the productivity of the land, with  
 20 consideration being given to the relative values of the  
 21 various resources.

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 23 ~~has~~ other multiple use ~~uses~~ or resource values which are of  
 24 such significance that they do not warrant classification  
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 6 United States or any department thereof having jurisdiction  
 7 for the waiving and relinquishment to the United States of  
 8 any rights of the state in and to sections 16 and 36 of any  
 9 township and to any other sections PARCEL of state lands,  
 10 provided that the state shall, in lieu of the rights so  
 11 waived and relinquished, receive from the United States  
 12 other lands of equal or greater value.

13 (2) The current user of the land transferred to the  
 14 United States may continue to enjoy the use of the land  
 15 under terms and conditions required by the federal  
 16 government and in accordance with ~~the Multiple-Use Act P.L.~~  
 17 ~~88-607, as amended, (43 U.S.C. 1411 through 1418),~~ and the  
 18 current user ~~on~~ of the land received from the United States  
 19 may continue to utilize the land on the terms and conditions  
 20 imposed by law or by the board."

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7 public interest, the board shall consider the entire matter  
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10 same, or if in the judgment of the board the exchange is in  
11 the public interest and should be made, the order shall so  
12 state and the board shall consider the entire matter, make  
13 findings and conclusions concerning the proposal, and make  
14 an order:

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19 to be made if in the judgment of the board the exchange is  
20 in the public interest and should be made.

21 (3) An order accepting the proposal shall contain an  
22 accurate description of all lands to be exchanged."

23 Section 9. Section 77-3-424, MCA, is amended to read:

24 "77-3-424. Power to terminate lease in absence of  
25 commencement of drilling or payment of delay drilling

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2 3, 1955, under this part there shall be reserved to the  
3 board full power to declare termination of the lease at the  
4 end of the second fifth year or any subsequent year of the  
5 primary term of the lease upon failure of the lessee to  
6 either:

7 (a) commence the drilling of a well for oil and gas  
8 upon the leased premises; or

9 (b) pay a delay drilling penalty as follows:

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11 year; and

12 (ii) for the remainder of the primary term of the lease  
13 an amount per acre per year as the board may in its  
14 discretion determine.

15 (2) Notice of that determination shall be given to the  
16 lessee, and if the lessee applies for a hearing thereon  
17 within 10 days after receipt of the notice, the  
18 determination shall become final only after such hearing has  
19 been held.

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21 each year in advance.

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23 drilling of the well shall be prosecuted with due diligence  
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6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-