CHAPTER NO. 15

HOUSE BILL NO. 10

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

| January | 4, 1 | 979 | | Introduced and referred to Committee on Judiciary. |
|---------|------|------|-------------|--|
| January | 6, 1 | 979 | | 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 SENA | ATE |
| 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.

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IN THE HOUSE

January 31, 1979

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

Reported correctly enrolled.

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| 1 | House BILL NO. 19 |
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| Z | INTRODUCED BY |
| 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, NCA, 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-1927v <u>this title</u> or for |
| 19 | modifying the performance thereof shall-be is guilty of a |
| 20 | felony <u>and punishable as provided in 17-1-115</u> . |
| 21 | 121 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 |

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| 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 <u>and</u> |
| 5 | puoishable 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 | Chapter68vLewsof1927-end-such-vieletion-result s-in-e |
| 9 | loss-to-the-state-of-\$1v000-o r-more-shall beguiltyofa |
| 10 | felonyy-but-if-such-violation-results-in-s-loss-to-the-state |
| 11 | oflessthan-\$2v000-or-in-no-pecuniery-lossy-then-he-shall |
| 12 | be-guilty-of-a-misdemeanor this_title: |
| 13 | <u>(i) is guilty of a felony if the violation results in</u> |
| 14 | a loss to the state of \$1:000 or more: or |
| 15 | <u>(ii) is guilty of a misdemeanor if the violation</u> |
| 16 | <u>results in a loss to the state of less than \$1:000 or in No</u> |
| 17 | pecuniary_loss. |
| 18 | (b) The punishment shall be as provided in 77-1-115. |
| 19 | t2}Any-officer-or-employee-of-thestateofHontana |
| 20 | guiltyofaviolation-of-any-of-the-provisions-of-Chapter |
| 21 | 147v-Laws-of-1989-and-not-herein-otherwise-providedtoris |
| 22 | heredydectared-guitty-of-a-fetony-and-shatt-be-punished-by |
| 23 | imprisonment-in-the-state-prison-for-a-term-not-exceeding-18 |
| 24 | years-or-by-a-fine-not-exceeding-\$5,000-or-by-both-fineand |
| 25 | isprisonsent." |
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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."

Section 3. Section 77-1-114. MCA, is amended to read: "77-1-114. Prosecutions. (1) Whenever an arrest shall be made for any violation of the provisions of this test] title or whenever any information of such violations shall be lodged with him. the county attorney of the county in which this act was committed must prosecute the offender or 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 than \$100 or more than \$1,000. Upon his conviction, the 20 district court wherein he is convicted shall forthwith 21 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 stat:. 25 (3) The penalties of this section shall also apply to

any magistrate with proper authority who refuses or neglects
 to cause the arrest and prosecution of any person when a
 complaint under oath of a violation of any of the provisions
 of this <u>fort</u> <u>title</u> has been lodged with him."

Section 4. Section /7-1-115, MCA, is amended to read: 5 #77-1-115. Punishments. (1) Any officer, employee, or ٨ representative of the state who is found quilty of a felony 7 as defined in 7/-1+112(1)--shall--be is punishable by R imprisonment in the state penitentiary for not less than 1 9 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 been convicted or by both such imprisonment and fine. 13

[2] Any officer, employee, or representative of the 14 state who is found quilty of a misdemeanor as defined in 15 77-1-1124++-shall-be is punishable by imprisonment in a 16 county jail not to exceed 1 year or by a fine which shall 17 neither be less than \$100 nor less than twice the amount of 18 19 the loss that resulted to the state through the crime of which he has been convicted or by both such imprisonment and 20 21 fine."

22 Section 5. Section 77-1-117, MCA, is amended to read:
23 #77-1-117. Disposition of fines. All--moneys Unless
24 <u>otherwise provided: all money</u> received as fines, fees, and
25 forfeitures under this title or as penalties for the

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

4 Section 6. Section 77-1-203, NCA, 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:

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

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

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

insofar as is possible to maintain or enhance these
 multiple-use values.⁴⁴
 Section 7. Section 77-2-201, NCA, is amended to read:

#77-2-201. Exchange of land with United States. (1) 4 5 The board may enter into contracts or agreements with the United States or any department thereof having jurisdiction 6 7 for the waiving and relinguishment to the United States of any rights of the state in and to sections 16 and 36 of any а 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 relinguished, receive from the United States other lands of 12 equal or greater value.

13 (2) The current user of the land transferred to the United States may continue to enjoy the use of the land 14 15 under terms and conditions required by the federal 15 government and in accordance with the-Multiple-Use-Act P.L. 17 88-607: as amended: 143 U.S.L. 1411 through 14181; 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."

Section 8. Section 17-2-214, MLA, is amended to read:
*77-2-214. Investigation and findings concerning
exchange of land. <u>(1)</u> The department of natural resources
and conservation shall, as soon as it concludes its
investigation thereof, report to the board the facts

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disclosed by its investigation and include in its report a 1 Z recommendation concerning the proposal including its 3 reasons therefor in writing. If-the-boardy-after 4 121 After considering the report and recommendation and making such further investigation as it considers 5 6 advisable, is--of--the--opinion-that-the-exchange-is-in-the 7 public-interesty-the-boord-shall-consider-the-entire--areter 8 ond--make--findings--ond-conclusions-concerning-the-proposal 9 and-make-an-order-rejecting-the--proposal--and--dismiss--the 10 samey--of-if-in-the-judgment-of-the-board-the-exchange-ig-in 11 the-public-interest-ond-should-be-mader-the-order--shall--so state--and the board shall consider the entire matters make 12 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 accurate description of all lands to be exchanged." 22 23 Section 9. Section 77-3-424, MCA, is amended to read: 24 "77-3-424. Power to terminate lease in absence of commencement of drilling or payment of delay drilling 25

1 penalty. (1) In every oil and gas lease granted after March Z 3, 1955, under this part there shall be reserved to the 3 board full power to declare termination of the lease at the and of the second fifth year or any subsequent year of the primary term of the lease upon failure of the lessee to -5 either: * (a) commence the drilling of a well for oil and gas 7 R upon the leased premises; or q (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 determina.

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.

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

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

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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.

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Section 7. <u>77-2-201</u>. "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. <u>Repealer</u>. Section 84-510, R.C.M. 1947, is repealed as obsolete and superseded by 77-2-313 (former 81-928, R.C.M. 1947).

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HB 0010/02

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Approved by Committee on Judiciary

| 1 | HOUSE BILL NO. 10 |
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| 2 | INTRODUCED BY KVAALEN |
| 3 | BY REQUEST OF THE CODE COMMISSIONER |
| 4 | |
| 5 | A BILL FUR 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." |
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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。 |
| 14 | employee, or representative of the state of-Montone 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 Chapter60,-Lows-of-1927, <u>this title</u> or for |
| 19 | modifying the performance thereof shell-be is guilty of a |
| 20 | felony and punishable as provided in 77-1-115. |
| | |

21 <u>121</u> 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 | []][] Any officer, employee, or representative of |
| 7 | the state who otherwise violates any of the provisions of |
| 8 | Ehapter68vLowsof1927-and-such-violation-results-in-a |
| 9 | łoss-to-the-state-of-\$1+000-or-more-shallbeguiltyofa |
| 10 | fetonyv-but-if-such-viotation-results-in-8-toss-to-the-state |
| 11 | oftessthan-\$1+800-or-in-no-pecuniary-tossy-then-he-shall |
| 12 | be-guiity-of-a-misdemeanor <u>this_title:</u> |
| 13 | <u>filis_guilty_of_a_felony_if_the_violation_resultsin</u> |
| 14 | a loss to the state of \$1:000 or more: or |
| 15 | <u>[ii]_is_guilty_of_a_misdemeanor_if_the_violation</u> |
| 16 | <u>results in a loss to the state of less than \$1:000 or in _no</u> |
| 17 | pecuniary_loss. |
| 18 | <pre>[b]Ibepunishmentshall_be_as_provided_in_77=1=115.</pre> |
| 19 | {} |
| 20 | gu ilty-ofaviolation-of-any-of-the-provisions-of-Chapter |
| 21 | 147,-Laws-of-1989-and-not-herein-otherwise-providedforis |
| 22 | herebydeclared-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-15v006-or-by-both-fineand |
| 25 | *mprtsonment*" |

-z- SECOND READING HB 10

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

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(2) If any county attorney shall fail to comply with 17 the provisions of this section, he shall be guilty of a 18 19 misdemeanor and, upon conviction, shall be fined not less than \$100 or more than \$1,000. Upon his conviction, the 20 district court wherein he is convicted shall forthwith 21 declare his office vacant and notify the proper appointing 22 power thereof. Actions against the county attorney shall be 23 brought by the attorney general in the name of the state. 24 (3) The penalties of this section shall also apply to 25

any magistrate with proper authority who refuses or neglects 1 to cause the arrest and prosecution of any person when a 2 complaint under oath of a violation of any of the provisions 3 4 of this Fecti title has been lodged with him." Section 4. Section 77-1-115. MCA, is amended to read: 5 ٨ #77-1-115. Punishments. (11 Any officer, employee, or representative of the state who is found quilty of a felony 7 as defined in 77-1-112114-shall-be is punishable by 8 9 imprisonment in the state penitentiary for not less than 1 or more than 10 years or with by a fine which shall neither 10 be less than \$500 nor less than twice the amount of the loss 11 that resulted to the state through the crime of which he has 12 13 been convicted or by both such imprisonment and fine. [2] Any officer+ employee+ or representative of the 14 state who is found guilty of a misdemeanor as defined in 15

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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-4-

violation of any of the land laws of this state shall be
 paid to the state treasurer and by him deposited to the
 credit of the general fund.⁴⁴

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:

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

17 (b) harmonious and coordinated management of the 18 various resources, each with the other, <u>will_result</u> 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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has other multiple use uses or resource values which are of
such significance that they do not warrant classification
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 United States or any department thereof having jurisdiction 6 for the waiving and relinquishment to the United States of 7 any rights of the state in and to sections 16 and 36 of any ß ۰ 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 other lands of equal or greater value. 12

13 (2) The current user of the land transferred to the United States may continue to enjoy the use of the land 14 15 under terms and conditions required by the federal government and in accordance with the-Multiple-Use-Act P.L. 16 88-607. as amended: (43 U.S.C. 1411 through 1418), and the 17 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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1 disclosed by its investigation and include in its report a 2 recommendation concerning the proposals including its 3 reasons therefor in writing. If-the-boardy-after 4 121 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-interesty-the-board-shall-consider-the-entire--matter 8 and--make--findings--and-conclusions-concerning-the-proposal 9 and-make-an-order-rejecting-the--proposel--and--dismiss--the 10 samey--or-if-in-the-judgment-of-the-board-the-exchange-is-in 11 the-public-interest-and-should-be-madey-the-order--shall--so 12 state--and the board shall consider the entire matter, make 13 findings and conclusions concerning the proposals 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 1b) accepting the proposal and ordering the exchange to be made if in the judgment of the board the exchange is 19 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: "77-3-424. Power to terminate lease in absence of 24 25 commencement of drilling or payment of delay drilling

penalty. (1) in every oil and gas lease granted after March) 3, 1955, under this part there shall be reserved to the 2 ٦. board full power to declare termination of the lease at the end of the second fifth year or any subsequent year of the - 4 primary term of the lease upon failure of the lessee to 5 either: 7 (a) commence the drilling of a well for oil and gas upon the leased premises; or 8 9 (b) pay a delay drilling penalty as follows: 10 (i) for the sixth year of the lease \$1.25 per acre per 11 vear: 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 lessee, and if the lessee applies for a hearing thereon 16 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 vear 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 and dispatch to such depth as is necessary to make a 24 25 reasonable test for oil or gas."

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HB 10

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

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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-

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HB 0010/02

HOUSE BILL NO. 10
 INTRODUCED BY KVAALEN
 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,

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 77-1-112. NCA. is awended to read: 12 #77-1-112. Violations classified. (1) Any officer. 13 employee, or representative of the state of-Montone who 14 directly or indirectly accepts any money or any other 15 valuable thing, except his regular and lawful compensation. 16 for performing or not performing an official act under the 17 provisions of Chapter--60v-taws-of-1927v this title or for 18 modifying the performance thereof shall-be is guilty of a 19 felony and nunishable as provided in 77-1-115. 20

21 <u>(2)</u> 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 HB 0010/02

| 1 | timber on state lands or from state lands or any timber in |
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| 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 shell-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 | Ehepter60vLowsof1927- and-such-violation-results-i n-a |
| 9 | łoss-to-the-state-of-\$iv\$80-or-more-shallbeguiltyofa |
| 10 | fetonyv-but-if-such-viotation-results-in-a-toss-to-the-state |
| 11 | oflassthan-fly800-or-in-no-pecuniery-lossy-then-he-shall |
| 12 | be-guiity-of-a-misdemeanor <u>this title:</u> |
| 13 | <u>(i) is guilty of a felony if the violation results in</u> |
| 14 | aloss to the state of \$1:000 or more: or |
| 15 | <u>(ii) is guilty of a misdemeanor if the violation</u> |
| 16 | results in a loss to the state of less than \$1,000 or in no |
| 17 | pecuniary_loss. |
| 18 | (b)Ibepuoisbmentsball_be_as_provided_in_77-1-115• |
| 19 | {2}Any-officer-or-employee-of-thostateofMontana |
| 20 | guiltyofaviolation-af-any-of-the-pravisions-of-Ehapter |
| 21 | 147y-Lows-of-1989-and-not-herein-otherwise-providedforis |
| 22 | he rebydeclared-guitty-of-e-felony-and-shall-be-punished-by |
| 23 | imprisonment-in-the-state-prison-for-e-term-not-exceeding-10 |
| 24 | years-or-by-a-fine-not-exceeding-\$5v8 88 -or-by-both-fineand |
| 25 | †mpr†sonment** |

-2-THIRD READING HB 10

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

Section 3. Section 77-1-114. MCA. is amended to read: m77-1-114. Prosecutions. (1) Whenever an arrest shall be made for any violation of the provisions of this <u>feet-j</u> <u>title</u> or whenever any information of such violations shall be lodged with him, the county attorney of the county in which this act was committed must prosecute the offender or 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 quilty of a 19 misdemeanor and, upon conviction, shall be fined not less 20 than \$100 or more than \$1,000. Upon his conviction, the district court wherein he is convicted shall forthwith 21 declare his office vacant and notify the proper appointing 22 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

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 Fact] 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 quilty of a felony 8 as defined in 17-1-112(1)--shell--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 77-1-112413-shall-be is punishable by imprisonment in a 17 county jail not to exceed 1 year or by a fine which shall

any magistrate with proper authority who refuses or neglects

21 fine."
22 Section 5. Section 77-1-117, MCA, is amended to read:
23 "77-1-117. Disposition of fines. All--moneys Unless
24 <u>otherwise provided. all money</u> received as fines, fees, and
25 forfeitures under this title or as penalties for the

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neither be less than \$100 nor less than twice the amount of

the loss that resulted to the state through the crime of

which he has been convicted or by both such imprisonment and

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violation of any of the land laws of this state shall be
 paid to the state treasurer and by him deposited to the
 credit of the general fund.^m

Section 6. Section 77-1-203. MCA. is amended to read: "77-1-203. Multiple-use management. (1) The board shall manage state lands under the multiple-use management concept defined as the management of all the various resources of the state lands so that:

(a) they are utilized in that combination best meeting 9 the needs of the people and the beneficiaries of the trust. 10 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+-fb+ and 15 realizing that some land with may be used for less than all 16 of the resourcesy; and

17 <u>(b)</u> harmonious and coordinated management of the 18 various resources, each with the other, <u>will result</u> 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 <u>if</u> a parcel of state land in one class have
23 <u>has</u> other multiple use <u>uses</u> 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.*

Section 7. Section 77-2-201, MCA, is amended to read: з 4 *77-2-201. Exchange of land with United States. (1) 5 The board may enter into contracts or agreements with the ٨ United States or any department thereof having jurisdiction 7 for the waiving and relinguishment 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 Pala 17 <u>88:607s as amendeds (43 UsSaCa 1411 through 1418)</u>, and the 18 current user on <u>of</u> 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

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| 1 | disclosed by its investigation and include in its report a | 1 | penalty. (1) In every oil and gas lease granted after March |
|----|--|----|---|
| 2 | recommendation concerning the proposals including its | 2 | 3. 1955, under this part there shall be reserved to the |
| 3 | reasons therefor in writing. If-the-boardy-after | 3 | board full power to declare termination of the lease at the |
| 4 | <u>12) After</u> considering the report and recommendation | 4 | end of the second <u>fifth</u> year or any subsequent year of the |
| 5 | and making such further investigation as it considers | 5 | primary term of the lease upon failure of the lessee to |
| 6 | advisable, isoftheopinion-thet-the-exchange-is-in-the | 6 | either: |
| 7 | public-interesty-the-b oard-sha ll-consider -the-ent ire- -mott er | 7 | (a) commence the drilling of a well for oil and gas |
| 8 | ondmakefindingsand-conclusions-concerning-the-proposal | 8 | upon the leased premises; or |
| 9 | and-make-on-order-rejecting-the-proposalanddisaissthe | 9 | (b) pay a delay drilling penalty as follows: |
| 10 | samevor-if-in-the-judgment-of-the-boord-the-exchange-is-in | 10 | (i) for the sixth year of the lease \$1.25 per acre per |
| 11 | the-public-interest-end-should-be-madey-the-ordershallso | 11 | year; and |
| 12 | stateand the board shall consider the entire matters make | 12 | (ii) for the remainder of the primary term of the lease |
| 13 | findings_and_conclusions_concerning_the_proposal:andmake | 13 | an amount per acre per year as the board may in its |
| 14 | ac_orderi | 14 | discretion determine. |
| 15 | fal_rejecting_and_dispissing_the_proposal_if_in_the | 15 | (2) Notice of that determination shall be given to the |
| 16 | judgment of the board the exchange is not in the public | 16 | lessee, and if the lessee appiles for a hearing thereon |
| 17 | interesti_or | 17 | within 10 days after receipt of the notice, the |
| 18 | (b)accepting_the_proposal_and_ordering_the_exchange | 18 | determination shall become final only after such hearing has |
| 19 | to be made if in the judgment of the board the exchange is | 19 | been held. |
| 20 | in_the_public_interest_and_should_be_mades | 20 | (3) This annual delay drilling penalty shall be paid |
| 21 | (3) An order accepting the proposal shall contain an | 21 | each year in advance. |
| 22 | accurate description of all lands to be exchanged." | 22 | (4) If a well for oil and gas is commenced, the |
| 23 | Section 9. Section 77-3-424, MCA, is amended to read: | 23 | drilling of the well shall be prosecuted with due diligence |
| 24 | "77-3-424. Power to terminate lease in absence of | 24 | and dispatch to such depth as is necessary to make a |
| | | | |
| 25 | commencement of drilling or payment of delay drilling | 25 | reasonable test for oil or gas." |

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Section 10. Repealer. Section 84-510, R.C.M. 1947, is 1 repealed. 2 Section 11. Severability. If a part of this act is 3 invalid, all valid parts that are severable from the invalid 4 part remain in effect. If a part of this act is invalid in 5 one or more of its applications, the part remains in effect 6 7 in all valid applications that are severable from the invalid applications. 8

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timber on state lands or from state lands or any timber in

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| 1 | HOUSE BILL NO. 10 |
|-----|--|
| z | INTRODUCED BY KVAALEN |
| | |
| 3 | BY REQUEST OF THE CODE COMMISSIONER |
| 4 | |
| 5 | A BILL FUR AN ACT ENTITLED: MAN ACT TO GENERALLY REVISE AND |
| 5 | 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+ |
| ß | 77-2-214, AND 77-3-424, MCA, AND REPEALING SECTION 84-510, |
| 9 | R.C.K. 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-Montona who |
| 15 | directly or indirectly accepts any money or any other |
| i.6 | valuable thing, except his regular and lawful compensation, |
| 17 | for performing or not performing an official act under the |
| 18 | provisions of Chapter60y-Lows-of-1927, <u>this title</u> or for |
| 19 | modifying the performance thereof shell-be is quilty of a |
| 20 | felony and punishable as provided in 77-1-115- |
| 21 | <u>121</u> 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 |
| | |

offered the state for sale or offered as security for a loan

from the state or who falsely classifies or scales any

| 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 <u>is</u> guilty of a felony <u>and</u> |
| 5 | punishable_as_provided_in_77-1-115• |
| 6 | (3)Any officer. employee. or representative of |
| 7 | the state who otherwise violates any of the provisions of |
| 8 | £hapter68vtawsof1927-and-such-violation-results-in-a |
| 9 | łoss-to-the-statu-of _\$1v888-or-more-shaitbeguittyofa |
| 10 | felonyy-but-if-such-violation-results-in-a-loss-to-the-state |
| 11 | oftessthan-\$ty888-or-in-no-pecuniary-tossy-then-he-shelt |
| 12 | be-guilty-of-a-misdemeanor <u>this title</u> : |
| 13 | <u>fil_is_guflty_of_a_felony_if_the_violation_resultsin</u> |
| 14 | <u>a loss to the state of \$1:000 or morei or</u> |
| 15 | <u>fii) is guilty of a misdemeanor if the violation</u> |
| 16 | <u>results in a loss to the state of less than \$1+800 or in no</u> |
| 17 | pecuniary_loss. |
| 18 | (b) The punishment shall be as provided in 77-1-115. |
| 19 | t2}Any-officer-or-employee-of-thestateofMontona |
| 20 | guiltyofevioletion-of-eny-of-the-provisions-of-Ehepter |
| 21 | 147v-taws-of-1989-and-not-herein-otherwise-providedforis |
| 2? | nerebydectared-guitty-of-a-fetony-and-shatt-be-punished-by |
| 23 | imprisanment-in-the-state-prison-for-a-term-not-exceeding-18 |

- 24 years-or-by-a-fine-not-exceeding-\$5,000-or-by-both-fine--and
- 25 imprisonmenter

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-2- SENATE CONSENT CALENDAR HB 10 HOUSE REFERENCE BILL.

1 Section 2. Section 77-1-113. MCA, is amended to read: 2 "77-1-113. Restrictions on who may buy or lease state lands. It is unlawful for any member of the board, or any 3 person appraising lands or in the employ of the state for 4 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 A 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 [oct] 13 <u>title</u> 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 quilty of a misdemeanor and, upon conviction, shall be fined not less 19 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 power thereof. Actions against the county attorney shall be 23 brought by the attorney general in the name of the state. 24 25 (3) The penalties of this section shall also apply to any magistrate with proper authority who refuses or neglects to cause the arrest and prosecution of any person when a complaint under oath of a violation of any of the provisions of this <u>fect] title</u> has been lodged with him." Section 4. Section 77-1-115. MCA, is amended to read: "77-1-115. Punishments. <u>[1]</u> Any officer, employee, or representative of the state who is found guilty of a felony

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

22 Section 5. Section 77-1-117, MCA, is amended to read:
23 *77-1-117. Disposition of fines. A++--moneys Unless
24 <u>otherwise provided. all money</u> received as fines, fees, and
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HB 10

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"77-1-203. Multiple-use management. (1) The board
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concept defined as the management of all the various
resources of the state lands so that:

(a) they are utilized in that combination best meeting 9 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 conditionst-the and realizing that some land will may be used for less than all 15 16 of the resources; and

17 <u>(b)</u> harmonious and coordinated management of the 16 various resources, each with the other, <u>will_result</u> without 19 impairment of the productivity of the land, with 20 consideration being given to the relative values of the 21 various resources.

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

- 5 -

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: "77-2-201. Exchange of land with United States. [1] 4 5 The board may enter into contracts or agreements with the United States or any department thereof having jurisdiction 6 7 for the waiving and relinguishment 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 fieu of the rights so 11 waived and relinguished, 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 government and in accordance with the-Multiple-Mose-Act Pala 16 88-607, as amended: (43 U.S.C. 1411 through 1418). and the 17 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. <u>(1)</u> The department of natural resources 24 and conservation shall, as soon as it concludes its 25 investigation thereof, report to the board the facts

-6-

disclosed by its investigation and include in its report a
 recommendation concerning the proposal_ including its
 reasons therefor in writing. If-the-boardy-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-interesty-the-board-shell-consider-the-entire--motter 8 and--make--findings--and-conclusions-concerning-the-proposal ond-make-on-order-rejecting-the--proposal--ond--dismiss--the 9 10 somey -- or -- if - in- the -- judgment -- of -- the - board-the -exchange -- is -- in the-public-interest-and-should-be-sadey-the-order--shail--so 11 12 state--and the board shall consider the entire matter, make 13 findings and conclusions concerning the proposal . and make an order: 14

15 fal_rejecting_and_dismissing_the_proposal_if_in_the 16 judgment_of_the_board_the_mxchange_is_not_in_the_public 17 interest:_or

18 <u>(b)_accepting_tbe_proposal_and_ordering_tbe_exchange</u>
19 <u>to_be_madm_if_in_the_judgment_of_the_board_tbe__exchange_is</u>

20 in the public interest and should be made.

21 (3) An order accepting the proposal shall contain an 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

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

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

(b) pay a delay drilling penalty as follows:

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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 hus
19 been held.

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

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

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Section 10. Repealer. Section 84-510. R.C.M. 1947. is
 repealed.
 Section 11. Severability. If a part of this act is
 invalid. all valid parts that are severable from the invalid
 part remain in effect. If a part of this act is invalid in
 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-