

Senate Bill 123

In The Senate

January 14, 1981	Introduced and referred to Committee on Natural Resources.
January 15, 1981	Fiscal note requested.
January 19, 1981	Fiscal note returned.
February 4, 1981	Committee recommend bill do pass as amended.
February 5, 1981	Bill printed and placed on members' desks.
February 9, 1981	Second reading do pass as amended.
February 10, 1981	Correctly engrossed.
February 11, 1981	Third reading passed.

In The House

February 12, 1981	Introduced and referred to Committee on Natural Resources.
March 27, 1981	Committee recommend bill not concurred.

In The Senate

March 28, 1981	Returned form House not concurred.
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Walter Nelson

1 *Senate* BILL NO. *123*
2 INTRODUCED BY *Richard Manning, Clarence L. Johnson, Monte Keated, Lee White, Anderson, Malbraff, Kenneth Johnson, Dwight Hager, Hammond, Tread*

3 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PUBLIC
4 RESOURCE LAND; PROVIDING FOR STATE OWNERSHIP AND CONTROL OF
5 CERTAIN LAND WITHIN STATE BOUNDARIES; PROVIDING FOR
6 ADMINISTRATION BY THE BOARD OF LAND COMMISSIONERS,
7 ESTABLISHING A MULTIPLE-USE POLICY FOR ADMINISTRATION OF THE
8 RESOURCE LAND; PROVIDING A PENALTY; AND PROVIDING AN
9 EFFECTIVE DATE."

10 WHEREAS, the intent of the framers of the constitution
11 of the United States was to guarantee to each of the states
12 sovereignty over all matters within its boundaries except
13 for those powers specifically granted to the United States
14 as agent of the states; and

15 WHEREAS, the attempted imposition upon the State of
16 Montana by the Congress of the United States of a
17 requirement in the Statehood Act that the State of Montana
18 and its people "disclaim all right and title to the
19 unappropriated public lands lying within (its) boundaries",
20 as a condition precedent to acceptance of Montana into the
21 Union, was an act beyond the power of the Congress of the
22 United States and is thus void; and

23 WHEREAS, the purported right of ownership and control

1 of the unappropriated public land in the State of Montana by
2 the United States is without foundation and violates the
3 clear intent of the constitution of the United States; and
4 WHEREAS, the exercise of that dominion and control of
5 the public land in the State of Montana by the United States
6 works a severe, continuous, and debilitating hardship upon
7 the people of the State of Montana.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Short title. [This act] may be cited as the
10 "Montana Land Reformation Act".

11 Section 2. Definitions. As used in [this act], the
12 following definitions apply:

13 (1) "Board" means the board of land commissioners
14 provided in Article X, section 4, of the constitution of
15 this state.

16 (2) "Multiple use" means the management of Montana
17 resource land to provide a sustained yield of forage for
18 livestock and game production and conservation and
19 preservation of the state's natural resources, wildlife
20 habitat, wilderness areas, and historical sites and
21 artifacts while also allowing the development and
22 continuation of compatible uses of such land for hunting,
23 recreation, mining, timber production, agriculture, and
24 production and transmission of energy and other public
25

1 utility services in a manner that provides the greatest
2 benefit to the citizens of this state.

3 (3) "Resource land" means all land, including all
4 water and mineral rights appurtenant thereto and not
5 previously appropriated, within the boundaries of the state
6 of Montana except land:

7 (a) to which title is held by a private person or
8 entity;

9 (b) to which title is held by the state or any of its
10 political subdivisions or units of local government;

11 (c) that is controlled by the United States department
12 of defense on [the effective date of this act];

13 (d) that is a national park, national monument, Indian
14 reservation or land held in trust for Indians, wildlife
15 refuge, or national wilderness system land specifically
16 designated as such by congress prior to December 31, 1976,
17 except that if a wildlife refuge exceeds 400,000 acres in
18 size, all unappropriated public land lying within the
19 boundaries of the refuge is resource land.

20 (4) "Sustained yield" means the maintenance of a
21 high-level annual or regular periodic output of the various
22 renewable resources of the state lands consistent with
23 multiple use.

24 Section 3. Ownership of resource land. (1) Subject to
25 rights existing on [the effective date of this act], fee

1 title to all resource land as defined in [section 2] is
2 vested in the state of Montana from and after [the effective
3 date of this act] and is subject to the exclusive
4 jurisdiction and control of the state of Montana.

5 (2) Until equivalent measures are enacted by the
6 legislature, the rights and privileges of the people of this
7 state granted under the provisions of existing federal law
8 are preserved under administration by the board.

9 (3) Resource land in the state that has been
10 administered by the United States under international
11 treaties or interstate compacts shall be administered by the
12 board in conformance with those treaties or compacts.

13 Section 4. Management. (1) The board shall manage
14 resource land acquired under [this act] in a manner that
15 will provide for the optimum benefit and use of all the
16 people of Montana and in conformity with established
17 concepts of multiple use and sustained yield that will
18 permit the development of uses for agriculture, grazing,
19 recreation, minerals, and timber, and the development,
20 production, and transmission of energy and other public
21 utility services and will insure conservation and protection
22 of watersheds, wildlife habitat, and historic, scenic, fish
23 and wildlife, recreational, and natural values.

24 (2) The board shall develop a plan for the transfer
25 and management of resource land. This plan shall be

1 submitted to the legislature prior to January 1, 1983, and
2 is subject to its approval. Such a management plan shall
3 address:

4 (a) management of the land pursuant to subsection (1);

5 (b) policy regarding disposal, lease, or exchange of
6 any land or resource acquired pursuant to [this act];

7 (c) policy regarding public access and use of such
8 lands to insure that existing rights of public access and
9 use are not diminished;

10 (d) conservation of lands for wildlife habitat or
11 recreational purposes;

12 (e) policy regarding use or transfer of lands to
13 municipalities and other governmental entities for public
14 purposes; and

15 (f) the establishment of fees, rentals, royalties,
16 interest, and penalties at rates comparable to present
17 federal rates; and

18 (g) disposal of revenue in such manner that local
19 government receipts are not diminished.

20 Section 5. Sale of land prohibited. No sale of
21 resource land is permitted unless specifically authorized by
22 an act of the legislature after a public hearing in each
23 county wherein the land proposed for sale is located.

24 Section 6. Board authorized to approve lease or
25 disposition of resource land. (1) Except as it is authorized

1 pursuant to subsection (2) or except as it may be authorized
2 by the board pursuant to any authority conferred upon it by
3 law, any sale, lease, exchange, encumbrance or other
4 disposal of any parcel of or any interest in resource land
5 is void.

6 (2) To the extent that resource land may be conveyed,
7 leased, permitted, or licensed by the federal government or
8 any of its agencies, the board is hereby authorized to
9 convey, lease, license, or permit the use of such land to
10 the same extent or in the same manner as that land is
11 conveyed, leased, licensed, or permitted to be used by the
12 federal government or any of its agencies.

13 Section 7. When board authorization required --
14 injunction -- penalty. (1) Any person who intends to perform
15 or who actually performs any act with respect to the use,
16 management, or disposal of resource land under color of any
17 statute, ordinance, regulation, custom, or usage of the
18 United States or otherwise shall obtain written
19 authorization from the board approving or confirming such
20 act, which authorization may be given only to the extent it
21 is authorized under the laws of this state.

22 (2) Any person who fails to obtain written
23 authorization from the board as required by subsection (1)
24 may be enjoined by the board in a court of competent
25 jurisdiction from attempting to perform or from continuing

1 to perform any act for which authorization is required.

2 (3) Any person who receives any money or other
3 consideration from the purported sale or other disposition
4 of resource land made contrary to the provisions of [section
5 5 or 6] is liable in damages to the state in an amount equal
6 to the money received or equal to the value of such other
7 consideration received.

8 Section 8. Penalty. In addition to the liability
9 specified in [subsection (3) of section 7], any person
10 convicted of attempting to exercise jurisdiction or control
11 over resource land contrary to the laws of this state shall
12 be imprisoned for a term not to exceed 10 years.

13 Section 9. Authority of attorney general. The attorney
14 general is vested with exclusive authority to commence any
15 action to protect the interest of the state in its public
16 land against claims of the federal government to such land,
17 including joining with other western states in proposed
18 litigation on this issue, or to defend any such action
19 brought by the federal government.

20 Section 10. Appropriation. There is appropriated to
21 the board of state lands \$200,000 from the general fund for
22 the biennium ending June 30, 1983, for carrying out the
23 purposes of this act.

24 Section 11. Effective date. This act is effective July
25 1, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 101-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 15, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 123 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

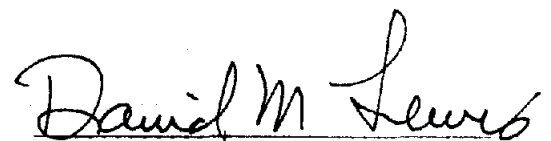
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act relating to public resource land; providing for state ownership and control of certain land within state boundaries; providing for administration by the Board of Land Commissioners, establishing a multiple use policy for administration of the resource land; providing a penalty; and providing an effective date.

Fiscal Impact

No dollar estimates can be made for Senate Bill 123. The Department of State Lands has no data which can be used as a base for an estimate on the fiscal impact of this bill.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-81

Approved by Committee
on Natural Resources

1 SENATE BILL NO. 123
2 INTRODUCED BY ETCHART, MANNING, CONOVER, GRAHAM,
3 MANLEY, KOLSTAD, LEE, M. ANDERSON, McCALLUM,
4 OCHSNER, SMITH, HAGER, HAMMOND, HAZELBAKER,
5 TVEIT, GALT, NELSON, OLSON, SEVERSON
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PUBLIC
8 RESOURCE LAND; PROVIDING FOR STATE OWNERSHIP AND CONTROL OF
9 CERTAIN LAND WITHIN STATE BOUNDARIES; PROVIDING FOR
10 ADMINISTRATION BY THE BOARD OF LAND COMMISSIONERS,
11 ESTABLISHING A MULTIPLE-USE POLICY FOR ADMINISTRATION OF THE
12 RESOURCE LAND; PROVIDING A PENALTY; AND PROVIDING AN
13 EFFECTIVE DATE."
14

15 WHEREAS, the intent of the framers of the constitution
16 of the United States was to guarantee to each of the states
17 sovereignty over all matters within its boundaries except
18 for those powers specifically granted to the United States
19 as agent of the states; and

20 WHEREAS, the attempted imposition upon the State of
21 Montana by the Congress of the United States of a
22 requirement in the Statehood Act that the state of Montana
23 and its people "disclaim all right and title to the
24 unappropriated public lands lying within (its) boundaries",
25 as a condition precedent to acceptance of Montana into the

1 Union, was an act beyond the power of the Congress of the
2 United States and is thus void; and

3 WHEREAS, the purported right of ownership and control
4 of the unappropriated public land in the State of Montana by
5 the United States is without foundation and violates the
6 clear intent of the constitution of the United States; and

7 WHEREAS, the exercise of that dominion and control of
8 the public land in the State of Montana by the United States
9 works a severe, continuous, and debilitating hardship upon
10 the people of the State of Montana.
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Short title. [This act] may be cited as the
14 "Montana Land Reformation Act".

15 Section 2. Definitions. As used in [this act], the
16 following definitions apply:

17 (1) "Board" means the board of land commissioners
18 provided in Article X, section 4, of the constitution of
19 this state.

20 (2) "Multiple use" means the management of Montana
21 resource land to provide a sustained yield of forage for
22 livestock and game production and conservation and
23 preservation of the state's natural resources, wildlife
24 habitat, wilderness areas, and historical sites and
25 artifacts while also allowing the development and

1 continuation of compatible uses of such land for hunting,
2 recreation, mining, timber production, agriculture, and
3 production and transmission of energy and other public
4 utility services in a manner that provides the greatest
5 benefit to the citizens of this state.

6 (3) "Resource land" means all land, ~~including--all~~
7 ~~water and mineral rights appurtenant thereto and~~ MINERALS,
8 INCLUDING OIL AND GAS not previously appropriated within
9 the boundaries of the state of Montana except land:

10 (a) THAT to which title is held by a private person or
11 entity;

12 (b) THAT to which title is held by the state or any of
13 its political subdivisions or units of local government;

14 (c) that WHICH is controlled by the United States
15 department of defense OR BUILDINGS AND APPURTENANT
16 STRUCTURES TOGETHER WITH SUFFICIENT LANDS TO ACCOMMODATE THE
17 SAME USED AND OCCUPIED BY THE UNITED STATES FOR NECESSARY
18 GOVERNMENTAL FUNCTIONS on [the effective date of this act];

19 (d) that WHICH is a national park, national monument,
20 Indian reservation or land held in trust for Indians,
21 wildlife refuge, or national wilderness system land
22 specifically designated as such by congress prior to
23 ~~December--31--1976~~ [THE EFFECTIVE DATE OF THIS ACT], except
24 that if a wildlife refuge exceeds 400,000 acres in size, all
25 unappropriated public land lying within the boundaries of

1 the refuge is resource land;

2 (E) RESOURCE LAND IN THE STATE THAT HAS BEEN
3 ADMINISTERED BY THE UNITED STATES UNDER INTERNATIONAL
4 TREATIES OR INTERSTATE COMPACTS.

5 (4) "Sustained yield" means the maintenance of a
6 high-level annual or regular periodic output of the various
7 renewable resources of the state lands consistent with
8 multiple use.

9 Section 3. Ownership of resource land. (1) Subject to
10 rights existing on [the effective date of this act], fee
11 title to all resource land as defined in [section 2] is
12 vested in the state of Montana from and after [the effective
13 date of this act] and is subject to the exclusive
14 jurisdiction and control of the state of Montana.

15 (2) Until equivalent measures are enacted by the
16 legislature, the rights and privileges of the people of ~~the~~
17 ~~state~~ granted under the provisions of existing federal law
18 are preserved under administration by the board.

19 ~~(3)--Resource--land--in--the--state--that--has--been~~
20 ~~administered--by--the--United--States--under--international~~
21 ~~treaties--or--interstate--compacts--shall--be--administered--by--the~~
22 ~~board--in--conformance--with--those--treaties--or--compacts.~~

23 Section 4. Management. (1) The board shall manage
24 resource land acquired under [this act] in a manner that
25 will provide for the optimum benefit and use of all the

1 people of Montana and in conformity with established
 2 concepts of multiple use and sustained yield that will
 3 permit the development of uses for agriculture, grazing,
 4 recreation, minerals, and timber, and the development,
 5 production, and transmission of energy and other public
 6 utility services and will insure conservation and protection
 7 of watersheds, wildlife habitat, and historic, scenic, fish
 8 and wildlife, recreational, and natural values.

9 (2) The board shall develop a plan for the transfer
 10 and management of resource land. This plan shall be
 11 submitted to the legislature prior to January 1, 1983, and
 12 is subject to its approval. Such a management plan shall
 13 address:

14 (a) management of the land pursuant to subsection (1);

15 ~~(b) policy regarding disposal, lease, or exchange of~~
 16 ~~any land or resource acquired pursuant to [this act];~~

17 ~~(c) policy regarding public access and use of such~~
 18 ~~lands to insure that existing rights of public access and~~
 19 ~~use are not diminished;~~

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 21 ~~recreational purposes;~~

22 ~~(e) policy regarding use or transfer of lands to~~
 23 ~~municipalities and other governmental entities for public~~
 24 ~~purposes; and~~

25 ~~(f) the establishment of fees, rentals, royalties,~~

1 interest, and penalties at rates comparable to present
 2 federal rates THAT WILL RESULT IN MANAGEMENT OF SUCH LANDS
 3 WITHOUT A LOSS OF GENERAL FUND REVENUE TO THE STATE; and

4 ~~(g) disposal of revenue in such manner that local~~
 5 ~~government receipts are not diminished.~~

6 Section 5. ~~State of land prohibited. No sale of~~
 7 ~~resource land is permitted unless specifically authorized by~~
 8 ~~an act of the legislature after a public hearing in each~~
 9 ~~county wherein the land proposed for sale is located. SALE,~~
 10 ~~TRANSFER, OR EXCHANGE OF LAND PROHIBITED. (1) ANY SALE,~~
 11 ~~TRANSFER, OR EXCHANGE OF RESOURCE LAND VESTED IN THE STATE~~
 12 ~~OF MONTANA UNDER THE TERMS OF [THIS ACT] IS VOID UNLESS:~~

13 (A) SUCH SALE, TRANSFER, OR EXCHANGE IS MADE STRICTLY
 14 IN CONFORMITY WITH AND PURSUANT TO LAWS, RULES, AND
 15 REGULATIONS OF THE UNITED STATES GOVERNING THE SALE,
 16 TRANSFER, AND EXCHANGE OF RESOURCE LANDS WHEN THE TITLE
 17 THERE TO WAS VESTED IN THE UNITED STATES; OR

18 (B) THERE HAS BEEN FIRST ESTABLISHED BY A
 19 PREPONDERANCE OF THE EVIDENCE AT PUBLIC HEARINGS HELD IN
 20 EACH COUNTY WHEREIN SUCH LAND IS LOCATED, THAT THE SALE,
 21 TRANSFER, OR EXCHANGE IS ESTABLISHED AS NECESSARY FOR A
 22 COMPELLING PUBLIC NEED AND IS NOT IN ANY MANNER DIRECTLY OR
 23 INDIRECTLY FOR PRIVATE GAIN OR PROFIT.

24 (2) NO SALE, TRANSFER, OR EXCHANGE OF RESOURCE LANDS
 25 MAY BE MADE WITHOUT AN ACT OF THE LEGISLATURE APPROVING THE

1 SALE, TRANSFER, OR EXCHANGE.

2 Section 6. Board authorized to approve lease or
3 disposition of resource lands (1) except as it is
4 authorized pursuant to subsection (2) or except as it may be
5 authorized by the board pursuant to any authority conferred
6 upon it by law, any sale, lease, exchange, encumbrance or
7 other disposal of any parcel of or any interest in resource
8 land is void.

9 (2) To the extent that resource land may be conveyed,
10 leased, permitted, or licensed by the federal government or
11 any of its agencies, the board is hereby authorized to
12 convey, lease, license, or permit the use of such land to
13 the same extent or in the same manner as that land is
14 conveyed, leased, licensed, or permitted to be used by the
15 federal government or any of its agencies.

16 Section 6. When board authorization required --
17 injunction -- penalty. (1) Any person who intends to perform
18 or who actually performs any act with respect to the use or
19 management or disposal of resource land under color of any
20 statute, ordinance, regulation, custom, or usage of the
21 United States or otherwise shall obtain, written
22 authorization from the board approving or confirming such
23 act, which authorization may be given only to the extent it
24 is authorized under the laws of this state.

25 (2) Any person who fails to obtain written

1 authorization from the board as required by subsection (1)
2 may be enjoined by the board in a court of competent
3 jurisdiction from attempting to perform or from continuing
4 to perform any act for which authorization is required.

5 (3) Any person who receives any money or other
6 consideration from the purported sale or other disposition
7 of resource land made contrary to the provisions of [section
8 5 or 6] is liable in damages to the state in an amount equal
9 to the money received or equal to the value of such other
10 consideration received.

11 Section 7. Penalty. In addition to the liability
12 specified in [subsection (3) of section 7], any person
13 convicted of attempting to exercise jurisdiction or control
14 over resource land contrary to the laws of this state shall
15 be imprisoned for a term not to exceed 10 years.

16 Section 8. Authority of attorney general. The attorney
17 general is vested with exclusive authority to commence any
18 action to protect the interest of the state in its public
19 land against claims of the federal government to such land,
20 including joining with other western states in proposed
21 litigation on this issue, or to defend any such action
22 brought by the federal government.

23 Section 10. Appropriation. There is appropriated to
24 the board of state lands \$200,000 from the general fund for
25 the biennium ending June 30, 1983, for carrying out the

SB 0123/02

1 ~~purposes-of-this-act~~

2 Section 9. Effective date. This act is effective July

3 1, 1981.

-End-

1 SENATE BILL NO. 123

2 INTRODUCED BY ETCHART, MANNING, CONOVER, GRAHAM,

3 HANLEY, KOLSTAD, LEE, M. ANDERSON, McCALLUM,

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7 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PUBLIC
8 RESOURCE LAND; PROVIDING FOR TRANSITION TO STATE OWNERSHIP
9 AND CONTROL OF CERTAIN LAND WITHIN STATE BOUNDARIES UPON
10 CONGRESSIONAL OR JUDICIAL APPROVAL; PROVIDING FOR
11 ADMINISTRATION BY THE BOARD OF LAND COMMISSIONERS,
12 ESTABLISHING A MULTIPLE-USE POLICY FOR ADMINISTRATION OF THE
13 RESOURCE LAND; PROVIDING A PENALTY; AND PROVIDING AN
14 EFFECTIVE DATE."

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16 WHEREAS, the intent of the framers of the constitution
17 of the United States was to guarantee to each of the states
18 sovereignty over all matters within its boundaries except
19 for those powers specifically granted to the United States
20 as agent of the states; and

21 WHEREAS, the attempted imposition upon the State of
22 Montana by the Congress of the United States of a
23 requirement in the Statehood Act that the State of Montana
24 and its people "disclaim all right and title to the
25 unappropriated public lands lying within [its] boundaries",

1 as a condition precedent to acceptance of Montana into the
2 Union, was an act beyond the power of the Congress of the
3 United States and is thus void; and

4 WHEREAS, the purported right of ownership and control
5 of the unappropriated public land in the State of Montana by
6 the United States is without foundation and violates the
7 clear intent of the constitution of the United States; and

8 WHEREAS, the exercise of that dominion and control of
9 the public land in the State of Montana by the United States
10 works a severe, continuous, and debilitating hardship upon
11 the people of the State of Montana.

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19 provided in Article X, section 4, of the constitution of
20 this state.

21 (2) "Multiple use" means the management of Montana
22 resource land to provide a sustained yield of forage for
23 livestock and game production and conservation and
24 preservation of the state's natural resources, wildlife
25 habitat, wilderness areas, and historical sites and

1 artifacts while also allowing the development and
2 continuation of compatible uses of such land for hunting,
3 recreation, mining, timber production, agriculture, and
4 production and transmission of energy and other public
5 utility services in a manner that provides the greatest
6 benefit to the citizens of this state.

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9 INCLUDING OIL AND GAS not previously appropriated, within
10 the boundaries of the state of Montana except land:

11 (a) THAT to which title is held by a private person or
12 entity;

13 (b) THAT to which title is held by the state or any of
14 its political subdivisions or units of local government;

15 (c) that WHICH is controlled by the United States
16 department of defense OR BUILDINGS AND APPURTENANT
17 STRUCTURES TOGETHER WITH SUFFICIENT LANDS TO ACCOMMODATE THE
18 SAME USED AND OCCUPIED BY THE UNITED STATES FOR NECESSARY
19 GOVERNMENTAL FUNCTIONS on [the effective date of this act];

20 (d) that WHICH is a national park, national monument,
21 Indian reservation or land held in trust for Indians,
22 wildlife refuge, or national wilderness system land
23 specifically designated as such by congress prior to
24 ~~December 31, 1976~~ [THE EFFECTIVE DATE OF THIS ACT], except
25 that if a wildlife refuge exceeds 400,000 acres in size, all

1 unappropriated public land lying within the boundaries of
2 the refuge is resource land;

3 (E) RESOURCE LAND IN THE STATE THAT HAS BEEN
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5 TREATIES OR INTERSTATE COMPACTS.

6 (4) "Sustained yield" means the maintenance of a
7 high-level annual or regular periodic output of the various
8 renewable resources of the state lands consistent with
9 multiple use.

10 Section 3. Ownership of resource land. (1) Subject
11 UPON APPROVAL OF THE CONGRESS OF THE UNITED STATES OR UPON
12 AUTHORITY DERIVED FROM A DECISION OF THE UNITED STATES
13 SUPREME COURT AND SUBJECT to rights existing on [the
14 effective date of this act], fee title to all resource land
15 as defined in [section 2] is vested in the state of Montana
16 from and after ~~[the effective date of this act]~~ SUCH
17 CONGRESSIONAL ACTION OR JUDICIAL DECISION and is subject to
18 the exclusive jurisdiction and control of the state of
19 Montana.

20 (2) Until equivalent measures are enacted by the
21 legislature, the rights and privileges of the people of ~~this~~
22 ~~state~~ granted under the provisions of existing federal law
23 are preserved under administration by the board.

24 ~~(3) Resource land in the state that has been~~
25 ~~administered by the United States under international~~

1 ~~treaties or interstate compacts shall be administered by the~~
2 ~~board in conformance with those treaties or compacts.~~

3 Section 4. Management. (1) The board shall manage
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5 will provide for the optimum benefit and use of all the
6 people of Montana and in conformity with established
7 concepts of multiple use and sustained yield that will
8 permit the development of uses for agriculture, grazing,
9 recreation, minerals, and timber, and the development,
10 production, and transmission of energy and other public
11 utility services and will insure conservation and protection
12 of watersheds, wildlife habitat, and historic, scenic, fish
13 and wildlife, recreational, and natural values.

14 (2) The board shall develop a plan for the transfer
15 and management of resource land. This plan shall be
16 submitted to the legislature prior to January 1, 1983, and
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18 address:

19 (a) management of the land pursuant to subsection (1);

20 ~~(b) policy regarding disposal, lease, or exchange of~~
21 ~~any land or resource acquired pursuant to [this act];~~

22 ~~(c) policy regarding public access and use of such~~
23 ~~lands to insure that existing rights of public access and~~
24 ~~use are not diminished;~~

25 ~~(d) conservation of lands for wildlife habitat or~~

1 recreational purposes;

2 ~~(e) policy regarding use or transfer of lands to~~
3 ~~municipalities and other governmental entities for public~~
4 ~~purposes; and~~

5 ~~(f) the establishment of fees, rentals, royalties,~~
6 ~~interest, and penalties at rates comparable to present~~
7 ~~federal rates THAT WILL RESULT IN MANAGEMENT OF SUCH LANDS~~
8 ~~WITHOUT A LOSS OF GENERAL FUND REVENUE TO THE STATE; and~~

9 ~~(g) disposal of revenue in such manner that local~~
10 ~~government receipts are not diminished.~~

11 Section 5. ~~Sale of land prohibited. No sale of~~
12 ~~resource land is permitted unless specifically authorized by~~
13 ~~an act of the legislature after a public hearing in each~~
14 ~~county wherein the land proposed for sale is located. SALE,~~
15 ~~TRANSFER, OR EXCHANGE OF LAND PROHIBITED. (1) ANY SALE,~~
16 ~~TRANSFER, OR EXCHANGE OF RESOURCE LAND VESTED IN THE STATE~~
17 ~~OF MONTANA UNDER THE TERMS OF [THIS ACT] IS VOID UNLESS:~~

18 ~~(A) SUCH SALE, TRANSFER, OR EXCHANGE IS MADE STRICTLY~~
19 ~~IN CONFORMITY WITH AND PURSUANT TO LAWS, RULES, AND~~
20 ~~REGULATIONS OF THE UNITED STATES GOVERNING THE SALE,~~
21 ~~TRANSFER, AND EXCHANGE OF RESOURCE LANDS WHEN THE TITLE~~
22 ~~THERE TO WAS VESTED IN THE UNITED STATES; OR~~

23 ~~(B) THERE HAS BEEN FIRST ESTABLISHED BY A~~
24 ~~PREPONDERANCE OF THE EVIDENCE AT PUBLIC HEARINGS HELD IN~~
25 ~~EACH COUNTY WHEREIN SUCH LAND IS LOCATED, THAT THE SALE,~~

1 TRANSFER, OR EXCHANGE IS ESTABLISHED AS NECESSARY FOR A
2 COMPELLING PUBLIC NEED AND IS NOT IN ANY MANNER DIRECTLY OR
3 INDIRECTLY FOR PRIVATE GAIN OR PROFIT.

4 (2) NO SALE, TRANSFER, OR EXCHANGE OF RESOURCE LANDS
5 MAY BE MADE WITHOUT AN ACT OF THE LEGISLATURE APPROVING THE
6 SALE, TRANSFER, OR EXCHANGE.

7 ~~Section 6. Board authorized to approve lease or~~
8 ~~disposition of resource lands (1) Except as it is~~
9 ~~authorized pursuant to subsection (2) or except as it may be~~
10 ~~authorized by the board pursuant to any authority conferred~~
11 ~~upon it by law any sales, leases, exchanges, encumbrance or~~
12 ~~other disposal of any parcel of or any interest in resource~~
13 ~~land is void.~~

14 ~~(2) to the extent that resource land may be conveyed~~
15 ~~leased, permitted, or licensed by the federal government or~~
16 ~~any of its agencies, the board is hereby authorized to~~
17 ~~convey, lease, license, or permit the use of such land to~~
18 ~~the same extent or in the same manner as that land is~~
19 ~~conveyed, leased, licensed, or permitted to be used by the~~
20 ~~federal government or any of its agencies.~~

21 Section 6. When board authorization required --
22 injunction -- penalty. (1) Any person who intends to perform
23 or who actually performs any act with respect to the use OR
24 ~~management or disposal~~ of resource land under color of any
25 statute, ordinance, regulation, custom, or usage of the

1 United States or otherwise shall obtain written
2 authorization from the board approving or confirming such
3 act, which authorization may be given only to the extent it
4 is authorized under the laws of this state.

5 (2) Any person who fails to obtain written
6 authorization from the board as required by subsection (1)
7 may be enjoined by the board in a court of competent
8 jurisdiction from attempting to perform or from continuing
9 to perform any act for which authorization is required.

10 (3) Any person who receives any money or other
11 consideration from the purported sale or other disposition
12 of resource land made contrary to the provisions of [section
13 5 or 6] is liable in damages to the state in an amount equal
14 to the money received or equal to the value of such other
15 consideration received.

16 Section 7. Penalty. In addition to the liability
17 specified in [subsection (3) of section 7], any person
18 convicted of attempting to exercise jurisdiction or control
19 over resource land contrary to the laws of this state shall
20 be imprisoned for a term not to exceed 10 years.

21 Section 8. Authority of attorney general. The attorney
22 general is vested with exclusive authority to commence any
23 action to protect the interest of the state in its public
24 land against claims of the federal government to such land,
25 including joining with other western states in proposed

1 litigation on this issue, or to defend any such action
2 brought by the federal government.

3 ~~Section 10. Appropriations. There is appropriated to~~
4 ~~the board of state lands \$200,000 from the general fund for~~
5 ~~the biennium ending June 30, 1983 for carrying out the~~
6 ~~purposes of this act.~~

7 Section 9. Effective date. This act is effective July
8 1, 1981.

-End-