

SENATE BILL NO. 424

INTRODUCED BY BLAYLOCK
BY REQUEST OF THE SENATE EDUCATION AND
CULTURAL RESOURCES COMMITTEE

IN THE SENATE

FEBRUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. FIRST READING.
MARCH 25, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 26, 1993	PRINTING REPORT.
MARCH 29, 1993	SECOND READING, DO NOT PASS. ON MOTION, RETURNED TO 2ND READING THIS DAY WITH AMENDMENTS. SECOND READING, DO PASS AS AMENDED.
MARCH 30, 1993	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 32; NOES, 18. TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 31, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. FIRST READING.
APRIL 6, 1993	ON MOTION, RULES SUSPENDED TO ALLOW 2ND AND 3RD READING SAME LEGISLATIVE DAY.
APRIL 8, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 14, 1993	SECOND READING, CONCURRED IN AS AMENDED.

THIRD READING, CONCURRED IN.
AYES, 90; NOES, 10.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 16, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 17, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

APRIL 21, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 424
2 INTRODUCED BY Blaylock
3 BY REQUEST OF THE SENATE EDUCATION AND
4 CULTURAL RESOURCES COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF
7 LAND COMMISSIONERS TO ATTAIN FULL MARKET VALUE FOR LEASES ON
8 STATE SCHOOL TRUST LANDS; ELIMINATING THE RECREATIONAL USE
9 LICENSE ADMINISTRATIVE SURCHARGE; REQUIRING THE VALUE OF
10 IMPROVEMENTS TO BE BASED ON ACTUAL COSTS; AMENDING SECTIONS
11 77-1-208, 77-1-802, 77-1-808, 77-6-202, 77-6-205, 77-6-302,
12 77-6-305, 77-6-306, 77-6-502, AND 77-6-508, MCA; REPEALING
13 SECTION 77-6-507, MCA; AND PROVIDING AN EFFECTIVE DATE AND
14 AN APPLICABILITY DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 77-1-208, MCA, is amended to read:

18 "77-1-208. Cabin site licenses and leases -- method of
19 establishing value. (1) The board shall set the annual fee
20 based on full market value for each cabin site subject-to-a
21 license-or-lease-in-effect-on-January-1-1988, and for each
22 licensee or lessee who at any time wishes to continue or
23 assign his the license or lease. The fee must be 3.5% of the
24 attain full market value based on appraisal of the cabin
25 site value as determined by the department of revenue or

1 \$1507-whichever-is-greater. The licensee or lessee has the
2 option to pay the entire fee on March 1 or to divide the fee
3 into two equal payments due March 1 and September 1. The
4 value may be increased or decreased as a result of the
5 statewide periodic revaluation of property pursuant to
6 15-7-111. An appeal of a cabin site value determined by the
7 department of revenue shall must be conducted pursuant to
8 Title 15, chapter 2.

9 (2) The board shall set the fee of each initial cabin
10 site license or lease or each current cabin site license or
11 lease of a person who does not choose to retain the license
12 or lease. The initial fee must be based upon a system of
13 competitive bidding. The fee for a person who wishes to
14 retain that license or lease must be determined under the
15 method provided for in subsection (1).

16 (3) The board shall follow the procedures set forth in
17 77-6-302 through 77-6-306 for the disposal or valuation of
18 any fixtures or improvements placed upon the property by the
19 then-current licensee or lessee and shall require the
20 subsequent licensee or lessee whose bid is accepted by the
21 board to purchase those fixtures or improvements in the
22 manner required by the board.

23 (4) ~~Nothing--in--this~~ This section may not be construed
24 as a delegation of rulemaking authority to the board."

25 **Section 2.** Section 77-1-802, MCA, is amended to read:

"77-1-802. Recreational use license -- fee. (1) The fee for a recreational use license is ~~\$5.~~ The fee is must attain full market value based upon:

(a) a ~~\$3~~ \$25 minimum charge as the value of 1 year of recreational use of state lands; and

(b) ~~a \$2 surcharge for the administrative costs of providing recreational access to state lands and the maintenance of a state lands recreational use account pursuant to 77-1-808.~~

(2) Money received by the department from the sale of recreational use licenses ~~must be credited as follows:~~

(a) ~~proceeds collected under subsection (1)(a) must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts; and~~

(b) ~~proceeds collected under the surcharge of subsection (1)(b), less 50 cents for each license to be returned as a commission to license dealers, must be deposited in the state lands recreational use account established by 77-1-808 for use by the department in the management of state lands open to general recreational use.~~

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the

department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

Section 3. Section 77-1-808, MCA, is amended to read:

"77-1-808. State lands recreational use account. (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) ~~all revenue received from the recreational use license established by 77-1-802;~~

(b) (a) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and

(c) (b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the state lands recreational use account is statutorily appropriated, as provided in 17-7-502, and must be used by the department for the following purposes:

(a) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b) assistance in weed control management necessary as a result of recreational use of state lands;

(c) protection of the resource value of the trust assets; and

(d) administration and management for the implementation of recreational use of state lands."

Section 4. Section 77-6-202, MCA, is amended to read:

"77-6-202. Lease by competitive bidding -- full market value required. When the department receives an application to lease an unleased tract, it shall advertise for bids on the tract. The tract ~~shall~~ must be leased to the highest bidder unless the board determines that the bid is not in the state's best interest for the reasons set forth in 77-6-205(2). The board may not accept a bid that is below full market value. If the high bid is rejected, the board shall set forth the reasons for the rejection in writing. The lease ~~shall~~ must then be issued, at a rental to be determined by the board, to the first bidder willing to pay the board determined rental whose name is selected through a random selection process from all bidders on the tract."

Section 5. Section 77-6-205, MCA, is amended to read:

"77-6-205. Renewal leases. (1) A lessee of state land classed as agricultural, grazing, town lot, city lot, or land valuable for commercial development who has paid all rentals due ~~from--him--to~~ the state or who has voluntarily terminated a lease under 77-6-116 is entitled to have his the lease renewed for a period not to exceed the maximum

lease period provided in 77-6-109 at any time within 30 days prior to its expiration or within 30 days following voluntary termination if no other applications for lease of the land have been received 30 days prior to the expiration of ~~his~~ the lease or within 30 days following voluntary termination. The renewal must be at the full market rental rate ~~provided--by--law~~ established by the board for the renewal period and subject to any other conditions at the time of the renewal imposed by law as terms of the lease. Except as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference right to lease the land covered by ~~his~~ the former lease by meeting the highest bid made by any other applicant. Applications for lease of lands in this section must be given preference in the order of their receipt at the office of the department.

(2) The board shall accept the highest bid. If the lessee exercises the preference right and believes the bid to be excessive, ~~he~~ the lessee may request an administrative hearing. The request must contain a statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the

1 rental from the amount bid if the lessee shows that the bid
 2 is not in the best interest of the state because it is above
 3 community standards for a lease of the land, would cause
 4 damage to the tract, or would impair its long-term
 5 productivity. If the board reduces the bid, it shall set
 6 forth its findings and conclusions in writing and inform the
 7 lessee and competitive bidder of the reduction. It is the
 8 duty of the board to secure the best lessees possible, so
 9 that the state may receive the maximum return possible with
 10 the least injury occurring to the land.

11 (3) A renewal lease may be canceled pursuant to
 12 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a violation by
 13 the lessee that occurred during the previous lease term but
 14 no more than 3 years prior to the date on which the notice
 15 of cancellation required by 77-6-211 is issued. Cancellation
 16 procedures instituted but not completed before renewal are
 17 applicable to the renewal lease.

18 (4) A renewal lease may be voluntarily terminated
 19 pursuant to 77-6-116."

20 **Section 6.** Section 77-6-302, MCA, is amended to read:

21 "77-6-302. Compensation for improvements -- actual
 22 costs. (1) When another person becomes the lessee of such
 23 the lands, he the person shall pay to the former lessee the
 24 reasonable value of these improvements at the time the new
 25 lessee takes possession. The reasonable value may not exceed

1 the actual costs of the improvements.

2 (2) If the former lessee is unable to produce records
 3 establishing the reasonable value or if the former lessee
 4 and the new lessee are unable to agree on the reasonable
 5 value of the improvements, the value shall must be
 6 ascertained and fixed as provided in 77-6-306."

7 **Section 7.** Section 77-6-305, MCA, is amended to read:

8 "77-6-305. Settlement regarding improvements
 9 prerequisite to issuance of new lease. Before a lease is
 10 issued to the new lessee, he the lessee shall show that he
 11 has-paid the former lessee has been paid the value of the
 12 improvements as-agreed-upon-by-them pursuant to 77-6-302 or
 13 as fixed-and determined under 77-6-306 or--that-he--has
 14 offered-to-pay-the-value-of-the-improvements-as-so-fixed-and
 15 determined or that the former lessee elects to remove the
 16 improvements."

17 **Section 8.** Section 77-6-306, MCA, is amended to read:

18 "77-6-306. Arbitrators to fix value of improvements.
 19 (1) If the owner of any improvements on state lands of the
 20 type authorized by law at the time they were placed thereon
 21 on state lands desires to sell these improvements to the new
 22 lessee and they are unable to agree on the value thereof of
 23 the improvements pursuant to 77-6-302, the value shall must
 24 be ascertained and fixed by three arbitrators, one of whom
 25 shall-be is appointed by the owner of the improvements, one

1 by the new lessee, and the third by the two arbitrators so
 2 appointed. If any party refuses to appoint an arbitrator
 3 within 15 days of being requested to do so by the
 4 commissioner, the commissioner may appoint an arbitrator for
 5 that party. An arbitrator appointed by the commissioner has
 6 the same duties and powers as if appointed by one of the
 7 parties. The value of the improvements ~~shall~~ must be
 8 ascertained and fixed ~~as--this--part--provides~~ pursuant to
 9 77-6-302.

10 (2) The reasonable compensation that the arbitrators
 11 may fix for their services ~~shall~~ must be paid in equal
 12 shares by the owner of the improvements and the new lessee.

13 (3) The value of the improvements ~~so~~ ascertained and
 14 fixed is binding on both parties ~~7--however--if~~. If either
 15 party is dissatisfied with the valuation ~~so-fixed~~, he the
 16 party may within 10 days appeal from the decision to the
 17 department, which shall examine the records pertaining to
 18 the costs of the improvements, and, except as provided in
 19 subsection (4), its decision ~~shall--be~~ is final. The
 20 department shall charge and collect the actual cost of the
 21 reexamination to the owner and the new lessee in such the
 22 proportion as, in its judgment, justice may demand.

23 (4) If either party is dissatisfied with the valuation
 24 fixed by the department, he the party may within 30 days
 25 after receipt of the department's decision petition the

1 district court in the county in which the majority of the
 2 state land is located or the district court of Lewis and
 3 Clark County for judicial review of the decision."

4 **Section 9.** Section 77-6-502, MCA, is amended to read:

5 "77-6-502. Grazing leases. (1) The rental rate for
 6 leasing all state grazing lands ~~shall-be~~ must attain full
 7 market value based upon the appraised animal-unit-month
 8 carrying capacity of the land ~~as-provided-in-77-6-507~~.

9 (2) If the ~~legislature~~ board raises the rentals for
 10 state grazing lands during the term of any leases of grazing
 11 land ~~which that~~ are not issued as a result of competitive
 12 bidding, the lessee shall, for the years after the increase
 13 becomes effective, pay the increased rental, and the terms
 14 of grazing leases ~~shall-so~~ must provide for the increase."

15 **Section 10.** Section 77-6-508, MCA, is amended to read:

16 "77-6-508. Effect of competitive bidding. Whenever
 17 competitive bidding ~~shall--establish~~ establishes a rental
 18 price higher than the rental price established by the ~~above~~
 19 ~~formula~~ board, the board in leasing ~~such the~~ lands shall
 20 incorporate in ~~said the~~ lease such conservation requirements
 21 as are ~~deemed~~ considered necessary for the protection of
 22 ~~such the~~ grass or forage crops."

23 **NEW SECTION. Section 11.** Repealer. Section 77-6-507,
 24 MCA, is repealed.

25 **NEW SECTION. Section 12.** Applicability. [This act]

LC 1554/01

1 applies to leases entered into or renewed on or after [the
2 effective date of this act].
3 NEW SECTION. **Section 13.** Effective date. [This act] is
4 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0424, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring the Board of Land Commissioners to attain full market value for leases of state school trust lands; eliminating the recreational use license administrative surcharge; requiring the value of improvements to be based on actual costs.

ASSUMPTIONS:

Department of State Lands (DSL):

1. One-tenth of the agricultural and grazing leases are renewed each year. Therefore, increased rentals on those types of leases will take ten years to be in effect on all leases. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the minimum rate increases will occur in 1994.
2. The rentals are reviewed and adjusted on 1/5 of the cabinsite leases each year. Therefore, it would take five years for all cabinsite rentals to come under increased rentals. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the rental increases will occur in 1994.
3. Increased cost of the State Lands Recreational Use License would go into effect beginning March 1, 1994.
4. Rental rates for outfitting licenses could be placed into effect on most of these licenses beginning January 1, 1994.
5. The FY92 revenues received from grazing, agricultural, cabinsites, recreational use licenses, and outfitting licenses represent average revenues for these leases/licenses under the currently existing rental rates.
6. The land board will raise rentals to the lower end of the rates recommended by the study, "Economic Analysis of the Values of Surface Uses of State Lands", (Bioeconomics, Inc., February, 1993). Those rates used to estimate future revenues are as follows:
 - a. Grazing - \$7.60/AUM
 - b. Agricultural crop share - 33%
 - c. Cabinsite % of appraised value - 6%
 - d. Recreational Use License - \$25
 - e. Outfitting license - \$.66/acre
7. The DSL will continue to be required to administer the recreational use program without state special revenues from the sale of recreational use licenses. During FY93 there was \$43,290 deposited in the state lands recreational use account for damage compensation, noxious weed control and administration of the program. It is anticipated that most of these funds will be expended for the purposes intended on an annual basis. These funds will need to be replaced in order to continue the recreational use program as it now exists.
8. All grazing lease agreements in effect will continue to require the calculation of the minimum AUM rate in accordance with 77-6-507 MCA, until lease expiration (through 2002). Therefore, there will be two minimum rental rates in existence for state leases through 2002. The existence of two minimum rates will cause some confusion regarding lease rates both from the DSL and lessee perspective.

(continued on next page)

David Lewis 2-24-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 3/3/93
CHET BLAYLOCK, PRIMARY SPONSOR DATE

Fiscal Note for SB0424, as introduced

SB 424

FISCAL IMPACT:

<u>Revenue:</u>	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
1. Grazing rentals	4,341,524	4,617,702	276,178	4,341,524	4,968,659	627,135
2. Agricultural rentals	8,700,000	8,934,231	234,231	8,700,000	9,168,461	468,461
3. Cabinsite rentals	291,490	333,131	41,641	291,490	374,773	83,283
4. Recreation Use rentals	144,300	721,500	577,200	144,300	721,500	577,200
5. Outfitting License rentals	55,000	330,000	275,000	55,000	330,000	275,000
Total	13,532,314	14,936,564	1,404,250	13,532,314	15,563,393	2,031,079

Expenditures:

DSL expenditures (\$43,290) for the recreational use program will need to be funded from the general fund. These expenditures include: contracting with the Department of Fish, Wildlife and Parks for license sales; contracting for production of the licenses; mailing costs; damage compensation costs; weed control costs; personal services; communication and advertising costs; sign production and distribution costs; and legal fees in prosecuting violations of the statutes and administrative rules for recreational use.

Revenues:

Revenues from grazing, agricultural, cabinsites, recreational use and outfitting will increase each year for the next ten years until all leases have been renewed and the new minimum rentals assessed.

Net Impact:

Increased annual revenues to the school equalization account and other distributable trust accounts.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

License agents will no longer be compensated for their sales of State Lands Recreational Use Licenses. These license agent commissions amounted to \$14,430 in FY93.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenues from grazing, agricultural, cabinsites, recreational use and outfitting will increase each year for the next ten years until all leases have been renewed and the new rentals assessed. The total increase in revenues from the FY92 level to FY2003 level is estimated to be \$6,814,910.

TECHNICAL NOTES:

1. The assumptions used to generate the revenues projected above may be faulty to some degree. The revenues are based on continuing numbers of leases and licenses at the minimum rental rates assumed. However, the following instances may occur:
 - a. Some leases/licenses may be dropped by existing lessees/licensees due to unwillingness to pay higher rentals.
 - b. New leases may not be issued on some of these former leased tracts due to no applicants.
 - c. State Lands Recreational Use License sales may decrease due to unwillingness to pay the higher cost of these licenses.
 - d. The land board may increase or decrease the minimum AUM rate above or below \$7.60/AUM.

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2. The rental rate of \$.66/acre for outfitting licenses is probably in excess of what is full market value because it is based on outfitting fees paid on private lands where the outfitter has exclusive hunting privileges. The outfitting licenses on state lands are not exclusive to the outfitter; the licensed general recreationist is still allowed to recreate on the state tract even if an outfitting license has been issued.
3. 77-6-507, MCA, must remain in effect for existing grazing leases until expiration of those leases (through 2002) in order to maintain those minimum lease rentals. Repealing 77-6-507, MCA, leaves no methodology for the board to determine minimum lease rentals. It might be appropriate to leave 77-6-507, MCA, in effect and direct the board to adjust the multiplication factor (currently 6) to increase or decrease the minimum annual AUM rate. The AUM rate would still then be tied to the price of beef cattle sold in the state as published by agricultural statistics.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0424, second reading.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring the Board of Land Commissioners to attain full market value for leases of state school trust lands; eliminating the recreational use license administrative surcharge; requiring the value of improvements be based on actual costs.

ASSUMPTIONS:

Department of State Lands (DSL)

1. One-tenth of the grazing leases are renewed each year. Therefore, increased rentals on grazing leases will take ten years to be in effect on all these leases. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the minimum rate increases will occur in 1994.
2. The rentals are reviewed and adjusted on 1/5 of the cabinsite leases each year. Therefore, it would take five years for all cabinsite rentals to come under increased rentals. All 1993 lease reviews will be completed by the passage of this act. Therefore, the first lease reviews affected by the rental increases will occur in 1994.
3. Increased cost of the State Lands Recreational Use License would go into effect beginning March 1, 1994. Approximately 6,333 of the total recreational use licenses are expected to be sold between March 1 and June 30 and, therefore, would be included in FY94 revenues. FY95 revenues would be the first year in which all recreational use licenses sold would be at the new minimum rate.
4. Agricultural lease rentals and commercial lease rentals will not be affected by this proposed legislation. The current statutes regarding these uses (77-6-501 and 77-6-503, MCA) already authorize the land board to adjust these lease rentals to obtain full market value.
5. The revenue projections listed below for grazing and cabinsites under the current law are based on actual revenues received for those uses during FY92. The revenue projections for current law recreational use licenses are based on license sales from March 1, 1992 through January 1, 1993.
6. The calculations listed below assume the land board will raise rentals to the lower end of the rates recommended by the study, "Economic Analysis of the Values of Surface Uses of State Lands", (Bioeconomics, Inc., February, 1993). Those rates used to estimate future revenues are as follows:
 - a. Grazing - \$7.60/AUM
 - b. Cabinsite % of appraised value - 6%
 - c. Recreational Use License - \$25
7. All grazing lease agreements currently in effect will continue to require the calculation of the minimum AUM rate in accordance with MCA 77-6-507 until lease expiration (through 2002). Therefore, there will be two minimum rental rates in existence for state leases through 2002.
8. Rulemaking will be required by the land board in order to establish methodology for establishing full market value rates for grazing and cabinsite leases, and for recreational use licenses.

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Dave Lewis 3-31-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock
CHET BLAYLOCK, PRIMARY SPONSOR DATE

Fiscal Note for SB0424, second reading

SB 424 - # 2

Department of Fish, Wildlife and Parks (FWP)

9. 28,450 recreational use licenses had been sold as of December 1992.
10. FWP incurs administrative costs of \$0.22 per license.
11. FWP will continue to pay a \$0.50 commission for each license sold.
12. FWP will continue to contract with the Department of State Lands (DSL) to sell the recreational use licenses, but will require DSL to pay \$0.72 for each license sold.

FISCAL IMPACT:

Department of State Lands(DSL)

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue:</u>						
Grazing rentals	4,341,524	4,617,702	276,178	4,341,524	4,968,659	627,135
Cabinsite rentals	291,490	333,131	41,641	291,490	374,773	83,283
Recreation Use rentals	<u>114,300</u>	<u>270,960</u>	<u>126,660</u>	<u>144,300</u>	<u>721,500</u>	<u>577,200</u>
Total	4,777,314	5,221,793	444,479	4,777,314	6,064,932	1,287,138

Expenditures:

DSL estimates \$5,000 in expenditures for rulemaking to set the full market value rates for grazing and cabinsite leases and recreational use licenses. This estimate is based upon the assumption that the three rates can be dealt with by the same rulemaking process and public hearings would be held in Helena.

Revenues:

Revenues from grazing will increase each year for the next ten years until all leases have been renewed and the new minimum rentals assessed. Revenues from cabinsites will continue to increase each year for the next five years until all leases have either been renewed or gone through the five year review. Revenues from recreational use licenses will increase for the next two years.

Net Impact:

Increased annual revenues to the school equalization account and other distributable trust accounts.

Department of Fish, Wildlife and Parks (FWP)

Net Impact:

No fiscal impact. FWP will continue to sell recreational use permits through its license agent network.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenues to the school equalization account and other distributable trusts will increase each year over the next ten years. The total increase in revenues from FY92 level to FY03 level is estimated to be \$4,220,203.

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TECHNICAL NOTES:

1. The assumptions used to generate the revenues projected above may be faulty to some degree. The study establishing full market value rents has been questioned by several affected groups. The revenues are based on continuing numbers of leases and licenses at the minimum rental rates assumed. However, the following instances may occur:
 - a. The land board may not adopt the rates recommended in the above referenced Bioeconomics study.
 - b. Some leases/licenses may be dropped by existing lessees/licensees due to unwillingness to pay higher rentals.
 - c. New leases may not be issued on some of these former leased tracts due to no applicants.
 - d. State Lands Recreational Use License sales may decrease due to unwillingness to pay the higher cost of these licenses.
 - e. Appraised values for cabinsites are likely to appreciate over the next five years.
2. The title should be revised on line 10 to market value, rather than actual costs.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0424, reference copy as amended.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring the Board of Land Commissioners to attain full market value for leases of state school trust lands; eliminating the recreational use license administrative surcharge; requiring the value of improvements be based on actual costs; requiring the department to comply with the Montana administrative procedure act in setting rates and fees; establishing an advisory council to assist the Board of Land Commissioners in setting rates and fees.

ASSUMPTIONS:**Department of State Lands (DSL)**

1. One-tenth of the grazing leases are renewed each year. Therefore, increased rentals on grazing leases will take ten years to be in effect on all these leases. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the minimum rate increases will occur in 1994.
2. The rentals are reviewed and adjusted on 1/5 of the cabinsite leases each year. Therefore, it would take five years for all cabinsite rentals to come under increased rentals. All 1993 lease reviews will be completed by the passage of this act. Therefore, the first lease reviews affected by the rental increases will occur in 1994.
3. Increased cost of the State Lands Recreational Use License would go into effect beginning March 1, 1994. Approximately 6,333 of the total recreational use licenses are expected to be sold between March 1 and June 30 and, therefore, would be included in FY94 revenues. FY95 revenues would be the first year in which all recreational use licenses sold would be at the new minimum rate.
4. Agricultural lease rentals and commercial lease rentals will not be affected by this proposed legislation. The current statutes regarding these uses (77-6-501 and 77-6-503, MCA) already authorize the land board to adjust these lease rentals to obtain full market value.
5. The advisory council will be regulated by 2-15-122, MCA, to the extent that the statute is not inconsistent with section 12 of the bill.
6. The establishment of an advisory council will require several assumptions regarding that council:
 - a. 16 members will be appointed to the council.
 - b. All council meetings will be in Helena.
 - c. Remuneration to the council members will be \$25 per day. 16 members x \$25/day x 2 days = \$800/meeting.
 - d. Five meetings will occur in FY94 and two meetings will occur in FY95. Each meeting will take two days.
 - e. Council members will be reimbursed for mileage to and from Helena at \$0.275 per mile. The average round trip will be 400 miles. 16 members x 400 miles x .275/mile = \$1760/meeting.
 - f. Council members will be entitled to per diem; \$15.50/day for meals and \$31.20/night for lodging.
16 members x \$15.50/day x 2 days = \$496/meeting.
16 members x \$31.20/night x 1 night = \$500/meeting.

(continued on next page)

David Lewis 4-16-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 4/19/93
CHET BLAYLOCK, PRIMARY SPONSOR DATE

Fiscal Note for SB0424, reference copy as amended

SB 424- #3

- g. Total costs per meeting = \$3,556.
FY94 - 5 meetings x \$3,556/meeting = \$17,780
FY95 - 2 meetings x \$3,556/meeting = \$ 7,112
- h. Council support costs: Copying/printing; taping/transcribing; communications; contracted professional services.
FY94 - \$1,000; FY95 - \$500.
- 7. The revenue projections listed below for grazing and cabinsites under the current law are based on actual revenues received for those uses during FY92. The revenue projections for current law recreational use licenses are based on license sales from March 1, 1992 through January 1, 1993.
- 8. The calculations listed below assume the land board will raise rentals to the lower end of the rates recommended by the study, "Economic Analysis of the Values of Surface Uses of State Lands", (Bioeconomics, Inc., February, 1993). Those rates used to estimate future revenues are as follows:
 - a. Grazing - \$7.60/AUM
 - b. Cabinsite % of appraised value - 6%
 - c. Recreational Use License - \$25
- 9. All grazing lease agreements currently in effect will continue to require the calculation of the minimum AUM rate in accordance with MCA 77-6-507 until lease expiration (through 2002). Therefore, there will be two minimum rental rates in existence for state leases through 2002.
- 10. Rulemaking will be required by the land board in order to establish methodology for establishing full market value rates for grazing and cabinsite leases, and for recreational use licenses.

Department of Fish, Wildlife and Parks (FWP)

- 11. 28,450 recreational use licenses had been sold as of December 1992.
- 12. FWP incurs administrative costs of \$0.22 per license.
- 13. FWP will continue to pay a \$0.50 commission for each license sold.
- 14. FWP will continue to contract with the Department of State Lands (DSL) to sell the recreational use licenses, but will require DSL to pay \$0.72 for each license sold.

FISCAL IMPACT:

Department of State Lands (DSL)

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Revenue:						
Grazing rentals	4,341,524	4,617,702	276,178	4,341,524	4,968,659	627,135
Cabinsite rentals	291,490	333,131	41,641	291,490	374,773	83,280
Recreation Use rentals	<u>114,300</u>	<u>270,960</u>	<u>126,660</u>	<u>144,300</u>	<u>721,500</u>	<u>577,200</u>
Total	4,777,314	5,221,793	444,479	4,777,314	6,064,932	1,287,130
Expenditures:						
Rulemaking	0	5,000	5,000	0	0	0
Advisory Council	<u>0</u>	<u>18,780</u>	<u>18,780</u>	<u>0</u>	<u>7,612</u>	<u>7,612</u>
Total	0	23,780	23,780	0	7,612	7,612
Funding: General Fund						

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Revenues:

Revenues from grazing will increase each year for the next ten years until all leases have been renewed and the new minimum rentals assessed. Revenues from cabinsites will continue to increase each year for the next five years until all leases have either been renewed or gone through the five year review. Revenues from recreational use licenses will increase for the next two years.

Net Impact:

Increased annual revenues to the school equalization account and other distributable trust accounts.

Department of Fish, Wildlife and Parks (FWP)

Net Impact:

No fiscal impact. FWP will continue to sell recreational use permits through its license agent network.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenues to the school equalization account and other distributable trusts will increase each year over the next ten years. The total increase in revenues from FY92 level to FY03 level is estimated to be \$4,220,203.

TECHNICAL NOTES:

1. The assumptions used to generate the revenues projected above may be faulty to some degree. The study establishing full market value rents has been questioned by several affected groups. The revenues are based on continuing numbers of leases and licenses at the minimum rental rates assumed. However, the following instances may occur:
 - a. The land board may not adopt the rates recommended in the above referenced bioeconomics study.
 - b. Some leases/licenses may be dropped by existing lessees/licensees due to unwillingness to pay higher rentals.
 - c. New leases may not be issued on some of these former leased tracts due to no applicants.
 - d. State Lands Recreational Use License sales may decrease due to unwillingness to pay the higher cost of these licenses.
 - e. Appraised values for cabinsites are likely to appreciate over the next five years.
2. Because former section 10 has been deleted from the bill and the current section 10 should not be subject to the applicability section, section 14 should be amended by deleting "AND 10" on page 13, line 10.
3. Section 12 creates an advisory council. There is no sunset date for the council and no method for determining the composition or regulating the proceedings of the council. All of these problems could be remedial by deleting the first sentence of 12(1) and substituting a sentence providing: "The governor shall with the concurrence of the board of land commissioners, appoint a state land board advisory council pursuant to 2-15-122." The first sentence of section 12(2) would also be deleted.

SB 424- #3

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 424

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE SENATE EDUCATION AND

CULTURAL RESOURCES COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF LAND COMMISSIONERS TO ATTAIN FULL MARKET VALUE FOR LEASES ON STATE SCHOOL TRUST LANDS; ELIMINATING THE RECREATIONAL USE LICENSE ADMINISTRATIVE SURCHARGE; REQUIRING THE VALUE OF IMPROVEMENTS TO BE BASED ON ACTUAL COSTS; AMENDING SECTIONS 77-1-208, 77-1-802, ~~77-1-808~~, 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, AND 77-6-508, MCA; REPEALING SECTION 77-6-507, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE DATES."

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

Section 1. Section 77-1-208, MCA, is amended to read:

"77-1-208. Cabin site licenses and leases -- method of establishing value. (1) The board shall set the annual fee based on full market value for each cabin site ~~subject-to-a license-or-lease-in-effect-on-January-17-1988~~, and for each licensee or lessee who at any time wishes to continue or assign his the license or lease. The fee must be ~~3-5%~~ of the attain full market value based on appraisal of the cabin site value as determined by the department of revenue or

~~\$1507-whichever-is-greater~~. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111. An appeal of a cabin site value determined by the department of revenue ~~shall~~ must be conducted pursuant to Title 15, chapter 2.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302 through 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board.

~~(4) Nothing--in--this~~ This section may ~~not~~ be construed as a delegation of rulemaking authority to the board."

Section 2. Section 77-1-802, MCA, is amended to read:

1 "77-1-802. Recreational use license -- fee. (1) The fee
2 for a recreational use license is \$5. The fee is must attain
3 full market value based upon:

4 (a) a \$3 \$25 minimum charge as the value of 1 year of
5 recreational use of state lands; and

6 (b) a \$2 surcharge for the administrative costs of
7 providing recreational access to state lands and the
8 maintenance of a state lands recreational use account
9 pursuant to 77-1-808.

10 (2) Money received by the department from the sale of
11 recreational use licenses must be credited as follows: MUST
12 BE CREDITED AS FOLLOWS:

13 (A) EXCEPT AS PROVIDED IN SUBSECTION (2), LICENSE FEES

14 (a) proceeds collected under subsection (1)(a) must be
15 apportioned on a pro rata basis to the land trusts, in
16 proportion to the respective trust's percentage contribution
17 to the total acreage of all state land trusts; and

18 (b) proceeds collected under the surcharge of
19 subsection (1)(b), less 50 cents for each license to be
20 returned as a commission to license dealers, must be
21 deposited in the state lands recreational use account
22 established by 77-1-808 for use by the department in the
23 management of state lands open to general recreational use.

24 (B) TWO DOLLARS FROM THE FEE FOR EACH LICENSE, LESS 50
25 CENTS TO BE RETURNED TO THE LICENSE DEALER AS A COMMISSION,

1 MUST BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE
2 ACCOUNT ESTABLISHED BY 77-1-808.

3 (3) The department may contract with the department of
4 fish, wildlife, and parks for the distribution and sale of
5 recreational use licenses through the license agents
6 appointed by and the administrative offices of the
7 department of fish, wildlife, and parks and in accordance
8 with the provisions of Title 87, chapter 2, part 9."

9 Section 3. Section 77-1-808, MCA, is amended to read:--

10 "77-1-808. State lands recreational use account: (1)
11 There is a state lands recreational use account in the state
12 special revenue fund provided for in 17-2-102.

13 (2) There must be deposited in the account:

14 (a) all revenue received from the recreational use
15 license established by 77-1-802;

16 (b) (a) all revenue received from the imposition of
17 fines under 77-1-801 and 77-1-806 and from civil penalties
18 imposed pursuant to 77-1-804; and

19 (c) (b) money received by the department in the form of
20 legislative appropriations, reimbursements, gifts, federal
21 funds, or appropriations from any source intended to be used
22 for the purposes of this account;

23 (3) Money deposited in the state lands recreational use
24 account is statutorily appropriated, as provided in
25 17-7-502, and must be used by the department for the

1 following purposes:

2 {a}--compensation-pursuant-to-77-1-809-for-damage-to-the
3 improvements--of-leases-that-has-been-proved-to-be-caused-by
4 recreational-users;

5 {b}--assistance-in-weed-control-management-necessary--as
6 a-result-of-recreational-use-of-state-lands;

7 {c}--protection--of--the--resource--value--of--the-trust
8 assets; and

9 {d}--administration---and---management-----for-----the
10 implementation-of-recreational-use-of-state-lands."

11 **Section 3.** Section 77-6-202, MCA, is amended to read:

12 "77-6-202. Lease by competitive bidding -- full market
13 value required. When the department receives an application
14 to lease an unleased tract, it shall advertise for bids on
15 the tract. The tract shall must be leased to the highest
16 bidder unless the board determines that the bid is not in
17 the state's best interest for the reasons set forth in
18 77-6-205(2). The board may not accept a bid that is below
19 full market value. If the high bid is rejected, the board
20 shall set forth the reasons for the rejection in writing.
21 The lease shall must then be issued, at a rental to be
22 determined by the board, to the first bidder willing to pay
23 the board determined rental whose name is selected through a
24 random selection process from all bidders on the tract."

25 **Section 4.** Section 77-6-205, MCA, is amended to read:

1 "77-6-205. Renewal leases. (1) A lessee of state land
2 classed as agricultural, grazing, town lot, city lot, or
3 land valuable for commercial development who has paid all
4 rentals due from--him--to the state or who has voluntarily
5 terminated a lease under 77-6-116 is entitled to have his
6 the lease renewed for a period not to exceed the maximum
7 lease period provided in 77-6-109 at any time within 30 days
8 prior to its expiration or within 30 days following
9 voluntary termination if no other applications for lease of
10 the land have been received 30 days prior to the expiration
11 of his the lease or within 30 days following voluntary
12 termination. The renewal must be at the full market rental
13 rate provided--by--law established by the board for the
14 renewal period and subject to any other conditions at the
15 time of the renewal imposed by law as terms of the lease.
16 Except as provided in 77-6-212, if other applications have
17 been received, the holder of the lease has the preference
18 right to lease the land covered by his the former lease by
19 meeting the highest bid made by any other applicant.
20 Applications for lease of lands in this section must be
21 given preference in the order of their receipt at the office
22 of the department.

23 (2) The board shall accept the highest bid. If the
24 lessee exercises the preference right and believes the bid
25 to be excessive, he the lessee may request an administrative

hearing. The request must contain a statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the rental from the amount bid if the lessee shows that the bid is not in the best interest of the state because it is above community standards for a lease of the land, would cause damage to the tract, or would impair its long-term productivity. If the board reduces the bid, it shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the reduction. It is the duty of the board to secure the best lessees possible, so that the state may receive the maximum return possible with the least injury occurring to the land.

(3) A renewal lease may be canceled pursuant to 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a violation by the lessee that occurred during the previous lease term but no more than 3 years prior to the date on which the notice of cancellation required by 77-6-211 is issued. Cancellation procedures instituted but not completed before renewal are applicable to the renewal lease.

(4) A renewal lease may be voluntarily terminated pursuant to 77-6-116."

Section 5. Section 77-6-302, MCA, is amended to read:

"77-6-302. Compensation for improvements -- actual costs. (1) When another person becomes the lessee of such the lands, he the person shall pay to the former lessee the reasonable value of these improvements at the time the new lessee takes possession. The reasonable value may not exceed the--actual--costs BE LESS THAN THE FULL MARKET VALUE of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value shall must be ascertained and fixed as provided in 77-6-306."

Section 6. Section 77-6-305, MCA, is amended to read:

"77-6-305. Settlement regarding improvements prerequisite to issuance of new lease. Before a lease is issued to the new lessee, he the lessee shall show that he has--paid the former lessee has been paid the value of the improvements as-agreed-upon-by-them pursuant to 77-6-302 or as fixed--and determined under 77-6-306 or--that-he-has offered-to-pay-the-value-of-the-improvements-as-so-fixed-and determined or that the former lessee elects to remove the improvements."

Section 7. Section 77-6-306, MCA, is amended to read:

"77-6-306. Arbitrators to fix value of improvements."

1 (1) If the owner of any improvements on state lands of the
 2 type authorized by law at the time they were placed thereon
 3 on state lands desires to sell these improvements to the new
 4 lessee and they are unable to agree on the value thereof of
 5 the improvements pursuant to 77-6-302, the value shall must
 6 be ascertained and fixed by three arbitrators, one of whom
 7 shall--be is appointed by the owner of the improvements, one
 8 by the new lessee, and the third by the two arbitrators so
 9 appointed. If any party refuses to appoint an arbitrator
 10 within 15 days of being requested to do so by the
 11 commissioner, the commissioner may appoint an arbitrator for
 12 that party. An arbitrator appointed by the commissioner has
 13 the same duties and powers as if appointed by one of the
 14 parties. The value of the improvements shall must be
 15 ascertained and fixed as--this--part-provides pursuant to
 16 77-6-302.

17 (2) The reasonable compensation that the arbitrators
 18 may fix for their services shall must be paid in equal
 19 shares by the owner of the improvements and the new lessee.

20 (3) The value of the improvements so ascertained and
 21 fixed is binding on both parties;--however,--if. If either
 22 party is dissatisfied with the valuation so--fixed, he the
 23 party may within 10 days appeal from the decision to the
 24 department, which shall examine the records pertaining to
 25 the costs of the improvements, and, except as provided in

1 subsection (4), its decision shall--be is final. The
 2 department shall charge and collect the actual cost of the
 3 reexamination to the owner and the new lessee in such the
 4 proportion as, in its judgment, justice may demand.

5 (4) If either party is dissatisfied with the valuation
 6 fixed by the department, he the party may within 30 days
 7 after receipt of the department's decision petition the
 8 district court in the county in which the majority of the
 9 state land is located or the district court of Lewis and
 10 Clark County for judicial review of the decision."

11 **Section 8.** Section 77-6-502, MCA, is amended to read:

12 "77-6-502. Grazing leases. (1) The rental rate for
 13 leasing all state grazing lands shall--be must attain full
 14 market value based upon the appraised animal-unit-month
 15 carrying capacity of the land as--provided--in-77-6-507.

16 (2) If the legislature board raises the rentals for
 17 state grazing lands during the term of any leases of grazing
 18 land which that are not issued as a result of competitive
 19 bidding, the lessee shall, for the years after the increase
 20 becomes effective, pay the increased rental, and the terms
 21 of grazing leases shall--so must provide for the increase."

22 **Section 9.** Section 77-6-508, MCA, is amended to read:

23 "77-6-508. Effect of competitive bidding. Whenever
 24 competitive bidding shall--establish establishes a rental
 25 price higher than the rental price established by the above

1 ~~formula~~ board, the board in leasing ~~such the~~ lands shall
2 incorporate in ~~said the~~ lease such conservation requirements
3 as are ~~deemed~~ considered necessary for the protection of
4 ~~such the~~ grass or forage crops."

5 NEW SECTION. Section 10. Repealer. Section 77-6-507,
6 MCA, is repealed.

7 NEW SECTION. Section 11. Applicability. ~~[This act]~~ (1)
8 [SECTION 1] applies to leases entered into or renewed on or
9 after [the effective date of this act] AND, FOR LEASES IN
10 EFFECT ON [THE EFFECTIVE DATE OF THIS ACT], TO RENTALS DUE
11 AFTER RENTAL ADJUSTMENTS MADE PURSUANT TO ADJUSTMENT
12 PROVISIONS IN THE LEASE.

13 (2) [SECTION 2] APPLIES TO LICENSES SOLD AFTER FEBRUARY
14 28, 1994.

15 (3) [SECTION 3] APPLIES TO LEASE YEARS BEGINNING AFTER
16 DECEMBER 31, 1993.

17 NEW SECTION. Section 12. Effective date. [This act] is
18 effective July 1, 1993.

-End-

SENATE BILL NO. 424

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE SENATE EDUCATION AND

CULTURAL RESOURCES COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF LAND COMMISSIONERS TO ATTAIN FULL MARKET VALUE FOR LEASES ON STATE SCHOOL TRUST LANDS; ELIMINATING THE RECREATIONAL USE LICENSE ADMINISTRATIVE SURCHARGE; REQUIRING THE VALUE OF IMPROVEMENTS TO BE BASED ON ACTUAL COSTS; REQUIRING THE DEPARTMENT TO COMPLY WITH THE MONTANA ADMINISTRATIVE PROCEDURE ACT IN SETTING RATES AND FEES; ESTABLISHING AN ADVISORY COUNCIL TO ASSIST THE BOARD OF LAND COMMISSIONERS IN SETTING RATES AND FEES; AMENDING SECTIONS 77-1-208, 77-1-209, 77-1-802, 77-1-808, 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, AND 77-6-508, MCA; REPEALING SECTION 77-6-507, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE DATES."

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

Section 1. Section 77-1-208, MCA, is amended to read:

"77-1-208. Cabin site licenses and leases -- method of establishing value. (1) The board shall, TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL, set the annual fee based on full market value for each cabin

site ~~subject to a license or lease in effect on January 1, 1988,~~ and for each licensee or lessee who at any time wishes to continue or assign his the license or lease. The fee must be ~~3.5%~~ of the attain full market value based on appraisal of the cabin site value as determined by the department of revenue ~~or \$150, whichever is greater.~~ The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111. An appeal of a cabin site value determined by the department of revenue ~~shall~~ must be conducted pursuant to Title 15, chapter 2.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302 through 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the

board to purchase those fixtures or improvements in the manner required by the board.

{4} Nothing in this This section may not be construed as a delegation of rulemaking authority to the board.

Section 2. Section 77-1-802, MCA, is amended to read:

"77-1-802. Recreational use license -- fee. (1) The fee for a recreational use license is \$5. The fee is must, TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL, attain full market value based upon:

{a} a \$3 \$25 minimum charge as the value of 1 year of recreational use of state lands; and

{b} a \$2 surcharge for the administrative costs of providing recreational access to state lands and the maintenance of a state lands recreational use account pursuant to 77-1-808.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows: MUST BE CREDITED AS FOLLOWS:

(A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), LICENSE FEES

{a} proceeds collected under subsection (1){a} must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts; and

{b} proceeds collected under the surcharge of

subsection (1){b}, less 50 cents for each license to be returned as a commission to license dealers, must be deposited in the state lands recreational use account established by 77-1-808 for use by the department in the management of state lands open to general recreational use.

(B) TWO DOLLARS FROM THE FEE FOR EACH LICENSE, LESS 50 CENTS TO BE RETURNED TO THE LICENSE DEALER AS A COMMISSION, MUST BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE ACCOUNT ESTABLISHED BY 77-1-808.

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

Section 3. Section 77-1-808, MCA, is amended to read:

"77-1-808. State lands recreational use account. {1} There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

{2} There must be deposited in the account:

{a} all revenue received from the recreational use license established by 77-1-802;

{b}{a} all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and

(c)(b)--money-received-by-the-department-in-the-form--of legislative--appropriations,--reimbursements,--gifts,--federal funds,--or--appropriations--from--any--source--intended--to--be--used for--the--purposes--of--this--account;

(3)--Money-deposited-in-the-state-lands-recreational-use account--is--statutorily--appropriated,--as--provided--in 17-7-502,--and--must--be--used--by--the--department--for--the following--purposes:

(a)--compensation-pursuant-to-77-1-809-for-damage-to-the improvements-of-leases-that-has-been-proved-to-be-caused--by recreational-users;

(b)--assistance--in-weed-control-management-necessary-as a-result-of-recreational-use-of-state-lands;

(c)--protection-of--the--resource--value--of--the--trust assets;--and

(d)--administration-----and-----management-----for-----the implementation-of-recreational-use-of-state-lands."

Section 3. Section 77-6-202, MCA, is amended to read:

"77-6-202. Lease by competitive bidding -- full market value required. When the department receives an application to lease an unleased tract, it shall advertise for bids on the tract. The tract ~~shall~~ must be leased to the highest bidder unless the board determines that the bid is not in the state's best interest for the reasons set forth in 77-6-205(2). The board may not accept a bid that is below

full market value DETERMINED BY TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL. If the high bid is rejected, the board shall set forth the reasons for the rejection in writing. The lease ~~shall~~ must then be issued, at a rental to be determined by the board, to the first bidder willing to pay the board determined rental whose name is selected through a random selection process from all bidders on the tract."

Section 4. Section 77-6-205, MCA, is amended to read:

"77-6-205. Renewal leases. (1) A lessee of state land classed as agricultural, grazing, town lot, city lot, or land valuable for commercial development who has paid all rentals due from him to the state or who has voluntarily terminated a lease under 77-6-116 is entitled to have his the lease renewed for a period not to exceed the maximum lease period provided in 77-6-109 at any time within 30 days prior to its expiration or within 30 days following voluntary termination if no other applications for lease of the land have been received 30 days prior to the expiration of his the lease or within 30 days following voluntary termination. The renewal must be at the full market rental rate ~~provided-by-law~~ established by the board, TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL, for the renewal period and subject to any other conditions at the time of the renewal imposed by law as

terms of the lease. Except as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference right to lease the land covered by his the former lease by meeting the highest bid made by any other applicant. Applications for lease of lands in this section must be given preference in the order of their receipt at the office of the department.

(2) The board shall accept the highest bid. If the lessee exercises the preference right and believes the bid to be excessive, he the lessee may request an administrative hearing. The request must contain a statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the rental from the amount bid if the lessee shows that the bid is not in the best interest of the state because it is above community standards for a lease of the land, would cause damage to the tract, or would impair its long-term productivity. If the board reduces the bid, it shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the reduction. It is the duty of the board to secure the best lessees possible, so that the state may receive the maximum return possible with

the least injury occurring to the land.

(3) A renewal lease may be canceled pursuant to 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a violation by the lessee that occurred during the previous lease term but no more than 3 years prior to the date on which the notice of cancellation required by 77-6-211 is issued. Cancellation procedures instituted but not completed before renewal are applicable to the renewal lease.

(4) A renewal lease may be voluntarily terminated pursuant to 77-6-116."

Section 5. Section 77-6-302, MCA, is amended to read:

"77-6-302. Compensation for improvements — actual costs. (1) When another person becomes the lessee of such the lands, he the person shall pay to the former lessee the reasonable value of these improvements at the time the new lessee takes possession. The reasonable value may not exceed the--actual--costs BE LESS THAN THE FULL MARKET VALUE of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value shall must be ascertained and fixed as provided in 77-6-306."

Section 6. Section 77-6-305, MCA, is amended to read:

"77-6-305. Settlement regarding improvements

1 prerequisite to issuance of new lease. Before a lease is
 2 issued to the new lessee, he the lessee shall show that he
 3 ~~has--paid~~ the former lessee has been paid the value of the
 4 improvements ~~as-agreed-upon-by-them~~ pursuant to 77-6-302 or
 5 as ~~fixed--and~~ determined under 77-6-306 ~~or--that-he-has~~
 6 ~~offered-to-pay-the-value-of-the-improvements-as-so-fixed-and~~
 7 determined or that the former lessee elects to remove the
 8 improvements."

9 **Section 7.** Section 77-6-306, MCA, is amended to read:

10 "77-6-306. Arbitrators to fix value of improvements.

11 (1) If the owner of any improvements on state lands of the
 12 type authorized by law at the time they were placed thereon
 13 on state lands desires to sell these improvements to the new
 14 lessee and they are unable to agree on the value thereof of
 15 the improvements pursuant to 77-6-302, the value ~~shall~~ must
 16 be ascertained and fixed by three arbitrators, one of whom
 17 ~~shall--be~~ is appointed by the owner of the improvements, one
 18 by the new lessee, and the third by the two arbitrators so
 19 appointed. If any party refuses to appoint an arbitrator
 20 within 15 days of being requested to do so by the
 21 commissioner, the commissioner may appoint an arbitrator for
 22 that party. An arbitrator appointed by the commissioner has
 23 the same duties and powers as if appointed by one of the
 24 parties. The value of the improvements ~~shall~~ must be
 25 ascertained and fixed ~~as--this--part-provides~~ pursuant to

1 77-6-302.

2 (2) The reasonable compensation that the arbitrators
 3 may fix for their services ~~shall~~ must be paid in equal
 4 shares by the owner of the improvements and the new lessee.

5 (3) The value of the improvements so ascertained and
 6 fixed is binding on both parties, ~~however, if~~. If either
 7 party is dissatisfied with the valuation ~~so--fixed~~, he the
 8 party may within 10 days appeal from the decision to the
 9 department, which shall examine the records pertaining to
 10 the costs of the improvements, and, except as provided in
 11 subsection (4), its decision ~~shall--be~~ is final. The
 12 department shall charge and collect the actual cost of the
 13 reexamination to the owner and the new lessee in such the
 14 proportion as, in its judgment, justice may demand.

15 (4) If either party is dissatisfied with the valuation
 16 fixed by the department, he the party may within 30 days
 17 after receipt of the department's decision petition the
 18 district court in the county in which the majority of the
 19 state land is located or the district court of Lewis and
 20 Clark County for judicial review of the decision."

21 **Section 8.** Section 77-6-502, MCA, is amended to read:

22 "77-6-502. Grazing leases. (1) The rental rate for
 23 leasing all state grazing lands ~~shall--be~~ must, TAKING INTO
 24 ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY
 25 COUNCIL, attain full market value based upon the appraised

1 animal-unit-month carrying capacity of the land as--provided
2 in 77-6-507.

3 (2) If the legislature board raises the rentals for
4 state grazing lands during the term of any leases of grazing
5 land which that are not issued as a result of competitive
6 bidding, the lessee shall, for the years after the increase
7 becomes effective, pay the increased rental, and the terms
8 of grazing leases shall--so must provide for the increase."

9 **Section 9.** Section 77-6-508, MCA, is amended to read:

10 "77-6-508. Effect of competitive bidding. Whenever
11 competitive bidding shall--establish establishes a rental
12 price higher than the rental price established by the above
13 formula board, the board in leasing such the lands shall
14 incorporate in said the lease such conservation requirements
15 as are deemed considered necessary for the protection of
16 such the grass or forage crops."

17 **NEW SECTION. SECTION 10. RULES REQUIRED TO SET RATES**
18 **AND FEES. THE BOARD SHALL COMPLY WITH TITLE 2, CHAPTER 4,**
19 **PART 3, IN SETTING RENTAL RATES AND LICENSE FEES PURSUANT TO**
20 **77-1-208, 77-1-802, 77-6-202, 77-6-501, AND 77-6-502.**

21 ~~NEW SECTION. Section 10. Repealer. Section 77-6-507,--~~
22 ~~MCA, is repealed.~~

23 **SECTION 11. SECTION 77-1-209, MCA, IS AMENDED TO READ:**

24 "77-1-209. Leasing rules. The board may prescribe rules
25 relating to the leasing of state lands as it considers

1 necessary in order that the use and proceeds of these lands
2 may contribute in the highest attainable measure to the
3 purposes for which they are granted to the state of Montana.
4 The rules should prescribe a procedure for setting all fees
5 and rental rates for the use of state lands for any purpose.
6 The procedure should establish provisions for notice, public
7 comment, public hearings, and appeal."

8 **NEW SECTION. SECTION 12. STATE LAND BOARD ADVISORY**
9 **COUNCIL. (1) THERE IS A STATE LAND BOARD ADVISORY COUNCIL.**
10 **THE COUNCIL SHALL GATHER INFORMATION, PROVIDE ADVICE, MAKE**
11 **RECOMMENDATIONS, AND PERFORM OTHER ACTIVITIES AS MAY BE**
12 **NECESSARY IN THE SETTING OF ALL FEES OR RENTAL RATES FOR**
13 **STATE LANDS.**

14 **(2) THE STATE LAND BOARD ADVISORY COUNCIL MUST BE**
15 **APPOINTED BY THE GOVERNOR WITH THE CONCURRENCE OF THE**
16 **MAJORITY OF THE BOARD OF LAND COMMISSIONERS. THE ADVISORY**
17 **COUNCIL MUST BE BROADLY REPRESENTATIVE OF THE USERS AND**
18 **BENEFICIARIES OF THE STATE TRUST LANDS.**

19 **(3) THE STATE LAND BOARD ADVISORY COUNCIL SHALL MAKE**
20 **RECOMMENDATIONS FOR FEES AND RENTAL RATES TO THE STATE LAND**
21 **BOARD.**

22 **NEW SECTION. SECTION 13. CODIFICATION INSTRUCTION.**
23 **[SECTION 12] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART**
24 **OF TITLE 77, CHAPTER 1, PART 1, AND THE PROVISIONS OF TITLE**
25 **77, CHAPTER 1, PART 1, APPLY TO [SECTION 12].**

1 **NEW SECTION. Section 14. Applicability.** ~~[This act]~~ (1)
2 ~~[SECTION 1]~~ applies to leases entered into or renewed on or
3 after [the effective date of this act] AND, FOR LEASES IN
4 EFFECT ON [THE EFFECTIVE DATE OF THIS ACT], TO RENTALS DUE
5 AFTER RENTAL ADJUSTMENTS MADE PURSUANT TO ADJUSTMENT
6 PROVISIONS IN THE LEASE.

7 (2) [SECTION 2] APPLIES TO LICENSES SOLD AFTER FEBRUARY
8 28, 1994.

9 (3) ~~{SECTION-3}-APPLIES-TO-LEASE-YEARS-BEGINNING--AFTER~~
10 ~~DECEMBER--91~~ [SECTIONS 8 AND 10] APPLY TO LEASES ISSUED OR
11 RENEWED AFTER JULY 1, 1993.

12 **NEW SECTION. Section 15. Effective date.** [This act] is
13 effective July 1, 1993.

-End-

HOUSE STANDING COMMITTEE REPORT

April 7, 1993
Page 2 of 3

April 7, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that Senate Bill 424 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Wilbur

And, that such amendments read:

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"

2. Page 1, line 23.
Following: "shall"
Insert: "["

3. Page 1, line 24.
Following: "I"
Insert: "]"

4. Page 3, line 7.
Following: "must"
Insert: "["

5. Page 3, line 9.
Following: "I"
Insert: "]"

6. Page 6, line 22.
Following: "board"
Insert: "["

7. Page 6, line 24.
Following: "I"
Insert: "]"

8. Page 10, line 23.
Following: "must"
Insert: "["

9. Page 10, line 25.
Following: "I"
Insert: "]"

10. Page 11, line 2.
Following: "77-6-507"
Insert: "as provided in 77-6-507"

11. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

12. Page 12, line 8.
Following: line 7
Insert: "NEW SECTION. Section 11. Setting of rates or fees.
(1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.
(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."

Renumber: subsequent sections

13. Page 12, line 23.
Strike: "[SECTION 12] IS"
Insert: "[Sections 11 and 12] are"

14. Page 12, line 25.
Strike: "SECTION"
Insert: "sections 11 and"

HOUSE

Committee Vote:
Yes 14, No 6.

781415SC.Hpf

SB 424
781415SC.Hpf

April 7, 1993
Page 3 of 3

15. Page 13, line 12.

Following: line 11

Insert: "

NEW SECTION. Section 15. Termination. [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."

Renumber: subsequent section

-END-

#1
HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 424
Representative L. Nelson

April 12, 1993 9:49 am
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 424 (House Taxation Committee amendments of April 7, 1993 to the third reading copy - blue).

Signed: Linda Nelson

Representative L. Nelson

And, that such amendments to the Taxation Committee amendments read as follows:

1. Committee amendments of April 7, 1993, item 12.
Inserted material, line 6
Following: "lease,"
Insert: "the production capabilities,"

-END-

ADOPT

REJECT

slb 424.1
800948CW.Hpf

#2
HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 424
Representative Hibbard

April 12, 1993 11:54 am
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 424 (third reading copy -- blue).

Signed: Chen Hibbard

Representative Hibbard

And, that such amendments to Senate Bill 424 read as follows:

1. Title, line 16.
Following: "77-6-502,"
Insert: "77-6-507,"

2. Page 12.
Following: line 7
Insert: "Section 13. Section 77-6-507, MCA, is amended to read:
"77-6-507. Formula for fixing annual rental. (1) In this section:
(a) "animal unit" means one cow, one horse, five sheep, or five goats;
(b) "animal-unit-month carrying capacity" means that amount of natural feed necessary for the complete subsistence of one animal unit for 1 month.
(2) The board shall establish the minimum per annum rental rate per section of all grazing lands that are the property of the state by multiplying ~~the~~ a factor established by the board pursuant to 77-6-502 times the average price per pound of beef cattle on the farm in Montana for the previous year times the animal-unit-month carrying capacity of the land.
(3) The carrying capacity of the land to be used in the above formula must be in accordance with the determinations of the department made under 77-6-201.
(4) The average price per pound of beef cattle on the farm in Montana must be taken from statistics published by the United States department of agriculture current at the time of computation of the rental or from other reliable sources current at that time.
(5) In establishing the rental rate described in subsection (2), the board shall consider applicable elements that include but are not limited to those set forth in [section 12]."

3. Page 12, line 25.
Following: "12"
Insert: "and 13"

ADOPT

REJECT

HOUSE
SB 424
801153CW.HPF

April 12, 1993
Page 2 of 2

4. Page 13, line 10.
Strike: "10"
Insert: "13"

Amend House Taxation Committee Standing Committee report
amendments dated April 7, 1993:

5. Amendment No. 12.
Following: "NEW SECTION. Section"
Strike: "11"
Insert: "12"

6. Amendment 13.
Strike: "11 and"
Following: "12"
Insert: "and 13"

7. Amendment 14.
Strike: "11 and"

8. Amendment 15 .
Following: "NEW SECTION."
Strike: "15"
Insert: "17"

-END-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 424
Representative Harper

April 12, 1993 11:55 am
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 424 (third reading
copy -- blue).

Signed: Harper
Representative Harper

And, that such amendments to Senate Bill 424 read as follows:

1. Page 6, lines 4 and 5.
Strike: "must then"
Insert: "may"

-END-

ADOPT

801153CW.HPF

REJECT

56424.3
801155CW.Hpf

1 SENATE BILL NO. 424

2 INTRODUCED BY BLAYLOCK

3 BY REQUEST OF THE SENATE EDUCATION AND

4 CULTURAL RESOURCES COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF
7 LAND COMMISSIONERS TO ATTAIN FULL MARKET VALUE FOR LEASES ON
8 STATE SCHOOL TRUST LANDS; ELIMINATING THE RECREATIONAL USE
9 LICENSE ADMINISTRATIVE SURCHARGE; REQUIRING THE VALUE OF
10 IMPROVEMENTS TO BE BASED ON ACTUAL COSTS; REQUIRING THE
11 DEPARTMENT BOARD OF LAND COMMISSIONERS TO COMPLY WITH THE
12 MONTANA ADMINISTRATIVE PROCEDURE ACT IN SETTING RATES AND
13 FEES; ESTABLISHING AN ADVISORY COUNCIL TO ASSIST THE BOARD
14 OF LAND COMMISSIONERS IN SETTING RATES AND FEES; AMENDING
15 SECTIONS 77-1-208, 77-1-209, 77-1-802, 77-1-808, 77-6-202,
16 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, 77-6-507,
17 AND 77-6-508, MCA; REPEALING--SECTION--77-6-507,--MCA; AND
18 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE
19 DATES."
20

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

22 Section 1. Section 77-1-208, MCA, is amended to read:

23 "77-1-208. Cabin site licenses and leases -- method of
24 establishing value. (1) The board shall[, TAKING INTO
25 ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY

1 COUNCIL,] set the annual fee based on full market value for
2 each cabin site ~~subject-to-a-license-or-lease-in-effect-on~~
3 ~~January--17-1988,~~ and for each licensee or lessee who at any
4 time wishes to continue or assign his the license or lease.
5 The fee must ~~be-3-5%-of-the~~ attain full market value based
6 on appraisal of the cabin site value as determined by the
7 department of revenue ~~or--\$150,whichever-is-greater.~~ The
8 licensee or lessee has the option to pay the entire fee on
9 March 1 or to divide the fee into two equal payments due
10 March 1 and September 1. The value may be increased or
11 decreased as a result of the statewide periodic revaluation
12 of property pursuant to 15-7-111. An appeal of a cabin site
13 value determined by the department of revenue ~~shall~~ must be
14 conducted pursuant to Title 15, chapter 2.

15 (2) The board shall set the fee of each initial cabin
16 site license or lease or each current cabin site license or
17 lease of a person who does not choose to retain the license
18 or lease. The initial fee must be based upon a system of
19 competitive bidding. The fee for a person who wishes to
20 retain that license or lease must be determined under the
21 method provided for in subsection (1).

22 (3) The board shall follow the procedures set forth in
23 77-6-302 through 77-6-306 for the disposal or valuation of
24 any fixtures or improvements placed upon the property by the
25 then-current licensee or lessee and shall require the

subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board.

~~(4) Nothing in this~~ This section may not be construed as a delegation of rulemaking authority to the board.

Section 2. Section 77-1-802, MCA, is amended to read:

"77-1-802. Recreational use license -- fee. (1) The fee for a recreational use license ~~is \$5.~~ The fee is must[, TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL,] attain full market value based upon:

~~(a) a \$3 \$25-minimum charge as the value of 1 year of recreational use of state lands; and~~

~~(b) a \$2 surcharge for the administrative costs of providing recreational access to state lands and the maintenance of a state lands recreational use account pursuant to 77-1-808.~~

(2) Money received by the department from the sale of recreational use licenses ~~must be credited as follows:~~ MUST BE CREDITED AS FOLLOWS:

(A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), LICENSE FEES

~~(a) proceeds collected under subsection (1)(a) must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts; and~~

~~(b) proceeds collected under the surcharge of subsection (1)(b), less 50 cents for each license to be returned as a commission to license dealers, must be deposited in the state lands recreational use account established by 77-1-808 for use by the department in the management of state lands open to general recreational use.~~

(B) TWO DOLLARS FROM THE FEE FOR EACH LICENSE, LESS 50 CENTS TO BE RETURNED TO THE LICENSE DEALER AS A COMMISSION, MUST BE DEPOSITED IN THE STATE LANDS RECREATIONAL USE ACCOUNT ESTABLISHED BY 77-1-808.

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

Section 3. ~~Section 77-1-808, MCA, is amended to read:~~

~~"77-1-808. State lands recreational use account. (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102:~~

~~(2) There must be deposited in the account:~~

~~(a) all revenue received from the recreational use license established by 77-1-802;~~

~~(b) (a) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties~~

1 imposed-pursuant-to-77-1-804,-and
 2 {c}{b}--money--received-by-the-department-in-the-form-of
 3 legislative-appropriations,-reimbursements,-gifts,-federal
 4 funds,-or-appropriations-from-any-source-intended-to-be-used
 5 for-the-purposes-of-this-account;
 6 {3}--Money-deposited-in-the-state-lands-recreational-use
 7 account---is---statutorily---appropriated,-as--provided--in
 8 17-7-502,-and--must--be--used--by--the--department--for--the
 9 following-purposes:
 10 {a}--compensation-pursuant-to-77-1-809-for-damage-to-the
 11 improvements--of-leases-that-has-been-proved-to-be-caused-by
 12 recreational-users;
 13 {b}--assistance-in-weed-control-management-necessary--as
 14 a-result-of-recreational-use-of-state-lands;
 15 {c}--protection--of--the--resource--value--of--the--trust
 16 assets;-and
 17 {d}--administration---and---management-----for-----the
 18 implementation-of-recreational-use-of-state-lands;"

19 **Section 3.** Section 77-6-202, MCA, is amended to read:

20 "77-6-202. Lease by competitive bidding -- full market
 21 value required. When the department receives an application
 22 to lease an unleased tract, it shall advertise for bids on
 23 the tract. The tract ~~shall~~ must be leased to the highest
 24 bidder unless the board determines that the bid is not in
 25 the state's best interest for the reasons set forth in

1 77-6-205(2). The board may not accept a bid that is below
 2 full market value DETERMINED BY TAKING INTO ACCOUNT
 3 RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY COUNCIL. If
 4 the high bid is rejected, the board shall set forth the
 5 reasons for the rejection in writing. The lease ~~shall~~ must
 6 then MAY be issued, at a rental to be determined by the
 7 board, to the first bidder willing to pay the board
 8 determined rental whose name is selected through a random
 9 selection process from all bidders on the tract."

10 **Section 4.** Section 77-6-205, MCA, is amended to read:

11 "77-6-205. Renewal leases. (1) A lessee of state land
 12 classed as agricultural, grazing, town lot, city lot, or
 13 land valuable for commercial development who has paid all
 14 rentals due from-him-to the state or who has voluntarily
 15 terminated a lease under 77-6-116 is entitled to have his
 16 the lease renewed for a period not to exceed the maximum
 17 lease period provided in 77-6-109 at any time within 30 days
 18 prior to its expiration or within 30 days following
 19 voluntary termination if no other applications for lease of
 20 the land have been received 30 days prior to the expiration
 21 of ~~his~~ the lease or within 30 days following voluntary
 22 termination. The renewal must be at the full market rental
 23 rate provided-by-law established by the board[, TAKING INTO
 24 ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY
 25 COUNCIL,] for the renewal period and subject to any other

conditions at the time of the renewal imposed by law as terms of the lease. Except as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference right to lease the land covered by ~~his~~ the former lease by meeting the highest bid made by any other applicant. Applications for lease of lands in this section must be given preference in the order of their receipt at the office of the department.

(2) The board shall accept the highest bid. If the lessee exercises the preference right and believes the bid to be excessive, ~~he~~ the lessee may request an administrative hearing. The request must contain a statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the rental from the amount bid if the lessee shows that the bid is not in the best interest of the state because it is above community standards for a lease of the land, would cause damage to the tract, or would impair its long-term productivity. If the board reduces the bid, it shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the reduction. It is the duty of the board to secure the best lessees possible, so

that the state may receive the maximum return possible with the least injury occurring to the land.

(3) A renewal lease may be canceled pursuant to 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a violation by the lessee that occurred during the previous lease term but no more than 3 years prior to the date on which the notice of cancellation required by 77-6-211 is issued. Cancellation procedures instituted but not completed before renewal are applicable to the renewal lease.

(4) A renewal lease may be voluntarily terminated pursuant to 77-6-116."

Section 5. Section 77-6-302, MCA, is amended to read:

"77-6-302. Compensation for improvements -- actual costs. (1) When another person becomes the lessee of ~~such~~ the lands, ~~he~~ the person shall pay to the former lessee the reasonable value of these improvements at the time the new lessee takes possession. The reasonable value may not exceed ~~the--actual--costs~~ BE LESS THAN THE FULL MARKET VALUE of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value ~~shall~~ must be ascertained and fixed as provided in 77-6-306."

Section 6. Section 77-6-305, MCA, is amended to read:

"77-6-305. Settlement regarding improvements prerequisite to issuance of new lease. Before a lease is issued to the new lessee, he the lessee shall show that he ~~has--paid~~ the former lessee has been paid the value of the improvements ~~as-agreed-upon-by-them pursuant to 77-6-302~~ or as ~~fixed--and~~ determined under 77-6-306 ~~or--that-he-has offered-to-pay-the-value-of-the-improvements-as-so-fixed-and determined~~ or that the former lessee elects to remove the improvements."

Section 7. Section 77-6-306, MCA, is amended to read:

"77-6-306. Arbitrators to fix value of improvements.

(1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed ~~thereon~~ on state lands desires to sell these improvements to the new lessee and they are unable to agree on the value thereof ~~of~~ the improvements pursuant to 77-6-302, the value ~~shall must~~ be ascertained and fixed by three arbitrators, one of whom ~~shall--be is~~ appointed by the owner of the improvements, one by the new lessee, and the third by the two arbitrators so appointed. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the commissioner has the same duties and powers as if appointed by one of the parties. The value of the improvements ~~shall must~~ be

ascertained and fixed ~~as--this--part-provides~~ pursuant to 77-6-302.

(2) The reasonable compensation that the arbitrators may fix for their services ~~shall must~~ be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements so ascertained and fixed is binding on both parties; ~~however, if~~. If either party is dissatisfied with the valuation ~~so--fixed~~, he the party may within 10 days appeal from the decision to the department, which shall examine the records pertaining to the costs of the improvements, and, except as provided in subsection (4), its decision ~~shall--be is~~ final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in such the proportion as, in its judgment, justice may demand.

(4) If either party is dissatisfied with the valuation fixed by the department, he the party may within 30 days after receipt of the department's decision petition the district court in the county in which the majority of the state land is located or the district court of Lewis and Clark County for judicial review of the decision."

Section 8. Section 77-6-502, MCA, is amended to read:

"77-6-502. Grazing leases. (1) The rental rate for leasing all state grazing lands ~~shall--be must~~ [, TAKING INTO ACCOUNT RECOMMENDATIONS OF THE STATE LAND BOARD ADVISORY

COUNCIL,] attain full market value based upon the appraised animal-unit-month carrying capacity of the land ~~as--provided in 77-6-507~~ AS PROVIDED IN 77-6-507.

(2) If the legislature board raises the rentals for state grazing lands during the term of any leases of grazing land which that are not issued as a result of competitive bidding, the lessee shall, for the years after the increase becomes effective, pay the increased rental, and the terms of grazing leases ~~shall--so~~ must provide for the increase."

Section 9. Section 77-6-508, MCA, is amended to read:

"77-6-508. Effect of competitive bidding. Whenever competitive bidding ~~shall--establish~~ establishes a rental price higher than the rental price established by the ~~above formula board~~, the board in leasing such the lands shall incorporate in ~~said the~~ lease such conservation requirements as are deemed considered necessary for the protection of such the grass or forage crops."

NEW SECTION. SECTION 10. RULES REQUIRED TO SET RATES AND FEES. THE BOARD SHALL COMPLY WITH TITLE 2, CHAPTER 4, PART 3, IN SETTING RENTAL RATES AND LICENSE FEES PURSUANT TO 77-1-208, 77-1-802, 77-6-202, 77-6-501, AND 77-6-502, AND 77-6-507.

~~NEW SECTION--Section 10--Repealer--Section--77-6-507--MCA--is-repealed--~~

SECTION 11. SECTION 77-1-209, MCA, IS AMENDED TO READ:

"77-1-209. Leasing rules. The board may prescribe rules relating to the leasing of state lands as it considers necessary in order that the use and proceeds of these lands may contribute in the highest attainable measure to the purposes for which they are granted to the state of Montana. The rules should prescribe a procedure for setting all fees and rental rates for the use of state lands for any purpose. The procedure should establish provisions for notice, public comment, public hearings, and appeal."

SECTION 12. SECTION 77-6-507, MCA, IS AMENDED TO READ:

"77-6-507. Formula for fixing annual rental. (1) In this section:

(a) "animal unit" means one cow, one horse, five sheep, or five goats;

(b) "animal-unit-month carrying capacity" means that amount of natural feed necessary for the complete subsistence of one animal unit for 1 month.

(2) The board shall establish the minimum per annum rental rate per section of all grazing lands that are the property of the state by multiplying ~~six~~ a factor established by the board pursuant to 77-6-502 times the average price per pound of beef cattle on the farm in Montana for the previous year times the animal-unit-month carrying capacity of the land.

(3) The carrying capacity of the land to be used in the

above formula must be in accordance with the determinations of the department made under 77-6-201.

(4) The average price per pound of beef cattle on the farm in Montana must be taken from statistics published by the United States department of agriculture current at the time of computation of the rental or from other reliable sources current at that time.

(5) In establishing the rental rate described in subsection (2), the board shall consider applicable elements that include but are not limited to those set forth in [section 13]."

NEW SECTION. SECTION 13. SETTING OF RATES OR FEES. (1)
IN SETTING THE LEASE RENTAL RATES OR FEES FOR THE USE OF STATE LANDS AND CABIN SITES, THE BOARD SHALL CONSIDER THE IMPACT OF THE USES ON THE SCHOOL TRUST ASSET, LESSEE EXPENSES FOR MANAGEMENT, WATER DEVELOPMENT, WEED CONTROL, FIRE CONTROL, THE TERM OF THE LEASE, THE PRODUCTION CAPABILITIES, THE CONDITIONS ON THE LEASE PAYMENT, AND ANY OTHER REQUIRED EXPENSES REASONABLY BORNE BY THE LESSEE. IN SETTING CABIN SITE LEASE RATES, THE BOARD SHALL CONSIDER EXPENSES THAT ARE COMMONLY INCURRED BY THE LESSEES TO PRESERVE THE VALUE OF THE STATE LAND OR TO PROVIDE SERVICES COMMONLY PROVIDED BY PRIVATE LESSORS IN THE AREA.

(2) ALL LEASE RENTAL RATES AND FEES ESTABLISHED BY THE BOARD UNDER 77-1-208, 77-1-802, 77-6-202, 77-6-501,

77-6-502, AND 77-6-507 MUST CONSIDER THE TRUST ASSET AND BE IN THE BEST INTERESTS OF THE STATE WITH REGARD TO THE LONG-TERM PRODUCTIVITY OF THE SCHOOL TRUST LANDS, WHILE OPTIMIZING THE RETURN TO THE SCHOOL TRUST.

NEW SECTION. SECTION 14. STATE LAND BOARD ADVISORY COUNCIL. (1) THERE IS A STATE LAND BOARD ADVISORY COUNCIL. THE COUNCIL SHALL GATHER INFORMATION, PROVIDE ADVICE, MAKE RECOMMENDATIONS, AND PERFORM OTHER ACTIVITIES AS MAY BE NECESSARY IN THE SETTING OF ALL FEES OR RENTAL RATES FOR STATE LANDS.

(2) THE STATE LAND BOARD ADVISORY COUNCIL MUST BE APPOINTED BY THE GOVERNOR WITH THE CONCURRENCE OF THE MAJORITY OF THE BOARD OF LAND COMMISSIONERS. THE ADVISORY COUNCIL MUST BE BROADLY REPRESENTATIVE OF THE USERS AND BENEFICIARIES OF THE STATE TRUST LANDS.

(3) THE STATE LAND BOARD ADVISORY COUNCIL SHALL MAKE RECOMMENDATIONS FOR FEES AND RENTAL RATES TO THE STATE LAND BOARD.

NEW SECTION. SECTION 15. CODIFICATION INSTRUCTION.
~~{SECTION--12}~~ IS [SECTIONS 11-AND 13 AND 14] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 77, CHAPTER 1, PART 1, AND THE PROVISIONS OF TITLE 77, CHAPTER 1, PART 1, APPLY TO [SECTION SECTIONS 11-AND 13 AND 14].

NEW SECTION. Section 16. Applicability. [This act] (1) [SECTION 1] applies to leases entered into or renewed on or

1 after [the effective date of this act] AND, FOR LEASES IN
2 EFFECT ON [THE EFFECTIVE DATE OF THIS ACT], TO RENTALS DUE
3 AFTER RENTAL ADJUSTMENTS MADE PURSUANT TO ADJUSTMENT
4 PROVISIONS IN THE LEASE.

5 (2) [SECTION 2] APPLIES TO LICENSES SOLD AFTER FEBRUARY
6 28, 1994.

7 (3) ~~{SECTION--3}~~-APPLIES-TO-LEASE-YEARS-BEGINNING-AFTER
8 ~~DECEMBER-31~~ [SECTIONS 8 AND 12] APPLY TO LEASES ISSUED OR
9 RENEWED AFTER JULY 1, 1993.

10 NEW SECTION. SECTION 17. TERMINATION. [SECTION 14] AND
11 THE BRACKETED REFERENCES TO THE STATE LAND BOARD ADVISORY
12 COUNCIL IN 77-1-208, 77-1-802, 77-6-205, AND 77-6-502
13 TERMINATE MARCH 1, 1996.

14 NEW SECTION. Section 18. Effective date. [This act] is
15 effective July 1, 1993.

-End-