

House BILL NO. 341

INTRODUCED BY Larson

A BILL FOR AN ACT ENTITLED: "AN ACT FACILITATING THE DIVERSIFICATION OF STATE TRUST LAND HOLDINGS AND IMPROVING INCOME-PRODUCING POTENTIAL FOR THE SCHOOL TRUST BY REVISING THE METHOD OF EXCHANGING STATE TRUST LAND FOR PRIVATE LAND; CREATING THE TRUST LAND REPLACEMENT ACCOUNT AND PROVIDING FOR EXPENDITURE FROM THE ACCOUNT; ESTABLISHING PROCEDURES FOR THE DEFERRED EXCHANGE OF STATE LAND FOR PRIVATE LAND; AMENDING SECTION 77-2-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in The Enabling Act of 1889, Congress granted certain lands to the State of Montana for the fiscal support of common schools and for various educational and institutional purposes; and

WHEREAS, section 11 of The Enabling Act and Article X, section 11, of the 1972 Montana Constitution allow those trust lands to be exchanged if the state obtains land of equal value and, as closely as possible, land equal in area to the trust land; and

WHEREAS, section 11 of The Enabling Act requires the state to obtain maximum long-term revenue for the fiscal support of the various institutional trust beneficiaries, and Article X, section 3, of the 1972 Montana Constitution requires the state to protect the corpus of the public school fund against the risk of loss or diversion; and

WHEREAS, Article X, section 4, of the 1972 Montana Constitution grants authority to the Board of Land Commissioners to "direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions"; and

WHEREAS, the Legislature finds that it is desirable to maintain trust assets in parcels of land that are capable of producing steady annual revenue, substantial appreciation in value, or both, but that it may from time to time be desirable to sell or exchange certain parcels of trust lands that have low potential for effective management or low income-generating potential; and

WHEREAS, the Legislature finds that diversification of the types of land held by the state on behalf of the trust beneficiaries is desirable because it helps protect the value of the corpus of the trust from risk of loss and improves the income-producing potential of the trust assets.

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

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3 NEW SECTION. Section 1. Trust land replacement account created -- use of funds. (1) There is
4 a trust land replacement account in the state treasury. The account consists of funds transferred to or paid
5 to the state for the exchange or transfer of real property by the department under this chapter.

6 (2) Funds in the trust land replacement account must be separately accounted for and may be used
7 only for acquiring real property for each individual trust established in sections 10, 11, 14, and 17 of The
8 Enabling Act of 1889, to replace trust lands that are exchanged or transferred.

9 (3) Funds in the trust land replacement account may be expended by the department only when
10 authorized by the board.

11 (4) The legislature may from time to time appropriate additional money for deposit into the trust
12 land replacement account.

13

14 **Section 2.** Section 77-2-203, MCA, is amended to read:

15 **"77-2-203. Exchange for private land.** (1) The board is authorized to exchange state land for
16 private land provided that the private land is:

17 (a) of equal or greater value, as determined by the board after appraisal by a qualified land
18 appraiser, than the state land; and

19 (b) given the purpose of the exchange, as closely as possible equal in area to the trust land
20 contemplated for conveyance.

21 (2) To facilitate an exchange, the board may accept a cash payment from a payor prior to an
22 exchange. The board and the payor shall, prior to transfer and acceptance of the cash payment, agree in
23 writing on the period for which the board may hold the cash payment. The cash payment may not be less
24 than the fair market value of the state land, as determined by an appraisal, plus the department's expected
25 administrative costs in conducting the exchange. The contents of the appraisal must be made available to
26 any person who makes a written request to the board.

27 (3) Any cash payment received by the board to facilitate an exchange of lands must be deposited
28 in the trust land replacement account established in [section 1]. Any interest earned on the cash payment
29 while the payment is in the trust land replacement account must be remitted to the payor. If the exchange
30 is not completed within the period agreed to pursuant to subsection (2), the board shall, upon request of

1 the payor, remit the unobligated money to the payor.

2 (4) Upon authorization by the board, the department may use the cash payment in the trust land
 3 replacement account to purchase private lands to replace those trust lands being conveyed to a private
 4 grantee. Assets of the various trusts must be kept separate and not commingled.

5 (5) Before an exchange may be approved, the board shall determine that the private land selected
 6 by the state for acquisition is of equal or greater value than the trust lands, based on an appraisal performed
 7 no more than 6 months prior to the exchange. Even though a cash payment may have been submitted to
 8 facilitate an exchange, a private grantee acquires no right, title, or interest in the state trust land until the
 9 state concurrently receives title to the private lands selected for acquisition.

10 (6) The board shall place priority on exchanges which that result in consolidation of state lands into
 11 more compact bodies or that offer greater protection for the value of the trust corpus or greater potential
 12 for trust income. This section does not apply to exchanges undertaken under 76-12-107.

13 ~~(2)(7)~~ If the requirements of subsection (1) and 77-2-204 and subsection (1) of this section are
 14 met, state lands bordering on navigable lakes and streams or other bodies of water with significant public
 15 use value may be exchanged for private land if the private land borders on similar navigable lakes, streams,
 16 or other bodies of water.

17 (8) In any exchange, the state shall reserve all mineral rights as provided in 77-2-304.

18 (9) The board may adopt rules to implement [section 1] and this section."

19
 20 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
 21 integral part of Title 77, chapter 2, part 2, and the provisions of Title 77, chapter 2, part 2, apply to
 22 [section 1].

23
 24 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

25 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0341, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act facilitating the diversification of state trust land holdings and improving income-producing potential for the school trust by revising the method of exchanging state trust land for private land; creating the trust land replacement account and providing for expenditure from the account; establishing procedures for the deferred exchange of state land for private land; and providing an immediate effective date.

ASSUMPTIONS:

1. The Board of Land Commissioners would actively pursue a deferred exchange program.
2. The current land administration programs are not staffed or funded to carry out an active deferred exchange program.
3. In order to implement and sustain a deferred exchange program, the projected staff would be 6.00 FTE in each fiscal year at a cost of \$192,353 in FY96 and \$193,033 in FY97. The annual operating expenses for the deferred exchange staff are estimated at \$21,500 to cover rent, travel, communications, and miscellaneous expenses. Capital expenditures would include one vehicle at \$20,000, 6 computers at \$3,000 per computer, and office equipment of \$1,100 per FTE. The total capital would then be \$44,600. Capital expenditures would be in the first year only.
4. Revenue from the uses of newly acquired lands will not be expected to show a significant increase in the first biennium of the program. Any revenues received in future biennia will be deposited directly into the trust.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	6.00	6.00
Personal Services	192,353	193,033
Operating Expenses	21,500	21,500
Equipment	<u>44,600</u>	<u>0</u>
Total	258,453	214,533
 <u>Funding:</u>		
General Fund	258,453	214,453

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenues from trust land uses will increase due to more productive lands, better management, and more competition for uses. There would be fewer conflicts in management due to disposal of problem tracts, and greater consolidation of, and access to, retained and acquired lands.

David Lewis 2-1-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Don Larson
 DON LARSON, PRIMARY SPONSOR DATE