

House BILL NO. 350

INTRODUCED BY

*Peak*

*Spencer*

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE BOARD OF LAND COMMISSIONERS OVER ALL STATE LAND; AMENDING SECTIONS 20-25-422 AND 77-1-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 20-25-422, MCA, is amended to read:

**"20-25-422. (Temporary) Support of university of Montana.** (1) For the support and endowment of the university, there is annually and perpetually appropriated:

(a) the university fund income and all other sums of money appropriated by law to the university fund after any deductions made under Title 77, chapter 1, part 6;

(b) all tuition and matriculation fees; and

(c) all contributions derived from public or private bounty.

(2) The entire income of all the funds must be placed at the disposal of the board of regents by transfer to its treasurer and must be kept separate and distinct from all other funds. The income must be used solely for the support of the colleges and departments of the university or those connected with the university.

(3) All means derived from other public or private bounty must be exclusively devoted to the specific objects designated by the donor. (Terminates June 30, 1995--sec. 12, Ch. 533, L. 1993.)

**20-25-422. (Effective July 1, 1995) Support of university of Montana.** (1) For the support and endowment of the university, there is annually and perpetually appropriated:

(a) the university fund income, the proceeds and revenue from the grant of any estate or interest disposed of pursuant to [section 2], and all other sums of money appropriated by law thereto to the university fund;

(b) all tuition and matriculation fees; and

(c) all contributions derived from public or private bounty.

(2) The entire income of all ~~such~~ funds ~~shall~~ referred to in subsection (1) must be placed at the

1 disposal of the board of regents by transfer to its treasurer and ~~shall~~ must be kept separate and distinct  
 2 from all other funds. The income ~~shall~~ must be used solely for the support of the colleges and departments  
 3 of the university or those connected ~~therewith~~ with the colleges and departments.

4 (3) All means derived from other public or private bounty ~~shall~~ must be exclusively devoted to the  
 5 specific objects for which they ~~shall~~ have been designated by the donor."

6  
 7 NEW SECTION. Section 2. Disposition of land. (1) The board of land commissioners, upon  
 8 request of the board of regents, may sell, exchange, and lease land and grant easements and licenses on  
 9 land that:

10 (a) is held or administered by the board of regents or the system and that is held by the state for the  
 11 use and benefit of the board of regents or the system; and

12 (b) was not granted to the state, the board of regents, or the system in trust.

13 (2) The board of land commissioners may not grant an estate or interest in land that was granted to  
 14 the state in trust for the support and benefit of the system.

15 (3) In disposing of any estate or interest in land pursuant to subsection (1), the board of land  
 16 commissioners shall obtain consideration that equals or exceeds the full market value of the land. For sales  
 17 and exchanges, full market value must be determined by the board of land commissioners after an appraisal  
 18 by a certified or licensed appraiser. If the appraiser determines that the valuation is not complicated and  
 19 estimates, based on available data, that the full market value of the property is \$10,000 or less, the board  
 20 of land commissioners may use a restricted or limited appraisal.

21 (4) Before approving an exchange of land, the board of land commissioners shall give the public notice  
 22 of the proposed exchange and an opportunity to comment. The board of land commissioners shall, upon  
 23 request of any person, hold a public hearing in the area where the state land to be conveyed is located.  
 24 Subject to subsection (6), the board of land commissioners may, after review of the comments, approve  
 25 the exchange if it determines that the exchange is in the best interests of the system.

26 (5) Prior to the sale of land, the board of land commissioners shall prepare a request for proposals to  
 27 purchase the land and publish public notice of the sale once a week for 4 consecutive weeks in a  
 28 newspaper of general circulation published in the county where the land is situated. If a newspaper is not  
 29 published in that county, notice must be published in any newspaper of general circulation in that county.  
 30 The notice must describe the land to be sold, the appraised value of the land, the procedure by which

1 persons may obtain the request for proposals, the terms and conditions of sale, and the criteria upon which  
2 each proposal will be evaluated. The sale procedure must provide reasonable opportunity for members of  
3 the public to submit proposals to purchase the land. The board of land commissioners may sell the land  
4 only if it determines that the sale is in the best interests of the system. If the board of land commissioners  
5 sells the land, the sale must be to the offeror whose proposal the board of land commissioners determines  
6 to be the most advantageous to the system, taking into consideration the price and the other evaluation  
7 criteria listed in the request for proposals.

8 (6) The board of land commissioners may refuse to concur in a proposed sale or exchange of land if  
9 it determines that the sale or exchange would be disadvantageous to the state.

10 (7) The board of land commissioners and the board of regents shall convey the land by deed, executed  
11 by the presiding officer of each board or other person designated by each board, without covenants of  
12 warranty. For a sale of land that was owned by the federal government, the state, or a unit of local  
13 government immediately prior to the acquisition of the land by the system or by the state for the system,  
14 the deed must reserve:

15 (a) all minerals, except sand, gravel, building stone, and brick clay; and

16 (b) for the system and its lessees, the right to enter upon the land to prospect for, develop, mine, and  
17 remove mineral deposits and to occupy and use as much of the surface as necessary for those purposes.

18  
19 **Section 3.** Section 77-1-101, MCA, is amended to read:

20 **"77-1-101. Definitions.** Unless the context requires otherwise and except for the definition of state  
21 land in 77-1-701, in this title, the following definitions apply:

22 (1) "Board" means the board of land commissioners provided for in Article X, section 4, of the  
23 Montana constitution ~~of this state~~.

24 (2) "Commercial or concentrated recreational use" means any recreational use that is organized,  
25 developed, or coordinated, whether for profit or otherwise. Commercial or concentrated recreational use  
26 includes all outfitting activity and all activities not included within the definition of general recreational use.

27 (3) "Commissioner" means the commissioner of state lands provided for in 2-15-3202.

28 (4) "Department" means the department of state lands provided for in Title 2, chapter 15, part 32.

29 (5) "General recreational use" includes noncommercial and nonconcentrated hunting, fishing, and  
30 other activities determined by the board to be compatible with the use of state lands. General recreational

1 use does not include the use of streams and rivers by the public under the stream access laws provided  
2 in Title 23, chapter 2, part 3.

3 (6) "Legally accessible state lands" means state lands that can be accessed by:

4 (a) dedicated public road, right-of-way, or easement; ~~by~~

5 (b) public waters; ~~by~~

6 (c) adjacent federal, state, county, or municipal land if the land is open to public use; or ~~by~~

7 (d) adjacent contiguous private land if permission to cross the land has been secured from the  
8 landowner. The granting of permission by a private landowner to cross private property in a particular  
9 instance does not subject the state land that is accessed to general recreational use by members of the  
10 public other than those granted permission.

11 (7)(a) "State land" or "lands" means:

12 (i) lands granted to the state by the United States for any purpose, either directly or through  
13 exchange for other lands;

14 (ii) lands deeded or devised to the state from any person; and

15 (iii) lands that are the property of the state through the operation of law.

16 (b) The term ~~does not include~~ includes:

17 (i) lands that the state conveys through the issuance of patent;

18 (ii) lands used for building sites, campus grounds, or experimental purposes by any state institution  
19 that are the property of that institution; ~~or~~

20 (iii) lands acquired through foreclosure of any investments purchased under the provisions of  
21 17-6-211; and

22 (iv) lands subject to disposal under [section 2]."

23

24 NEW SECTION. Section 4. Codification instruction. [Section 2] is intended to be codified as an  
25 integral part of Title 20, chapter 25, part 3, and the provisions of Title 20, chapter 25, part 3, apply to  
26 [section 2].

27

28 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1995.

29

-END-