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House BILL NO. 351

INTRODUCED BY

*Peck, Kitzberger*  
*Quinn*

BY REQUEST OF THE BOARD OF LAND COMMISSIONERS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF REGENTS TO DISPOSE OF UNIVERSITY LAND; ESTABLISHING PROCEDURES FOR THE DISPOSITION OF UNIVERSITY LAND; REQUIRING THE CONCURRENCE OF THE BOARD OF LAND COMMISSIONERS FOR THE SALE OR EXCHANGE OF CERTAIN UNIVERSITY 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;

1 (b) all tuition and matriculation fees; and

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

3 (2) The entire income of all ~~such~~ funds ~~shall~~ referred to in subsection (1) must be placed at the  
4 disposal of the board of regents by transfer to its treasurer and ~~shall~~ must be kept separate and distinct  
5 from all other funds. The income ~~shall~~ must be used solely for the support of the colleges and departments  
6 of the university or those connected ~~therewith~~ with the colleges and departments.

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

9

10 NEW SECTION. Section 2. Disposition of land. (1) The board of regents may sell, exchange, and  
11 lease land and grant easements and licenses on land that:

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

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

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

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

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

28 (5) Prior to the sale of land, the board of regents shall prepare a request for proposals to purchase the  
29 land and publish public notice of the sale once a week for 4 consecutive weeks in a newspaper of general  
30 circulation published in the county where the land is situated. If a newspaper is not published in that

1 county, notice must be published in any newspaper of general circulation in that county. The notice must  
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 3 the request for proposals, the terms and conditions of sale, and the criteria upon which each proposal will  
 4 be evaluated. The sale procedure must provide reasonable opportunity for members of the public to submit  
 5 proposals to purchase the land. The board of regents may sell the land only if it determines that the sale  
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 7 whose proposal the board determines to be the most advantageous to the system, taking into consideration  
 8 the price and the other evaluation criteria listed in the request for proposals.

9 (6) If land that is proposed for sale or exchange was owned by the federal government, the state, or  
 10 a unit of local government immediately prior to its acquisition by the system or the state for the system,  
 11 the board of regents may sell or exchange the land only if it obtains the concurrence of the board of land  
 12 commissioners. The board of land commissioners may refuse to concur if it determines that the sale or  
 13 exchange would be disadvantageous to the state.

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

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

19 (b) for the board of regents and its lessees, the right to enter upon the land to prospect for, develop,  
 20 mine, and remove mineral deposits and to occupy and use as much of the surface as necessary for those  
 21 purposes.

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

24 **"77-1-101. Definitions.** Unless the context requires otherwise and except for the definition of state  
 25 land in 77-1-701, in this title, the following definitions apply:

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

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

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

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

3 (5) "General recreational use" includes noncommercial and nonconcentrated hunting, fishing, and  
 4 other activities determined by the board to be compatible with the use of state lands. General recreational  
 5 use does not include the use of streams and rivers by the public under the stream access laws provided  
 6 in Title 23, chapter 2, part 3.

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

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

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

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

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

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

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

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

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

20 (b) The term does not include:

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

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

24 (iii) lands that the board of regents of higher education has authority to dispose of pursuant to  
 25 [section 2]; or

26 (iv) lands acquired through foreclosure of any investments purchased under the provisions of  
 27 17-6-211."

28

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

1 [section 2].

2

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

4 -END-

HOUSE BILL NO. 351

INTRODUCED BY PECK, KITZENBERG, SQUIRES

BY REQUEST OF THE BOARD OF LAND COMMISSIONERS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF REGENTS TO DISPOSE OF UNIVERSITY LAND; ESTABLISHING PROCEDURES FOR THE DISPOSITION OF UNIVERSITY LAND; REQUIRING THE CONCURRENCE OF THE BOARD OF LAND COMMISSIONERS FOR THE SALE OR EXCHANGE OF CERTAIN UNIVERSITY LAND; AMENDING SECTIONS 20-25-422 AND 77-1-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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**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:

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13 use and benefit of the board of regents or the system; and

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

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

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

23 (4) Before approving an exchange of land, the board of regents shall give the public notice of the  
24 proposed exchange and an opportunity to comment. The board of regents shall, upon request of any  
25 person, hold a public hearing in the area where the state land to be conveyed is located. Subject to  
26 subsection (6), the board of regents may, after review of the comments, approve the exchange if it  
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28 (5) Prior to the sale of land, the board of regents shall prepare a request for proposals to purchase the  
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 5 proposals to purchase the land. The board of regents may sell the land only if it determines that the sale  
 6 is in the best interests of the system. ~~If the board of regents sells the land, the sale must be to the offeror~~  
 7 ~~whose proposal the board determines to be the most advantageous to the system, taking into consideration~~  
 8 ~~the price and the other evaluation criteria listed in the request for proposals.~~

9 ~~(6) If land that is proposed for sale or exchange was owned by the federal government, the state, or~~  
 10 ~~a unit of local government immediately prior to its acquisition by the system or the state for the system,~~  
 11 ~~the~~ THE board of regents may sell or exchange the land only if it obtains the concurrence of the board of  
 12 land commissioners. The board of land commissioners may refuse to concur if it determines that the sale  
 13 or exchange ~~would be disadvantageous to the state~~ DOES NOT RETURN TO THE STATE FULL MARKET  
 14 VALUE OR THAT THE SALE PROCEDURE DID NOT PROVIDE THE PUBLIC A REASONABLE OPPORTUNITY  
 15 TO SUBMIT PROPOSALS TO PURCHASE THE LAND. IF THE BOARD OF LAND COMMISSIONERS  
 16 DETERMINES THAT THE SALE IS NOT IN THE BEST INTERESTS OF THE STATE OR SYSTEM, IT SHALL  
 17 NOTIFY THE BOARD OF REGENTS OF THAT DETERMINATION AND THE SALE IS NOT FINAL.

18 (7) The board of regents shall convey the land by deed, executed by the presiding officer of the board  
 19 or other person designated by the board, without covenants of warranty. ~~For a sale of land that was~~  
 20 ~~owned by the federal government, the state, or a unit of local government immediately prior to the~~  
 21 ~~acquisition of the land by the system or by the state for the system, the deed must reserve:~~

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

23 ~~(b) for the board of regents and its lessees, the right to enter upon the land to prospect for, develop,~~  
 24 ~~mine, and remove mineral deposits and to occupy and use as much of the surface as necessary for those~~  
 25 ~~purposes.~~

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

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 29 land in 77-1-701, in this title, the following definitions apply:

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1 Montana constitution ~~of this state~~.

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4 includes all outfitting activity and all activities not included within the definition of general recreational use.

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16 landowner. The granting of permission by a private landowner to cross private property in a particular  
17 instance does not subject the state land that is accessed to general recreational use by members of the  
18 public, other than those granted permission.

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21 exchange for other lands;

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

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24 (b) The term does not include:

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

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27 that are the property of that institution;

28 (iii) lands that the board of regents of higher education has authority to dispose of pursuant to  
29 [section 2]; or

30 (iv) lands acquired through foreclosure of any investments purchased under the provisions of

1 17-6-211."

2

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

6

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

8

-END-

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HOUSE BILL NO. 351

INTRODUCED BY PECK, KITZENBERG, SQUIRES

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THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 21, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 351 (third reading copy -- blue), respectfully report that HB 351 be amended as follows and as so amended be concurred in.

Signed: Lorents Grosfield  
Senator Lorents Grosfield, Chair

That such amendments read:

1. Page 3, line 8.

Following: "~~proposals.~~"

Insert: "If the board of regents sells the land, the sale must be to the offeror whose proposal the board determines to be the most advantageous to the system, taking into consideration the price and the other evaluation criteria listed in the request for proposals."

2. Page 3, line 11.

Following: "~~the~~"

Insert: "(6)"

Following: "it"

Insert: "first requests and"

Following: the first "the"

Insert: "written"

3. Page 3, line 14.

Strike: "OR"

Insert: ", "

4. Page 3, line 15 through 17.

Strike: "IF" on line 15 through "DETERMINES" on line 16

Insert: ", or"

Following: "SALE" on line 16

Insert: "or exchange"

Strike: "IT" on line 16 through "FINAL" on line 17


5. Page 3, line 18.

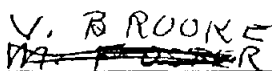
Following: "(7)"

Strike: "The"

Insert: "After obtaining written concurrence of the board of land commissioners required in subsection (6), the"

-END-

  
Amd. Coord.  
Sec. of Senate

  
~~Mr. FOSTER~~  
Senator Carrying Bill

HB 351  
SENATE  
651009SC.SPV

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 7 ~~whose proposal the board determines to be the most advantageous to the system, taking into consideration~~  
 8 ~~the price and the other evaluation criteria listed in the request for proposals.~~ IF THE BOARD OF REGENTS  
 9 SELLS THE LAND, THE SALE MUST BE TO THE OFFEROR WHOSE PROPOSAL THE BOARD DETERMINES  
 10 TO BE THE MOST ADVANTAGEOUS TO THE SYSTEM, TAKING INTO CONSIDERATION THE PRICE AND  
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12 ~~(6) If land that is proposed for sale or exchange was owned by the federal government, the state, or~~  
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 14 the

15 (6) THE board of regents may sell or exchange the land only if it FIRST REQUESTS AND obtains  
 16 the WRITTEN concurrence of the board of land commissioners. The board of land commissioners may  
 17 refuse to concur if it determines that the sale or exchange ~~would be disadvantageous to the state~~ DOES  
 18 NOT RETURN TO THE STATE FULL MARKET VALUE OR, THAT THE SALE PROCEDURE DID NOT PROVIDE  
 19 THE PUBLIC A REASONABLE OPPORTUNITY TO SUBMIT PROPOSALS TO PURCHASE THE LAND, IF THE  
 20 BOARD OF LAND COMMISSIONERS DETERMINES, OR THAT THE SALE OR EXCHANGE IS NOT IN THE  
 21 BEST INTERESTS OF THE STATE OR SYSTEM, IT SHALL NOTIFY THE BOARD OF REGENTS OF THAT  
 22 DETERMINATION AND THE SALE IS NOT FINAL.

23 (7) ~~The~~ AFTER OBTAINING WRITTEN CONCURRENCE OF THE BOARD OF LAND COMMISSIONERS  
 24 REQUIRED IN SUBSECTION (6), THE board of regents shall convey the land by deed, executed by the  
 25 presiding officer of the board or other person designated by the board, without covenants of warranty. ~~For~~  
 26 ~~a sale of land that was owned by the federal government, the state, or a unit of local government~~  
 27 ~~immediately prior to the acquisition of the land by the system or by the state for the system, the deed must~~  
 28 ~~reserve:~~

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

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

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

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

14 (5) "General recreational use" includes noncommercial and nonconcentrated hunting, fishing, and  
 15 other activities determined by the board to be compatible with the use of state lands. General recreational  
 16 use does not include the use of streams and rivers by the public under the stream access laws provided  
 17 in Title 23, chapter 2, part 3.

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

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

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

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

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

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

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

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

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



1           **(b)** The term does not include;

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

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

5           **(iii)** lands that the board of regents of higher education has authority to dispose of pursuant to  
6 [section 2]; or.

7           **(iv)** lands acquired through foreclosure of any investments purchased under the provisions of  
8 17-6-211."

9

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

13

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

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