

SENATE BILL NO. 267

INTRODUCED BY

Forrester Roney HARP Beck Repinich Hertel J R. Ryan Keating

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE POSTING OF THE BOUNDARIES OF STATE RECREATIONAL LANDS BY THE DEPARTMENT OF STATE LANDS; ALLOCATING A PORTION OF THE INCREASE IN THE RECREATIONAL USE FEE, IF AN INCREASE IS ADOPTED, TO PAY THE COSTS OF POSTING; REQUIRING THAT POSTING BE COMPLETED WITHIN 5 YEARS; AMENDING SECTIONS 77-1-802 AND 77-1-808, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

NEW SECTION. Section 1. Posting of state lands. The department shall post the boundary of each parcel of state land required to be open to general recreational use under 77-1-203(3). Posting must be accomplished through the use of signs prepared by the department that are consistent in size, color, and lettering and that are conspicuously placed in a manner to inform the general recreational user of the entire boundary of each parcel. Posting must be completed within 5 years of [the effective date of this act].

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 must[, taking into account recommendations of the state land board advisory council,] attain full market value.

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

(a) Except as provided in ~~subsection~~ subsections (2)(b) and (2)(c), license fees 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.

(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.

(c) Two dollars and fifty cents from the fee for each license must be deposited in the state lands recreational use account established in 77-1-808 for use by the department as provided in 77-1-808(3)(e) in posting state lands as required in [section 1].

1 (3) The department may contract with the department of fish, wildlife, and parks for the distribution
 2 and sale of recreational use licenses through the license agents appointed by and the administrative offices
 3 of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2,
 4 part 9. (Bracketed language in subsection (1) terminates March 1, 1996--sec. 17, Ch. 586, L. 1993.)"

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

7 **"77-1-808. State lands recreational use account.** (1) There is a state lands recreational use account
 8 in the state special revenue fund provided for in 17-2-102.

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

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

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

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

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

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

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

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

21 (d) administration and management for the implementation of recreational use of state lands; and

22 (e) posting of state lands as required in [section 1]."

23
 24 **NEW SECTION. Section 4. Contingency provision -- effective date.** [This act] is contingent on the
 25 adoption by the state board of land commissioners of an increase in the recreational use license fee from
 26 \$5 to \$10 or more and becomes effective on the date the fee increase becomes effective.

27
 28 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
 29 integral part of Title 77, chapter 1, part 8, and the provisions of Title 77, chapter 1, part 8, apply to
 30 [section 1].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0267, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the posting of the boundaries of state recreational lands by the Department of State Lands (DSL); allocating a portion of the increase in the recreational use fee, if an increase is adopted, to pay the costs of posting; requiring that posting be completed within 5 years; amending some MCA sections; and providing a contingent effective date.

ASSUMPTIONS:

1. The effective date of a fee increase in the recreational use license will be March 1, 1996. Therefore, the revenues generated from this increase and the posting program expenditures will only be for four months of FY96.
2. If DSL is expected to post signs with existing personnel, there will be delays in field evaluations, and delays or discontinuance of other management and administrative duties normally performed by these personnel. These delays and discontinuances would result in decreased revenues to the school trust accounts and decreased management of the trust resources.
3. In order to implement the posting without impacting existing programs, additional staffing and operating expenditures will be required. It is estimated that two, two-person crews could accomplish the posting in the required five years. The projected staff and budget would be as follows:
 - a. Anticipated personal services needs are 1.33 FTE in FY96 (4.00 FTE for four months) at a cost of \$29,966 and 4.00 FTE in FY97 at a cost of \$90,200.
 - b. The operating expenses for the posting crew would be \$12,000 per year to cover gasoline, vehicle maintenance, meals, lodging, and minor tools.
 - c. There are over 41,000 separate parcels of state land contained within 16,000 separate sections. If 66.66% of these sections are open to general recreational use (legally accessible without requiring permission to cross private property), 10,656 sections would require posting. If each of these sections has four sides, and four signs per side are required, 170,496 signs would be required. The estimated cost per sign for an aluminum sign is \$1.00. Therefore, the cost to purchase signs would be $170,496 \times \$1.00 = \$170,496$. Posts for holding the signs may be required for as many as half of the boundaries of the state sections. $3 \text{ posts} \times \$2/\text{post} \times 2 \text{ sides per section} \times 10,000 \text{ sections} = \$120,000$. The total cost of \$290,496 would be spread out over the 5 year posting program for an annual cost of \$58,100.
 - d. Capital expenditures would include two 4X4 pickups (\$31,000) and two ATVs (\$9,000). Capital expenditures would be in the first year only.
4. Costs are based on the assumption that boundary posting will be accomplished by estimation and not by legal survey.

(continued on page 2)


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

GARY FORRESTER, PRIMARY SPONSOR DATE
Fiscal Note for SB0267, as introduced

SB 267

(continued)

5. The Board of Land Commissioners will increase the recreational use license fee to \$10/license. Approximately 31,000 recreational use licenses have been sold during each of the past two years at \$5 per license. The number of licenses sold will decrease by 10% (to 27,900 licenses) due to the fee increase and these sales will be evenly distributed throughout the year. Therefore, 27,900 licenses x \$2.50 = \$69,750 will be generated per year for the posting program in accordance with Section 2(2)(c). These revenues generated from licenses will be short of the estimated expenditures. Therefore, general fund will be necessary to accomplish the posting.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.33	4.00
Personal Services	29,966	90,200
Operating Expenses	23,347	70,100
Equipment	<u>40,000</u>	<u>0</u>
Total	93,313	160,300
 <u>Funding:</u>		
General Fund	70,086	90,550
State Special Revenue	<u>23,227</u>	<u>69,750</u>
Total	93,313	160,300
 <u>Revenues:</u>		
Recreational Fees (02)	23,227	69,750
 <u>Net Impact:</u>		
General Fund (Cost)	(70,086)	(90,550)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

State lands will become more easily identified and will be used more for recreation. The posting program would be completed within five years of the effective date of the legislation and there would not be a need for the FTEs and funding identified after that date. After the five year posting program is completed, the additional \$2.50/license revenue would be distributed to the appropriate school trust accounts.

TECHNICAL NOTES:

1. If the Board of Land Commissioners sets the recreational fee at \$10 per license, that represents full market value for that use. Deducting the \$2.00 under current law and then an additional \$2.50 under Section 2(2)(c) effectively reduces the value to the trusts to \$5.50/license. Therefore, does the \$5.50/license constitute full market value to the trusts?
2. The proposed legislation does not address how the boundaries of the state lands will be determined. The fiscal note assumes that boundary location will be by estimate, not by legal survey. Many boundaries are unknown at present and if a legal survey is required, substantial costs will be incurred by DSL in contracting legal surveys. Estimated costs of legal surveys would be \$1,000 - \$2,000 per section depending on terrain, configuration of the tract, and availability of known corners.

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3. Section 1 requires posting of signs on "each parcel of state land required to be open to general recreational use under 77-1-203(3)." This includes all state land that is not subject to categorical or site-specific closure. Thus, under this language, land for which there is no public access must be signed. This fiscal note is based on the assumption that the intent of the sponsor was to require signing only on state lands that are accessible by the general public (and not those lands that are accessible only by permission of a private landowner). If this is the case, the language on page 1, lines 12 and 13 should be amended to clarify the statute. If the intent was to include all lands, whether public access is available or not, then 92% rather than 67% of state lands would require posting and the cost of signs and posts should be increased in this note accordingly.
4. Section 2(2)(c) continues diversion of the \$2.50/license even after the 5 year deadline for posting. The diversion should be eliminated or substantially reduced after 5 years.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)
Yes. Anyone wishing to know the boundaries of state land who does not purchase a State Lands Recreational Use License.
- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
This source of special revenue is a direct deduction of funds that would otherwise be distributed to the School Equalization Account and other distributable school trust accounts.
- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)
Yes, the source of revenue is relevant as it is the recreational users who currently desire that all state lands be posted.
No, the source of revenues as proposed will not be adequate to fund the posting program (reference the expenditures vs. revenues areas of the fiscal note).
- d) Does the need for this state special revenue provision still exist? Yes No (Explain)
The State Lands Recreational Use Account is necessary to administer the recreational use program as required by existing statute.
- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)
No.
- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)
The existing dedicated revenue in the recreational use account fulfills the legislatively mandated state lands recreational use program. If SB267 passes, the legislature has then recognized posting of state land as a necessity. However, the posting program must be completed within five years and therefore, the dedication of revenue need not continue after that point (see technical note no.4)

(continued)

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
The dedicated revenue provision of SB267 utilizes an existing state special revenue account and therefore, would result in minimal change to the current accounting/auditing structure at DSL. If the posting program were general funded the DSL would establish a new responsibility center under Land Administration (CV 04) to account for the program.

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 LANDS; ALLOCATING A PORTION OF THE INCREASE IN THE RECREATIONAL USE FEE, IF AN INCREASE
 IS ADOPTED, TO PAY THE COSTS OF POSTING; REQUIRING THAT POSTING BE COMPLETED WITHIN ~~6~~
10 YEARS; AMENDING SECTIONS 77-1-802 AND 77-1-808, MCA; AND PROVIDING A CONTINGENT
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Posting of state lands.** The department shall post ~~the boundary of~~
CUSTOMARY ACCESS POINTS TO each parcel of state land required to be open to general recreational use
 under 77-1-203(3). Posting must be accomplished through the use of signs prepared by the department
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~~general recreational user of the entire boundary of~~ AT CUSTOMARY ACCESS POINTS TO each parcel.
 Posting must be completed within ~~6~~ 10 years of [the effective date of this act].

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 must[, taking
 into account recommendations of the state land board advisory council,] attain full market value.

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(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.

(c) Two dollars and fifty cents from the fee for each license must be deposited in the state lands

1 recreational use account established in 77-1-808 for use by the department as provided in 77-1-808(3)(e)
 2 in posting state lands as required in [section 1].

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 4 and sale of recreational use licenses through the license agents appointed by and the administrative offices
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