

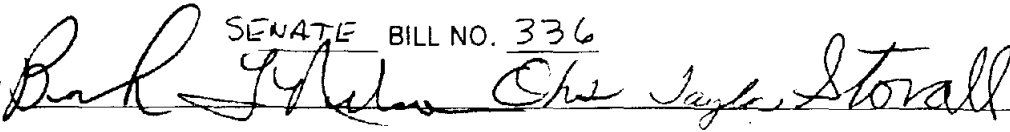
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INTRODUCED BY
M. Hanson

SENATE BILL NO. 336



4 A BILL FOR AN ACT ENTITLED: "AN ACT SETTING LEASE AND USE FEE RATES ON STATE SCHOOL
5 TRUST LANDS BY STATUTE, RATHER THAN BY RULE OF THE BOARD OF LAND COMMISSIONERS;
6 ESTABLISHING SURFACE LEASE RATES AND USE FEES AT PRE-JULY 1993 LEVELS; ELIMINATING THE
7 STATE LAND BOARD ADVISORY COUNCIL; AMENDING SECTIONS 77-1-208, 77-1-209, 77-1-802,
8 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, 77-6-507, AND 77-6-508, MCA;
9 REPEALING SECTIONS 77-1-106 AND 77-1-120, MCA, AND SECTION 17, CHAPTER 586, LAWS OF
10 1993; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

11

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

13

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

15 **"77-1-208. Cabin site licenses and leases -- method of establishing value.** (1) The board shall,
16 ~~taking into account recommendations of the state land board advisory council,~~ set the annual fee based
17 ~~on full market value~~ for each cabin site subject to a license or lease in effect on January 1, 1988, and for
18 each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must
19 ~~attain full market value based on~~ be 3.5% of the appraisal of the cabin site value as determined by the
20 department of revenue or \$150, whichever is greater. The licensee or lessee has the option to pay the
21 entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The
22 value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant
23 to 15-7-111. An appeal of a cabin site value determined by the department of revenue must be conducted
24 pursuant to Title 15, chapter 2.

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

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

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

3 (4) This section may not be construed as a delegation of rulemaking authority to the board.
4 ~~(Bracketed language in subsection (1) terminates March 1, 1996 sec. 17, Ch. 586, L. 1993.) "~~

5

6 **Section 2.** Section 77-1-209, MCA, is amended to read:

7 **"77-1-209. Leasing rules.** The board may prescribe rules relating to the leasing of state lands as
8 that it considers necessary in order that the use and proceeds of these lands may contribute in the highest
9 attainable measure to the purposes for which they are granted to the state of Montana. The rules should
10 prescribe a procedure for setting all fees and rental rates for the use of state lands for any purpose. The
11 procedure should establish provisions for notice, public comment, public hearings, and appeal."

12

13 **Section 3.** Section 77-1-802, MCA, is amended to read:

14 **"77-1-802. Recreational use license -- fee.** (1) The fee for a recreational use license ~~must,~~ taking
15 into account recommendations of the state land board advisory council, ~~attain full market value~~ is \$5. The
16 fee is based on:

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

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

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

22 ~~(a) Except as provided in subsection (2)(b), license fees~~ Proceeds collected under subsection (1)(a)
23 must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage
24 contribution to the total acreage of all state land trusts.

25 ~~(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as~~
26 ~~a commission,~~ Proceeds collected pursuant to the surcharge of subsection (1)(b), less 50 cents for each
27 license to be returned as a commission to license dealers, must be deposited in the state lands recreational
28 use account established by 77-1-808 for use by the department in the management of state lands open to
29 general recreational use.

30 (3) The department may contract with the department of fish, wildlife, and parks for the distribution

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

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

6 **"77-6-202. Lease by competitive bidding — full market value required.** When the department
7 receives an application to lease an unleased tract, it shall advertise for bids on the tract. The tract must be
8 leased to the highest bidder unless the board determines that the bid is not in the state's best interest for
9 the reasons set forth in 77-6-205(2). ~~The board may not accept a bid that is below full market value~~
10 ~~determined by taking into account recommendations of the state land board advisory council.~~ If the high
11 bid is rejected, the board shall set forth the reasons for the rejection in writing. The lease may be issued,
12 at a rental to be determined by the board, to the first bidder willing to pay the board determined rental
13 whose name is selected through a random selection process from all bidders on the tract."
14

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

16 **"77-6-205. Renewal leases.** (1) A lessee of state land classed as agricultural, grazing, town lot,
17 city lot, or land valuable for commercial development who has paid all rentals due the state or who has
18 voluntarily terminated a lease under 77-6-116 is entitled to have the lease renewed for a period not to
19 exceed the maximum lease period provided in 77-6-109 at any time within 30 days prior to its expiration
20 or within 30 days following voluntary termination if no other applications for lease of the land have been
21 received 30 days prior to the expiration of the lease or within 30 days following voluntary termination. The
22 renewal must be at the ~~full market~~ rental rate ~~established by the board,~~ ~~taking into account~~
23 ~~recommendations of the state land board advisory council,~~ provided by law for the renewal period and
24 subject to any other conditions at the time of the renewal imposed by law as terms of the lease. Except
25 as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference
26 right to lease the land covered by the former lease by meeting the highest bid made by any other applicant.
27 Applications for lease of lands in this section must be given preference in the order of their receipt at the
28 office of the department.

29 (2) The board shall accept the highest bid. If the lessee exercises the preference right and believes
30 the bid to be excessive, the lessee may request an administrative hearing. The request must contain a

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

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

14 (4) A renewal lease may be voluntarily terminated pursuant to 77-6-116. ~~(Bracketed language in~~
 15 ~~subsection (1) terminates March 1, 1996 - sec. 17, Ch. 586, L. 1993.) "~~

16

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

18 **"77-6-302. Compensation for improvements — ~~actual costs.~~** (1) When another person becomes the
 19 lessee of the lands, the person shall pay to the former lessee the reasonable value of these improvements
 20 at the time that the new lessee takes possession. ~~The reasonable value may not be less than the full market~~
 21 ~~value of the improvements.~~

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

25

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

27 **"77-6-305. Settlement regarding improvements prerequisite to issuance of new lease.** Before a
 28 lease is issued to the new lessee, the lessee shall show that:

29 (1) the former lessee has been paid the value of the improvements ~~pursuant to 77-6-302 as agreed~~
 30 upon by them or as determined under 77-6-306;

1 (2) the lessee has offered to pay the value of the improvements as determined; or

2 (3) that the former lessee elects to remove the improvements."

3
4 **Section 8.** Section 77-6-306, MCA, is amended to read:

5 "**77-6-306. Arbitrators to fix value of improvements.** (1) If the owner of any improvements on state
6 lands of the type authorized by law at the time that they were placed on state lands desires to sell these
7 improvements to the new lessee and they are unable to agree on the value of the improvements ~~pursuant~~
8 ~~to 77-6-302~~, the value must be ascertained and fixed by three arbitrators, one of whom is appointed by
9 the owner of the improvements, one by the new lessee, and the third by the two arbitrators so appointed.
10 If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the
11 commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the
12 commissioner has the same duties and powers as if appointed by one of the parties. The value of the
13 improvements must be ascertained and fixed pursuant to ~~77-6-302~~ this part.

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

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

22 (4) If either party is dissatisfied with the valuation fixed by the department, the party may within
23 30 days after receipt of the department's decision petition the district court in the county in which the
24 majority of the state land is located or the district court of Lewis and Clark County for judicial review of the
25 decision."

26
27 **Section 9.** Section 77-6-502, MCA, is amended to read:

28 "**77-6-502. Grazing leases.** (1) The rental rate for leasing all state grazing lands must ~~[, taking into~~
29 ~~account recommendations of the state land board advisory council,] attain full market value~~ be based upon
30 the appraised animal-unit-month carrying capacity of the land as provided in 77-6-507.

1 (2) If the ~~board~~ legislature raises the rentals for state grazing lands during the term of any leases
 2 of grazing land that are not issued as a result of competitive bidding, the lessee shall, for the years after
 3 the increase becomes effective, pay the increased rental, and the terms of grazing leases must provide for
 4 the increase. ~~{Bracketed language in subsection (1) terminates March 1, 1996 sec. 17, Ch. 586, L.~~
 5 ~~1993.}~~"

6
 7 **Section 10.** Section 77-6-507, MCA, is amended to read:

8 **"77-6-507. Formula for fixing annual rental.** (1) In this section:

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

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

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

16 (3) The carrying capacity of the land to be used in the ~~above~~ formula in subsection (2) must be in
 17 accordance with the determinations of the department made under 77-6-201.

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

21 ~~(5) In establishing the rental rate described in subsection (2), the board shall consider applicable~~
 22 ~~elements that include but are not limited to those set forth in 77-1-106."~~

23
 24 **Section 11.** Section 77-6-508, MCA, is amended to read:

25 **"77-6-508. Effect of competitive bidding.** Whenever competitive bidding establishes a rental price
 26 higher than the rental price established by the ~~board~~ formula set out in 77-6-507, the board in leasing the
 27 lands shall incorporate in the lease conservation requirements ~~as~~ that are considered necessary for the
 28 protection of the grass or forage crops."

29
 30 **NEW SECTION. Section 12. Applicability.** (1) [Section 1] applies to leases entered into on or after

1 [the effective date of this act] and, for leases in effect on [the effective date of this act], to rentals due after
2 rental adjustments made pursuant to adjustment provisions in the lease.

3 (2) [Section 2] applies to licenses sold after [the effective date of this act].

4 (3) [Sections 9 and 10] apply to leases issued or renewed after [the effective date of this act].

5

6 NEW SECTION. **Section 13. Repealer.** Sections 77-1-106 and 77-1-120, MCA, and section 17,
7 Chapter 586, Laws of 1993, are repealed.

8

9 NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0336, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act setting lease and use fee rates on state school trust lands by statute, rather than by rule of the Board of Land Commissioners; establishing surface lease rates and use fees at pre-July 1993 levels; eliminating the State Land Board Advisory Council; amending several MCA sections; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. Under the current statutes, the board can adjust the rental rates to achieve full market value. The board is currently in the process of promulgating administrative rules which may increase the rental rates for cabinsites, recreational use licenses, and grazing. However, since none of these new rates would go into effect until 1996, there would be no change from the current rental rates if SB0336 were enacted with the immediate effective date.

FISCAL IMPACT:


None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The rental rates for cabinsite licenses and leases, recreational use licenses and grazing leases will be fixed at current levels. This fixation may result in less annual revenues over the long term, assuming the Land Board would have adjusted these rates to achieve full market value.

TECHNICAL NOTES:

1. The Montana Constitution requires that full market value must be received from any disposition of lands, or disposition of any estate or interest in trust lands. If any value, as fixed by SB0336, does not constitute full market value, that portion of the bill would be unconstitutional.


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

2-12-95


TOM BECK, PRIMARY SPONSOR DATE

2-13-95

Fiscal Note for SB0336, as introduced

SB 336

SENATE BILL NO. 336

INTRODUCED BY
M. Hansen

Paul J. Helms *Chris Jayne* *Storall*

A BILL FOR AN ACT ENTITLED: "AN ACT SETTING LEASE AND USE FEE RATES ON STATE SCHOOL TRUST LANDS BY STATUTE, RATHER THAN BY RULE OF THE BOARD OF LAND COMMISSIONERS; ESTABLISHING SURFACE LEASE RATES AND USE FEES AT PRE-JULY 1993 LEVELS; ELIMINATING THE STATE LAND BOARD ADVISORY COUNCIL; AMENDING SECTIONS 77-1-208, 77-1-209, 77-1-802, 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, 77-6-507, AND 77-6-508, MCA; REPEALING SECTIONS 77-1-106 AND 77-1-120, MCA, AND SECTION 17, CHAPTER 586, LAWS OF 1993; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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 the license or lease. The fee must ~~attain full market value based on~~ be 3.5% of the 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 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

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

3 (4) This section may not be construed as a delegation of rulemaking authority to the board.
 4 ~~(Bracketed language in subsection (1) terminates March 1, 1996 sec. 17, Ch. 586, L. 1993.) "~~

5

6 **Section 2.** Section 77-1-209, MCA, is amended to read:

7 "77-1-209. **Leasing rules.** The board may prescribe rules relating to the leasing of state lands as
 8 that it considers necessary in order that the use and proceeds of these lands may contribute in the highest
 9 attainable measure to the purposes for which they are granted to the state of Montana. The rules should
 10 prescribe a procedure for setting all fees and rental rates for the use of state lands for any purpose. The
 11 procedure should establish provisions for notice, public comment, public hearings, and appeal."

12

13 **Section 3.** Section 77-1-802, MCA, is amended to read:

14 "77-1-802. **Recreational use license -- fee.** (1) The fee for a recreational use license ~~must,~~ taking
 15 into account recommendations of the state land board advisory council, attain full market value is \$5. The
 16 fee is based on:

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

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

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

22 (a) ~~Except as provided in subsection (2)(b), license fees~~ Proceeds collected under subsection (1)(a)
 23 must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage
 24 contribution to the total acreage of all state land trusts.

25 (b) ~~Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as~~
 26 ~~a commission,~~ Proceeds collected pursuant to the surcharge of subsection (1)(b), less 50 cents for each
 27 license to be returned as a commission to license dealers, must be deposited in the state lands recreational
 28 use account established by 77-1-808 for use by the department in the management of state lands open to
 29 general recreational use.

30 (3) The department may contract with the department of fish, wildlife, and parks for the distribution

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

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

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

14
15 **Section 5.** Section 77-6-205, MCA, is amended to read:

16 **"77-6-205. Renewal leases.** (1) A lessee of state land classed as agricultural, grazing, town lot,
17 city lot, or land valuable for commercial development who has paid all rentals due the state or who has
18 voluntarily terminated a lease under 77-6-116 is entitled to have the lease renewed for a period not to
19 exceed the maximum lease period provided in 77-6-109 at any time within 30 days prior to its expiration
20 or within 30 days following voluntary termination if no other applications for lease of the land have been
21 received 30 days prior to the expiration of the lease or within 30 days following voluntary termination. The
22 renewal must be at the ~~full market~~ rental rate ~~established by the board[, taking into account~~
23 ~~recommendations of the state land board advisory council,]~~ provided by law for the renewal period and
24 subject to any other conditions at the time of the renewal imposed by law as terms of the lease. Except
25 as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference
26 right to lease the land covered by the former lease by meeting the highest bid made by any other applicant.
27 Applications for lease of lands in this section must be given preference in the order of their receipt at the
28 office of the department.

29 (2) The board shall accept the highest bid. If the lessee exercises the preference right and believes
30 the bid to be excessive, the lessee may request an administrative hearing. The request must contain a

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

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

14 (4) A renewal lease may be voluntarily terminated pursuant to 77-6-116. ~~(Bracketed language in~~
 15 ~~subsection (1) terminates March 1, 1996 see. 17, Ch. 586, L. 1993.) "~~

16
 17 **Section 6.** Section 77-6-302, MCA, is amended to read:

18 **"77-6-302. Compensation for improvements ~~—actual costs.~~** (1) When another person becomes the
 19 lessee of the lands, the person shall pay to the former lessee the reasonable value of these improvements
 20 at the time that the new lessee takes possession. ~~The reasonable value may not be less than the full market~~
 21 ~~value of the improvements.~~

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

25
 26 **Section 7.** Section 77-6-305, MCA, is amended to read:

27 **"77-6-305. Settlement regarding improvements prerequisite to issuance of new lease.** Before a
 28 lease is issued to the new lessee, the lessee shall show that:

29 (1) the former lessee has been paid the value of the improvements ~~pursuant to 77-6-302~~ as agreed
 30 upon by them or as determined under 77-6-306;

1 (2) the lessee has offered to pay the value of the improvements as determined; or
 2 (3) that the former lessee elects to remove the improvements."

3
 4 **Section 8.** Section 77-6-306, MCA, is amended to read:

5 "77-6-306. **Arbitrators to fix value of improvements.** (1) If the owner of any improvements on state
 6 lands of the type authorized by law at the time that they were placed on state lands desires to sell these
 7 improvements to the new lessee and they are unable to agree on the value of the improvements ~~pursuant~~
 8 ~~to 77-6-302~~, the value must be ascertained and fixed by three arbitrators, one of whom is appointed by
 9 the owner of the improvements, one by the new lessee, and the third by the two arbitrators so appointed.
 10 If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the
 11 commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the
 12 commissioner has the same duties and powers as if appointed by one of the parties. The value of the
 13 improvements must be ascertained and fixed pursuant to ~~77-6-302~~ this part.

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

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

22 (4) If either party is dissatisfied with the valuation fixed by the department, the party may within
 23 30 days after receipt of the department's decision petition the district court in the county in which the
 24 majority of the state land is located or the district court of Lewis and Clark County for judicial review of the
 25 decision."

26
 27 **Section 9.** Section 77-6-502, MCA, is amended to read:

28 "77-6-502. **Grazing leases.** (1) The rental rate for leasing all state grazing lands must ~~take into~~
 29 ~~account recommendations of the state land board advisory council,~~ be based upon
 30 the appraised animal-unit-month carrying capacity of the land as provided in 77-6-507.

1 (2) If the ~~board~~ legislature raises the rentals for state grazing lands during the term of any leases
 2 of grazing land that are not issued as a result of competitive bidding, the lessee shall, for the years after
 3 the increase becomes effective, pay the increased rental, and the terms of grazing leases must provide for
 4 the increase. ~~(Bracketed language in subsection (1) terminates March 1, 1996 see. 17, Ch. 586, L.~~
 5 ~~1993.)"~~

6
 7 **Section 10.** Section 77-6-507, MCA, is amended to read:

8 **"77-6-507. Formula for fixing annual rental.** (1) In this section:

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

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

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

16 (3) The carrying capacity of the land to be used in the ~~above~~ formula in subsection (2) must be in
 17 accordance with the determinations of the department made under 77-6-201.

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

21 ~~(5) In establishing the rental rate described in subsection (2), the board shall consider applicable~~
 22 ~~elements that include but are not limited to those set forth in 77-1-106."~~

23
 24 **Section 11.** Section 77-6-508, MCA, is amended to read:

25 **"77-6-508. Effect of competitive bidding.** Whenever competitive bidding establishes a rental price
 26 higher than the rental price established by the ~~board~~ formula set out in 77-6-507, the board in leasing the
 27 lands shall incorporate in the lease conservation requirements ~~as~~ that are considered necessary for the
 28 protection of the grass or forage crops."

29
 30 **NEW SECTION. Section 12. Applicability.** (1) [Section 1] applies to leases entered into on or after

1 [the effective date of this act] and, for leases in effect on [the effective date of this act], to rentals due after
2 rental adjustments made pursuant to adjustment provisions in the lease.

3 (2) [Section 2] applies to licenses sold after [the effective date of this act].

4 (3) [Sections 9 and 10] apply to leases issued or renewed after [the effective date of this act].

5

6 NEW SECTION. **Section 13. Repealer.** Sections 77-1-106 and 77-1-120, MCA, and section 17,
7 Chapter 586, Laws of 1993, are repealed.

8

9 NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

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-END-

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INTRODUCED BY
M. Hanson

SENATE BILL NO. 336

Paul J. Helms, Chris J. Jagers, Storall

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A BILL FOR AN ACT ENTITLED: "AN ACT SETTING LEASE AND USE FEE RATES ON STATE SCHOOL TRUST LANDS BY STATUTE, RATHER THAN BY RULE OF THE BOARD OF LAND COMMISSIONERS; ESTABLISHING SURFACE LEASE RATES AND USE FEES AT PRE-JULY 1993 LEVELS; ELIMINATING THE STATE LAND BOARD ADVISORY COUNCIL; AMENDING SECTIONS 77-1-208, 77-1-209, 77-1-802, 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, 77-6-507, AND 77-6-508, MCA; REPEALING SECTIONS 77-1-106 AND 77-1-120, MCA, AND SECTION 17, CHAPTER 586, LAWS OF 1993; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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