64th Legislature HB0046.01

1	HOUSE BILL NO. 46							
2	INTRODUCED BY M. TROPILA							
3	BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION							
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5	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CALCULATION OF ANNUAL RENTAL PAYMENT							
6	FOR COMMERCIAL LEASING OF STATE TRUST LAND; AMENDING SECTIONS 77-1-902 AND 77-1-905,							
7	MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."							
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:							
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11	Section 1. Section 77-1-902, MCA, is amended to read:							
12	"77-1-902. Definitions. As used in this part, unless the context requires otherwise, the following							
13	definitions apply:							
14	(1) "Cancellation" means the cessation of a lessee's possessory rights and privileges under a lease due							
15	to the lessee's breach of some term of the lease, applicable statutes, or applicable administrative rules.							
16	(2) "Commercial lease" means a contract to use state trust land for a commercial purpose.							
17	(3) (a) "Commercial purpose" means an industrial enterprise, retail sales outlet, business and							
18	professional office building, warehouse, motel, hotel, hospitality enterprise, commercial or concentrated							
19	recreational use, multifamily residential development, and other similar business.							
20	(b) The term does not include the following uses:							
21	(i) agriculture;							
22	(ii) grazing;							
23	(iii) exploration or development of oil and gas, mineral, and geothermal resources;							
24	(iv) single-family residences, home sites, and cabin sites; and							
25	(v) utility rights-of-way.							
26	(4) "Limited valuation survey" means a survey of land values calculated in the past 2 years in the locality							
27	of the proposed commercial lease and obtained from real estate appraisers, property tax assessors, or realtors.							
28	(4)(5) "Termination" means the automatic completion or ending of the term of a contract according to							
29	its provisions. Upon termination, the lessee ceases to have any possessory rights or privileges under a lease."							
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Section 2. Section 77-1-905, MCA, is amended to read:

"77-1-905. Rental provisions for commercial leasing -- payments and credits -- administration -- lease options. (1) The first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department's cost of the request for proposals process, including publication and other reasonable expenses. Failure to pay make the first year's rental payment at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

- (2) The board shall specify in any commercial lease an annual rental <u>payment that is</u> equal to <u>or greater</u> than the full market rental value of the land. The annual rent may not be less than the product of the appraised value of the land
- (3) Full market rental value is calculated as the product of the valuation of the land as determined by an appraisal or a limited valuation survey multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used in this subsection must be determined no less than 30 days prior to the execution of the competitive bid.
- (4) An annual rental payment may not be less than the full market rental value calculated in subsection
 (3) but may be determined as the higher of or a combination of the following:
 - (a) a share of revenue generated by the business for which the commercial property is leased;
- 22 <u>(b) an evaluation of rental payments for comparable properties in the locality of the lease.</u>
 - (5) A commercial lease may include a rental adjustment formula established by the board that periodically adjusts the annual rent rental payment provided for in the lease at frequencies specified in the lease.
 - (6) The board may allow a credit against the annual rent due rental payment for payments made by the lessee on behalf of the state of Montana for construction of structures and improvements, special improvement district assessments, annexation fees, or other city or county fees attributable to the state's property interest in land leased for commercial purposes.
- 29 (7) The board may accept as lawful consideration in-kind payments of services or materials equal to the 30 full market rental value of the rent calculated to be owed on for any commercial lease.



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(<u>8)</u> A lea	se issued under thi	is part may ind	clude an a	mortization	schedule t	o be used t	to determine t	:he
value to the lesse	e of improvements	when the leas	se is termi	nated.				

(3)(9) The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

(4)(10) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental rate that the board determines to be appropriate. An option to lease may not exceed a term of 2 years. An option to lease may not be construed to grant a right of immediate possession or control over the land but may only preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."

<u>NEW SECTION.</u> **Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

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