

HOUSE BILL NO. 154

INTRODUCED BY BRAND, MARKS

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE HOUSE

January 10, 1981	Introduced and referred to Committee on Judiciary.
January 12, 1981	Fiscal note requested.
January 16, 1981	Fiscal note returned.
January 21, 1981	Committee recommend bill do pass. Report adopted.
January 22, 1981	Bill printed and placed on members' desks.
January 23, 1981	Second reading, do pass.
January 24, 1981	Considered correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 26, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 17, 1981	Second reading, concurred in.
March 19, 1981	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

March 20, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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HOUSE BILL NO. 154

INTRODUCED BY

Brand Mark

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE STATUTORY PROVISIONS GRANTING INTERESTS IN STATE LAND TO THE FEDERAL GOVERNMENT; AMENDING SECTIONS 77-2-304, 77-2-327, AND 77-2-343, MCA; REPEALING SECTIONS 77-2-108 AND 77-2-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 77-2-304, MCA, is amended to read:

"77-2-304. Mineral reservations in state lands. ~~(1)~~

All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits in state lands, except sand, gravel, building stone, and brick clay, which were not reserved by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state lands acquires no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right to enter upon these lands to prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of the lands as may be required for all purposes reasonably extending to the

exploring for, mining, and removal of the deposits therefrom, but the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof.

~~(2) The mineral reservations now applying to sale of lands received through grants from the United States apply to all lands sold to the United States under 77-2-316, but all prospecting and exploration for minerals therein, the mining and removal thereof, and all operations carried on in connection therewith must be carried on in such manner and under such regulations that they will not interfere with the use of the lands for the purposes for which they have been purchased by the United States."~~

Section 2. Section 77-2-327, MCA, is amended to read:

"77-2-327. Certificate of purchase. (1) Upon the approval of the sale and receipt of satisfactory evidence of settlement with the former lessee, if any, for improvements on the land, the department shall execute and mail to the purchaser a certificate of purchase signed by the governor as president of the board and by the commissioner of state lands and attested by the seal of the board. The certificate of purchase shall contain the date of sale, the name and post-office address of the purchaser, a description of the land, the total purchase price, the amount paid on the day of sale, the balance unpaid, and the amount and due date of

1 each installment of principal and interest to the time of
 2 maturity. The certificate shall reserve the easements for
 3 rights-of-way granted by the statutes in favor of the United
 4 States and other easements that may have been granted by the
 5 board and shall contain the reservations in favor of the
 6 state provided for in 77-2-304~~(1)~~ relating to coal, oil, and
 7 mineral rights in the land.

8 (2) The certificate shall also contain information in
 9 regard to the lien of the state on crops and improvements on
 10 the land for installments of principal and interest and
 11 taxes and any additional conditions, agreements, and
 12 information the board considers necessary in order to carry
 13 out the intent of this part."

14 Section 3. Section 77-2-343, MCA, is amended to read:

15 "77-2-343. Patent provisions. (1) Such deed or patent
 16 shall contain the reservation of easements for rights-of-way
 17 to the United States, reservation of all minerals in the
 18 land as provided in 77-2-304~~(1)~~, and all other reservations
 19 to which the particular land conveyed is subject.

20 (2) If the land is located within the boundaries of a
 21 federal irrigation project, the patent shall contain a lien
 22 clause substantially in the following form: "The land hereby
 23 conveyed is located within the boundaries of a federal
 24 irrigation project and is subject to all liens which the
 25 United States may have thereon by reason of its being

1 located under such irrigation project.

2 (3) This section does not require any reservation in a
 3 patent which was not an express or implied reservation in
 4 the certificate of purchase pursuant to which the patent is
 5 issued. The statutes in effect when such certificate of
 6 purchase was issued must govern."

7 Section 4. Repealer. Sections 77-2-106 and 77-2-315,
 8 MCA, are repealed.

9 Section 5. Effective date. This act is effective on
 10 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 80-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 12, 19 81, there is hereby submitted a Fiscal Note for House Bill 154 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to remove statutory provisions granting interests in state land to the Federal government; amending Sections 77-2-304, 77-2-327, and 77-2-343, MCA.; repealing Sections 77-2-108 and 77-2-316, MCA; and providing an immediate effective date.

Fiscal Impact

No fiscal impact can be determined for House Bill 154 at this time. In the past, numerous easements have been taken by the Federal government, therefore, the measure will increase state revenue. Until an application for the easement is filed with the department and an appraisal made of the land, however, a revenue estimate can not be made.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-15-81

Approved by Committee
on Judiciary

1 HOUSE BILL NO. 154
 2 INTRODUCED BY Frank Mark
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE STATUTORY
 6 PROVISIONS GRANTING INTERESTS IN STATE LAND TO THE FEDERAL
 7 GOVERNMENT; AMENDING SECTIONS 77-2-304, 77-2-327, AND
 8 77-2-343, MCA; REPEALING SECTIONS 77-2-100 AND 77-2-316,
 9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 77-2-304, MCA, is amended to read:
 13 "77-2-304. Mineral reservations in state lands. (1)
 14 All coal, oil, oil shale, gas, phosphate, sodium, and other
 15 mineral deposits in state lands, except sand, gravel,
 16 building stone, and brick clay, which were not reserved by
 17 the United States before July 1, 1927, are reserved to the
 18 state. All those deposits are reserved from sale except upon
 19 a rental and royalty basis as provided by law. A purchaser
 20 of state lands acquires no right, title, or interest in or
 21 to any of those deposits. The state also reserves for itself
 22 and its lessees the right to enter upon these lands to
 23 prospect for, develop, mine, and remove those deposits and
 24 to occupy and use so much of the surface of the lands as may
 25 be required for all purposes reasonably extending to the

1 exploring for, mining, and removal of the deposits
 2 therefrom, but the lessee shall make just payment to the
 3 purchaser for all damage done by reason of such entry upon
 4 the land and the use and occupancy of the surface thereof.
 5 ~~(2) The mineral reservations now applying to state of~~
 6 ~~lands received through grants from the United States apply~~
 7 ~~to all lands sold to the United States under 77-2-316, but~~
 8 ~~all prospecting and exploration for minerals therein, the~~
 9 ~~mining and removal thereof, and all operations carried on in~~
 10 ~~connection therewith must be carried on in such manner and~~
 11 ~~under such regulations that they will not interfere with the~~
 12 ~~use of the lands for the purposes for which they have been~~
 13 ~~purchased by the United States."~~
 14 Section 2. Section 77-2-327, MCA, is amended to read:
 15 "77-2-327. Certificate of purchase. (1) Upon the
 16 approval of the sale and receipt of satisfactory evidence of
 17 settlement with the former lessee, if any, for improvements
 18 on the land, the department shall execute and mail to the
 19 purchaser a certificate of purchase signed by the governor
 20 as president of the board and by the commissioner of state
 21 lands and attested by the seal of the board. The certificate
 22 of purchase shall contain the date of sale, the name and
 23 post-office address of the purchaser, a description of the
 24 land, the total purchase price, the amount paid on the day
 25 of sale, the balance unpaid, and the amount and due date of

-2- SECOND READING

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1 each installment of principal and interest to the time of
 2 maturity. The certificate shall reserve the easements for
 3 rights-of-way granted by the statutes in favor of the United
 4 States and other easements that may have been granted by the
 5 board and shall contain the reservations in favor of the
 6 state provided for in 77-2-304~~(1)~~ relating to coal, oil, and
 7 mineral rights in the land.

8 (2) The certificate shall also contain information in
 9 regard to the lien of the state on crops and improvements on
 10 the land for installments of principal and interest and
 11 taxes and any additional conditions, agreements, and
 12 information the board considers necessary in order to carry
 13 out the intent of this part."

14 Section 3. Section 77-2-343, MCA, is amended to read:

15 "77-2-343. Patent provisions. (1) Such deed or patent
 16 shall contain the reservation of easements for rights-of-way
 17 to the United States, reservation of all minerals in the
 18 land as provided in 77-2-304~~(1)~~, and all other reservations
 19 to which the particular land conveyed is subject.

20 (2) If the land is located within the boundaries of a
 21 federal irrigation project, the patent shall contain a lien
 22 clause substantially in the following form: "The land hereby
 23 conveyed is located within the boundaries of a federal
 24 irrigation project and is subject to all liens which the
 25 United States may have thereon by reason of its being

1 located under such irrigation project.

2 (3) This section does not require any reservation in a
 3 patent which was not an express or implied reservation in
 4 the certificate of purchase pursuant to which the patent is
 5 issued. The statutes in effect when such certificate of
 6 purchase was issued must govern."

7 Section 4. Repealer. Sections 77-2-106 and 77-2-315,
 8 MCA, are repealed.

9 Section 5. Effective date. This act is effective on
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Section 1. Section 77-2-304, MCA, is amended to read:

"77-2-304. Mineral reservations in state lands. ~~{}~~

All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits in state lands, except sand, gravel, building stone, and brick clay, which were not reserved by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state lands acquires no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right to enter upon these lands to prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of the lands as may be required for all purposes reasonably extending to the

exploring for, mining, and removal of the deposits therefrom, but the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof.

~~{2}--The--mineral--reservations--now--applying--to--sale--of--lands--received--through--grants--from--the--United--States--apply--to--all--lands--sold--to--the--United--States--under--77-2-316--but--all--prospecting--and--exploration--for--minerals--therein--the--mining--and--removal--thereof--and--all--operations--carried--on--in--connection--therewith--must--be--carried--on--in--such--manner--and--under--such--regulations--that--they--will--not--interfere--with--the--use--of--the--lands--for--the--purposes--for--which--they--have--been--purchased--by--the--United--States--"~~

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-2- THIRD READING

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1 each installment of principal and interest to the time of
 2 maturity. The certificate shall reserve the easements for
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 4 States and other easements that may have been granted by the
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 8 MCA, are repealed.

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 10 passage and approval.

-End-