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SENATE BILL NO. 225

INTRODUCED BY

Tolwe Boyer

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE SALE OF CERTAIN STATE LANDS IN DANIELS, VALLEY, AND PHILLIPS COUNTIES; RESERVING A PORTION OF STATE MINERAL AND ROYALTY INTERESTS IN THE LANDS; PROVIDING CONDITIONS OF SALE UNLESS THE CONDITIONS DO NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF STATE LANDS; AND AMENDING SECTIONS 77-2-301, 77-2-303, 77-2-304, 77-2-307, AND 77-2-329, MCA."

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

NEW SECTION. Section 1. Sale of certain state lands required -- retention of certain state interests

-- conditions of sale. (1) The department, with the approval of the board, shall sell at auction all state lands within the borders of Daniels, Valley, and Phillips counties.

(2) Sales must be conducted in the manner prescribed by this section, the Montana constitution, and other applicable state law and must be completed by December 31, 2013.

(3) All mineral and royalty interests in the state lands must remain with the state, except that 1% of those interests must be transferred to the purchaser as a condition of purchase.

(4) In order to ensure that the sale of state lands does not have an adverse effect on other land values in the affected counties, the board shall establish a systematic plan of sale that allows for the sale of not more than 10% of the land in each county in any 1 year. The land may be sold on a certificate of purchase with a 30% down payment and 10 annually amortized payments, with the interest rate set at a percentage based on the rate established by the board of investments for other state investments at the time the contract for sale is entered.

(5) The acreage limitation in 77-2-307 does not apply to sales made under the provisions of this section.

(6) The lessee preference option in 77-2-324 applies to sales made under this section.

(7) All revenue generated from the sale of state land authorized under this section must be disposed of as provided in 77-2-337.

(8) A sale of state land under this section may not be conducted in any manner that prohibits the

1 board from meeting its constitutional mandate to obtain full market value of the estate.

2

3 **Section 2.** Section 77-2-301, MCA, is amended to read:

4 "**77-2-301. Sales of state land under board control.** The board ~~is hereby vested with~~ has the power
5 and authority to decide when sales of state lands are to be held and what state lands are to be offered for
6 sale, subject to the limitations of this title, as the best interests of the state may appear to require. As a
7 general rule and except as provided in 77-2-318 and [section 1], ~~no~~ a sale of state lands ~~shall~~ may not be
8 held unless applications have been made for the purchase of lands within one county by prospective
9 purchasers representing at least 12 families."

10

11 **Section 3.** Section 77-2-303, MCA, is amended to read:

12 "**77-2-303. Restrictions on land available for sale.** (1) Except as provided in 77-2-318, lands
13 classified as timberlands are not subject to sale, but timber ~~thereon~~ on those lands may be sold and
14 disposed of in the manner provided by law.

15 (2) ~~Lands which~~ Except for lands sold under the provisions of [section 1], lands that in the
16 judgment of the board are likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals,
17 sodium, or other valuable mineral deposits are not subject to sale, either the surface land or any ~~of such~~
18 deposits ~~therein~~ in the land. However, this does not prohibit the sale of lands containing sand, gravel,
19 building stone, brick clay, or similar materials.

20 (3) (a) There is also reserved from sale from all state lands bordering on navigable lakes or
21 bordering on nonnavigable meandered lakes and from all state lands bordering on navigable streams, as the
22 board ~~may deem~~ considers in the best interests of the state, a strip of land ~~which shall include~~ that includes
23 all the land lying between low-water mark and high-water mark and ~~which in addition shall extend~~
24 extending in width landward from the line of high-water mark of ~~such~~ the lake or stream the full width of
25 the 40-acre tract or government lot abutting the line of high-water mark. If the width of ~~such~~ the abutting
26 government lot at its narrowest point is less than 100 feet, then the reserved strip ~~hereby reserved shall~~
27 ~~extend~~ extends to and ~~include~~ includes the next adjoining 40-acre tract or government lot. The land
28 reserved from sale by this subsection ~~shall be~~ is subject to the granting of easements the same as other
29 state lands.

30 (b) ~~Such strips~~ Strips of land bordering on meandering lakes or on navigable streams, except the

1 strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or
2 not, may, ~~however~~, be leased as provided in this title for the leasing of other state lands."

3
4 **Section 4.** Section 77-2-304, MCA, is amended to read:

5 **"77-2-304. Mineral reservations in state lands.** ~~All~~ Except for mineral interests incidental to a sale
6 made under the provisions of [section 1], all coal, oil, oil shale, gas, phosphate, sodium, and other mineral
7 deposits in state lands, except sand, gravel, building stone, and brick clay, ~~which that~~ were not reserved
8 by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from
9 sale except upon a rental and royalty basis as provided by law. ~~A~~ Except for the 1% interest acquired by
10 a purchaser under [section 1], a purchaser of state lands acquires no right, title, or interest in or to any of
11 those deposits. The state also reserves for itself and its lessees the right to enter upon these lands to
12 prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of
13 the lands as ~~may be~~ required for all purposes reasonably extending to the exploring for, mining, and removal
14 of the deposits ~~therefrom~~ from the lands, but the lessee shall ~~make just payment to pay~~ the purchaser for
15 all damage done by ~~reason of such~~ entry upon the land and the use and occupancy of the surface ~~thereof~~
16 of the land."

17
18 **Section 5.** Section 77-2-307, MCA, is amended to read:

19 **"77-2-307. Limitation on acreage.** (1) Except as provided in ~~subsection~~ subsections (2) and (3),
20 ~~no~~ a person or corporation may not purchase more than one section of state land, and this area ~~shall~~ may
21 not include more than 160 acres of land susceptible of irrigation.

22 (2) The limitations in subsection (1) as to area and irrigability do not apply to:

23 (a) lands within a federal irrigation project ~~wherein~~ where the Congress of the United States of
24 America authorizes water to be furnished to an area exceeding 160 irrigable acres; or

25 (b) lands to be sold to a tribal government as provided in 77-2-306.

26 (3) The limitation in subsection (1) as to area does not apply to lands sold under the provisions of
27 [section 1]."

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29 **Section 6.** Section 77-2-329, MCA, is amended to read:

30 **"77-2-329. Terms of payment.** (1) ~~Every~~ Except for lands sold under the provisions of [section 1],

1 a purchaser of state land shall pay on the day of sale that portion of the purchase price as ~~he may desire~~
2 the purchaser desires, but in no case less than 10% of the total sales price. In case the balance on the
3 purchase price is not an exact multiple of \$25, then ~~he~~ the purchaser shall pay ~~such an~~ an additional sum as
4 is necessary to reduce the balance to an even multiple of \$25.

5 (2) The purchaser shall pay the balance of the purchase price within 30 days. The department may
6 extend this deadline up to 30 additional days for good cause."

7

8 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to
10 [section 1].

11

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0225, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the sale of certain state lands in Daniels, Valley and Phillips counties; reserving a portion of state mineral and royalty interests in the lands; providing conditions of sale unless the conditions do not meet the constitutional requirements regarding sale of state lands; and amending some MCA sections.

ASSUMPTIONS:

1. Approximately 625,000 acres (derived from the State Trust Land Management System, STLMS) will be subject to sale, including: 156,250 agricultural acres, 462,500 grazing acres, and 6,250 classified as other acres.
2. One-tenth of the 625,000 acres will be sold each year. Therefore, 62,500 acres will be sold each year, including: 15,625 agricultural acres, 46,250 grazing acres, and 625 other acres. In order to sell one-tenth of the acreage each year, some surface leases will have to be terminated prior to their scheduled renewal.
3. The following values are the minimum expected from sales of the various classes of land: \$285 per agricultural acre, \$75 per grazing acre, and \$200 per acre for other classified land. No appreciation in land value will occur on the lands subject to sale during the biennium.
4. The state owns the mineral estate under all of the 625,000 surface acres.

On lands which do not currently contain a mineral lease, no incremental value is placed on the 1% interest in the mineral estate.


On lands containing active mineral leases, the Department of State Lands (DSL), as a prudent land manager, will delay the sale of these lands due to the loss of revenue to the trusts and the difficult nature of valuing a 1% interest in the mineral estate. Therefore, no impact is anticipated during FY96 and FY97.

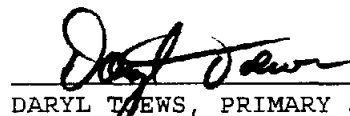
However, when the DSL begins selling lands that have proven or developed minerals under them, the Department will need to hire or contract mineral evaluation staff to evaluate and process these sales.

5. The value from one full year of sales is \$8,046,875 detailed as follows: \$4,453,125 from agricultural land, \$3,468,750 from grazing land, and \$125,000 from the sale of other classified land.

However, all land sold will be purchased with a certificate of purchase. Therefore, the actual annual revenue realized consists of the 30% down payments of \$2,414,063 per year (\$8,046,875 X 30%) and the annual installments of \$902,194 per year. Calculation of the annual installments assumes a constant interest rate set at 9.63% (current lending rate from the Board of Investments).

(continued on page 2)


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


DARYL LEWIS, PRIMARY SPONSOR DATE

Fiscal Note for SB0225, as introduced

SB 225

(continued)

6. All tracts put up for sale will sell and the Board of Land Commissioners will approve all sales.
7. Other agencies owning land that is subject to sale will process their own sales.
8. Administration and management of those state lands remaining throughout the state will continue at current levels.
9. The expected rate of return on investment of permanent school trust funds is 6.5% (average rate of return from Board of Investments). The calculation of interest on the lands sold begins in the fiscal year following the sale, due to the uncertainty of when the lands will actually be sold during the year.
10. The current land administration programs are not staffed nor funded to carry out a sales program as is proposed. Options to remedy this situation would be to either provide funding and FTEs to the DSL to conduct all aspects of the sales or to contract out specific aspects or the entire process of sales. DSL analysis of the options indicated that it would probably be more cost efficient to contract out the sale process. Therefore, the expenditures listed and explained below assume that the entire process would be contracted out.
 - a. Contracting out the sales of the state lands could be done with costs similar to those associated with the real estate industry. Real estate commissions range from 6% on residential properties to 10% on vacant land. Most of the DSL lands sold will be vacant lands. Real estate commissions generally do not include required actions to sell trust lands such as appraisals, legal costs, title clearance costs, environmental reviews, and auction costs. However, with this volume of sales and the likely competition for contracts, it is assumed that total contracted sales costs would be around 10%. Sales of \$8,046,875 (assumption 5) x 10% = \$804,688 in contracted services would be required under this option.
 - b. DSL would require a staff to oversee the contracted services contract(s), process the results of the sales through the land board, and produce the finalized deeds. The projected staff would be a sales program supervisor, a real estate attorney, two contract officers, and two administrative personnel. In addition there would be operating and equipment costs.
11. The loss of distributable income from surface lease rentals is calculated by multiplying the acreage sold by an average per acre rental value of \$3.04 on a statewide basis (\$14,000,000 average rental income divided by 4.6 million acres).

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
FTE	6.00	6.00
Personal Services	190,494	191,164
Operating Expenses	823,438	823,438
Equipment	<u>24,600</u>	<u>0</u>
Total	1,038,532	1,014,602
<u>Revenues:</u>		
Permanent Trust Revenues	2,414,063	3,316,257
Distributable Income from surface rentals (SEA)	(190,000)	(380,000)
Interest Income (SEA)	<u>0</u>	<u>215,557</u>
Total	2,224,063	3,151,814
<u>Net Impact:</u>	1,185,531	2,137,212

(continued on page 3)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increased private ownership in the Phillips, Valley and Daniels counties with subsequent increased tax base to counties. The sales program may influence the real estate markets in those counties due to the significant amounts of land being placed on the market.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Eventual elimination of most of the state's surface acreage in Phillips, Valley and Daniels counties. Elimination of approximately 12% of the statewide surface school trust land asset.

Sale of the surface acreage will decrease the amount of distributable income received due to the loss of surface lease rentals. Disposing of a 1% interest in the mineral estate will result in a decrease in mineral royalty and rental revenues.

There will be an increase in the permanent trust funds from the sale of lands and subsequent increase in interest received on the permanent trust funds.

TECHNICAL NOTES:

1. Sales of state trust land must be conducted in accordance with Section 11 of the Montana Enabling Act, which is federal law and which requires state lands to be sold at public sale. Reference to federal law shall therefore be added to Section 1 (2).
2. Although Section 1 requires the sale of land, Section 77-2-308, MCA, allows the Land Board to reject any sale it considers to be disadvantageous to the state. If the latter provision is read to give the Land Board broad discretion to disapprove sales, it conflicts with Section 1.
3. Section 1 (3) states that the purchaser is to receive a 1% "mineral and royalty interest" of the land purchased. The intent is unclear in that a mineral interest is different from a royalty interest.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0225, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the sale of certain state lands in Daniels, Valley, Garfield, and Phillips counties; reserving a portion of state mineral and royalty interests in the lands; providing conditions of sale unless the conditions do not meet the constitutional requirements regarding sale of state lands; and amending some MCA sections.

ASSUMPTIONS:

1. Approximately 264,192 acres (in excess of 5% of the total land area of a county) will be subject to sale, including:

<u>County</u>	<u>Agricultural</u>	<u>Grazing</u>	<u>Total</u>
Daniels	87,770 acres	87,770 acres	175,540 acres
Valley	6,991 acres	48,939 acres	55,930 acres
Garfield	1,560 acres	10,920 acres	12,480 acres
Phillips	<u>2,530 acres</u>	<u>17,712 acres</u>	<u>20,242 acres</u>
	98,851 acres	165,341 acres	264,192 acres

2. Sales of these state lands will be conducted over an eighteen year period. Therefore approximately 14,677 acres would be sold each year (5,492 agricultural acres and 9,185 acres grazing land).
3. Minimum values expected from sales are \$285 per acre of agricultural land and \$75 per acre of grazing land. No appreciation in land value will occur on the lands subject to sale during the biennium. All land sale revenues must be deposited in the permanent trust funds in accordance with the constitution and statutes.
4. The state owns the mineral estate under all of the 264,192 surface acres.

On lands which do not currently contain a mineral lease, no incremental value is placed on the 1% royalty interest in the mineral estate.

Sale of lands containing active mineral leases will be delayed due to the loss of trust revenues and the difficult nature of valuing a 1% mineral interest in the mineral estate. Therefore, no impact is anticipated during FY96 and FY97.

When lands are sold that have proven or developed minerals under them, it will be necessary to hire or contract for mineral evaluation staff to evaluate and process these sales.

(continued on page 2)

David Lewis 2-6-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Daryl Toews 3-6-95
DARYL TOEWS, PRIMARY SPONSOR DATE

Fiscal Note for SB0225, third reading

SB 225 - #2

(continued)

5. The value of sales for a year is anticipated to be \$2,254,095 based on prior assumptions. All land sold will be purchased with a certificate of purchase. Therefore, the actual annual revenue realized consists of the 30% down payments of \$676,229 per year and the annual installments of \$252,723 per year. Calculation of the annual installments assumes a constant interest rate set at 9.63%.
6. All tracts put up for sale will sell and the Land Board will approve all sales.
7. Other agencies owning land that is subject to sale will process their own sales.
8. Administration and management of those state lands remaining throughout the state will continue at current levels.
9. The expected rate of return on investment of permanent school trust funds is 6.5% The calculation of interest on the lands sold begins in the fiscal year following the sale, due to the uncertainty of when the lands will actually be sold during the year.
10. The current land administration programs are not staffed or funded to carry out a sales program as is proposed. Options to remedy this situation would be to either provide funding and an FTE to the Department of State Lands (DSL) to conduct all aspects of the sales, contract out specific aspects, or contract out the entire process of sales. DSL analysis of the options indicated that it would probably be more cost efficient to contract out most of the sale process. Therefore, the projected expenditures assume that the entire sales process would be contracted out, with a new 1.00 FTE overseeing the contracted activities, processing the sale results through the Land Board, and finalizing the deeds. Because no funding currently exists, and because sales revenues cannot be diverted, the general fund is the assumed source of funding for this sales program.
11. The loss of distributable income from surface lease rentals is calculated by multiplying the acreage sold by an average per acre rental value of \$15.00 per agricultural acre and \$1.00 per grazing acre on a statewide basis.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	1.00	1.00
Personal Services	26,949	27,042
Operating Expenses	228,660	228,660
Equipment	<u>4,100</u>	<u>0</u>
Total	259,709	255,702
<u>Funding:</u>		
General Fund (01)	259,709	255,702
<u>Revenues:</u>		
Permanent Trust Revenues	676,229	928,952
Distributable Income from surface rentals (SEA)	(91,565)	(183,130)
Distributable Interest Income (SEA)	<u>0</u>	<u>43,955</u>
Total	584,664	789,777
<u>Net Impact:</u>		
Permanent Trust Revenues	676,229	928,952
Distributable Income (SEA)	(91,565)	(139,175)
General Fund	(300,979)	(292,991)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increased private ownership in the Phillips, Valley, Garfield, and Daniels counties with subsequent increased tax base to counties. Daniels and Valley counties would no longer be eligible for equalization payments when the state acreage drops below 6% in the respective county.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Elimination of approximately 5% of the statewide surface school trust land asset.

Sale of the surface acreage will decrease the amount of distributable income received due to the loss of surface lease rentals. Disposing of a 1% royalty interest will result in a decrease in mineral royalty revenues.

There will be an increase in the permanent trust funds from the sale of lands and subsequent increase in interest received on the permanent trust funds.

TECHNICAL NOTES:

The Department of State Lands is required under the Enabling Act and Montana Constitution to obtain the largest legitimate return for its land. The requirement in Section 1(1) that the department give the highest sale priority to isolated tracts over tracts that generate the lowest return on investment would probably violate this concept if it were to require sale of isolated tracts with high return. However, the department needs the Land Board approval requirement in the first line of Section 1(1) and in 77-2-308, MCA, to give the Land Board discretion to disapprove a sale in this instance.

1 SENATE BILL NO. 225

2 INTRODUCED BY TOEWS, BERGSAGEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE SALE OF CERTAIN STATE LANDS IN DANIELS,
5 VALLEY, GARFIELD, AND PHILLIPS COUNTIES; RESERVING A PORTION OF STATE MINERAL AND
6 ROYALTY INTERESTS IN THE LANDS; PROVIDING CONDITIONS OF SALE UNLESS THE CONDITIONS DO
7 NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF STATE LANDS; AND
8 AMENDING SECTIONS 77-2-301, 77-2-303, 77-2-304, 77-2-307, AND 77-2-329, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **NEW SECTION. Section 1. Sale of certain state lands required -- retention of certain state interests**
13 **-- conditions of sale.** (1) The department, with the approval of the board, shall sell at auction all state lands
14 within the borders of Daniels, Valley, GARFIELD, and Phillips Counties THAT ARE IN EXCESS OF 5% OF
15 THE TOTAL LAND AREA OF A COUNTY. THE DEPARTMENT SHALL GIVE THE HIGHEST SALE PRIORITY
16 TO THE MOST ISOLATED TRACTS OF STATE LAND AND THE NEXT HIGHEST SALE PRIORITY TO LANDS
17 GENERATING THE LOWEST RETURN ON INVESTMENT.

18 (2) Sales must be conducted in the manner prescribed by this section, the Montana constitution,
19 and other applicable state law and must be completed by December 31, 2013.

20 (3) All mineral and royalty interests in the state lands must remain with the state, except that A 1%
21 ~~of these interests~~ ROYALTY INTEREST must be transferred to the purchaser as a condition of purchase.

22 (4) In order to ensure that the sale of state lands does not have an adverse effect on other land
23 values in the affected counties, the board shall establish a systematic plan of sale that allows for the sale
24 of not more than 10% of the land in each county in any 1 year. The land may be sold on a certificate of
25 purchase with a 30% down payment and 10 annually amortized payments, with the interest rate set at a
26 percentage based on the rate established by the board of investments for other state investments at the
27 time the contract for sale is entered.

28 (5) The acreage limitation in 77-2-307 does not apply to sales made under the provisions of this
29 section.

30 (6) The lessee preference option in 77-2-324 applies to sales made under this section.

1 (7) All revenue generated from the sale of state land authorized under this section must be disposed
2 of as provided in 77-2-337.

3 (8) A sale of state land under this section may not be conducted in any manner that prohibits the
4 board from meeting its constitutional mandate to obtain full market value of the estate.

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8 and authority to decide when sales of state lands are to be held and what state lands are to be offered for
9 sale, subject to the limitations of this title, as the best interests of the state may appear to require. As a
10 general rule and except as provided in 77-2-318 and [section 1], ~~no~~ a sale of state lands ~~shall~~ may not be
11 held unless applications have been made for the purchase of lands within one county by prospective
12 purchasers representing at least 12 families."

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18 (2) ~~Lands which~~ Except for lands sold under the provisions of [section 1], lands that in the
19 judgment of the board are likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals,
20 sodium, or other valuable mineral deposits are not subject to sale, either the surface land or any ~~of such~~
21 deposits ~~therein~~ in the land. However, this does not prohibit the sale of lands containing sand, gravel,
22 building stone, brick clay, or similar materials.

23 (3) (a) There is also reserved from sale from all state lands bordering on navigable lakes or
24 bordering on nonnavigable meandered lakes and from all state lands bordering on navigable streams, as the
25 board ~~may deem~~ considers in the best interests of the state, a strip of land ~~which shall include~~ that includes
26 all the land lying between low-water mark and high-water mark and ~~which in addition shall extend~~
27 extending in width landward from the line of high-water mark of ~~such the~~ lake or stream the full width of
28 the 40-acre tract or government lot abutting the line of high-water mark. If the width of ~~such the~~ abutting
29 government lot at its narrowest point is less than 100 feet, then the reserved strip ~~hereby reserved shall~~
30 ~~extend~~ extends to and ~~include~~ includes the next adjoining 40-acre tract or government lot. The land

1 reserved from sale by this subsection ~~shall be~~ is subject to the granting of easements the same as other
2 state lands.

3 (b) ~~Such strips~~ Strips of land bordering on meandering lakes or on navigable streams, except the
4 strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or
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7 **Section 4.** Section 77-2-304, MCA, is amended to read:

8 "**77-2-304. Mineral reservations in state lands.** All Except for mineral interests incidental to a sale
9 made under the provisions of [section 1], all coal, oil, oil shale, gas, phosphate, sodium, and other mineral
10 deposits in state lands, except sand, gravel, building stone, and brick clay, ~~which that~~ were not reserved
11 by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from
12 sale except upon a rental and royalty basis as provided by law. A Except for the 1% interest acquired by
13 a purchaser under [section 1], a purchaser of state lands acquires no right, title, or interest in or to any of
14 those deposits. The state also reserves for itself and its lessees the right to enter upon these lands to
15 prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of
16 the lands as ~~may be~~ required for all purposes reasonably extending to the exploring for, mining, and removal
17 of the deposits ~~therefrom~~ from the lands, but the lessee shall ~~make just payment to~~ pay the purchaser for
18 all damage done by ~~reason of such~~ entry upon the land and the use and occupancy of the surface ~~thereof~~
19 of the land."
20

21 **Section 5.** Section 77-2-307, MCA, is amended to read:

22 "**77-2-307. Limitation on acreage.** (1) Except as provided in ~~subsection~~ subsections (2) and (3),
23 ~~no~~ a person or corporation may not purchase more than one section of state land, and this area ~~shall~~ may
24 not include more than 160 acres of land susceptible of irrigation.

25 (2) The limitations in subsection (1) as to area and irrigability do not apply to:

26 (a) lands within a federal irrigation project ~~wherein~~ where the Congress of the United States of
27 America authorizes water to be furnished to an area exceeding 160 irrigable acres; or

28 (b) lands to be sold to a tribal government as provided in 77-2-306.

29 (3) The limitation in subsection (1) as to area does not apply to lands sold under the provisions of
30 [section 1]."

1 **Section 6.** Section 77-2-329, MCA, is amended to read:

2 **"77-2-329. Terms of payment.** (1) ~~Every~~ Except for lands sold under the provisions of [section 1],
3 a purchaser of state land shall pay on the day of sale that portion of the purchase price as he may desire
4 the purchaser desires, but in no case less than 10% of the total sales price. In case the balance on the
5 purchase price is not an exact multiple of \$25, then ~~he~~ the purchaser shall pay ~~such an~~ additional sum as
6 is necessary to reduce the balance to an even multiple of \$25.

7 (2) The purchaser shall pay the balance of the purchase price within 30 days. The department may
8 extend this deadline up to 30 additional days for good cause."

9

10 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to
12 [section 1].

13

-END-

1 SENATE BILL NO. 225

2 INTRODUCED BY TOEWS, BERGSAGEL

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE SALE OF CERTAIN STATE LANDS IN DANIELS,
 5 VALLEY, GARFIELD, AND PHILLIPS COUNTIES; RESERVING A PORTION OF STATE MINERAL AND
 6 ROYALTY INTERESTS IN THE LANDS; PROVIDING CONDITIONS OF SALE UNLESS THE CONDITIONS DO
 7 NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF STATE LANDS; AND
 8 AMENDING SECTIONS 77-2-301, 77-2-303, 77-2-304, 77-2-307, AND 77-2-329, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
 12 NEW SECTION. Section 1. Sale of certain state lands required -- retention of certain state interests
 13 -- conditions of sale. (1) The department, with the approval of the board, shall sell at auction all state lands
 14 within the borders of Daniels, Valley, GARFIELD, and Phillips Counties THAT ARE IN EXCESS OF 5% OF
 15 THE TOTAL LAND AREA OF A COUNTY. THE DEPARTMENT SHALL GIVE THE HIGHEST SALE PRIORITY
 16 TO THE MOST ISOLATED TRACTS OF STATE LAND AND THE NEXT HIGHEST SALE PRIORITY TO LANDS
 17 GENERATING THE LOWEST RETURN ON INVESTMENT.

18 (2) Sales must be conducted in the manner prescribed by this section, the Montana constitution,
 19 and other applicable state law and must be completed by December 31, 2013.

20 (3) All mineral and royalty interests in the state lands must remain with the state, except that A 1%
 21 of these interests ROYALTY INTEREST must be transferred to the purchaser as a condition of purchase.

22 (4) In order to ensure that the sale of state lands does not have an adverse effect on other land
 23 values in the affected counties, the board shall establish a systematic plan of sale that allows for the sale
 24 of not more than 10% of the land in each county in any 1 year. The land may be sold on a certificate of
 25 purchase with a 30% down payment and 10 annually amortized payments, with the interest rate set at a
 26 percentage based on the rate established by the board of investments for other state investments at the
 27 time the contract for sale is entered.

28 (5) The acreage limitation in 77-2-307 does not apply to sales made under the provisions of this
 29 section.

30 (6) The lessee preference option in 77-2-324 applies to sales made under this section.

1 (7) All revenue generated from the sale of state land authorized under this section must be disposed
2 of as provided in 77-2-337.

3 (8) A sale of state land under this section may not be conducted in any manner that prohibits the
4 board from meeting its constitutional mandate to obtain full market value of the estate.

5
6 **Section 2.** Section 77-2-301, MCA, is amended to read:

7 "**77-2-301. Sales of state land under board control.** The board ~~is hereby vested with~~ has the power
8 and authority to decide when sales of state lands are to be held and what state lands are to be offered for
9 sale, subject to the limitations of this title, as the best interests of the state may appear to require. As a
10 general rule and except as provided in 77-2-318 and [section 1], ~~as a sale of state lands shall~~ may not be
11 held unless applications have been made for the purchase of lands within one county by prospective
12 purchasers representing at least 12 families."

13
14 **Section 3.** Section 77-2-303, MCA, is amended to read:

15 "**77-2-303. Restrictions on land available for sale.** (1) Except as provided in 77-2-318, lands
16 classified as timberlands are not subject to sale, but timber ~~thereon~~ on those lands may be sold and
17 disposed of in the manner provided by law.

18 (2) ~~Lands which~~ Except for lands sold under the provisions of [section 1], lands that in the
19 judgment of the board are likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals,
20 sodium, or other valuable mineral deposits are not subject to sale, either the surface land or any ~~of such~~
21 deposits ~~therein~~ in the land. However, this does not prohibit the sale of lands containing sand, gravel,
22 building stone, brick clay, or similar materials.

23 (3) (a) There is also reserved from sale from all state lands bordering on navigable lakes or
24 bordering on nonnavigable meandered lakes and from all state lands bordering on navigable streams, as the
25 board ~~may deem~~ considers in the best interests of the state, a strip of land ~~which shall include~~ that includes
26 all the land lying between low-water mark and high-water mark and ~~which in addition shall extend~~
27 extending in width landward from the line of high-water mark of ~~such~~ the lake or stream the full width of
28 the 40-acre tract or government lot abutting the line of high-water mark. If the width of ~~such~~ the abutting
29 government lot at its narrowest point is less than 100 feet, then the reserved strip ~~hereby reserved shall~~
30 ~~extend~~ extends to and ~~include~~ includes the next adjoining 40-acre tract or government lot. The land

1 reserved from sale by this subsection ~~shall be~~ is subject to the granting of easements the same as other
2 state lands.

3 (b) ~~Such strips~~ Strips of land bordering on meandering lakes or on navigable streams, except the
4 strip lying between low-water and high-water mark; whether surveyed and platted into blocks and lots or
5 not, may, ~~however,~~ be leased as provided in this title for the leasing of other state lands."

6
7 **Section 4.** Section 77-2-304, MCA, is amended to read:

8 "**77-2-304. Mineral reservations in state lands.** All Except for mineral interests incidental to a sale
9 made under the provisions of [section 1], all coal, oil, oil shale, gas, phosphate, sodium, and other mineral
10 deposits in state lands, except sand, gravel, building stone, and brick clay, ~~which that~~ were not reserved
11 by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from
12 sale except upon a rental and royalty basis as provided by law. A Except for the 1% interest acquired by
13 a purchaser under [section 1], a purchaser of state lands acquires no right, title, or interest in or to any of
14 those deposits. The state also reserves for itself and its lessees the right to enter upon these lands to
15 prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of
16 the lands as ~~may be~~ required for all purposes reasonably extending to the exploring for, mining, and removal
17 of the deposits ~~therefrom~~ from the lands, but the lessee shall ~~make just payment to~~ pay the purchaser for
18 all damage done by ~~reason of such~~ entry upon the land and the use and occupancy of the surface ~~thereof~~
19 of the land."

20
21 **Section 5.** Section 77-2-307, MCA, is amended to read:

22 "**77-2-307. Limitation on acreage.** (1) Except as provided in ~~subsection~~ subsections (2) and (3),
23 ~~no~~ a person or corporation may not purchase more than one section of state land, and this area ~~shall~~ may
24 not include more than 160 acres of land susceptible of irrigation.

25 (2) The limitations in subsection (1) as to area and irrigability do not apply to:

26 (a) lands within a federal irrigation project ~~wherein~~ where the Congress of the United States of
27 America authorizes water to be furnished to an area exceeding 160 irrigable acres; or

28 (b) lands to be sold to a tribal government as provided in 77-2-306.

29 (3) The limitation in subsection (1) as to area does not apply to lands sold under the provisions of
30 [section 1]."

1 **Section 6.** Section 77-2-329, MCA, is amended to read:

2 **"77-2-329. Terms of payment.** (1) ~~Every~~ Except for lands sold under the provisions of [section 1],
3 a purchaser of state land shall pay on the day of sale that portion of the purchase price as he may desire
4 the purchaser desires, but in no case less than 10% of the total sales price. In case the balance on the
5 purchase price is not an exact multiple of \$25, then ~~he~~ the purchaser shall pay ~~such an~~ an additional sum as
6 is necessary to reduce the balance to an even multiple of \$25.

7 (2) The purchaser shall pay the balance of the purchase price within 30 days. The department may
8 extend this deadline up to 30 additional days for good cause."

9

10 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to
12 [section 1].

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