

*Senate* BILL NO. *359*

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INTRODUCED BY *Tolson* \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO OFFER FOR SALE CERTAIN STATE LAND IN DANIELS COUNTY; CREATING NEW TRUST LAND REPLACEMENT ACCOUNTS, DIRECTING PROCEEDS FROM THE LANDS SOLD IN DANIELS COUNTY TO THE NEW ACCOUNTS, AND SPECIFYING THE GENERAL USE OF ACCOUNT FUNDS; PROVIDING FOR THE TRANSFER OF A PORTION OF THE STATE'S ROYALTY INTEREST TO A PURCHASER OF STATE LAND IN DANIELS COUNTY IF THE LAND HAS UNDEVELOPED MINERAL INTERESTS; PROVIDING CONDITIONS OF SALE FOR THE LANDS TO BE OFFERED FOR SALE IN DANIELS COUNTY, UNLESS THE CONDITIONS DO NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF STATE LANDS; AMENDING SECTIONS 77-2-301, 77-2-303, 77-2-304, 77-2-307, 77-2-329, AND 77-2-343, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 offer for sale at auction state lands within the borders of Daniels County that:

(a) as of [the effective date of this act], are under lease in accordance with this chapter; and

(b) are leased by a lessee who desires to have the land subject to the lessee's lease offered for sale in accordance with this section.

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

(3) For land with undeveloped mineral interests, a royalty interest in the amount of 1% of the state's royalty interest must be transferred to the purchaser as a condition of purchase. All other mineral and royalty interests in the state lands must remain with the state.

(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 state land in the county in any 1 year. The land may be sold on a certificate

1 of purchase with a 30% downpayment and 15 annually amortized payments, with the interest rate set at  
 2 a percentage based on the rate established by the board of investments for other state investments at the  
 3 time that the contract for sale is entered.

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

6 (6) All revenue generated from the sale of state land authorized under this section must be  
 7 deposited in the trust land replacement accounts and accounted for and disbursed according to the  
 8 requirements of [section 2].

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

11  
 12 **NEW SECTION. Section 2. Trust land replacement accounts created -- use of funds.** (1) There  
 13 is a trust land replacement account in each permanent fund referenced in subsection (5) in the state  
 14 treasury. Notwithstanding the provisions of 77-2-337, funds transferred to or paid to the state from land  
 15 sales pursuant to [section 1] must be deposited in the trust land replacement account within the permanent  
 16 fund arising from the grant to which the sold land belonged and must be disbursed in accordance with this  
 17 section.

18 (2) Funds in the trust land replacement accounts must be separately accounted for and may be  
 19 used only for acquiring real property for each individual trust established in sections 10, 11, 14, and 17  
 20 of The Enabling Act, to replace trust lands that are exchanged or transferred.

21 (3) Funds in the trust land replacement accounts may be expended by the department only when  
 22 authorized by the board.

23 (4) The legislature may from time to time appropriate additional money for deposit into the trust  
 24 land replacement accounts.

25 (5) All proceeds from sales of state land pursuant to [section 1] must be disbursed in accordance  
 26 with this section and within 5 years of the date of receipt or revert after expiration of that period to the  
 27 permanent fund arising from the grant to which the sold land belonged, in conformance with 77-2-337.

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

30 **"77-2-301. Sales of state land under board control.** The board ~~is hereby vested with~~ has the

1 power and authority to decide when sales of state lands are to be held and what state lands are to be  
 2 offered for sale, subject to the limitations of this title, as the best interests of the state may appear to  
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 4 may not be held unless applications have been made for the purchase of lands within one county by  
 5 prospective purchasers representing at least 12 families.”

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 7 **Section 4.** Section 77-2-303, MCA, is amended to read:

8 **"77-2-303. Restrictions on land available for sale.** (1) Except as provided in 77-2-318, lands  
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 10 disposed of in the manner provided by law.

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

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

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

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 30 **Section 5.** Section 77-2-304, MCA, is amended to read:

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

13

14           **Section 6.** Section 77-2-307, MCA, is amended to read:

15           **"77-2-307. Limitation on acreage.** (1) Except as provided in ~~subsection~~ subsections (2) and (3),  
 16 ~~no~~ a person or corporation may not purchase more than one section of state land, and this area ~~shall~~ may  
 17 not include more than 160 acres of land susceptible of irrigation.

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

- 19           (a) lands within a federal irrigation project ~~wherein~~ where the Congress of the United States of  
 20 America authorizes water to be furnished to an area exceeding 160 irrigable acres; or  
 21           (b) lands to be sold to a tribal government as provided in 77-2-306.

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

24

25           **Section 7.** Section 77-2-329, MCA, is amended to read:

26           **"77-2-329. Terms of payment.** (1) ~~Every~~ Except for lands sold under the provisions of [section  
 27 1], a purchaser of state land shall pay on the day of sale that portion of the purchase price as ~~he may desire~~  
 28 the purchaser desires, but in no case less than 10% of the total sales price. In case the balance on the  
 29 purchase price is not an exact multiple of \$25, then ~~he~~ the purchaser shall pay ~~such an~~ an additional sum as  
 30 is necessary to reduce the balance to an even multiple of \$25.

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

3  
4 **Section 8.** Section 77-2-343, MCA, is amended to read:

5 "77-2-343. **Patent provisions.** (1) Such deed or patent shall contain the reservation of easements  
6 for rights-of-way to the United States, reservation of ~~all~~ minerals in the land as provided in 77-2-304, and  
7 all other reservations to which the particular land conveyed is subject.

8 (2) If the land is located within the boundaries of a federal irrigation project, the patent ~~shall~~ must  
9 contain a lien clause substantially in the following form: The land hereby conveyed is located within the  
10 boundaries of a federal irrigation project and is subject to all liens ~~which~~ that the United States may have  
11 ~~thereon~~ on the land by reason of its being located under ~~such~~ the irrigation project.

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

15  
16 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 and 2] are intended to be codified  
17 as an integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to  
18 [sections 1 and 2].

19  
20 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

21 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0359, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the Department of Natural Resources and Conservation to offer for sale certain state land in Daniels County; creating new trust land replacement accounts, directing proceeds from the lands sold in Daniels County to the new accounts, and specifying the general use of account funds; providing for the transfer of a portion of the state's royalty interest to a purchaser of state land in Daniels County if the land has undeveloped mineral interests; providing conditions of sale for the lands to be offered for sale in Daniels County, unless the conditions do not meet the constitutional requirements regarding sale of state lands.

ASSUMPTIONS:

1. The state currently owns 230,898 acres in Daniels County (114,988 cropland acres, 113,168 grazing acres, and 2,741 other acres).
2. Current land values in Daniels County are \$265/acre for cropland, \$80/acre for grazing land, and \$265/acre for other land. These values would be utilized to set the minimum to start the auction sales.
3. Section 1(4) limits sales per year to not more than 10% of the state land in the county, or 23,090 acres. However, it is anticipated that only 25% of the maximum allowable acreage (5,772 acres) will be sold in any given year. Of the 5,772 acres sold, 2,887 will be cropland, 2,828 will be grazing land, and 58 will be other.
4. The state owns the mineral estate under all of the 230,898 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.
5. The value of sales for a year is anticipated to be \$1,006,665 based on prior assumptions  $[(2887 \times 265) + (2828 \times 80) + (58 \times 265)]$ . All land sold will be purchased with a certificate of purchase. Therefore, the actual annual revenue realized consists of the 30% down payments of \$302,000 per year and the annual installments of \$79,830 per year. Calculation of the annual installments assumes a constant interest rate set at 7.5%. Revenue generated in FY98 is \$381,830  $(302,000 + 79,830)$ . Revenue generated in FY99 is \$461,660  $(302,000 + 79,830 + 79,830)$ .
6. All tracts put up for sale will sell and the Board of Land Commissioners will approve all sales.
7. Interest will be earned on funds placed into the trust land replacement accounts and will be annually distributed to the appropriate trusts. The expected rate of return on investment of these funds is 7.5%. 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. Therefore, no interest will be earned in FY98. Interest earned in FY99 is generated from the sale proceeds from FY98  $(381,830 \times 7.5\% = \$28,637)$ . Projection of funds (both in the trust land replacement accounts and in interest) beyond the 1999 biennium are unquantifiable due to uncertainty of when and how much money will be utilized to purchase replacement lands.
8. The current land administration programs are neither staffed nor funded to carry out a sales program as is proposed. Options to remedy this situation would be to provide funding and FTE to the Department of Natural Resources and Conservation (DNRC) to conduct most aspects of the sales with contracts for specific aspects. The projected expenditures include a new 1.00 FTE sales program coordinator, grade 14. The state of Oklahoma has been actively pursuing a sales program over the past several years and has found that sales costs beyond personal services (\$31,835/yr) and personnel operating expenses (\$3,500/yr + \$4,000 in FY98 for start up equipment) have been averaging about 1.5% of the sale value  $(\$1,006,665 \times 1.5\% = \$15,100)$ . In order to replace the lands sold with more productive lands, it is anticipated that an additional 1.5% of the transaction value (\$15,100) will be required to seek out and actually purchase these replacement lands. 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.

(Continued)

Dave Lewis 2-19-97  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Daryl Tolws 2-19-97  
DARYL TOLWS, PRIMARY SPONSOR DATE

Fiscal Note for SB0359, as introduced  
**SB 359**

9. The loss of distributable income from surface lease rentals is calculated by multiplying the acreage sold by an average per acre rental value of \$12.50 per acre on cropland, \$1.00 per acre on grazing land, and \$125 per acre on other land. It is anticipated that only one-half year of rentals will be lost in FY98 due to implementation of the program and to the timing of sales throughout the year  $(((2887 \times 12.50) + (2828 \times 1) + (58 \times 125)) \div 2 = \$23,082)$ . However, it is anticipated that once the program is fully implemented (FY99), a full year of income will be lost, in addition to the previous year's loss  $(\$46,164 + \$23,082 = 69,246)$ .

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	31,835	31,835
Operating Expenses	33,700	33,700
Equipment	<u>4,000</u>	<u>0</u>
Total	69,535	65,535
 <u>Funding:</u>		
General Fund (01)	69,535	65,535
 <u>Revenues:</u>		
Trust Land Replacement Accounts	381,830	461,660
General Fund (distributable income from surface rentals)	(23,082)	(69,246)
General Fund (distributable interest income)	<u>0</u>	<u>28,637</u>
Total	358,748	421,051
 <u>Net Impact:</u>		
General Fund (01)	(92,617)	(106,144)
Trust Land Replacement Accounts (02)	381,830	461,660

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There would be increased private ownership in Daniels County with subsequent increased tax base to the county. Daniels County would no longer be eligible for equalization payments when the state acreage drops below 6% of the total county acreage.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. Sale of the surface acreage will decrease the amount of distributable income received from Daniels County due to the loss of surface lease rentals. However, this loss in distributable income from Daniels County should be offset by higher revenues from leases on new lands acquired, or from interest on increased balances in the permanent trust accounts.
2. Disposing of a 1% royalty interest could result in a decrease in mineral revenues.

TECHNICAL NOTES:

1. Depositing sales proceeds into the trust land replacement accounts may be in violation of Article X, Section 2 of the Montana Constitution which states that proceeds (which would include sale revenues) constitute a portion of the public school fund that is inviolate under Section 3.
2. The provisions regarding transfer of mineral and/or royalty interest to the purchaser [Section 1(3), Section 4(2), and Section 5] violate the provisions of 43 USC §870 which prohibit the state from disposing of any mineral interest granted to the state by the federal government.
3. Questions are apt to arise in cases where a leasehold mortgage is currently held against a lease that is to be sold. Once the property is sold, a leasehold interest no longer exists and the mortgage company will no longer have any collateral to leverage to recover the loaned money.
4. Clarification is required on how Section 2(5) is interpreted when a certificate of purchase sale occurs as allowed by Section 1(4). Section 2(5) of the bill requires that all proceeds from the sales must be disbursed to the permanent funds if not used to purchase replacement lands within 5 years. If lands are sold on a certificate of purchase allowing for 15 amortized payments, all sales proceeds will not be received for 15 years.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

Yes, the trust beneficiaries will benefit, but do not pay. However, the purpose of the trust lands is to generate revenues for the trust beneficiaries.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

The state special revenue funds earmark this money for specific use, to be reverted to the respective permanent fund if not expended within 5 years.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?  Yes  No (if no, explain)

- d) Does the need for this state special revenue provision still exist?  Yes  No (Explain)

If this legislation passes, the accounts are necessary to implement program.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

The spending of these dedicated revenue accounts is authorized in statute. Therefore, the legislature does not have the ability to control the expenditures or establish the priorities for these funds. However, the legislation does provide specific guidelines for use of these monies, and provides for the reversion the monies to the respective permanent funds if not used.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

If the legislation passes, yes.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

This program can only be accounted for with these dedicated revenue accounts in place. Without these accounts, the program could not be accounted for adequately.



## 1 SENATE BILL NO. 359

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5 CONSERVATION TO OFFER FOR SALE CERTAIN STATE LAND IN DANIELS COUNTY; CREATING NEW  
6 TRUST LAND REPLACEMENT ACCOUNTS, DIRECTING PROCEEDS FROM THE LANDS SOLD IN DANIELS  
7 COUNTY TO THE NEW ACCOUNTS, AND SPECIFYING THE GENERAL USE OF ACCOUNT FUNDS;  
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9 ~~OF STATE LAND IN DANIELS COUNTY IF THE LAND HAS UNDEVELOPED MINERAL INTERESTS;~~  
10 PROVIDING CONDITIONS OF SALE FOR THE LANDS TO BE OFFERED FOR SALE IN DANIELS COUNTY,  
11 UNLESS THE CONDITIONS DO NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF  
12 STATE LANDS; AMENDING SECTIONS 77-2-301, 77-2-303, ~~77-2-304~~, 77-2-307, 77-2-329, AND  
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23 (2) Sales must be conducted in the manner prescribed by this section, the Montana constitution,  
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8 requirements of [section 2].

9 ~~(7)~~(6) A sale of state land under this section may not be conducted in any manner that prohibits  
10 the board from meeting its constitutional mandate to obtain full market value of the estate.

11 (7) THE DEPARTMENT MAY NOT SELL AND THE BOARD MAY NOT APPROVE THE SALE OF  
12 MORE THAN 94% OF THE STATE LANDS WITHIN THE BORDERS OF DANIELS COUNTY.

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18           (3) (a) There is also reserved from sale from all state lands bordering on navigable lakes or  
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22 extending in width landward from the line of high-water mark of ~~such the~~ lake or stream the full width of  
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 5 ~~by the United States before July 1, 1927, are reserved to the state. All these deposits are reserved from~~  
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 7 ~~of interest acquired by a purchaser under [section 1], a purchaser of state lands acquires no but not~~  
 8 ~~acquire a right, title, or interest in or to any of those deposits. The state also reserves for itself and its~~  
 9 ~~lessees the right to enter upon these lands to prospect for, develop, mine, and remove those deposits and~~  
 10 ~~to occupy and use so much of the surface of the lands as may be required for all purposes reasonably~~  
 11 ~~extending to the exploring for, mining, and removal of the deposits therefrom from the lands, but the lessee~~  
 12 ~~shall make just payment to pay the purchaser for all damage done by reason of such entry upon the land~~  
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 15 **Section 5.** Section 77-2-307, MCA, is amended to read:

16 ~~"77-2-307. Limitation on acreage. (1) Except as provided in subsection subsections (2) and (3),~~  
 17 ~~no a person or corporation may not purchase more than one section of state land, and this area ~~shall~~ may~~  
 18 ~~not include more than 160 acres of land susceptible of irrigation.~~

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

- 20 (a) lands within a federal irrigation project ~~wherein~~ where the Congress of the United States of  
 21 America authorizes water to be furnished to an area exceeding 160 irrigable acres; or  
 22 (b) lands to be sold to a tribal government as provided in 77-2-306.

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

25  
 26 **Section 6.** Section 77-2-329, MCA, is amended to read:

27 ~~"77-2-329. Terms of payment. (1) Every Except for lands sold under the provisions of [section~~  
 28 ~~1], a purchaser of state land shall pay on the day of sale that portion of the purchase price as he may desire~~  
 29 ~~the purchaser desires, but in no case less than 10% of the total sales price. In case the balance on the~~  
 30 ~~purchase price is not an exact multiple of \$25, then he the purchaser shall pay ~~such~~ an additional sum as~~

1 is necessary to reduce the balance to an even multiple of \$25.

2 (2) The purchaser shall pay the balance of the purchase price within 30 days. The department may  
3 extend this deadline up to 30 additional days for good cause."  
4

5 **Section 7.** Section 77-2-343, MCA, is amended to read:

6 **"77-2-343. Patent provisions.** (1) Such deed or patent shall contain the reservation of easements  
7 for rights-of-way to the United States, reservation of ~~all~~ minerals in the land as provided in 77-2-304, and  
8 all other reservations to which the particular land conveyed is subject.

9 (2) If the land is located within the boundaries of a federal irrigation project, the patent ~~shall~~ must  
10 contain a lien clause substantially in the following form: The land hereby conveyed is located within the  
11 boundaries of a federal irrigation project and is subject to all liens ~~which~~ that the United States may have  
12 ~~thereon~~ on the land by reason of its being located under ~~such~~ the irrigation project.

13 (3) This section does not require any reservation in a patent ~~which~~ that was not an express or  
14 implied reservation in the certificate of purchase pursuant to which the patent is issued. The statutes in  
15 effect when ~~such~~ the certificate of purchase was issued must govern."  
16

17 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 and 2] are intended to be codified  
18 as an integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to  
19 [sections 1 and 2].  
20

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

22 -END-

## 1 SENATE BILL NO. 359

2 INTRODUCED BY TOEWS

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND  
 5 CONSERVATION TO OFFER FOR SALE CERTAIN STATE LAND IN DANIELS COUNTY; CREATING NEW  
 6 TRUST LAND REPLACEMENT ACCOUNTS, DIRECTING PROCEEDS FROM THE LANDS SOLD IN DANIELS  
 7 COUNTY TO THE NEW ACCOUNTS, AND SPECIFYING THE GENERAL USE OF ACCOUNT FUNDS;  
 8 ~~PROVIDING FOR THE TRANSFER OF A PORTION OF THE STATE'S ROYALTY INTEREST TO A PURCHASER~~  
 9 ~~OF STATE LAND IN DANIELS COUNTY IF THE LAND HAS UNDEVELOPED MINERAL INTERESTS;~~  
 10 PROVIDING CONDITIONS OF SALE FOR THE LANDS TO BE OFFERED FOR SALE IN DANIELS COUNTY,  
 11 UNLESS THE CONDITIONS DO NOT MEET THE CONSTITUTIONAL REQUIREMENTS REGARDING SALE OF  
 12 STATE LANDS; AMENDING SECTIONS 77-2-301, 77-2-303, ~~77-2-304~~, 77-2-307, 77-2-329, AND  
 13 77-2-343, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16  
 17 NEW SECTION. **Section 1. Sale of certain state lands required -- retention of certain state interests**  
 18 -- **conditions of sale.** (1) The department, with the approval of the board, shall offer for sale at auction  
 19 state lands within the borders of Daniels County that:

20 (a) as of [the effective date of this act], are under lease in accordance with this chapter; and  
 21 (b) are leased by a lessee who desires to have the land subject to the lessee's lease offered for sale  
 22 in accordance with this section.

23 (2) Sales must be conducted in the manner prescribed by this section, the Montana constitution,  
 24 and other applicable state law.

25 ~~(3) For land with undeveloped mineral interests, a royalty interest in the amount of 1% of the~~  
 26 ~~state's royalty interest must be transferred to the purchaser as a condition of purchase. All other mineral~~  
 27 ~~and royalty interests in the state lands must remain with the state.~~

28 ~~(4)~~(3) In order to ensure that the sale of state lands does not have an adverse effect on other land  
 29 values in the affected counties, the board shall establish a systematic plan of sale that allows for the sale  
 30 of not more than 10% of the state land in the county in any 1 year. The land may be sold on a certificate

1 of purchase with a 30% downpayment and 15 annually amortized payments, with the interest rate set at  
 2 a percentage based on the rate established by the board of investments for other state investments at the  
 3 time that the contract for sale is entered.

4 ~~(5)(4)~~ The acreage limitation in 77-2-307 does not apply to sales made under the provisions of this  
 5 section.

6 ~~(6)(5)~~ All revenue generated from the sale of state land authorized under this section must be  
 7 deposited in the trust land replacement accounts and accounted for and disbursed according to the  
 8 requirements of [section 2].

9 ~~(7)(6)~~ A sale of state land under this section may not be conducted in any manner that prohibits  
 10 the board from meeting its constitutional mandate to obtain full market value of the estate.

11 ~~(7) THE DEPARTMENT MAY NOT SELL AND THE BOARD MAY NOT APPROVE THE SALE OF~~  
 12 ~~MORE THAN 94% OF THE STATE LANDS SHALL WITHHOLD FROM SALE AN AMOUNT OF STATE LAND~~  
 13 ~~WITHIN DANIELS COUNTY EQUAL TO 6% OF ALL LAND WITHIN THE BORDERS OF DANIELS COUNTY.~~

14

15 **NEW SECTION. Section 2. Trust land replacement accounts created -- use of funds.** (1) There  
 16 is a trust land replacement account in each permanent fund referenced in subsection (5) in the state  
 17 treasury. Notwithstanding the provisions of 77-2-337, funds transferred to or paid to the state from land  
 18 sales pursuant to [section 1] must be deposited in the trust land replacement account within the permanent  
 19 fund arising from the grant to which the sold land belonged and must be disbursed in accordance with this  
 20 section.

21 (2) Funds in the trust land replacement accounts must be separately accounted for and may be  
 22 used only for acquiring real property for each individual trust established in sections 10, 11, 14, and 17  
 23 of The Enabling Act, to replace trust lands that are exchanged or transferred.

24 (3) Funds in the trust land replacement accounts may be expended by the department only when  
 25 authorized by the board.

26 (4) The legislature may from time to time appropriate additional money for deposit into the trust  
 27 land replacement accounts.

28 (5) All proceeds from sales of state land pursuant to [section 1] must be disbursed in accordance  
 29 with this section and within 5 years of the date of receipt or revert after expiration of that period to the  
 30 permanent fund arising from the grant to which the sold land belonged, in conformance with ~~77-2-337~~.

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

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

9           **Section 4.** Section 77-2-303, MCA, is amended to read:

10           **"77-2-303. Restrictions on land available for sale.** (1) Except as provided in 77-2-318, lands  
11 classified as timberlands are not subject to sale, but timber ~~thereon~~ on those lands may be sold and  
12 disposed of in the manner provided by law.

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

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

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



1 ~~Section 5. Section 77-2-304, MCA, is amended to read:~~

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

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

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