

## HOUSE BILL NO. 135

INTRODUCED BY S. FISHER

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A BILL FOR AN ACT ENTITLED: "~~AN ACT PROVIDING FOR THE PUBLIC SALE~~ AN INVENTORY OF  
 SURPLUS STATE LAND AND IMPROVEMENTS; ~~PROVIDING FOR THE DISPOSITION OF SALE PROCEEDS;~~  
~~SUPERSEDING THE UNFUNDED MANDATE LAWS;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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10 NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~9~~ 4] may be cited as the "Surplus Real  
 11 Estate INVENTORY Act".

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13 NEW SECTION. **Section 2. Definition of real estate.** Unless the context clearly requires otherwise,  
 14 as used in [sections 1 through ~~9~~ 4], "real estate" means state land, as that term is defined in 77-1-701,  
 15 and any building, structure, or improvement owned by the state under a fee simple title, grant, or deed  
 16 and that is designated as surplus pursuant to ~~[section 5]~~. The term does not include land subject to The  
 17 Enabling Act and constitutional restrictions, LAND GIVEN TO THE STATE IN 1889 AND 1893, or any land owned  
 18 by the state that is more than 200 acres.

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20 NEW SECTION. **Section 3. Administration and rulemaking -- report to legislature.** (1) The  
 21 department, under the board's supervision, shall administer and may adopt rules necessary to administer  
 22 [sections 1 through ~~9~~ 4].

23 (2) At the end of each biennium, the department shall report to the legislature on the surplus real  
 24 estate ~~sales made~~ INVENTORY CONDUCTED during the biennium pursuant to [sections 1 through ~~9~~ 4] ~~and the~~  
 25 ~~sales anticipated for the next biennium.~~

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27 NEW SECTION. **Section 4. Inventories.** (1) By JULY 1, 2005, AND BY October 1 of each year  
 28 THEREAFTER, each department, as defined in 2-15-102, shall inventory the real estate under the  
 29 department's stewardship or that the department occupies and shall forward the inventory to the  
 30 department of natural resources and conservation.

- 1 (2) The inventory must include:
- 2 (a) a legal description or a metes and bounds description of the land;
- 3 (b) a brief description of any improvements on the land; and
- 4 (c) a summary of the department's current or planned use of the real estate.

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6 ~~NEW SECTION. Section 5. Designation of state land as surplus -- list provided to counties. (1)~~

7 The department shall review the real estate inventories forwarded pursuant to [section 4] and, in

8 accordance with this section, determine whether the real estate is surplus.

9 ~~(2) The department shall designate real estate as surplus to the needs of the state if:~~

10 ~~(a) the department that has stewardship of the real estate has not used the real estate in the~~

11 ~~performance of that department's duties and responsibilities for the 2 years immediately preceding the date~~

12 ~~of the inventory; or~~

13 ~~(b) the real estate will not be required by that department within 2 years immediately following~~

14 ~~the date of the inventory.~~

15 ~~(3) The department of natural resources and conservation shall forward a list of the surplus real~~

16 ~~estate to the department of revenue and to each county.~~

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18 ~~NEW SECTION. Section 6. Public sale of surplus real estate -- conditions. (1) Notwithstanding~~

19 ~~any other provision of law and subject to the provisions of this section, the department shall offer for sale~~

20 ~~to the public any real estate determined to be surplus under [section 5].~~

21 ~~(2) A sale is subject to the following conditions:~~

22 ~~(a) Real estate must be conveyed as is by special warranty deed and granting title only by,~~

23 ~~through, and under the state's ownership.~~

24 ~~(b) A bill of sale for any personal property or improvements must be given at closing.~~

25 ~~(c) A lease agreement in effect on the real estate at the time of the sale must survive the closing~~

26 ~~and must be assumed by the purchaser.~~

27 ~~(d) The state shall retain 50% of any mineral interest in the land.~~

28 ~~(e) The state may not be required to provide for a survey or title policy on real estate with a gross~~

29 ~~purchase price of \$50,000 or less.~~

30 ~~(3) An offer to purchase surplus real estate must be accompanied by an earnest money deposit,~~

1 which may not be refunded if, through no fault of the state's, the sale fails to close within 90 days. A  
 2 10% deposit is required with offers of less than \$25,000. A 5% deposit is required with offers of \$25,000  
 3 or more.

4 ~~—— (4) Commissions paid to a licensed Montana real estate broker are as follows:~~

5 ~~—— (a) a 6% commission on a gross sale price of \$100,000 or less; and~~

6 ~~—— (b) a 4% commission on any sale value in excess of \$100,000.~~

7 ~~—— (5) Closing must take place with an escrow agent chosen by the state. The state and the buyer  
 8 shall each pay one-half of the closing costs, which may not exceed \$150, unless otherwise agreed to by  
 9 the state.~~

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11 ~~—— NEW SECTION. **Section 7. Appraisal of surplus state land.** (1) The value of surplus real estate  
 12 to be offered for public sale pursuant to [sections 1 through 9] must be determined as follows:~~

13 ~~—— (a) The department of revenue, or the county assessor if a county employs a county assessor,  
 14 shall establish the value of any real estate that the department of revenue or the assessor considers to be  
 15 worth less than \$15,000.~~

16 ~~—— (b) If the department of revenue, or the county assessor if a county employs a county assessor,  
 17 considers the real estate to be worth \$15,000 or more, the real estate must be appraised by a licensed  
 18 appraiser or an appraiser certified by the department of revenue.~~

19 ~~—— (c) An appraisal by a member of the appraisal institute must be conducted only if the county  
 20 assessor considers the real estate to be worth \$100,000 or more.~~

21 ~~—— (2) If the real estate includes standing timber, the value of the timber must be considered in  
 22 determining or appraising the real estate's value under subsection (1).~~

23 ~~—— (3) The department shall set the asking price on surplus real estate as the amount of the appraisal  
 24 made under the provisions of subsection (1), except that the department may increase the asking price  
 25 above the appraised value if the department considers the increase necessary to ensure that the state will  
 26 realize the optimum value of the real estate if it is sold. Surplus real estate may not be sold for less than  
 27 the appraised value.~~

28 ~~—— (4) The department shall list the asking prices for surplus real estate on an inventory price sheet,  
 29 which must be shown by county according to where the real estate is located.~~

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1 ~~NEW SECTION. Section 8. Trust account -- disposition of proceeds -- administrative costs. (1)~~

2 The department shall establish an interest-bearing trust account to be administered by the board.

3 ~~(2) All proceeds from the sale of surplus real estate under [sections 1 through 9] must be~~  
4 ~~deposited in the trust account.~~

5 ~~(3) The land board may determine the disposition of money in the trust account in accordance with~~  
6 ~~the following provisions:~~

7 ~~(a) The first \$100,000 of sale proceeds may be used to reimburse the department for the cost~~  
8 ~~of implementing and administering [sections 1 through 9] for fiscal years 2001 and 2002. For subsequent~~  
9 ~~fiscal years, administration costs must be included in the department's budget request.~~

10 ~~(b) The annual interest earned on an amount up to and including \$500,000 of the money in the~~  
11 ~~trust account must be used for the study of water quality in Montana's rivers, lakes, and streams. The~~  
12 ~~board, in conjunction with the university system's Flathead Lake biological station, shall direct the studies~~  
13 ~~and determine their purpose and scope.~~

14 ~~(c) The annual interest earned on the amount of money in the trust that is over \$500,000 may~~  
15 ~~be used as determined by the board.~~

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17 ~~NEW SECTION. Section 9. Transfers authorized. A department may transfer surplus real estate~~  
18 ~~to another department upon the approval of the governor.~~

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20 ~~NEW SECTION. Section 10. Unfunded mandate laws superseded. The provisions of [sections 1~~  
21 ~~through 9] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.~~

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23 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 9 4] are intended to be  
24 codified as an integral part of Title 77, and the provisions of Title 77 apply to [sections 1 through 9 4].

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26 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval JULY  
27 1, 2001.

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