

2 INTRODUCED BY \_\_\_\_\_

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE SALE OR EXCHANGE OF STATE LANDS TO  
5 A TRIBAL GOVERNMENT; AND AMENDING SECTIONS 77-1-202, 77-2-201, AND 77-2-306, MCA."

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

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9           **Section 1.** Section 77-1-202, MCA, is amended to read:

10        **"77-1-202. Powers and duties of board.** (1) The board shall exercise general authority, direction,  
11      and control over the care, management, and disposition of state lands and, subject to the investment authority  
12      of the board of investments, the funds arising from the leasing, use, sale, and disposition of those lands or  
13      otherwise coming under its administration. In the exercise of these powers, the guiding principle is that these  
14      lands and funds are held in trust for the support of education and for the attainment of other worthy objects  
15      helpful to the well-being of the people of this state as provided in The Enabling Act. The board shall administer  
16      this trust to:

17 (a) secure the largest measure of legitimate and reasonable advantage to the state; and  
18 (b) provide for the long-term financial support of education.

19 (2) It is consistent with the powers and duties provided in subsection (1) that the people are  
20 entitled to general recreational use of state lands to the extent that the trusts are compensated for the value of  
21 the recreation.

22 (3) When acquiring land for the state, the board shall determine the value of the land after an  
23 appraisal by a qualified land appraiser.

24 (4) The board may not exchange state lands with or sell state lands to a tribal government as  
25 defined in 18-11-102."

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27 **Section 2.** Section 77-2-201, MCA, is amended to read:

28 "77-2-201. **Exchange of land with United States or tribal governments.** (1) (a) The board may

1 enter into contracts or agreements with the United States or any department thereof having jurisdiction for the  
2 waiving and relinquishment to the United States of any rights of the state in and to sections 16 and 36 of any  
3 township and to any other parcel of state lands, provided that the state shall, in lieu of the rights so waived and  
4 relinquished, receive from the United States other lands of equal or greater value.

5 (b)(2) The current user of the land transferred to the United States may continue to enjoy the use of  
6 the land under terms and conditions required by the federal government and in accordance with Public Law 88-  
7 607, as amended, (43 U.S.C. 1411 through 1418), and the current user of the land received from the United  
8 States may continue to utilize the land on the terms and conditions imposed by law or by the board.

9 (2) ~~The board may enter into a contract or agreement with a tribal government as defined in 18-11-102 or with the United States for the relinquishment to the tribal government or to the United States in trust for the tribal government of any rights of the state to some or all state lands located wholly within the exterior boundaries of the tribal government's reservation as recognized by the federal government; however, the state, in exchange for these relinquished rights, must receive from the tribal government or the United States lands of equal or greater value. No contract or agreement may be entered into under this section without first consulting with the board of county commissioners of the county or counties in which the lands to be exchanged are located.~~

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18 **Section 3.** Section 77-2-306, MCA, is amended to read:

19 **"77-2-306. Who may purchase.** (1) State land may be sold to any person who is 18 years of age or  
20 older or any governmental or private entity ~~including~~ ~~excluding~~ tribal governments as defined in 18-11-102.

21 (2) A sale involving land in excess of 160 acres may not be made under this section without first  
22 consulting with the board of county commissioners of the county or counties in which the lands to be sold are  
23 located.

24 (3) State land may not be sold to the federal government or to an agency of the federal  
25 government, except for the purpose of building federal facilities and structures. ~~Nothing in this section prohibits~~  
26 ~~the sale of state land to a tribal government as defined in 18-11-102.~~

27 (4) A local government that sold or transferred property to the state has the right of first refusal if  
28 the state subsequently offers the property for sale. For purposes of this subsection, "right of first refusal" means

1 the right to have the first opportunity to purchase the property for not less than fair market value when the  
2 property becomes available or the right to meet any other offer."

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4 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a  
5 copy of [this act] to each federally recognized tribal government in Montana.

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