GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **SB0381.01: Provide for Montana's future homesteading act**

Primary Sponsor: Daniel Emrich Status: As Introduced

☐ Included in the Executive Budget ☒ Needs to be included in HB 2 ☐ Significant Local Gov Impact

☒ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Expenditures				
General Fund (01)	$91,081	$168,282	$170,903	$171,580
State Special Revenue (02)	$750,318	$1,907,330	$1,936,258	$1,959,472
Revenues				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
Net Impact General Fund Balance	($91,081)	($168,282)	($170,903)	($171,580)

Description of fiscal impact

SB 381 sets forth requirements to reintroduce homesteading on certain state lands. The Forestry & Trust Lands Division (FTLD) and the Water Resources Division (WRD) of the Department of Natural Resources & Conservation (DNRC) will require new full-time equivalent (FTE) to carry out these requirements. DNRC would be required to identify state-owned lands suitable for homesteading, establish qualified homesteader requirements, sell homestead deeds at full market value and implement rulemaking authority to carry out the program.

FISCAL ANALYSIS

Assumptions

Department of Natural Resources and Conservation

Forestry and Trust Lands Division (FTLD)

1. FTLD assumes there is a minimum of 841 state trust land parcels that could have at least one sale of a 5-acre lot per the requirements in SB 381. To process one sale, FTLD would need to contract out surveying and appraisals of the parcels. The estimated survey cost is $15,000, the appraisal cost is $5,000, and undetermined closing costs could total at least $20,000 per sale. 2.00 FTE, real property agents, can process around 80 sales collectively in one year. Total costs for 80 sales per year would be $1,600,000 (80 sales x $20,000) in FY 2027, $1,624,000 FY 2028 and $1,648,360 in FY 2029. An inflationary rate of 1.5% increase is applied in FY 2028 and FY 2029.
2. In FY 2026, FTLD will need 7.00 FTE to identify and qualify land for sales, including research and site visits across the state. 1.00 FTE will be a real property supervisor, 6.00 FTE will be real property agents. After FY 2026, ongoing work will require 1.00 FTE, real property supervisor, and 2.00 FTE, real property agents. These 3.00 FTE will continue to manage survey and appraisal contracts, process land sales, and

conduct performance inspections and site visits to ensure compliance with construction timelines as required in SB 381.

   a. 1.00 FTE, real property supervisor, will cost $93,614 in FY 2026 and FY 2027, $95,144 in FY 2028 and $94,514 in FY 2029 including salary and benefits. A 1.5% inflationary increase is applied in FY 2028 and FY 2029.
   b. 6.00 FTE, real property agent 1, will cost $517,523 in FY 2026. 2.00 FTE, real property agent 1, will cost $172,508 in FY 2027, $175,288 in FY 2028, and $174,143 in FY 2029 including salary and benefits. A 1.5% inflationary increase is applied in FY 2028 and FY 2029.
   c. One-time-only costs for office set up and computers for 7.00 FTE in FY 2026 are $19,600 ($2,800 per FTE).
   d. Supplies and materials for these positions will cost $1,575 in FY 2026 and $675 in FY 2027. An inflationary rate of 1.5% increase is applied in FY 2028 and FY 2029.
   e. Travel expenses, including lodging and per diem, for FTLD staff will cost $55,572 in FY 2026. DNRC estimates the 6.00 FTE will travel to 840 parcels in the first year, which will take around 132 days of travel or 11 days of travel per month. The ongoing travel for the 2.00 FTE associated with HB 381 will result in 24 travel days per year. This will cost $13,776 in FY 2027, $13,983 in FY 2028, and $14,192 in FY 2029. An inflationary rate of 1.5% increase is applied in FY 2028 and FY 2029. Travel is required to assess land tracts that comply with HB 381 and to perform inspections and site visits that verify compliance with scheduled deadlines.
   f. The 7.00 FTE will require network service at a cost of $10,745 in FY 2026 and phone service at a cost of $1,876 in FY 2026. In FY 2027, the network service for 3.00 FTE will cost $4,605 and phone service will cost $675. An inflationary rate of 1.5% inflationary increase is applied in FY 2028 and FY 2029.
   g. Rent for 7.00 FTE will be $48,300 in FY 2026. In FY 2027 the rent for the 3.00 FTE will be $20,700 with a 1.5% inflationary increase applied in FY 2028 and FY 2029.
   h. Training costs for the new FTE are $1,575 in FY 2026 and $675 in FY 2027, with an inflationary increase of 1.5% in FY 2028 and FY 2029.

3. The increase in personal services and operations required would be funded from the state special revenue fund, trust administration account. This increase in expenses represents a reduction in the distributable revenue for the trust beneficiaries such as the K-12 Common Schools.
4. Reduction in K-12 Common Schools revenues which are deposited to the state special guarantee account as the first source of funding for K-12 BASE aid would require an equal increase to state general fund costs. It is unknown what those costs would be.
5. The five-year reversion timeline in SB 381 presents the possibility of reversions of land and improvements to state ownership and the potential need to demolish, salvage, or remove the improvements. The cost impact, including clean-up expenses and staff time, for any potential reversions is indeterminable at this time.
6. Other potential costs due to SB 381 include paying back taxes on land and improvements. This amount is indeterminable.
7. The refunds of the purchase price have impacts not only to the trust beneficiaries, but also to the accounting process of these sales. This practice would be a departure from current accounting practices and will have additional costs that cannot be determined at this time.

Water Resources Division (WRD)

8. The WRD manages 19 State Water Projects (SWP) with associated lands which need to be evaluated based on the requirements of SB 381. WRD anticipates at least one eligible sale for each of the 19 projects. WRD will cooperate with TLMD for oversight but will still require 1.00 FTE to complete the work specific to the SWP properties. The personal service and operating expenses will be funded from the general fund.
   a. 1.00 FTE, real property agent, will cost $86,254 per year in FY 2026 and FY 2027 including salary and benefits. A 1.5% inflationary rate increase is applied in FY 2028 and FY 2029 at a cost of $87,644 and $87,072, respectively.
   b. One-time-only costs for office set-up for 1.00 FTE will be $2,800 in FY 2026.

c. Annual operating expenses for 1.00 FTE include supplies, phone, network, and email at a cost of $2,028 in FY 2026 and FY 2027 with an inflationary increase of 1.5% in FY 2028 and FY 2029, $2,058 and $2,090, respectively.
d. Funding needed to process one sale includes surveying cost of $15,000, appraisal cost of $5,000, and undetermined closing costs that together total at least $20,000 per sale. DNRC assumes four sales per year to begin in FY 2027, for an annual expense of $80,000 for SWP.

9. The revenue received from the sale of land is indeterminable at this time.

Fiscal Analysis Table

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	8.00	4.00	4.00	4.00
TOTAL Fiscal Impact	**8.00**	**4.00**	**4.00**	**4.00**
Expenditures				
Personal Services	$697,391	$352,376	$358,076	$355,729
Operating Expenses	$144,008	$1,723,236	$1,749,085	$1,775,323
TOTAL Expenditures	**$841,399**	**$2,075,612**	**$2,107,161**	**$2,131,052**
Funding of Expenditures				
General Fund (01)	$91,081	$168,282	$170,903	$171,580
State Special Revenue (02)	$750,318	$1,907,330	$1,936,258	$1,959,472
TOTAL Funding of Expenditures	**$841,399**	**$2,075,612**	**$2,107,161**	**$2,131,052**
Revenues				
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	($91,081)	($168,282)	($170,903)	($171,580)
State Special Revenue (02)	($750,318)	($1,907,330)	($1,936,258)	($1,959,472)

Effect on County or Other Local Revenues or Expenditures

1. The increase of property taxes due to private ownership of land may not be sufficient to account for increased impacts on existing public infrastructure, including the potential need for new water and sewer infrastructure, law enforcement and fire protection.

Significant Long-Term Impacts

1. SB 381 will result in decreased revenue over time to the trust beneficiaries due to loss of leased acreage and may reduce interest in leasing trust land in a more scattered ownership pattern.
2. FTLD anticipates ongoing increased management costs of remaining trust land due to increase of fractionalized ownership of trust land.
3. Increased costs to lessees are possible due to the potential need to install additional fencing and other management impacts related to the sale of lands neighboring leased tracts.
4. The loss of accessible trust land will lead to a decrease in recreational opportunities, including loss of land for hunting, due to the ¼ mile shooting restriction.
5. There will be a loss in ongoing lease revenue on state trust land parcels when disposing of these tracts of land.

Technical Concerns

1. Splitting state trust lands into parcels no larger than 5 acres in size, even sold at full market value, could reduce the revenue to the trust beneficiaries when a parcel sold or leased at a larger acreage would have had a greater market value. This would result in a breach of the fiduciary duty to trust beneficiaries as established under the Enabling Act, the Montana Constitution, and existing statute.

2. By directing that lots must be no greater than 5 acres, the sales of parcels in SB 381 will likely leave the state with numerous remainders or orphan tracts which will be largely valueless on their own and will remain an administrative and financial responsibility to the state.
3. SB 381 would take authority away from the Land Board (board) to "direct, control, lease, exchange, and sell school trust lands" insofar as it preempts the authority of the board to what land shall be sold, when and how. This authority for the Land Board is stated in the Montana Constitution.
4. SB 381 does not require public sale or advertising, both of which are required under the Enabling Act for state trust lands.
5. SB 381 does not address how DNRC should handle sales where the tract is already under lease (which will be the case in the majority of instances), including whether the lessee has a preference right in the event of a sale as outlined in 77-2-324, MCA.
6. SB 381 could conflict with the existing statutory prohibitions on sales of land adjacent to navigable waters or lands with mineral potential as outlined in 77-2-303, MCA.
7. SB 381 is not clear as to whether lands held by other state agencies would also be subject to sale and whether DNRC would be responsible to administer those sales in addition to sale of state trust lands.
8. SB 381 is silent on whether the sales contemplated would fall within the land banking program (77-2-362 through -366, MCA).
9. The bill is vague or ambiguous as to a number of terms, including the following:
   a. Section 1. (2)(b) "undeveloped"
   b. Section 1. (2)(d) "physical barriers"
   c. Section 1. (2)(e) "legal restrictions"
   d. Section 1. (3) "continuous Montana resident"
   e. Section 1 (2)(a) "legal access". Legal access is the defined in 77-1-101(6), MCA, and is based on the DNRC Public Access Map and data pulled from the data base.
10. SB 381 exempts the sale of parcels from subdivision laws. This could have impacts on public health and safety and the rights of adjacent property owners, resulting in unquantifiable legal expenses and liability exposure.
11. Sections 1(7) and (8) could result in liability and legal expenses to the state, as well as management burden. There may be parcels upon which partially constructed homes and/or personal property or fixtures are placed by the "homesteader" which remain after the five-year construction window. Some of those fixtures and personal property will have the effect of devaluing the land in question. Under SB 381, as drafted, the state will assume the burden of those items, as well as the burden of disencumbering the property, when it re-assumes ownership under subsection (8) for purchasers who fail to timely construct a home. In addition, this process may result in legal issues from an unquantifiable number of purchasers who do not complete home construction within the allotted five years but contest the state's right to re-assume ownership. SB 381 leaves unanswered the question of whether the state is permitted to discount its reimbursement to the landowner under subsection (8) in instances where the homesteader's development of a tract devalues that tract.

NO SPONSOR SIGNATURE

	3/3		3/1/2025
Sponsor's Initials	Date	Budget Director's Initials	Date