

HOUSE BILL NO. 506

INTRODUCED BY D. SKEES

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COMPLIANCE WITH THE UNITED STATES CONSTITUTION REGARDING FEDERALLY OWNED LANDS IN MONTANA; DIRECTING THE BOARD OF LAND COMMISSIONERS TO ACQUIRE FEDERAL LANDS NOT LEGALLY OBTAINED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the United States Constitution gives the federal government only the powers enumerated by the United States Constitution; and

WHEREAS, Article I, section 8, paragraph 17, of the United States Constitution gives the federal government very limited powers in acquiring or regulating land within the states; and

WHEREAS, Article IV, section 3, paragraph 2, of the United States Constitution gives the federal government broad powers over land within the states retained by the federal government as territory when states were formed.

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

NEW SECTION. Section 1. Legislative findings -- board of land commissioners duty. (1) The legislature finds that:

(a) Article I, section 8, paragraph 17, of the United States constitution states that congress has authority "over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings"; and

(b) there are lands in Montana that have been acquired by and are now controlled by the federal government for which the legislature has not given its consent or that are being used for purposes not consistent with subsection (1)(a).

(2) If within 90 days of [the effective date of this act] the United States government has not obtained a ruling from the United States supreme court demonstrating which lands within Montana acquired by the federal government are in accordance with Article I, section 8, paragraph 17, of the United States constitution and which are not, the board shall begin any proceedings allowed by law to have federally controlled lands that are not in



1 accordance with the provisions of the United States constitution granted to Montana pursuant to 77-1-211.

2 (3) All future attempts by the federal government to acquire or regulate land within Montana are subject
3 to the provisions of this section and Article I, section 8, paragraph 17, of the United States constitution.

4 (4) This section does not apply to lands retained by the federal government upon the formation of the
5 state of Montana.

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

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10 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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