

HOUSE BILL NO. 541

INTRODUCED BY B. HARRIS

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROPERTY RIGHTS; REQUIRING A MAJORITY VOTE OF EACH HOUSE OF THE LEGISLATURE TO SELL SURFACE, MINERAL, OR WATER RIGHTS TO THE UNITED STATES, ANOTHER STATE, OR A FOREIGN GOVERNMENT; AMENDING SECTIONS 2-1-210, 2-1-211, 85-2-403, AND 87-1-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Findings.** The legislature finds that:

- (1) the 10th amendment to the United States constitution directs that powers that are not delegated to the United States are reserved to the states or to the people;
- (2) Montana, as one of the sovereign states within the union, has constitutional authority to enact laws protecting the environment of the state and safeguarding the public health, safety, and welfare of the citizens of Montana;
- (3) Montana's state sovereignty must not be eroded through the sale of property rights in the state to the federal government, other states, or foreign governments; and
- (4) the acquisition of property rights in Montana by the federal government, another state, or a foreign government and how those property rights may be used are issues of importance to Montanans that should be examined by the legislature.

NEW SECTION. **Section 2. Sale or transfer of property rights -- legislative ratification required.**

- (1) Except as provided in subsection (2), the sale or transfer of surface rights, mineral rights, or water rights located in Montana to the federal government, another state, or a foreign government on or after [the effective date of this act] must be ratified by a majority vote of each house of the legislature.
- (2) The provisions of subsection (1) do not apply to transactions that involve exchanges of property rights located in Montana that are approximately equal in value and do not result in a change of jurisdiction.



1 **NEW SECTION. Section 3. Notice of ratification required.** (1) The seller or transferor of surface
 2 rights, mineral rights, or water rights located in Montana who signs a buy-sell agreement or an agreement to
 3 transfer property with the federal government, another state, or a foreign government shall disclose that a sale
 4 or transfer is not final and cannot be recorded pursuant to Title 70, chapter 21, part 2, until ratification required
 5 by [section 2] is completed.

6 (2) The seller or transferor shall notify the department of natural resources and conservation of a pending
 7 sale or transfer of property rights pursuant to this section.

8 (3) The department shall notify the legislature.

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10 **Section 4.** Section 2-1-210, MCA, is amended to read:

11 **"2-1-210. Consent to purchase of lands by United States for national forest purposes --**
 12 **jurisdiction.** (1) For the purpose of more effectively cooperating with the United States in the consolidating and
 13 rounding out of national forests in accordance with land use plans and to facilitate the placing of forest lands other
 14 than national forest but which are integral with national forest lands under stable protection and administration
 15 to the end of public benefit and to help landowners, including the counties of the state in their discretion, to
 16 dispose of such of their lands as may be needed for national forest purposes, consent of the state of Montana,
 17 pursuant to [section 2], is hereby given to the purchase by the United States of such lands in the state of Montana
 18 as in the opinion of the secretary of agriculture are needed for the purposes contemplated in section 6 of the act
 19 of congress approved March 1, 1911, commonly known as and called the Weeks law, and/or section 6 of the act
 20 of congress approved June 7, 1924, commonly known as the Clarke-McNary law, and/or any other provisions
 21 of any act of congress authorizing the purchase of land for national forest purposes.

22 (2) The jurisdiction of the state of Montana, both civil and criminal, over persons upon areas acquired
 23 under this section shall not be affected or changed by reason of their acquisition and administration by the United
 24 States, except so far as the punishment of offenses against the United States is concerned.

25 (3) The state shall have the same jurisdiction in respect to such lands as it has in respect to other
 26 national forest lands within the state.

27 (4) All property rights, easements, and benefits retained by or reserved to owners of lands purchased
 28 by the United States shall be subject to the tax laws of the state."
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Section 5. Section 2-1-211, MCA, is amended to read:

1 **"2-1-211. Consent to purchase lands for migratory bird reservations -- jurisdiction.** Consent of the
 2 state of Montana, pursuant to [section 2], is given to the acquisition by the United States by purchase, gift, devise,
 3 or lease of such areas of land, water, or land and water in the state of Montana as the United States may deem
 4 necessary for the establishment of migratory bird reservations in accordance with the act of congress approved
 5 February 18, 1929, (as amended), entitled "An Act to More Effectively Meet the Obligations of the United States
 6 under the Migratory Bird Treaty with Great Britain by Lessening the Dangers Threatening Migratory Game Birds
 7 from Drainage and Other Causes by the Acquisition of Areas of Land and of Water to Furnish in Perpetuity
 8 Reservations for the Adequate Protection of such Birds; and Authorizing Appropriations for the Establishment
 9 of such Areas, their Maintenance and Improvement and for Other Purposes", reserving, however, to the state of
 10 Montana full and complete jurisdiction and authority over all such areas not incompatible with the administration,
 11 maintenance, protection, and control thereof by the United States under the terms of said act of congress."
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13 **Section 6.** Section 85-2-403, MCA, is amended to read:

14 **"85-2-403. Transfer of appropriation right.** (1) ~~The~~ Except as provided in [section 2], the right to use
 15 water shall pass with a conveyance of the land or transfer by operation of law, unless specifically exempted
 16 ~~therefrom.~~ All transfers of interests in appropriation rights ~~shall~~ must be without loss of priority.

17 (2) Failure to comply with the provisions of 85-2-402 does not render a conveyance or reservation of a
 18 water right void, but the right may not be used until the department has approved the change. This subsection
 19 applies retroactively, within the meaning of 1-2-109, to a conveyance or reservation made after July 1, 1973."
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21 **Section 7.** Section 87-1-711, MCA, is amended to read:

22 **"87-1-711. Acquisition of land by United States for bison and other big game animals.** Consent
 23 of the state of Montana, pursuant to [section 2], is given to the acquisition by the United States by purchase, gift,
 24 devise, or lease of such areas of land or water or of land and water in section 31, township 18 north, range 20
 25 west, Lake County, Montana, and section 36, township 18 north, range 21 west, Sanders County, Montana,
 26 excepting the Northern Pacific railway and state of Montana lands within said sections, as the United States may
 27 deem necessary for the establishment of an exhibition park for bison and other big game animals, reserving,
 28 however, to the state of Montana full and complete jurisdiction and authority over all such areas not incompatible
 29 with the administration, maintenance, protection, and control thereof by the United States under the terms of
 30 applicable federal regulations."

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2 **NEW SECTION. Section 8. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified
3 as an integral part of Title 70, chapter 1, part 2, and the provisions of Title 70, chapter 1, part 2, apply to [sections
4 1 and 2].

5 (2) [Section 3] is intended to be codified as an integral part of Title 70, chapter 20, part 1, and the
6 provisions of Title 70, chapter 20, part 1, apply to [section 3].

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

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10 **NEW SECTION. Section 10. Applicability.** [This act] applies to property right sales or transfers for
11 which a buy-sell agreement or an agreement to transfer property is signed on or after [the effective date of this
12 act].

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