

HOUSE BILL NO. 516

INTRODUCED BY HANSON, JENKINS, PETERSON, PATTERSON

IN THE HOUSE

FEBRUARY 1, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION. FIRST READING.
FEBRUARY 14, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 71; NOES, 25. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION. FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 21, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0. RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 516
2 INTRODUCED BY Mr. Hanson
3 McCluskey

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE MUTUAL
5 RESPONSIBILITY OF ADJACENT LANDOWNERS TO MAINTAIN FENCING
6 BETWEEN THEM; AND AMENDING SECTION 70-16-205, MCA."

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

9 **Section 1.** Section 70-16-205, MCA, is amended to read:

10 "70-16-205. Monuments and fences -- mutual obligation
11 of adjoining owners. (1) Coterminous owners are mutually
12 bound equally to maintain:

13 (1)(a) the boundaries and monuments between them;

14 (2)(b) the fences between them, unless one of them
15 chooses to let his land lie without fencing, in which case
16 if he afterwards encloses it, he must refund to the other a
17 just proportion of the value, at that time, of any division
18 fence made by the latter. However, using land for grazing
19 or pasturage of any kind whatsoever shall must be deemed
20 considered a usage of said the land, and such the land shall
21 must not be considered as lying idle under the provisions of
22 this section.

23 (2) Except as provided by prescription, custom, or
24 agreement between coterminous owners, each coterminous owner
25 shall maintain all fencing to the right of the midpoint of

1 the common boundary line as viewed from his land. If the
2 land of one owner is entirely surrounded by the land of
3 another, each owner shall maintain all fencing to the right,
4 as viewed from his land, of the northeastern corner of the
5 surrounded land or, if there is more than one northeastern
6 corner, then from the northernmost northeastern corner to a
7 point midway around the surrounded land."

8 **NEW SECTION. Section 2. Saving clause.** [This act]
9 does not affect rights and duties that matured, penalties
10 that were incurred, or proceedings that were begun before
11 [the effective date of this act].

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

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(2) Except as provided by prescription, custom, or agreement between coterminous owners, each coterminous owner shall maintain all fencing to the right of the midpoint of

the common boundary line as viewed from his land. If the land of one owner is entirely surrounded by the land of another, each owner shall maintain all fencing to the right, as viewed from his land, of the northeastern corner of the surrounded land or, if there is more than one northeastern corner, then from the northernmost northeastern corner to a point midway around the surrounded land. IF THERE IS A SUBSTANTIAL DIFFERENCE IN TERRAIN OR TOPOGRAPHICAL FEATURES OF THE LAND BETWEEN THE COTERMINOUS OWNERS, RESPONSIBILITY FOR MAINTAINING THE FENCE MUST BE DETERMINED BY MUTUAL AGREEMENT WITH CONSIDERATION GIVEN TO FACTORS SUCH AS COST AND TIME."

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