

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
February 9, 1981

The meeting of the House Judiciary Committee was called to order by Vice-Chairman Carl Seifert at 8:00 a.m. in Room 437 of the Capitol. Kerry Keyser was excused and Wes Teague was absent. Jim Lear, Legislative Council, was present.

HOUSE BILL 571 REP. ERNST, sponsor, told the committee this bill is to provide that optional annual payments for location of a facility on a landowner's property under the Montana Major Facility Siting Act be based on fair market rental value. This will help the landowner receive what is fair. This does not apply to little distributor lines or small power. It would have to be 69 kilovolt or more.

Landowners have been offered on-time payments before. It is the landowner's right to collect the fee.

JOHN LUBINUS was a proponent to the bill. LUBINUS read portions of his handout. EXHIBIT 1. LUBINUS wants equal pay and equal footing with the government. Most agreements are renegotiated every five years. If annual agreements are made it will keep up with inflation. LUBINUS felt that an argument to the bill would be administrative nightmares. The land does not change hands that much.

There were no further proponents.

GENE PHILLIPS, Pacific Power & Light, stated the present law is a compromise of the last legislative session. This allows an annual payment so the landowner's income tax is less. There is a problem with knowing who the landowner is. If it had to be done annually it would take a long time. Sometimes the land transfers. PHILLIPS stated the company might be making payments to one person when it should have been made to another person.

BOB GANNON stated this bill would exclude things such as pipelines, telephone lines and highways. He questions whether that is an appropriate way to reach a problem. This bill would require more administrative work in the office resulting in larger staffs. The consumer would be paying for this. GANNON felt that the companies might feel it is easier to condemn the land instead of paying the full price. GANNON stated his company does not count pole for pole on the landowner's land. The bonding capability may be effected.

JOHN SULLIVAN, MDU, agrees the basic problem is requiring the utility companies to keep track of who owns land forever. Many times there is divorce or probate that changes owners of the land. Eminent domain requires that when land is taken or used for public purpose they must pay for the fair market value at the time of the taking. Payment for the land is made when the land is taken and

it is paid for only once. Payments would not exceed the fair market value.

In closing, REP. ERNST realized pipelines are excluded in the bill. The U.S. Board of Land Management did sign an agreement. Farmers and ranchers are entitled to the fair amount. Transmission facilities should be current. The problems incurred by the farmer or rancher are burdensome. It is unique we get this before construction begins on more lines.

REP. BENNETT asked if LUBINUS was looking for consistency in trying to treat the landowners. LUBINUS replied he would like to see the present landowners compensated annually because he is bearing the burden.

REP. BENNETT asked what would prevent the landowner to receive all the money and the next owner to receive nothing. LUBINUS stated that was a good point. REP. YARDLEY asked if this would include any past lines. REP. ERNST stated this would be only for new lines.

REP. YARDLEY noted pipelines were excluded. REP. ERNST stated they would like to have the privilege to include pipelines but it is not under the Major Facility Act.

REP. HANNAH inquired about the condemnation procedure. GANNON replied it is the rights of the landowner to have a larger sum. It would be cheaper for the company to condemn the property. This would not have the administrative problems in the future.

REP. EUDAILY asked who determines fair market value. It was answered the landowners and the company. If an agreement could not be reached they would probably go to court.

REP. EUDAILY stated every five years this is renegotiated - why if the fair price is given each time? The sponsor stated the costs of the obstruction goes up with inflation. If land is worth \$1,000 an acre instead of \$500 the price should be raised because it costs more to farm around the poles than before.

HOUSE BILL 590 Sponsor, REP. WALDRON, stated this bill is to revise the Montana Unfair Trade Practices and Consumer Protection Act of 1973. It would provide for joint involvement of that act. The Attorney General's office would have the equipment and power to have appropriate rules. The Attorney General sets federal laws and unfair practices and consumer act. This would clarify the Attorney General's authority.

Intention was on page 5; 30-14-133 deals with that section. There appears to be a problem with joint authority between the

Business Regulation Department and the Attorney General's office. The sponsor wishes executive action not be taken until amendments are brought forth to solve this.

JERRY CATE gave written testimony. EXHIBIT 2. CATE stated the governor's office approves the bill. This bill is not trying to invade the Business Regulation Department's authority. The amendment to 30-14-133 was listed in his testimony; CATE feels this is substantial. It does permit the state to recover under the act.

There were no further proponents.

J. C. WEINGARTNER, State Bar Association, opposed the bill. This body of law is a consumer act. By trying to change the wording it will be an antitrust bill. WEINGARTNER gave the example of Joe Blow advertises he will clean your carpet for \$25. You hire him and it ends up that the carpet is ruined. You sue Joe Blow. You could collect \$200 or whatever. WEINGARTNER stated this is not a streamlined bill. It is a complete change of the intent of the present law. He felt this was like a snake in the grass. You know it will strike but you don't know when.

AVIS TOBIN, Montana Hardware, opposed the bill. She has seen great consideration by the Department of Business Regulation in handling the consumers.

GARY LANGLEY, National Federation of Independent Business, represents 5,000 small businesses. The present function is in the Department of Business Regulations. He opposed the change.

GARY BUCHANAN, felt there were problems with the bill as written.

JANELLE FALLON, Montana Chamber, stated 95% of the membership of the chamber are small businesses. She concurs with do not pass for this bill.

In closing, REP. WALDRON stated the reason the bill is introduced is that it deals with the law on page 5 of the bill. This makes a substantial change in the present law. It provides for clear action. It removes limitations as far as listing goods or purchases. It will allow business to collect for damages.

REP. KEEDY was concerned with amending 133. The sponsor replied he would like to discuss this with the Business Regulations Department and the Attorney General. The real concern is where there is joint jurisdiction.

REP. KEEDY stated this amendment would allow the Attorney General

or the Department of Business Regulation to file class action suits. Is there anticipation of further amendments? Cate replied any person is a legal entity. The state would be included. To file an action would require going to the Department of Business Regulations. This would eliminate the need to go to them to be able to sue.

REP. KEEDY stated in the first section of the bill there is a difference with present law. Under 133 the person must purchase goods. Would someone from the Attorney General's office purchase goods? CATE does not feel the Attorney General's office would do that. The purchasing agent for the state buys all types of materials. If consumers have been damaged it is brought on behalf of the consumer. The Burlington Northern case involved suing for the state and the consumer.

REP. HANNAH asked if the state could bring a class action suit. CATE replied in this area the state has no authority to bring suit. There are one or two other statutes where the state cannot bring suit.

REP. EUDAILY asked if the Department of Business Regulations could contract to have this done now. BOB WOOD, Department of Business Regulations stated they do contract with the Attorney General. The department is restricted by the original law for the consumer.

That ended the discussion on House Bill 590.

HOUSE BILL 453 REP. KEMMIS, chief sponsor, stated this bill is to clarify the procedure under which a person circulating petitions can obtain signatures in Montana. REP. KEMMIS stated there are a number of changes in the bill. EXHIBIT 3.

This bill would allow petitioners at certain places. The petitioner would have to receive a permit at least 10 days prior to the election. If the election administrator determines there is space available he is to instruct the elections judge to make the space available for the petitioner. The bill specifies that the space that is made available will be in an inconspicuous location. Election judges could instruct that a certain number of tables be there so it will not be congested. If the petitioner disrupts the voting procedure he will be warned to stop. The petitioner can be thrown out if he does not stop.

The philosophy of the bill is people have a right to the initiative process. If conflicts have occurred in the past this is the way to regulate them.

REP. JOHN VINCENT stated the polls were a good place to obtain signatures by petitioners. However, the petitioners should not step right in front of the voter to urge him to sign; the voter

should advance to the petitioner. This bill would require a more orderly manner in which signatures are obtained.

ALAN OSTBY, Common Cause, felt this is a responsible attempt to control the signature-taking at the polls. A bill in the senate prohibits the petitioner to be within so many feet of the polling place. OSTBY stated some people are uncomfortable about signing petitions at the polls. This would allow the manner of signature-taking to be done in an orderly manner.

NELL KUBESH, representing herself, has collected signatures before. To be able to obtain names at the polling place works quite well. This bill would be a great improvement. She has been declined the right to obtain signatures at some stores. This, in her opinion, would solve many problems.

ED KAMMERER read a statement from ART KUSSMAN. KUSSMAN's remarks included it is my opinion that a sizeable majority do not want the initiative process at the polls. There have been no formal complaints by clerks or recorders in the state. Based on its merits this bill should have a do pass. KAMMERER's own opinion was he feels there are good changes in the bill. It is apparent that Montana is not the only state under which this is under attack. There is a good reason for this. The initiative process threatens corporate bounds.

DAVID SEXTON, Montana Education Association, stated this will preserve the right of the people to petition. He endorses the bill.

MIKE MALES supports the bill reluctantly. He does not feel there is a problem with the present system. There is too much regulation. This bill, however, answers all the objections of people who want to ban this. If a candidate is not being voted on he can be present. Same with initiatives. A total ban is wrong. Petitions have been done for years on many issues. Many voters express thanks for this. The question is whether the legislation wants to restrict this. There has been no abuse. This bill is a good compromise.

MARK MACKIN, Citizens Legislative Coalition stated this bill does present a solution for harassment. Additionally, the petition carriers will not be subject to the weather or standing.

CAROL BRASS read a letter from JAMES RUBIN. EXHIBIT 4. BRASS stated her own experience was an alarming one when she came in contact with petitioners. She did not realize this was legal. She did not sign the particular petition, but later became involved in its cause. She feels the people here are astute in what they do.

There were no further proponents.

ALLAN SHUMATE feels the initiative process has been abused. The proponents say how easy it is to get signatures. They should go door-to-door to obtain them instead of at the polls.

JANELLE FALLON, Montana Chamber stated she was glad to hear a proponent say it is good to have election not for initiatives. FALLON resents seeing a petitioner at the stores and resents it even more at the polls. She stated a personal story involving three petitioners asking her to sign different initiatives. When she refused each one of the petitioners one replied "my we're feeling conservative today." FALLON resents such remarks and urges do not pass.

DAVID F. JOHNSTON opposes the bill because of harassment he has seen. It is a sacred duty and right to go vote. If I want to sign a petition I can find other places to do it.

GARY LANGLEY, WETA, opposes the bill. He likes to go vote and leave without being harassed. LANGLEY would like the petitioners to go door-to-door like the candidates do. Otherwise you might as well sell hotdogs and have a circus at the polls.

KEITH ANDERSON felt it is like a song and dance routine trying to avoid petitioners to get to the polls. It is not a proper thing at the polls. Who is to make the decision there is or is not enough room at the polls.

SENATOR JACK GALT, representing himself, stated there is a senate bill that restricts petitioners to be within 200 feet of the polls. Politicians have to abide by this and so should the petitioners. All the proponents for this bill opposed the one in the senate, according to GALT.

There were no further opponents.

In closing, REP. KEMMIS said there is a problem. KEMMIS feels the committee is not easily fooled. He agrees the voting process is a sacred one. The Magna Carta, the right to petition the government, is also sacred. If there are problems this bill will help solve them. People are approached constantly by radio, television and newspaper ads not to mention grocery sacks that specify how to vote on an issue. EXHIBIT 5.

REP. EUDAILY wondered if the petitioner should be placed at a table. REP. VINCENT replied either at a table or under a banner in a stationary position. It would be the voter's choice to go over and sign the petition. The petitioner would not be near the voting booths. The reason for the change would allow the

the petitioner to be inside the building but not within the immediate area of voting.

REP. KEEDY stated if one is restricted to sitting at a table away from the activities he can sit forever. If he is allowed to ask people, more signatures can be obtained.

REP. KEEDY asked if FALLON believes there should be regulations established to govern petitioning of signatures. FALLON replied she object to having them near the polls. KEEDY asked if she objects to the present system. FALLON stated she likes the Senate bill. The election process is not for the convenience of gathering signatures.

REP. BENNETT asked what would stop the administrators in saying no space is available. REP. KEMMIS replied that is the purpose of having the 10 day requirement. If space were available and not granted the petitioner could go to court to obtain a mandamus action.

REP. VINCENT said shopping centers in Bozeman do not allow petitioning. VINCENT went on to say that he did not oppose the bill in the Senate as Senator GALT expressed the proponents of this bill did.

That ended the discussion on House Bill 453.

EXECUTIVE SESSION

The House Judiciary Committee went into executive session at 10:25 a.m.

HOUSE BILL 606 REP. HANNAH moved do pass.

REP. HANNAH moved to amend the title and all applicable places from "60" to "65". REP. HUENNEKENS opposed the motion because many people retire at various ages, 55-60-62-65 or older. REP. HANNAH stated the traditional retirement age is 65. REP. HUENNEKENS expressed it should be left at 60. REP. HANNAH felt it would be in conflict with House Bill 10. JIM LEAR stated something has to be said concerning which law would apply if both laws passed.

The amendment passed with REP. MATSKO voting no. REP. MCLANE was absent during the vote.

REP. IVERSON moved to strike "65 years of age or older" on page 4, line 4, following "victimize" and insert "elderly". The motion passed with REP. EUDAILY voting no.

REP. HANNAH moved do pass as amended. Those voting yes were: CONN, CURTISS, HANNAH, IVERSON, MATSKO, MCLANE, ANDERSON. Those voting no were: SEIFERT, BENNETT, EUDAILY, HUENNEKENS, SHELDEN, YARDLEY and BROWN. The motion of do pass as amended tied. The committee decided to hold this bill.

HOUSE BILL 583 REP. YARDLEY moved do not pass. He stated there is much conflict in the bill.

The motion of do not pass carried with only REP. CURTISS, REP. HANNAH and REP. MCLANE opposing the motion. (Representatives DAILY, ABRAMS, KEYSER, TEAGUE were absent during the vote). House Bill 583 did not pass.

HOUSE BILL 604 REP. EUDAILY moved do not pass. He felt it would be easier to change the date taxes are paid instead of switching election dates. It is too complicated of a way to amend the constitution. REP. ANDERSON feels it is the wrong way to decide how to vote for a candidate.

REP. HUENNEKENS stated the constitution is a sacred document. It should not be amended all the time to bring in junk efforts. It is the basis for the statutory law.

The motion of do not pass carried 15 to 0. (Representatives KEYSER, TEAGUE, ABRAMS, and DAILY were all absent during the voting).

HOUSE BILL 571 REP. HUENNEKENS moved do not pass. There was no discussion.

The motion carried 14 to 1. REP. KEEDY voted no. (Representatives KEYSER, TEAGUE ABRAMS and DAILY all absent during the voting).

HOUSE BILL 453 REP. HUENNEKENS moved do pass. REP. HUENNEKENS moved the amendments as given by the sponsor be incorporated in the bill.

REP. ANDERSON felt the committee should look at the senate bills related to this subject before judgment is passed in an effort to compromise the bills.

REP. CONN moved to table the bill.

REP. MATSKO felt committee counsel should obtain copies of the senate bills. It was replied that is not proper procedure until

the bill is assigned to the committee.

REP. IVERSON stated the senate bills will not compromise together with this bill.

REP. BROWN opposed the motion to table the bill. REP. CONN felt the bills were diabolically opposite.

REP. ANDERSON stated there should be a room adjacent to the voting booths. If there was a sign up that stated if you want to sign an initiative, go to a certain room, that might solve the problem. REP. EUDAILY expressed no one would go to another room. It should be out where the people can see it.

REP. MATSKO stated any petition that cannot get enough interest does not have enough merit to get on the ballot.

REP. CONN withdrew the motion to table the bill.

REP. SHELDEN stated the bill has nothing to do with initiatives. It merely allows people to collect signatures in an orderly manner. The only issue is are we going to allow them to do this. REP. SHELDEN stated he is in favor of the bill if it will prevent what is going on now. REP. CONN agreed this would establish order.

REP. BENNETT stated all polling places are not the same and all judges are not the same.

REP. HUENNEKENS moved a substitute amendment allowing amendments to the amendments. The motion passed with only REP. BENNETT and REP. BROWN voting no. (REPRESENTATIVES KEYSER, MCLANE, DAILY, ABRAMS, KEEDY and TEAGUE were absent during the vote).

REP. HUENNEKENS moved do pass as amended.

REP. IVERSON made a substitute motion of do not pass.

REP. ANDERSON felt he had to vote for the bill because it is better than what is going on now. Many judges are elderly women. He has a tough time seeing them throwing a petitioner out. It would be a carnival atmosphere and would vary from poll to poll. REP. HUENNEKENS replied have you ever seen elderly women at a sale?

REP. CURTISS stated when a person signs a petition they usually have not read the entire initiative. They are taking someone else's opinion. REP. SHELDEN stated the present law has not worked successfully. Some petitioners force the petitions in front of the voter. This will put the authority in the hands of the administrator who will instruct the judges.

REP. EUDAILY felt the judges have the authority at the present time to call the police or authorities if the petitioner is harassing the voter. REP. HANNAH agreed. Many times a problem is addressed that is already on the books. The authorities should enforce what they have now.

REP. CURTISS asked if it were illegal now. JIM LEAR did not know.

REP. DAILY stated an Attorney General's opinion states it is all right to obtain signatures at the polls.

The motion of do not pass carried 10 to 5. Those voting yes were: SEIFERT, BENNETT, CURTISS, EUDAILY, HANNAH, IVERSON, MATSKO, DAILY, KEEDY and BROWN. Those voting no were: CONN, ANDERSON, SHELDEN, YARDLEY and HUENNEKENS. (Representatives KEYSER, MCLANE, ABRAMS, and TEAGUE were absent during the vote).

The meeting adjourned at 11:15 a.m.



CARL SEIFERT, VICE-CHAIRMAN

mr



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
222 North 32nd Street
P.O. Box 30157
Billings, Montana 59107

IN REPLY REFER TO:

M-36936 (91)

DEC 24 1980

Mr. John Lubinus
RR #1
Lewistown, Montana 59457

Dear Mr. Lubinus:

Thank you for your recent letter concerning the Northern Tier Pipeline Project. As you may be aware, the Secretary of the Interior granted a right-of-way (copy enclosed), to Northern Tier Pipeline Company on April 21, 1980. Although the grant is self-explanatory, it is simply a document indicating an intent by the government to allow Northern Tier Pipeline Company a right-of-way across federal lands consisting of 50 feet, plus the ground occupied by the pipe. The right-of-way will be established within the 2-mile-wide corridor analyzed by the Bureau of Land Management in their final environmental impact statement. The precise location of the centerline will not be established until such time that federal and state permitting processes are complete and an on-the-ground review has been conducted by the affected federal agency. It is during the on-the-ground environmental and engineering review that site specific stipulations will be developed to accompany the Notice-to-Proceed for construction.

Federal lands to be crossed are depicted on the photo alignment sheets referred to as Exhibit B in the grant. Those alignment sheets pertaining to federal lands in the Lewistown District of the Bureau of Land Management are on file in their office at Airport Road, Lewistown, Montana.

Please let me know if I can be of further assistance.

Sincerely yours,

Neil F. Morck, Chief
Energy Rights-of-Way

Enclosure

UNITED STATES
DEPARTMENT OF THE INTERIOR
STATE OFFICE
222 North 32nd Street
Billings, Montana 59107

RIGHT-OF-WAY GRANT

Serial Number: M-36936

Pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. Sec. 185, and the regulations in Part 2880, Title 43, Code of Federal Regulations, and subject to valid existing rights, the United States of America (United States or Grantor), hereby grants to Northern Tier Pipeline Company, Suite 509, Midland National Bank Building, Billings, Montana 59101, a Delaware Corporation (GRANTEE), a RIGHT-OF-WAY across FEDERAL LANDS for the construction, operation, maintenance, and termination of a PIPELINE (that is the pipe and its related facilities). The location of the RIGHT-OF-WAY is depicted on the maps referred to as Exhibit B hereof.

In consideration of the representations in the application of GRANTEE filed April 15, 1977, and subsequent amendments thereto as have been or may be approved by the AUTHORIZED OFFICER, and the mutual promises and covenants hereinafter set out, the United States and GRANTEE agree as follows:

NATURE OF GRANT

By this instrument GRANTEE receives a nonpossessory, nonexclusive right to use certain FEDERAL LANDS, as depicted on the maps in Exhibit B, for the limited purpose of construction, operation, maintenance, and termination of the PIPELINE specified in this Grant.

There is hereby reserved to the SECRETARY, or his lawful delegate, the right to grant additional rights-of-way or permits for compatible uses on, over, under, or adjacent to the land involved in this Grant.

WIDTH OF RIGHT-OF-WAY

The width of the RIGHT-OF-WAY hereby granted is 50 feet plus the ground occupied by the PIPELINE unless otherwise authorized as provided in Sec. 28(d) of the Mineral Leasing Act.

DURATION OF GRANT

- A. The Grant hereby made, subject to renewal provisions of applicable statutes and regulations, shall terminate thirty (30) years from the effective date hereof, at noon, Montana time, unless prior thereto it is relinquished, abandoned, or otherwise terminated pursuant to the provisions of this Grant or of any applicable Federal statute or regulation.

- B. Notwithstanding the expiration of this Grant or its earlier relinquishment, abandonment, or other termination, the provisions of this Grant, to the extent applicable, shall continue in effect and shall be binding on GRANTEE, its successors or assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or prior termination, of the Grant.

RENTAL

GRANTEE shall pay to the United States an annual rental, payable in advance. Until a specific location has been established for the RIGHT-OF-WAY, the amount of said payment shall be \$79,150.00. This is the estimated fair market rental value for one year. Upon establishment of the actual location of the RIGHT-OF-WAY, an appraisal of the fair market rental value will be made and GRANTEE will be billed for additional rental or credited in the amount of the overpayment, whichever is appropriate. The rental for each year shall be subject to adjustment from time-to-time to reflect current fair market rental value.

EXHIBITS: INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents are, by this reference, incorporated into and made a part of this Grant as fully and effectually as if the Exhibits were set forth herein in their entirety:

- A. Stipulations for the Grant of RIGHT-OF-WAY for the PIPELINE, attached hereto as Exhibit A, and referred to in this Grant as the "Stipulations."
- B. Alignment maps and site location drawings identifying the route of the PIPELINE, attached hereto as Exhibit B.

COST REIMBURSEMENT

- A. GRANTEE shall reimburse the United States for all costs incurred in connection with administering this Grant, including costs incurred in monitoring the construction, operation, maintenance, and termination of the PIPELINE and costs incurred by the Secretary in complying with Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. Sec. 1536), Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. Sec. 470f) and the regulations of the Advisory Council on Historic Preservation (36 C.F.R., Part 800).

LIABILITY

GRANTEE shall be liable for damage or injury to the United States and third parties to the extent provided by Section 28(x) of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. Sec. 185(x); 43 CFR Sec. 2883.1-4. GRANTEE shall be held to a standard of strict liability for damage or injury to the United States resulting from the following activities occurring in the RIGHT-OF-WAY in connection with construction, operation, maintenance or termination of the PIPELINE: welding and open fires; pumping or carriage of OIL through the PIPELINE; and carriage, storage, or use of hazardous, highly flammable, or explosive substances. The maximum

of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDORS

SEC. 503. In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

GENERAL PROVISIONS

SEC. 504. (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, consistent with the provisions of this title or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

(d) The Secretary concerned prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions

(e) The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 505 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(f) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(g) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: *Provided*, That when the annual rental is less than \$100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted, issued, or renewed in reciprocation for a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended.

(h) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented by the use and occupancy of the

Regula

Fair m
value,
payment

Waive

Reimb

Regula

ht-of-way,
submittal.

plant sites, and camp sites)—\$100 for each 40 acres or fraction thereof.

(iii) If a project has the feature of subdivisions (i) and (ii) of this subparagraph in combination, the payment shall be the total of the amounts required by subdivisions (i) and (ii) of this subparagraph.

(3) When a right-of-way grant or temporary use permit is issued, the authorized officer shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If such costs exceed the payment required by paragraph (b)(2) of this section by an amount which is greater than the costs of maintaining actual costs records for the monitoring process, the authorized officer shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Such payments may be refunded or adjusted as provided by paragraph (a)(8) of this section.

(4) Following termination of a right-of-way grant or temporary use permit, the former holder shall be required to pay additional amounts to the extent the actual costs incurred by the United States have exceeded the payments required by paragraphs (b) (2) and (3) of this section.

§ 2803.1-2 Rental fees.

(a) The holder of a right-of-way grant or temporary use permit, except as provided in paragraphs (b) and (c) of this section, or when waived by the Secretary, shall pay annually, in advance, the fair market rental value as determined by the authorized officer. Said fee shall be based upon the fair market value of the rights authorized in the right-of-way grant or temporary use permit, as determined by appraisal by the authorized officer, provided however, that where the annual fee is \$100 or less, an advanced lump-sum payment for 5 years for right-of-way grants and 3 years for temporary use permits may be required. The lump-sum for use and occupancy of lands under these regulations shall not be less than \$25.00.

(b) To expedite the processing of any grant or permit pursuant to this part, the authorized officer may establish an estimated rental fee and collect this fee in advance with the provision that upon receipt of an approved fair market value appraisal the advance rental fee shall be adjusted accordingly.

(c) No fee, or a fee less than fair market rental, may be authorized under the following circumstances:

(1) When the holder is a Federal, State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue is customer charges.

(2) When the holder is a nonprofit corporation or association which is not controlled by or is not a subsidiary of a profit making corporation or business enterprise.

(3) When a holder provides without charge, or at reduced rates, a valuable benefit to the public or to the programs of the Secretary.

(4) Rental fees may be waived for rights-of-way involving cost share roads and reciprocal right-of-way agreements.

(5) In instances where the applicant holds an outstanding permit, lease, license or contract for which the United States is already receiving compensation, except under an oil and gas lease where the lessee is required to secure a right-of-way grant or temporary use permit under § 2880 of this title, no rental fee shall be charged for the following:

(i) Where the applicant needs a right-of-way grant or temporary use permit within the exterior boundaries of the permit, lease, license or contract area; and

(ii) Where the applicant needs a right-of-way across public lands outside the permit, lease, license or contract area in order to reach said area.

(d) Rental fees may be initiated or adjusted whenever necessary to reflect current fair market value: (1) As a result of reappraisal of fair market values which shall occur at least once every 5 years, or (2) as a result of a change in the holder's qualifications under paragraph (c) of this section. Reasonable notice shall be given prior to imposing or adjusting rental fees pursuant to this paragraph. Decisions on fees are subject to appeal pursuant to § 2804 of this title.

(e) If a charge required by this section is not paid when due, and such default shall continue for 30 days after notice, action may be taken to terminate the right-of-way grant. After default has occurred, no structures, buildings or other equipment may be removed from the servient lands except upon written permission from the authorized officer.

§ 2803.1-3 Bonding.

The authorized officer may require the holder of a right-of-way grant or temporary use permit to furnish a bond or other security satisfactory to him, to secure the obligations imposed by the grant or permit and applicable laws and regulations.

§ 2803.1-4 Liability.

(a) Except as provided in paragraph (f) of this section, each holder shall be fully liable to the United States for any damage or injury incurred by the United States in connection with the use and occupancy of the right-of-way or permit area by the holder.

(b) Except as provided in paragraph (f) of this section, holders shall be held to a standard of strict liability for any activity or facility within a right-of-way or permit area which the authorized officer determines, in his discretion, presents a foreseeable hazard or risk of damage or injury to the United States. The activities and facilities to which such standards shall apply shall be specified in the right-of-way grant or temporary use permit. Strict liability shall not be imposed for damage or injury resulting primarily from an act of war, an Act of God or the negligence of the United States. To the extent consistent with other laws, strict liability shall extend to costs incurred by the United States for control and abatement of conditions, such as fire or oil spills, which threaten lives, property or the environment, regardless of whether the threat occurs on areas that are under Federal jurisdiction.

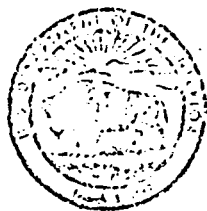
Stipulations in right-of-way grants and temporary use permits imposing strict liability shall specify a maximum limitation on damages which, in the judgment of the authorized officer, is commensurate with the foreseeable risks or hazards presented. The maximum limitation shall not exceed \$1,000,000 for any one event, and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction in which the damage or injury occurred.

(c) In any case where strict liability is imposed and the damage or injury was caused by a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction in which the damage or injury occurred.

(d) Except as provided in paragraph (f) of this section, holders shall be fully liable for injuries or damages to third parties resulting from activities or facilities on lands under Federal jurisdiction in which the damage or injury occurred.

(e) Except as provided in paragraph (f) of this section, holders shall fully indemnify or hold harmless the United States for liability, damage or claims arising in connection with the holder's use and occupancy of rights-of-way or permit areas.

(f) If a holder is a State or local government, or agency or instrumentality thereof, it shall be liable



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

222 North 32nd Street

P.O. Box 30157

Billings, Montana 59107

March 27, 1980

Memorandum

To: Chief, Energy Rights-of-Way Staff

From: Chief State Appraiser

Subject: Appraisal of Rights-of-Way

You have asked for a brief explanation of our procedures for the appraisal of energy rights-of-way. Imposition of an easement on a parcel of land can have a wide range of effects on that parcel. Those effects can range from almost negligible on the right-of-way strip only, to major effects on both the right-of-way strip and the rest of the larger parcel. For this reason, we use two procedures in the appraisal of rights-of-way.

1. The first method we use is called the "short form" method. There are two restrictions as to the use of this form. First, it is to be used only for linear rights-of-way where the annual rental does not exceed \$200. Second, it can only be used where there is no change in the highest and best use after the imposition of the right-of-way, or there are no severance damages or special benefits to the remainder because of the right-of-way. In general, these situations only exist with a highest and best use of grazing land. After the land crossed by the right-of-way strip is appraised at its highest and best use, the appraiser estimates the percentage of property rights encumbered by the right-of-way. For grazing land, this is generally 40%. Multiplying acres in the right-of-way strip times value per acre times 40% rights encumbered gives the value of the right-of-way. Since BLM operates on a rental basis, an annual rental must be calculated from the right-of-way value. Instruction Memorandum No. 80-182 (copy attached) establishes the rental rate based on the interest rate reported annually by the Department of the Treasury to the U.S. Water Resource Council. This rate is considered the safe rate, to which 2% is added for risk, lack of liquidity, and management. The rental rate presently being used is 10.25%. It should be emphasized that use of this short form does not reduce the appraiser's responsibility to search for market data and analyze that data. It simply saves him some time in not

having to write a full narrative appraisal. A blank copy of the "short form" plus a sample appraisal on that form are attached. In cases where annual rental exceeds \$200, a full narrative appraisal using the above described procedure is written.

2. If there is a change in highest and best use or if there are any severance damages or benefits, the "short form" cannot be used. The fair market value of the right-of-way is measured by the difference between the fair market value of the property as a whole immediately before and unaffected by the imposition of the right-of-way, and the fair market value of the remainder immediately after and affected by the imposition of the right-of-way. An example of a change in highest and best use is the crossing of commercial timberland with an overhead powerline. Before the right-of-way, the highest and best use is for commercial timberland; after, it is reduced to grazing land. An example of damages to the remainder of the property is the crossing of center pivot sprinkler irrigated land by an overhead powerline. Before the right-of-way, the highest and best use is for irrigated farming; after, it is reduced to dryland farming. After the fair market value of the right-of-way is estimated, the annual rental must be calculated as shown in the previous paragraph.

Although Section 504(g) of the Federal Land Policy and Management Act of 1976 states that the holder of a right-of-way must pay rental annually in advance (with some exceptions), there is no such requirement for annual appraisals. The appraiser makes a recommendation as to the frequency of reappraisal based on such things as appreciation of land values, cost of reappraisal, etc. Generally, this frequency of reappraisal is 5 years or longer. It is very rare when we re-appraise on an annual basis.

Ronald O. Appel

Enclosures

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

State: Montana
District: Miles City
Serial No: M 36639 (SD)
County: Butte

To be used only for
linear rights-of-way
where the annual
rental does not
exceed \$500.

APPRAISAL REPORT

Applicant or Grantee: William W. Uren Appraisal as of: August 31, 1977
Purpose of Appraisal: To estimate the fair market value of the right to use the described right-of-way authorized by the grant Term of Grant: 30 years

Type of Right-of-Way: Irrigation pipeline and gravity flow ditches. Date Property Inspected: August 31, 1977
Method of Inspection: 2-wheel drive vehicle and walking

Description of Rights Appraised: The right to construct, maintain, and use irrigation pipelines and ditches across the subject lands.

Discussion of Rights Appraised: This right-of-way restricts surface and subsurface rights of the land and creates an encumbrance of title. It is the opinion of this appraiser that 40 percent of the rights will be conveyed.

Location (Twp., Range, Sec., Subd.) T. 8 N., R. 7 E., BLM, Sec. 27; S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{2}$ SE $\frac{1}{4}$
R/W Dimensions: Pipeline 25' x 1800' Acres 5.74 Larger Parcel: Approximately 640 acres

Neighborhood Data: Ditch 50' x 4100'
The neighborhood considered in this appraisal is Butte County, South Dakota. Belle Fourche with a population of about 4400 is the county seat. The general topography is rolling prairie--approximately 2/3 of the county is drained by the Belle Fourche River. The economy is based primarily upon agriculture. There has been little or no change in population during recent years.

The subject R/W crosses a grassland tract eight miles east of Vale SD. Access is provided by a county road. Topography is rolling to hilly. Soils consist of clay loams. Vegetation consists of good native grasslands with an estimated carrying capacity of 4 acres/AUM. The Belle Fourche River provides a source for stockwater. There are no improvements other than fencing.

Use of Land: Grazing of domestic livestock

VALUATION:		Carrying Stock Lease								
Sale	Date	Acres	\$/Acre	Time	Size	Capacity	Water	Interest	Mins.	Overall
1	7/21/76	37	\$113.50	0	-	-	+	0	0	-
2	5/4/76	2080	\$ 70.00	0	0	0	+	-	-	-
3	2/13/73	240	\$ 20.80	+	0	+	+	0	-	+

Comparative Analysis:
Sale No. 1 is located about 28 airmiles southwest of the subject right-of-way. The subject is judged to be comparable in the Time, Lease Interests, and Minerals Conveyance factors. It is inferior to Sale 1 in the size consideration because this transaction is in a much smaller size class. The subject is inferior to Sale 1 in carrying capacity by about 2 acres/AUM. It is superior to Sale 1 in the stockwater consideration since the subject has the Belle Fourche River as a source for stockwater. Overall, the subject is rated greatly inferior to Sale No. 1.

Sale No. 2 is located about 42 airmiles northwest of the subject right-of-way. The subject is comparable to Sale 2 in time, size, and carrying capacity. It is superior to Sale 2 in stockwater because this sale depends upon adjacent property for a water source. The subject is inferior to Sale 2 in leasing interests because this transaction included a 107 AUM BLM lease. It is inferior to Sale 2 in minerals since half of the mineral rights transferred with this sale. Overall, the subject is rated inferior to Sale No. 2.

Sale No. 3 is located about 22 airmiles northwest of the subject lands. The subject is comparable to Sale 3 in size and leasing interest considerations. It is superior to Sale 3 in time by about 4 1/2 years. The subject is greatly superior to Sale 3 in carrying capacity since it has about 3 acres/AUM better quality range. It is superior to Sale 3 in stockwater. The subject is inferior to Sale 3 in the minerals conveyance. Overall, the subject is rated greatly superior to Sale No. 3.

Details regarding the sales analyzed above are attached. A before and after approach was considered in estimating the value of the Right-of-Way. The value of the easement or Right-of-Way is the value of the part taken as part of the whole. There is no change in the highest and best use or in the value of the remainder as a result of the permit. There are no severance damages or special benefits to the remainder because of the Right-of-Way. Giving consideration to all pertinent factors, the land value of the fee ownership described within the Right-of-Way is estimated to be: \$ 60.00 per acre. The value of the rights conveyed is estimated to be equivalent to 40% of the value of the fee ownership.

Fee Value (Of Easement Area): 5.74 Acres @ \$ 60.00 per acre = \$ 344.40
Easement Value: \$ 344.40 (Fee Value) x .40 = \$ 137.76
Easement Rental: \$ 137.76 x .085 Rate of Return = \$ 11.71 (Yearly) (Round)

Recommendations for Reappraisal frequency and lump sum rental collection:

It is recommended that this right-of-way be reappraised in five years.

Lump Sum Rental for 5 Years: *No discounting*
\$ 11.71 (Annual Rental) x 4.0729 (Factor for 7 1/2% Int.) x 5 years = \$ 47.69 Say.....\$ 50.00

If the rental calculated above falls below the minimum, the payment of \$25 per five-year period applies.

The usual assumptions and limiting conditions are applicable to this appraisal. I CERTIFY that I have examined the above-described property and the amount indicated represents my best unbiased judgment as to the present fair market value of the rights described except as otherwise indicated. I FURTHER CERTIFY that I have no present or intended future interest in the property appraised.

APPROVED: Ronald P. Appel
Reviewing Appraiser

James P. Clark
Appraiser

Date Reviewed: Oct 06 1977
 Office Field Review

Date of Appraisal: Sept. 29 1977

- Attachments: (1) Vicinity Map showing R/W, plus Sales
(2) 3 Sales Data Sheets
(3) Topography Map showing R/W
(4) Right-of-Way Map (optional)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

June 30, 1980

Instruction Memorandum No. 80-607
Expires: 9/30/81

To: All SD's

From: Director

Subject: Appraisal of Linear Rights-of-Way - Use of Going Rate

The question has been raised as to whether a going rate (per pole, per rod, etc.) can or should be used in appraising fair market value of certain linear rights-of-way such as pipelines, powerlines, buried cables, and telephone lines. Whether a going rate or a before and after method of appraisal should be used depends on the quality and validity of available evidence of market value.

The Departmental Manual "Uniform Appraisal Standards," (1973 Edition, page 34) states in part:

"In the case of easements such as those acquired for domestic electric, telephone or cable lines, where there is an established going rate per pole and per-line mile, such transactions may be considered among other market data. In the absence of better evidence of market value, the 'before and after' method . . . should be employed."

You should use going rates if there is sufficient valid transaction evidence of that type available to support an appraisal of fair market value of the linear right-of-way. The before and after method should be used only if there is insufficient going rate transaction evidence. Before using the before and after method, appraisers are to make a diligent effort to seek out and find sufficient going rate evidence.

When using going rate transaction evidence, care must be used to ensure that adjustments reflect the difference, if any, in the rights acquired by the grantee of the public lands right-of-way from the rights acquired in the transactions used as evidence of going rate. In many cases this will involve the difference between an easement under which the holder has virtually unrestricted perpetual use of the land, and a public lands right-of-way grant subject to substantial restrictions.

Associate Director

Testimony in Support of H.B. 590
by Jerome J. Cate

Thank you, Representative Waldron.

Mr. Chairman, Members of the Committee:

This bill was introduced by Representatives Waldron and Brown at the request of the Attorney General.

The purpose of this bill is to facilitate antitrust enforcement efforts of the Antitrust Enforcement Bureau in both State and Federal antitrust actions.

This bill is not an attempt on the part of the Department of Justice to take over the functions of the Department of Business Regulation. We don't want those responsibilities, nor are we budgeted for them.

This bill does not affect the present powers of the Department of Business Regulation in any material way. It does take away that Department's ability to withhold enforcement authority from the Attorney General, which it can now do.

We plead this statute in the antitrust actions brought by the Attorney General in Federal Court. We plead it and 30-14-201, et. seq., in what lawyers call "pendant jurisdiction" claims. We have yet to be required to prove our case under this statute, but if and when we are required to do so we want the authority of the Attorney General to enforce this act to be clear.

That is the reason for these proposed amendments of eleven sections of this Act.

The amendment to Section 101 is simply a name change. Irrelevant.

The amendment to Section 102 adds the Department of Justice to the definition of "Department," thereby giving the Department of Justice joint authority under the Act with the Department of Business Regulation.

The amendment to Section 104 likewise makes it clear that the Director of the Department of Business Regulation and the Department of Justice will have joint authority under the Act.

The amendment to Section 30-14-111 striking "with consent of the parties" is a housekeeping amendment. A defendant isn't likely to agree to a filing of a lawsuit against him, her or it. We submit it would be better procedure to allow the filing of actions under this bill in the First Judicial District, and then the Defendant may have a change of venue, as the law already allows, if he, she or it wants one. Permitting the State to file in the First Judicial District saves time and money.

The amendment to Section 30-14-121 takes the Attorney General out of that section because the Department of Justice is given enforcement authority by the previous amendments.

The amendment to Section 133(1) removes a restriction on the course of action to allow businessmen and the State as well as the consumer to recover for damages, and permits class actions.

The amendment to 133(2) shifts the burden of mailing notice of the suit initially to the complainant, and makes it clear that the Clerk of Court shall mail out judgments and decrees.

The amendment to 133(3) adds the word "costs" so that both parties may recover court costs.

The amendment to Section 134 adds costs and attorney fees to the prevailing party in the enforcement aspects of the statute as well. We think the State should be reimbursed for its enforcement efforts, or if it wrongfully pursues a defendant it should pay for his, her or its costs and attorney fees.

The amendments to Section 142 increase the penalty to \$10,000 from \$500, and fines to \$10,000 from \$2,000. Again, this is to help the State pay for the costs of enforcement.

That concludes my comments. After the closing I will be willing to try to answer any questions the committee may have.

Thank you.

House Bill 453
Proposed Committee Amendments

1. Page 1, line 13.
Following: "available"
Strike: "within"
Insert: "near"

2. Page 1, line 16.
Following: "present"
Strike: "at"
Insert: "near"

3. Page 1, line 18.
Following: "present"
Strike: "at"
Insert: "near"

4. Page 1, lines 21 and 22.
Following: "in"
Strike: "an unobtrusive"
Insert: "a conspicuous but unobstructive"

5. Page 1, line 22.
Following: "electors"
Strike: "and to provide notice of the presence and location of the petitions."
Insert: ", and if the number of such locations is limited, the election administrator may limit the number of persons circulating petitions accordingly."

6. Page 1, line 25.
Following: "require the"
Strike: "person"
Insert: "persons"

7. Page 2, line 1
Following: "the"
Strike: "petition"
Insert: "petitions"

8. Page 2, line 1.
Following: "provide"
Strike: "a table"
Insert: "tables"

9. Page 2, lines 2 through 6.
Strike: subsection (4) in its entirety

10. Page 2, lines 8 through 13.
Strike: subsections 1 and 2 in their entirety, and renumber subsequent subsections accordingly.

1316 Sprueng
Helena MT 59601

Exhibit 4
2-9-81

With regards to ^{HB 453} ~~SB 87~~, dealing with the collection of signatures for initiatives at the polls I would like to respond.

My first sojourn to the voting booth in Montana I was met by people requesting signatures for certain initiatives - I was shocked that this was allowed as I previously resided in Colorado where such signature gathering is not allowed. As I became more involved in Montana's future and policies there have been several initiative petitions I wished to sign but didn't know how to locate a petition. In recent years I have been able to sign several initiatives I wanted to support at the polling place. Had they not been there I probably wouldn't have signed them.

I am strongly in favor of continuing to allow the petitioning for signatures at polling places as long as it is done in an orderly non-harassing manner.

Sincerely

James Rubin
323 Terry Ave
Billings, MT 59101

INTRODUCED BY Kemmis, Vincent.

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A PROCEDURE FOR THE GATHERING OF SIGNATURES FOR BALLOT ISSUE PETITIONS AT A POLLING PLACE."

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

Section 1. Procedure for allowing petitions at a polling place.

(1) Upon a written request submitted at least 10 days prior to an election by a person circulating a petition approved under 13-27-202, and if adequate space is available near a polling place, an election administrator shall allow the petition and the person circulating the petition to be:

- (a) present near a polling place in a tax-supported building; or
- (b) present near a polling place in a private building upon the consent of a responsible person.

(2) The election administrator shall instruct the election judges to make the petitions available in a conspicuous but non-obstructive location convenient to the electors, and if the number of such locations is limited, the election administrator may limit the number of persons circulating petitions accordingly.

(3) The election administrator may require the persons circulating the petitions to provide tables.

Section 2. Circulation of petitions at polling places.

(1) If any action of the person circulating the petition disrupts the election procedures, an election judge may warn the person. Upon subsequent disruption by the person, the election judge may remove such person.

(2) Failure of a person circulating a petition to leave the polling place upon an order by an election judge as provided in subsection (3) shall constitute an obstruction under 13-13-122.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL 453

Date 2/9/81

SPONSOR KEMMIS

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
William Shumate	Helena	Retired		✓
MARK MACKIN	1316 Spring Helena	GA Legislator Coalition	✓	
John Smith	Montpelier	self		L
Janelle Fallon	Helena	Mont. Chamber		L
David Johnston	Helena	Operating Engineers		L
David Sexton	Helena	Mont Educ Assn	✓	
Ed Kammerer	Fort Harrison	Art Kussmann	✓	
Mary Langley	MARCELO OF THE WEST BUSINESS - WETA			
Mary Langley	HELENA	WETA		✓
CAROLE BRASS	BUTTE	SELF	✓	
Jim Rubin	BILLING	SELF	✓	
MIKE MILES	HELENA	SELF	✓	
Keith Anderson	Helena	SELF		L
Yvonne Teigen	Helena	SELF		L
Mary Langley	HELENA	NFIB		✓
Stella Conroy	Helena	ASUW	✓	
Nell Kurbach	Glendive	SELF	✓	
Alan Lott	Helena	Common Cause	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.