CHAIRMAN JOE BRAND called the meeting to order at 9 a.m. in Room 129 of the Capitol. All members were present except Representative Francis Bardanouve.

HOUSE BILL 117

Chairman Brand opened the hearing on HOUSE BILL 117 by calling on its chief sponsor, REPRESENTATIVE ANDREA HEMSTAD, who told the Committee the measure could be called the "wide-open primary bill". She asked the Committee members if they have ever been told by a constituent that the constituent had wanted to vote for them, but was unable to in the primary election. Representative Hemstad said the bill was modeled after open primaries in Washington and Alaska, chiefly after Washington. She said that under the present system, one ballot is given to voters, then the voters vote between parties once they are enclosed within the voting booth. Representative Hemstad called the system "a sneaky way to force people to vote parties." But today, she said, voters are independent. She said her measure would give parties an indication of probable turnout in the general election. Representative Hemstad said it would allow voters to switch party preference from office to office on the ballot and voters would not be restricted to one party for all the offices in which they choose to cast a vote. She said this measure was justified because "people want to vote for the best candidate in either party."

THERE BEING NO OTHER PROPONENTS, CHAIRMAN BRAND CALLED FOR OPPONENTS TO HOUSE BILL 117.

OPPONENTS

NANCY J. HARTE of Helena, representing the Montana Democratic party, stated the party's opposition to House Bill 117. She said the Montana Democrats believe the selection of the party candidate should be made in primary election by party members. She said Montana already has an open primary because voters can choose the party they wish to vote. She said if Democrats do not choose Democrats, Montana may lose its voice at national party conventions. She said that would make the election process meaningless and only a "beauty contest" as far as Democrats were concerned. (See attached statement.)

THERE BEING NO OTHER OPPONENTS TO THE MEASURE, CHAIRMAN BRAND CALLED FOR REPRESENTATIVE HEMSTAD TO MAKE A CLOSING STATEMENT.

Representative Hemstad said party leaders favor a stricter rule, but the only reason they do so is in order to reward party loyalty. She said that by using the primary election system as it exists at present, the state is not allowing voters to vote for the best candidate.
Chairman Brand called for question from committee members, and REPRESENTATIVE DRISCOLL asked Representative Hemstad if it was not true that in the case of one Democrat and two Republican candidates running in their respective primaries under the present system would not Democrats vote for the weakest GOP candidate in order to give their own party the best chance at the general election. Representative Hemstad answered by saying that voters would select the best candidate.

REPRESENTATIVE FRANCIS KOEHNKE asked if Legislative Council Bill 485 would not call for a closed primary. Hemstad said it would not. She said the Legislative Council number in the bill would be amended to reflect a House bill or Senate bill number.

Chairman Brand asked Representative Hemstad to confirm that the bill was on the Washington and Alaska systems. Representative Hemstad did so, and further stated that Louisiana has a system in which the party affiliation is noted on the primary ballot. She said her bill was modeled after Washington. Chairman Brand said that Washington and Alaska systems represent two states and are therefore, a minority of the states. He wanted to know what other systems were in use nationwide. Representative Hemstad said most other states used a closed primary system. Chairman Brand asked that with the wide-open system, will the voters choose the best candidate and who determines? Representative Hemstad said the people of Montana would make the choice. Brand asked why candidates who spend the most get nominated. Representative Hemstad said the best are chosen.

Representative Koehnke stated that now Montana's primary election is neither open nor closed, it's "half way".

REPRESENTATIVE HAND asked if our system was open with two ballots. Representative Hemstad said yes, she said that in a closed system a voter declares a party and gets only that ballot. She said in this bill the voters could switch from office to office.

Chairman Brand asked if under the proposed bill, would not some voters switch parties in order to influence the outcome of the races as far as the opposing party was concerned. Representative Hemstad said, "We have no indication," that such would occur. She said there are more independent voters than party voters.

Representative Driscoll asked about selection of GOP delegates. Representative Hemstad said her party, the GOP, uses the convention system to select presidential delegates.
Chairman Brand asked that when Republican delegates go to the national convention, does the party have split delegations. Representative Hemstad said no. Chairman Brand asked if therefore, does that mean the party pays no attention to the wishes of the voters. Representative Hemstad said that in 1980 Montana Republicans made a choice for Ronald Reagan over George Bush, and therefore, the Montana delegation was dedicated to Ronald Reagan. Chairman Brand suggested that meant the Republicans never gave the minority a break.

REPRESENTATIVE BRENT BLISS noted that the 1976 delegation to that year's national convention was split between Ford and Reagan. Representative Hemstad said the GOP delegates are split by states at the national convention.

REPRESENTATIVE CLYDE SMITH asked that under the proposed bill, wouldn't the party candidate that was the strongest be most likely to lose. Representative Hemstad said the people would make their choice.

Chairman Brand noted that "there are devious people." He stated that some problem with the bill was because of that fact, and that devious people may switch parties in order to influence the outcome of the races in the adverse party. Representative Hemstad said the overwhelming number of independent voters are not devious, they are intelligent voters.

REPRESENTATIVE PAUL PISTORIA asked that under the proposed system, did Representative Hemstad suggest that there would be a larger turnout. Representative Pistoria, after receiving an answer in the affirmative, asked why there was such a paucity of voters in local elections in school elections. Representative Hemstad said many voters stay home from those elections because of the issues involved.

THERE BEING NO FURTHER QUESTIONS FROM THE COMMITTEE, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 117.

HOUSE BILL 154

Chairman Brand opened the hearing on HOUSE BILL 154 by calling on its sponsor, REPRESENTATIVE GARY SPAETH. Representative Spaeth said House Bill 154 would provide an amendment to the present arbitration system in the matters of state lands when the holder of a lease leaves and a new leasee comes in. Representative Spaeth said there may be problems in reaching a price in those cases and reaching an agreement on an amount the leasee should pay for improvements. Typically, Spaeth said, the seller of the lease rights believes the improvements are more valuable than does the buyer.
Representative Spaeth said the system that now exists requires the parties to go to arbitration to decide a fair price. The problem is, he said, that if one or more of the parties does not appoint an arbitrator, that amounts to a monkey wrench in the works that forces the matter into court. He said this was not in the interests of judicial economy, and the bill would allow the Commissioner of State Lands to appoint an arbitrator.

Representative Spaeth called on the Commissioner of State Lands, DENNIS HEMMER, who said the bill is an attempt to remedy a problem that has caused the loss of revenue to the Department and to the beneficiary schools when the situation has arisen. Commissioner Hemmer read into the record a prepared statement. (See attached statement.)

THERE BEING NO OTHER PROPONENTS AND NO OPPONENTS TO HOUSE BILL 154, AND NO CLOSING REMARKS BY REPRESENTATIVE SPAETH, CHAIRMAN BRAND CALLED FOR QUESTIONS FROM COMMITTEE MEMBERS.

COMMITTEE QUESTIONS

REPRESENTATIVE McBRIDE asked if the valuation appointed by the three arbitrators now on the statute is appealable. Representative Spaeth said it was appealable to the Commissioner within ten days, and also that the Commissioner's decision is appealable to courts on limited grounds.

Representative Hand asked if the circumstances sought to be remedied by this measure were frequent. DAVE WOODGERD, who identified himself as chief legal council for the Department, said that as few as six and as many as 12 such situations arise every year.

Representative Koehnke asked if it is possible for the Department to lose a lease year because of disagreement between the parties. Commissioner Hemmer confirmed that it was possible.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 154.

HOUSE BILL 155

Chairman Brand opened the hearing on House Bill 155 by calling on its chief sponsor, REPRESENTATIVE GARY SPAETH, who explained that House Bill 155 is similar to House Bill 154. He said often there is conflict between the parties as to damages when an easement on a leasehold is taken. He said, however, that this bill would go further than House Bill 154, in that it would add the arbitration provisions and remedies of House Bill 154 to such a factual situation.
Representative Spaeth said that at present there is no arbitration procedure for this particular dispute and that House Bill 155 would establish an arbitration procedure. Representative Spaeth called on State Lands Commissioner DENNIS HEMMER who read from prepared testimony. (See attached testimony.)

THERE BEING NO OTHER SUPPORTERS, CHAIRMAN BRAND CALLED FOR OPPONENTS OF THE MEASURE TO TESTIFY.

GENE PHILLIPS, who identified himself as an attorney for Pacific Power and Light in Kalispell, stated that his group would favor the measure if an amendment is clarified. Phillips said his client never has had the problem of arriving at a fair payment for easements on leaseholds. Phillips said he wished that the word "final" in the bill would also be read to allow the parties to appeal the finality and the amount to the courts. Phillips said that was his clients only objection.

JOHN ALKE, who identified himself as an attorney for Montana-Dakota Utilities Company, stated that his client did not oppose the bill but felt that the bill is unnecessary. Alke said the voluntary procedure that his company uses is better because the parties agree that binding arbitration would be conducted after entry by means of the easement, when damages are known.

Representative Spaeth, in closing, responded to Alke's statement by saying that these are state lands in question and that the lease cannot be granted until valuation is determined under the law.

THERE BEING NO OTHER OPPONENTS, CHAIRMAN BRAND CALLED FOR QUESTIONS FROM THE COMMITTEE.

COMMITTEE QUESTIONS

Representative McBride asked if other state agencies could find themselves in similar situation. Commissioner of State Lands Dennis Hemmer said the Highway Department often seeks right-of-way from individuals. Hemmer said that what the Department is seeking is a process to get a settlement in such a case and move forward with the lease.

Representative Driscoll asked if parties refuse to go through with the arbitration system what would happen? Commissioner Hemmer said the only recourse in that case would be to seek court enforcement of the arbitration obligation.
Chairman Brand asked that in view of the possibility of parties refusing to go to arbitration, how is the problem lessened by this bill? Hemmer stated that the bill would establish a process for resolving dispute.

Representative Driscoll asked how the arbitrators would be selected and where the arbitrators would come from. Hemmer said he imagined that the parties would choose qualified appraisers. Representative Driscoll asked if the Federal Arbitration Association or the American Arbitration Association list of arbitrators would be used. Hemmer said that the parties would probably simply appoint qualified appraisers.

Chairman Brand asked if the bill would provide a remedy to the existing problem. Representative Spaeth said it would, and the remedy would substantially reduce the problem.

Responding to a question from Chairman Brand, Alke said the system used by his company was better because damages are assessed at the time the company comes through on the easement. Whether in summer fallow when damages would be the least or at harvest time when damages would be the most, the timing is critical. He said that under a process where entry is reserved until after damages are decided is much more difficult.

Chairman Brand asked Alke if it was not true that "the minute you start proceedings to get an easement, they (leaseholders) have a problem?" Alke said that factor is an element of damages but damages are easier to determine after the fact.

Representative Paul Pistoria asked witness PHILLIPS that if his suggested amendment was adopted, could Pacific Power and Light live with the measure? Phillips said the company could. Representative Pistoria propounded the same question to Alke, who said that he believed his company system was better.

THERE BEING NO FURTHER QUESTIONS FROM THE COMMITTEE, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 155.

EXECUTIVE SESSION

CHAIRMAN BRAND called the Committee into EXECUTIVE SESSION and invited a motion on HOUSE BILL 117.

HOUSE BILL 117

Representative Driscoll MOVED, and Representative McBride seconded, that House Bill 117 DO NOT PASS.

Representative Smith said it was an excellent presentation but a poor cause.
A voice vote taken on the motion was not unanimous, and Chairman Brand called for a ROLL-CALL VOTE.

Voting AYE were REPRESENTATIVES BLISS, BRAND, DRISCOLL, HAMMOND, HAND, HOLLIDAY, KOEHNKE, McBRIDE, MCCORMICK, O'CONNELL, PISTORIA, SALES, SMITH. Voting NAY were REPRESENTATIVES COMPTON, MUELLER, PHILLIPS, RYAN, SOLBERG. There were thirteen ayes, five nays, and the MOTION CARRIED. (Representatives Sales and Holliday voted by proxy given to Chairman Brand, which appears attached to these minutes.)

HOUSE BILL 154

Chairman Brand called for a motion on House Bill 154.

Representative Hand MOVED, Representative Lloyd McCormick seconded, that House Bill 154 DO PASS.

Representative McBride questioned Representative Spaeth about language in the bill, particularly page 2, lines 9 and 10. Representative Spaeth suggested possible amendments, and Chairman Brand suggested the bill be tabled for a few days for amendments. Representative Hand withdrew his motion and Representative McCormick withdrew his second.

Representative Mueller MOVED, Representative McCormick seconded, that House Bill 154 be TABLED. The question was called and was CARRIED on a unanimous voice vote.

HOUSE BILL 79

Chairman Brand asked Representative McBride about the subcommittee work on House Bill 79. Representative McBride said her committee was awaiting amendments and fiscal notes.

Chairman Brand noted that action on REPRESENTATIVE BOB PAVLOVICH'S House Bill 57 would be coming up soon. He also reminded committee members that beginning tomorrow (Tuesday, January 18) meetings would begin at 8 a.m.

The meeting was adjourned.

[Signature]
REPRESENTATIVE JOE BRAND, Chairman
STANDING COMMITTEE REPORT

JANUARY 17, 1983

SPEAKER
MR.

STATE ADMINISTRATION

We, your committee on

having had under consideration

HOUSE

first reading copy (white)

"AN ACT PROVIDING FOR AN OPEN PRIMARY ELECTION WITH A SINGLE BALLOT;
AMENDING SECTIONS 13-10-209, 13-10-301, 13-10-402, 13-12-203,
13-12-205, AND 13-17-103, MCA; REPEALING SECTIONS 13-10-302 AND
13-10-311, MCA."

Respectfully report as follows: That

HOUSE

Bill No. 117

DO NOT PASS

STATE PUB. CO.
Helena, Mont.

REP. JOE BRAND,
Chairman.
HOUSE BILL NO. 154

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE COMMISSIONER OF STATE LANDS MAY APPOINT AN ARBITRATOR TO ASCERTAIN THE VALUE OF IMPROVEMENTS ON STATE LAND WHEN ANY PARTY REFUSES TO DO SO; AMENDING SECTION 77-6-306, MCA."

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

Section 1. Section 77-6-306, MCA, is amended to read:

"77-6-306. Arbitrators to fix value of improvements. (1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed thereon desires to sell these improvements to the new lessee and they are unable to agree on the value thereof, the value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee, and the third by the two arbitrators so appointed. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the commissioner has the same duties and powers as if appointed by one of the parties. The value of the improvements shall be ascertained and fixed as this part provides.

(2) The reasonable compensation that the arbitrators may fix for their services shall be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements so ascertained and fixed is binding on both parties, however, if either party is dissatisfied with the valuation so fixed, he may within 10 days appeal from their decision to the department which shall examine the improvements, and its decision shall be final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in such proportion as in its judgment justice may demand."

-End-
House Bill 154 is by the request of the Department of State Lands. The purpose of the bill is to provide a solution to a problem which has caused the loss of revenues to the state and its school trust income fund.

The problem arises when a lease of State school trust land for agricultural or grazing purposes is transferred to a new lessee. The former lessee has the right pursuant to section 77-6-203 MCA to be paid for the reasonable value of the improvements which exist on the lease. The statute also provides that if the former lessee and the new lessee cannot agree, the value of the improvements shall be ascertained and fixed as provided in section 77-6-306, MCA. This statute is the one which the department is requesting be amended.

Section 77-6-306 MCA as it currently exists provides for the appointment of persons to act as arbitrators, in order to ascertain the value of the improvements. The new lessee and the former lessee each are required to appoint an arbitrator and these two arbitrators then appoint a third arbitrator.

This system is fair and works well in most cases. The problem that occurs is when either the new lessee or former lessee fails to appoint an arbitrator in a timely manner. According to section 77-6-305 MCA, the department cannot issue a lease until the former lessee has been compensated. Thus, if one party fails to appoint an arbitrator, the state land must remain unleased. The new lessee cannot use the land and the state cannot collect rentals until the lease is issued.

The solution to the problem, as proposed by the department, is to amend section 77-6-306 MCA to allow the Commissioner of State Lands to appoint an arbitrator if any party refuses to do so. It is hoped that the Commissioner will never have to use this authority; however, without this authority there is no incentive for a recalcitrant lessee to appoint an arbitrator and settle the matter so that a lease can be issued.

The passage of this amendment will not prejudice the rights of former or new lessees but only encourage them to carry out the process of ascertaining the value of improvements in a timely manner. When the process is not carried out in a timely manner, the State may lose revenue and the rights of the parties may be prejudiced.

The Department of State Lands urges this committee to vote in favor of passage of this amendment.
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
COMMISSIONER OF STATE LANDS MAY APPOINT AN ARBITRATOR TO
ASCERTAIN THE VALUE OF IMPROVEMENTS ON STATE LAND WHEN ANY
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may fix for their services shall be paid in equal shares by
the owner of the improvements and the new lessee.

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fixed is binding on both parties, however, if either party
is dissatisfied with the valuation so fixed, he may within
10 days appeal from their decision to the department which
shall examine the improvements, and its decision shall be
final. The department shall charge and collect the actual
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such proportion as in its judgment justice may demand."

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The passage of this amendment will not prejudice the rights of former or new lessees but only encourage them to carry out the process of ascertaining the value of improvements in a timely manner. When the process is not carried out in a timely manner, the State may lose revenue and the rights of the parties may be prejudiced.

The Department of State Lands urges this committee to vote in favor of passage of this amendment.
WITNESS STATEMENT

NAME: Corey P. 25th

ADDRESS: District 71

WHOM DO YOU REPRESENT:

SUPPORT: X

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
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If you care to write comments, ask secretary for longer form.

Please leave prepared statement with secretary.

Form CS-33
1-81
WITNESS STATEMENT

NAME Dennis Hemmer BILL No. 154
ADDRESS Capitol Station, Helena, MT DATE 1-17-83
WHOM DO YOU REPRESENT Dept. of State Lands
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
Proposed amendments for HB 154:

1. Title, line 8.
   Following: " ; "
   Insert: "TO PERMIT A DECISION BY THE DEPARTMENT OF STATE LANDS
   ASCERTAINING THE VALUE OF IMPROVEMENTS TO BE APPEALED
   TO DISTRICT COURT; "

   Following: "and"
   Insert: ", except as provided in subsection (4),"

3. Page 2, line 12.
   Following: "demand"
   Strike: " "
   Insert: "(4) If either party is dissatisfied with the valuation
   fixed by the department, he may within 30 days after
   receipt of the department's decision petition the district
   court in the county in which the majority of the state land
   is located or the district court in Lewis and Clark County
   for judicial review of the decision.""
A BILL FOR AN ACT ENTITLED: AN ACT PROVIDING FOR AN OPEN PRIMARY ELECTION WITH A SINGLE BALLOT; AMENDING SECTIONS 13-10-209, 13-10-301, 13-10-402, 13-12-203, 13-12-205, AND 13-17-103, MCA; REPEALING SECTIONS 13-10-302 AND 13-10-311, MCA.

WHEREAS, Montana law requires no declaration of party affiliation and allows an elector to vote any one of several ballots in a primary election; and
WHEREAS, the purpose of a primary election is to select candidates for established political parties.

THEREFORE, the enactment of this bill or of its alternative, ____ Bill No. ____ [LC 484] is intended to clarify Montana law by providing either a completely open primary election or a true closed primary election.

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

Section 1. Section 13-10-209, MCA, is amended to read:

13-10-209. Arrangement of ballots. (a) Ballots for a primary election shall be arranged and printed in the same manner and number as provided in chapter 12 for general election ballots, except there shall be separate ballots for each political party entitled to participate and separate nonpartisan and ballot issue ballots if necessary. The name of the political party shall be printed at the top of the separate ballot for that party and need not be printed opposite each candidate's name.

(b) It is not necessary to print a primary ballot for a political party which does not have candidates for more than half of the offices on the ballot in an even-year election if no more than one candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election is necessary for that party if such is the case and shall certify or instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(c) The separate ballots for each party shall be the same size and color. The stubs of each set of party ballots shall bear the same numbers. The nonpartisan ballot shall be a different size or color than the party ballots but the stubs shall be numbered in the same order as the party ballots.

(d) If a ballot issue is to be voted on at a primary election it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may be a different size and color than the other ballots in the election, but the
Section 2. Section 13-10-301, MCA, is amended to read:

"13-10-301. Casting of ballots. (1) Unless otherwise provided by law, the conduct of the primary election, the voting procedure, the counting, tallying, and return of ballots and all election records and supplies, the canvass of votes, the certification and notification of nominees, recounts, procedures upon the votes, and any other necessary election procedures shall be at the same times and in the same manner as provided for in the laws for the general election.

(2) At a primary election, the elector shall mark only one of the set of party-ballots. After marking any other ballots received other than the party-ballots, the elector shall fold the marked and unmarked ballots separately in a manner so that the marks cannot be seen; the official stamp is visible on each ballot, and all stubs can be detached by an election judge.

(3) The elector shall hand the marked and unmarked ballots separately to the election judge identifying them as marked and unmarked if the judge determines the ballots may be voted, he shall, in the presence of the electors.

Section 3. Section 13-10-402, MCA, is amended to read:

"13-10-402. Ballot. The regular party primary ballots shall be used for the presidential preference primary election. The presidential section of the ballot shall be placed before any other section, national, state, or local."

Section 4. Section 13-12-203, MCA, is amended to read:

"13-12-203. Printing of candidate's name and party designation on ballot. (1) Except as provided in 13-10-209 and 13-10-303, in partisan elections, candidates' names shall be printed under the title of the office sought, with the name of the party, in no more than three words, or "Independent" printed opposite the name.

(2) In nonpartisan elections, the candidates' names shall be printed under the title of the office sought, with no description or designation printed with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates shall have printed with them the words "Nominated without party designation."

Section 5. Section 13-12-205, MCA, is amended to read:

"13-12-205. Voting of the stubs. (a) Remove the stubs from all the ballots.

(b) Deposit the unmarked ballot or ballots and all the stubs in the stub and unmarked ballot box.

(c) And deposit the marked ballots in the voted-ballot box."

Section 5a. Section 13-12-205, MCA, is amended to read:
Arrangement of names — rotation on ballot. (1) The candidates’ names shall be arranged alphabetically on the ballot according to surnames under the title of the respective offices.

(2) If two or more individuals are candidates for nomination or election to the same office, the election administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any office. The candidates for nomination to an office by each political party shall be considered separately in determining the number of sets necessary for a primary election.

(3) The election administrator shall begin with a form arranged alphabetically and rotate so that each candidate’s name will be at the top of the list for each office on substantially an equal number of ballots. If it is not numerically possible to place each candidate’s name at the top of the list, the names shall be rotated in groups so that each candidate’s name is as near the top of the list as possible on substantially an equal number of ballots.

(4) If the county contains more than one legislative district, the election administrator may rotate each candidate’s name so that it will be at or near the top of the list for each office on substantially an equal number of ballots in each house district.

(5) For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor shall be considered as a group.

(6) No more than one of the sets may be used in printing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical.

Section 6. Section 13-17-103, MCA, is amended to read:

For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor shall be considered as a group.

No more than one of the sets may be used in printing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical.

A voting machine or device may not be approved unless:

(1) an elector can vote in secrecy;

(2) an elector is prevented from voting for any candidate or upon any ballot issue more than once and is also prevented from voting on any office or ballot issue for which he is not entitled to vote;

(3) an elector can secretly select the party for which he wishes to vote in a primary election and the machine or device will count only votes for the candidates of that party by the elector in the primary election;

(4) an elector can vote a split ticket in a general election if he desires;

(5) every valid vote cast is registered and recorded;

(6) the machine or device is constructed so that it cannot be tampered with for a fraudulent purpose and is also...
constructed so that during the progress of the voting no
individual can see or know the number of votes registered
for any candidate or on any ballot issue;
\[\text{it allows write-in voting; and}\]
\[\text{a guarantee to provide training and assistance}\]
\[\text{to election officials will be included in each contract for}\]
purchase of the machine or device."

\textbf{NEW SECTION.} Section 7. Repealer. Sections 13-10-302
and 13-10-311, MCA, are repealed.

-End-
HB 117 (Hemstad): Under current law, a voter participating in a primary election receives separate ballots for each political party entitled to participate in the election. A voter may mark only one of the set of party ballots. HB 117 creates an open primary. It provides that a single primary ballot will be available upon which all candidates' names will be printed under the title of the office sought with the candidate's party designation printed opposite his name.
WITNESS STATEMENT

NAME Nancy J. Harte BILL No. 117
ADDRESS Box 802, Helena DATE 1-17-83
WHOM DO YOU REPRESENT Montana Democratic Party
SUPPORT _______ OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

statement attached
TESTIMONY PRESENTED TO THE HOUSE STATE ADMINISTRATION COMMITTEE IN OPPOSITION TO HOUSE BILL 117, TO PROVIDE AN OPEN PRIMARY ELECTION WITH A SINGLE BALLOT.

Mr. Chairman and members of the committee, for the record my name is Nancy Harte, representing the Montana Democratic Party.

The Democratic Party opposes this bill because we believe that election of partisan candidates should be accomplished by party members.

The purpose of a primary election for every political party, whether Democratic, Republican, Libertarian or whatever, is for each party to choose its own candidates. The Democratic Party supports a closed primary in which only Democrats vote for Democrats, Republicans for Republicans and so on.

Montana already has an open primary because voters now may vote on either the Democratic or Republican ticket, without declaring party affiliation. The title of this bill, then, is a misnomer because this bill would not open Montana’s primary, it would destroy it.
This is especially true in presidential primaries. For Democrats, at least, Montana's representatives at the national presidential convention are chosen according to the percentage of votes cast for each Democratic candidate in the June primary. Montana Democrats chose whom they wish as Democratic nominees, and the Montana Democratic Party sends delegates to the national convention based on those wishes.

If Democrats do not chose Democratic candidates, Montana Democrats will lose their voice at the national presidential convention. The Democratic National Committee has already ruled that Montana Democrats may not chose their presidential delegates based on Montana's primary. That ruling came about because Montana has an open primary in which people other than Democrats may vote in the Democratic primary.

In Montana, unless the law is changed so that we have a closed primary, Democrats will be seeing a change in how Democrats are elected: This bill will make Montana's primary merely a "beauty contest."

If anything, primary election laws must be tightened. The Democratic Party supports partisan elections, with party members allowed to chose their own candidates through a closed primary. This bill, while undoubtedly submitted in hopes of allowing greater freedom of choice, would only make the election process meaningless.

# # #
<table>
<thead>
<tr>
<th>NAME</th>
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<td>MEA</td>
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<td>Liz Jones</td>
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<td>Emily J.</td>
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81
Rep. Hemsted,

I talked to Joe and it's fine with him to reschedule your hearing that's now set for tomorrow (Wed). The earliest I can set it for, however, is Monday. Because of the 72-hour rule. If this meets with your approval, please initial this note and return it to me. If you prefer later next week, just indicate when and I'll reschedule.

Thanks,

[Signature]
INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR AN
ARBITRATION PROCESS WHENEVER A STATE LESSEE AND A PARTY
RECEIVING A RIGHT-OF-WAY EASEMENT ARE UNABLE TO AGREE ON THE
VALUE OF THE DAMAGES RESULTING FROM SUCH EASEMENT; AMENDING
SECTION 77-2-107, MCA."

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

Section 1. Section 77-2-107, MCA, is amended to read:

"77-2-107. Involvement of lessee when land subject to
prior lease. (1) Whenever any kind of right-of-way easement
has been granted under this part and the state land in which
it is granted is under lease, the party receiving such grant
shall give due and timely notice to the lessee and shall
make just settlement with him for any damages resulting to
his improvements or crops or leasehold interests.

(2) Upon such settlement being made, the lessee shall
open or move any fences that may obstruct the right-of-way
over the lands under his lease and otherwise cooperate in
the opening of the right-of-way. Proof shall be filed with
the board that such settlement has been made before the deed
to the easement is issued.

(3) (a) If the lessee and the party receiving the
right-of-way easement are unable to agree on the value of
the damages resulting from the easement, the value of the
damages must be ascertained and fixed by three arbitrators;
one of whom must be appointed by the lessee, one by the
party receiving the easement, and the third by the two
appointed arbitrators.

(b) If any party refuses to appoint an arbitrator
within 15 days of being requested to do so, by the
commissioner, the commissioner may appoint an arbitrator for
that party. An arbitrator appointed by the commissioner has
the same duties and powers as if appointed by one of the
parties.

(c) The arbitrators may fix reasonable compensation
for their services, which must be paid in equal shares by
the owner of the easement and the lessee.

(d) The value of the damages as ascertained and fixed
by the arbitrators is binding on both parties; however, if
either party is dissatisfied with the valuation, he may,
within 10 days, appeal from their decision to the
department. The department shall examine the easements, and
its decision on the appeal is final. The department shall
collect the actual cost of the reexamination from the owner
of the easement and the lessee in such proportion as, in its
judgment, justice may demand."

INTRODUCED BILL
House Bill 155 is at the request of the Department of State Lands. The purpose of the bill is to provide a process for ascertaining and fixing the damages caused to a state grazing or agricultural lessee by the granting of an easement on the state land. The statute currently requires that a lessee be compensated for damages before an easement is issued but does not provide a procedure for determining the amount of the damages.

The amendment provides an arbitration process to determine such damages in a fair and timely manner. This procedure will benefit all parties. The lessee will receive just compensation in a timely manner, the easement will be issued to the applicant in a timely manner and the state will have a procedure which will settle disputes with less problems.

The procedure requested by the department is identical to the procedure now used to settle the value of improvements on state leases with the addition of the amendment contained in House Bill 154. This procedure has worked in the past and guarantees the parties a fair and equitable system of determining the value of the damages.

The Department of State Lands urges the Committee to vote in favor of passage of this amendment.
Proposed amendments to HB 155:

1. Page 2.
   Following: line 21
   Insert: ", except as provided in subsection (e),"

2. Page 2, line 25.
   Following: "demand"
   Strike: " "
   Insert: "(e) If either party is dissatisfied with the valuation fixed by the department, he may within 30 days after receipt of the department's decision petition the district court in the county in which the majority of the state land is located or the district court in Lewis and Clark County for judicial review of the decision.""
EXCUSE

Date: Jan 14, 1983
Representative (Signature) is excused from the committee hearing to be conducted 1-17, 1983.

REP. JOE BRAND, Chairman

PROXY

In view of the above absence, I give my proxy to Representative (Signature) for bill(s) HB 117

HB 154 - HB 155
to follow these instructions

HB 117 Pass as introduced
HB 154 Pass on 1st Read & even if amended
HB 155 Pass on 1st Read & even if amended

Rep. (Signature)
EXCUSE

Date: 1/15, 1983

Representative SALES is excused from the committee hearing to be conducted 1/17, 1983.

REP. JOE BRAND, Chairman

PROXY

In view of the above absence, I give my proxy to Representative O'CONNELL for bill(s) HB 117

HB 154  HB 155

to follow these instructions

HB 117 - No
HB 154 - No
HB 155 - No - Unless 3(b) is deleted, THEN YES.

signature

Walter F. Forbes
## VISITORS' REGISTER

### HOUSE State Admin. COMMITTEE

**BILL** HB 155

**SPONSOR**

<table>
<thead>
<tr>
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<tr>
<td>June Little</td>
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<td>Sen. Trent</td>
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<td>Kelly Blake</td>
<td>Helena</td>
<td>Dept. of State Lands</td>
<td>X</td>
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<td>Lance Hedges</td>
<td>Helena</td>
<td>Dept. of State Lands</td>
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<td>Dennis Hemmav</td>
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<td>David Englund</td>
<td>Helena</td>
<td>Self</td>
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<td>Gary Piggion</td>
<td>Helena</td>
<td>M.D. H.</td>
<td>X</td>
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<td>Jamie</td>
<td>Helena</td>
<td>Sponsor</td>
<td>X</td>
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**IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.**

**PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.**

Form CS-33

1-81
WITNESS STATEMENT

NAME  GENE PHILLIPS  BILL NO. HB155
ADDRESS  KALISPELL  DATE 1/17
WHOM DO YOU REPRESENT  PACIFIC POWER & LIGHT
SUPPORT  X  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
WITNESS STATEMENT

NAME: John Doe
ADDRESS: 400 Fuller, Helena
BILL NO.: SB 155
DATE: 1/17
WHOM DO YOU REPRESENT: MOC
SUPPORT: ____________ OPPOSE: X AMEND: ____________

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
WITNESS STATEMENT

NAME Dennis Hemmer
ADDRESS Capitol Station, Helena
WHOM DO YOU REPRESENT Dept of State Lands
SUPPORT X

BILL No. 155
DATE 1-17-63

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL 155
BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE

House Bill 155 is at the request of the Department of State Lands. The purpose of the bill is to provide a process for ascertaining and fixing the damages caused to a state grazing or agricultural lessee by the granting of an easement on the state land. The statute currently requires that a lessee be compensated for damages before an easement is issued but does not provide a procedure for determining the amount of the damages.

The amendment provides an arbitration process to determine such damages in a fair and timely manner. This procedure will benefit all parties. The lessee will receive just compensation in a timely manner, the easement will be issued to the applicant in a timely manner and the state will have a procedure which will settle disputes with less problems.

The procedure requested by the department is identical to the procedure now used to settle the value of improvements on state leases with the addition of the amendment contained in House Bill 154. This procedure has worked in the past and guarantees the parties a fair and equitable system of determining the value of the damages.

The Department of State Lands urges the Committee to vote in favor of passage of this amendment.
Under current law, a voter participating in a primary election receives separate ballots for each political party entitled to participate in the election. A voter may mark only one of the set of party ballots. HB 117 creates an open primary. It provides that a single primary ballot will be available upon which all candidates' names will be printed under the title of the office sought with the candidate's party designation printed opposite his name.

Under state law, when an owner of improvements on state lands and a lessee cannot agree on the value of these improvements, the value must be determined by three arbitrators, one appointed by the owner of the improvements, one by the lessee, and one by the appointed arbitrators. HB 154, requested by the department of State Lands, provides that if any party refuses to appoint an arbitrator within 15 days after requested to do so by the Commissioner of State Lands, the Commissioner may appoint an arbitrator for that party who will have the same duties and powers as if appointed by one of the parties.

Requested by the Department of State lands, HB 155 provides that if a lessee of state lands and a party receiving a right-of-way easement on this land cannot agree on the value of the damages caused by the easement, the value of the damages will be determined by three arbitrators, one appointed by the lessee, one by the party receiving the easement, and one by the two appointed arbitrators. The Commissioner of State Lands may appoint an arbitrator if any party refuses to do so. The cost of the arbitrators' compensation must be shared equally between the easement owner and the lessee. If either party is dissatisfied with the valuation made by the arbitrators, he may appeal to the Department for a final determination.
Date: Jan. 17, 1983
Representative Paul A. Pistoria is excused from the committee hearing to be conducted 18, 1983.

Jo Brand
REP. JOE BRAND, Chairman

PROXY

In view of the above absence, I give my proxy to Representative Jo Brand for bill(s) H.B. 154 & H.B. 155 (as amended) to follow these instructions

Vote YES ON Both Bills

Paul A. Pistoria
signature
House State Administration Committee

Bill Summaries

HB 167 (Sands): Currently state law requires persons filing certain documents with the Secretary of State's office concerning business names, trademarks, incorporation, dissolution, liquidation, and other activities to file duplicate originals of each document. Requested by the Secretary of State, HB 167 requires an individual to file one original and one copy of these documents.

HB 169 (Eudaily): This bill, requested by the Teachers' Retirement Division, revises the definition of "earned compensation" for the purpose of calculating a retired teacher's pension to include the value of any housing provided by the employer. However, this definition excludes any other amounts paid in kind or fringe benefits not actually paid to a member.

HB 173 (Smith): Currently the Secretary of State must publish copies of the election laws and laws relating to elections for each election administrator who in turn furnishes each election precinct within the county with two copies. Requested by the Secretary of State, HB 173 requires the Secretary of State to furnish each administrator only with copies of Title 13 of the Montana Code Annotated for distribution to the precincts.
# Visitor's Register

**Bill:** HB 167  
**Date:** 

**Sponsor:** 

<table>
<thead>
<tr>
<th>Name</th>
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<tr>
<td>Jack Sanders</td>
<td>315 Main St.</td>
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</table>

If you care to write comments, ask the secretary for a longer form.

When testifying, please leave a prepared statement with the secretary.

**Form CS-33**  
1-83
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<td>Mrs. Helen, League of Women Voters</td>
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(No opportunity to testify or submit testimony (due to change of meeting time & subsequent expiration)

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83
House State Administration Committee

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WITNESS STATEMENT

NAME: Robert Johnson
BILL No.: 169
ADDRESS: 1500 S 153rd Ave
DATE: Jan 18, 1983
WHOM DO YOU REPRESENT: Teachers' Retirement Board
SUPPORT: ☑️
OPPOSE:
AMEND:

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
WITNESS STATEMENT

NAME       Owen Nelson
ADDRESS    1232 E. 6th Ave
WHOM DO YOU REPRESENT Mont. Educ. Assoc.
SUPPORT   ✓  OPPOSE              AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
## Visitor's Register

**House Committee**

**Bill:** HB 169  
**Date:**

**Sponsor:**

<table>
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<td>Gwen Nelson</td>
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