

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 13, 1981

A meeting of the House Taxation Committee was held on Friday, March 13, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Vinger, who was absent. SENATE BILLS 17, 107, 269, and 210 were heard and EXECUTIVE ACTION was taken on SENATE BILLS 79, 183, 134 and 231.

The first bill to be heard was SENATE BILL 269, sponsored by Sen. Max Conover. He described the bill, which deals with eminent domain; see written testimony Exhibit "A." He suggested that the language on P. 5 might need amending.

Steve Doherty then testified in support of the bill on behalf of the Northern Plains Resource Council; see Exhibit "B."

Jon Rappe, Northern Tier Pipeline Committee, then testified. They are in favor of the bill because: (1) private land owners are impacted the most by energy development, and this is especially the case with the Northern Tier Pipeline. The private land owner is defenseless against the big pipeline. Regarding how terms and conditions are dictated by pipeline companies, it would be useful to compare what they are offering private land owners and what the federal government is allowing them. With Northern Tier, private land owners are being told that the company wishes to have a 75-foot permanent right-of-way; the payments for the easement will be in lump sum, and the easement is in perpetuity. The federal government is allowing Northern Tier only a 54-foot right-of-way, and is talking about annual payments and also is talking about easement for only 30 years. This illustrates some of the problems land owners are faced with. If the State in granting the power of eminent domain to companies like Northern Tier doesn't continue to take responsibility for how the money is granted, it is time the State starts giving the land owners tools to take care of the situation themselves. Right now, the State isn't doing the protecting of the land.

Mons Teigen, Montana Stockgrowers and the Montana CowBelles, then testified. They think it is about time the land owner gets some tools to assist him in dealing with the eminent domain authority.

Paul Smith, an attorney from Missoula, then rose in support of the bill. Right now, the land owner is at a disadvantage. He felt the situation should be more equitable; this bill will help solve some of the problems.

Beate Galda, an attorney for the Highway Department, then rose as an OPPONENT to SB 269; see written testimony Exhibit "C." The Department of Highways opposes the bill because it is not workable.

John Sullivan, MDU and Mountain Bell, then rose in opposition to the measure. They are opposed to the portion of the bill that would overturn the tradition of paying market value for easements, with the value being derived at the time of the purchase of the easement.

He submitted that the provision for annual payments was not fair; utilities would have to pay many times the value of the land which they were using. The bill makes no attempt to distinguish between types of easements that are truly disruptive and other types of uses which are very unobtrusive. He submitted that the bill would create an administrative nightmare in determining who the annual lease payments would be made to; it would be hard to keep up with current owners. The option is to condemn the corridor and this would be very expensive but they could do this. He didn't think the bill provided a sensible eminent domain reform. He stressed that Mountain Bell and MDU only use condemnation in the cases where there is no other option. This bill doesn't leave them any choice but to go the condemnation route because of the annual payment provision.

Bob Gannon, Montana Power Company, then rose in opposition to the bill, and concurred in the statements made by the other attorneys. He added that: (1) Regarding the bonding capacities of electrical utilities, in a situation with annual payments they don't think they would be able to convince the bonding people that the title was secure enough to obtain the lower interest rates applicable. (2) Presently in their efforts to obtain right-of-ways they are paying or offering the fair market value to obtain an easement. The bill would almost force them to condemn or to obtain fee simple interest; it would be easier for them to go with the latter option.

Questions were then asked. Rep. Neuman asked Mr. Gannon if the bill was narrowing the law concerning condemnation cases, and also wanted to know if the Court at present took homesteads into consideration. Mr. Gannon replied that fair market value at the time of the taking was what was used to compensate the land owner. He had no problem with the insertion of fair market value.

Rep. Bertelsen wondered if any of the opponents had any suggestions for amendments to relieve some of their objections. Mr. Gannon said they had been opposed to the bill from an administrative standpoint, and they were opposed to the part of the bill providing for annual payments.

Mr. Sullivan said they had the same problem, and added that they had a problem with the language on PP. 5 - 6.

Rep. Asay asked if (line 18, page 6) market value allowed for the depreciation of the value of the remainder of the property. Sen. Conover said that it was currently allowed; in research he had done he found that on the books in the State there is no definition of what the fair market value is. Another person commented that current fair market value tied into Section 2, which was existing law. The problem with the definition in the new Section 4 is with the second part. Generally, machinery and equipment is not considered part of real estate. Generally, evidence may not be admissible into Court, and this language may interfere with this situation.

Sen. Conover's aide, Dan O'Fallon, did the research, and the Codes don't

recognize the loss of value on the property. As far as case law, the depreciation of the remainder of the property has to be considered. The problem is not with the current fair market value, it is with the value of the use. It was pointed out that P. 5 line 24 provides for another method of valuing, but it isn't specified, and wouldn't tie in with the current fair market value provisions.

Rep. Switzer wanted to know if lack of future use was considered when determining value. He was told that in determining the value of whatever real estate, essential fair market value consists of whatever interference with the land owner's property rights there is. That would be considered in the condemnation proceedings.

Sen. Conover said that in his mind, the weed control part of the bill is the most important.

Paul Smith said the bill was providing a different method for paying for easements. Regarding the threat that there was going to be a fee simple to a ranch, he thought the value would be very high and they probably wouldn't do this. He felt this was an idle threat.

Rep. Brand wanted to know if the language on Line 25 would preclude landowners from going through the courts with this kind of thing, as they had previously. Mr. Smith said that if they exercise that option, the Court would have to honor it.

Sen. Conover said the bill was asking to put this land back to its natural grasses in addition to proper payment.

Sen. Conover then closed, He is not opposed to the power lines, etc., because that is progress, and it is needed, but fair market value has never had a true definition. Regarding leases, when they cross any government-owned land, it isn't sold to them; they pay rental on it every year to the federal government. Therefore, regarding the worries about yearly payments, this is done already, if they cross federal ground. The hearing on SB 269 was then closed.

SENATE BILL 107, sponsored by Sen. George McCallum, was then heard. This bill provides that if there is a levy that is illegal, the person can go to Court and ask for relief. Other people who may not feel they have the funds to go to Court are protected. In the past, people who protested their taxes had one year; the ones who appealed received the relief and the ones who didn't didn't get any relief. The bill provides that the Court can have the government apply the money toward the next year's levy, or whatever else is desired can be done.

Dennis Burr, Montana Taxpayers Association, then rose in support of the bill. This bill was originally drafted by the Taxpayers Association. P. 5, Section 6 is the current law on how a person can challenge a mill levy. The person has to wait until the tax is paid under protest; then he can go to Court and try to recover the tax. There is no

provision in present law to make the relief available to every one who paid the illegal levy. The Superintendent of Public Instruction's 1-mill levy was declared illegal, but only Keith Anderson, plaintiff in the suit, will get his taxes back, and no one else will. However, there is an agreement with the Office of Public Instruction that the money will be used against a future mill levy. If the Court determines the levy is illegal, it can refund taxes, hold the taxes for future levies, or whatever else would be workable. Presently, there are no remedies in the law for the District Court to apply other than returning the money to the person bringing the lawsuit.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the bill.

There were no OPPONENTS to the bill. Questions were asked. Rep. Williams asked Mr. Burr how many times there had been cases in Montana of illegal levies. Mr. Burr said it occurred very often. The Taxpayers Association and some of the major companies audit the levies put on by local government. If it is too late to take the levy off the books, a gentlemen's agreement is made to hold the money and use it for the future; this bill would formalize this practice.

Rep. Williams wanted to know what the actual definition of an illegal levy was. Mr. Burr said that if more is levied than what was authorized, or if the voters authorize "X" sum of money and more is levied, this would constitute an illegal levy.

Sen McCallum then closed, and the hearing on SENATE BILL 107 was closed.

SENATE BILL 17, sponsored by Sen. Bill Thomas, was then heard. This bill was the result of an interim study conducted by the Revenue Oversight Committee. See written testimony Exhibit "D." The Department of Revenue made some technical adjustments to the bill in the Senate Taxation Committee, and he felt the bill was now in good order.

Bob Raundal, State Tax Appeals Board, then rose in support of the bill. There are about 3,600 appeals now before the Board; mostly on the 34% issue and the rollback tax, whereby they have stayed the payment of the tax. This bill would give them the refund powers.

There were no OPPONENTS to the bill. Questions were asked. Rep. Williams asked Mr. Raundal, if this bill was passed, what effect it would have on SB 483 and HJR 52. He replied that he didn't see any.

Ellen Feaver said she didn't think this bill would have any impact on the 34% cases.

The sponsor then closed, and the hearing on SB 17 was closed. He submitted a publication entitled, "PAYMENT OF TAXES UNDER PROTEST," which had been published by the Legislative Council in November, 1980; see Bulky Testimony file.

The Committee then went into EXECUTIVE SESSION and SENATE BILL 183 was considered. Rep. Oberg moved that the bill BE CONCURRED IN. He submitted that the rollback tax wasn't workable, regretfully. Rep. Nordtvedt added that the Revenue Oversight Committee addressed this subject but couldn't find a way to make the tax workable. Rep. Neuman wanted to know what the status was of the bill which provided that the person selling the property had to certify that all taxes had been paid. Rep. Bertelsen said he didn't think this would take care of the problem. He pointed out that the rollback tax didn't always show up before the land was sold. The question was called for and the motion carried unanimously. Rep. Bertelsen agreed to carry the bill.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRED IN. Motion carried unanimously. Rep. Williams agreed to carry the bill.

SENATE BILL 279 was then considered. Rep. Switzer said that the wine distributor should pay the tax on his loss just as the gasoline distributor pays the tax on his loss.

Rep. Zabrocki moved that the bill BE NOT CONCURRED IN. Rep. Williams rose in opposition to the motion. He didn't feel the beer wholesalers could be given this provision and not the wine distributors. Rep. Dozier submitted that the wholesaler would worry more about breakage, because the loss would be greater than the amount of the tax.

Rep. Brand wanted to know if there were many people who had both a beer and wine wholesale distributorship. Rep. Nordtvedt felt that most distributors had both.

Rep. Williams made a substitute motion that the bill BE CONCURRED IN. Motion carried with Reps. Brand, Burnett, Underdal, Devlin, and Zabrocki opposed. Rep. Williams agreed to carry the bill.

SENATE BILL 134 was considered. Rep. Underdal moved that it BE CONCURRED IN.

Rep. Nordtvedt asked Ms. Feaver if extensions would be charged interest. She replied that they would be, and the only loss in revenue would be what the State was making on its short-term investment of the funds. Rep. Zabrocki pointed out that the State would have to pay a higher interest rate because of the extension. Ms. Feaver replied that there was a six-month grace period for the State. The question was called for and the motion that the bill BE CONCURRED IN carried unanimously.

SENATE BILL 210 was then heard. The sponsor, Sen. Tom Towe, explained the bill. At present, if a taxpayer wants to appeal their taxes, for whatever reason, the taxes can be appealed and the appeal won on the State level. Only the taxes of the person are adjusted. It is easy for the Department of Revenue to concede the case and pay the people off because the impact is just with the case, and doesn't apply

to all other taxpayers. This bill would consolidate similar appeals.

Dennis Burr, Montana Taxpayers Association, then rose as a PROPONENT. This bill was introduced because of the frustration the Department of Revenue feels over the 34% cases. The Department's problem is that with 3,000 appeals in 56 Counties, it is difficult for them to make the hearings, and present their case. Therefore, the taxpayers as a group have a good shot at picking the cases they want to appeal. This bill would allow one taxpayer to go to Court in representation of all taxpayers. The Department would only have to defend itself once. He felt the bill would be good both for the taxpayers and the Department of Revenue.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the bill.

There were no OPPONENTS to SB 210; questions were then asked. Rep. Neuman wanted to know if SB 210 could provide that someone would be precluded from appealing taxes because a person friendly to the Department had filed an indefensible suit. Sen. Towe pointed out that all cases would have to be consolidated.

Rep. Nordtvedt wanted to know if one court settlement against a taxpayer totally eliminated the ability of another taxpayer to bring a similar case to court. Sen. Towe said the case couldn't be settled until after a notification procedure was conducted which gave the chance for others to intervene; then the one person bringing the lawsuit could settle and the settlement would in effect be binding on everyone else.

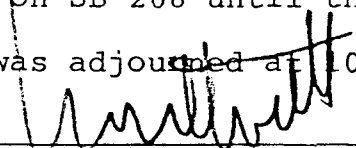
Sen. Towe then closed; the hearing on SB 210 was closed.

The Committee went back into EXECUTIVE SESSION; SENATE BILL 208 was considered. Rep. Nordtvedt said he had a problem in that the interest rates weren't specified. He rose in support of leaving the Senate language in the bill.

Mr. Oppedahl, Legislative Council, said the bill needed a codification instruction inserted, which would state that the provisions of Title 90, Chapter 6 applied. It was suggested that a coordination clause might be needed between this bill and another one; Rep. Nordtvedt rose in support of having a coordination clause put in the bill.

Mr. Oppedahl agreed to check up on the status of the other bill; action was deferred on SB 208 until this could be done.

The meeting was adjourned at 10:00 a.m.


Rep. Ken Nordtvedt, Chairman

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Senate Bill 269 is an attempt to improve and clarify Montana's present eminent domain laws. Presently, Montana law is vague as to just what exactly constitutes the value of the land condemned. By inserting the words "current fair market value," which is first done on Page 2, line 7, and by adding the definition on Page 6, line 9, the law is made more specific and the courts are given a more solid criteria on which to base their judgement.

This language concurs with what the United States Supreme Court has said on the matter of just compensation for land taken. In the case "United States vs. Chandler-Dunbar Co. (1913)" the court said, "The owner must be compensated for what is taken from him but that is done when he is paid its fair market value for all available uses and purposes." In a later case, "United States vs. Reynolds (1970)," the Supreme Court said, "The owner is to be put in the same position monetarily as he would have occupied if his property had not been taken." In enforcing the constitutional mandate, the Court at an early date adopted the concept of market value; the owner is entitled to the fair market value of the property at the time of taking." The property owner, it must be remembered, is not voluntarily selling this land. Government has decided that this land is needed for public use. The least that can be done for the property holder is to grant him a fair price for his land. The language changes that are being proposed in this bill are both consistent with the laws of the land and the

Supreme Court decisions as well as a positive step toward providing the land owner with a fair price. The language of the definition of current market value was taken from Pennsylvania's eminent domain law. The law still does not speak to the owner's loss of future profits, the possible devaluation of adjacent land, or the upset caused by a possible move. It does, however, give the owner a fair price for his land, and this is the least that should be expected from a fair eminent domain proceeding.

The next issue that is addressed in this bill is the providing of alternate methods of compensation once the land has been condemned.

The first option provided is the installment contract method, whereby payments will be made to the defendant on an annual basis. This could provide for positive tax breaks.

The second method is a land exchange, whereby land of equal or greater value is swapped for the land to be condemned. It might very well be more beneficial to both parties that a land swap be made instead of a straight cash deal.

This third option is that of an easement, which amounts to a long term rental agreement with payments to be made on an annual basis. Should there be a chance that the public use of the land shall no longer be needed, then the title to the land will still be in the hands of the original owner, and the leasee shall have no further obligations. The land ownership would thus stay in the hands of the private citizens.

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The huge lump sum payment would also not have to be made.

Whether these options will be used a great deal in future proceedings is open to speculation. Nonetheless, these alternative plans will be available and may, in some cases, work out to the advantages of all parties involved.

New Section 5, beginning on Page 6, line 9, addresses the issue of weed control on condemned property that has been taken over by the plaintiff. Often times, the land being condemned is either agricultural land or adjoining agricultural land but is not used for agricultural purposes. Weeds can be a problem and should be controlled so that they are not a nuisance to surrounding land. This section makes it the responsibility of the plaintiff, upon taking possession of the land to control the weeds until the natural grasses take over the land and weeds are no longer a problem.

The last section, new Section 6, is self-explanatory. It simply prevents taxes from being assessed on the condemned land twice and makes the plaintiff responsible for all taxes assessed on the land after the date of possession.

This bill, in its' entirety, brings our present eminent domain law up-to-date, and incorporates some new ideas and responsibilities into the law that should improve the system and make it fairer to both the private property owners and the public.

Montana is now facing a unique situation in which high

Page Four

voltage power lines will be stretched across the state to transfer energy from coal-rich eastern Montana to the growing Pacific Northwest. A great deal of land will have to be condemned and a lot of Montanans forced to sell their land. We owe it to these people make sure that the law is fair to them and that they are granted compensation. I urge you to pass this bill onto the floor of the Senate with a "Do Pass" recommendation.

WITNESS STATEMENT

NAME Steve Doherty BILL No. SB 269
ADDRESS Box 853 Helena DATE 3/13/1
WHOM DO YOU REPRESENT NPRC
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Attached Statement

EXHIBIT "B"

NORTHERN PLAINS RESOURCE COUNCIL

Main Office
419 Stapleton Bldg
Billings, Mt. 59101
(406) 248-1154

Field Office
P.O. Box 886
Glendive, Mt. 59330
(406) 365-2525

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL ON SB 269

House Taxation Committee

March 13, 1981

Mr. Chairman, members of the committee, for the record my name is Steve Doherty and I am testifying on behalf of the Northern Plains Resource Council. NPRC has long been interested in reforming Montana's antiquated eminent domain laws to more accurately reflect the current 20th Century values.

We feel SB 269 is an important first step towards reform of those laws. The bill makes a few simple corrections toward equalizing the burdens involved in condemnation. These steps are only fair and equitable and will go a long way towards easing the landowners problems.

In sum we wholheartedly endorse and support SB 269.

WITNESS STATEMENT

NAME Alons Teyan ^S BILL No. 269
ADDRESS Aelma DATE 3/13/81
WHOM DO YOU REPRESENT Went Stegmanns & Conbells
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Eustice Alder BILL No. SB 269
ADDRESS Holmes DATE 3/13/81
WHOM DO YOU REPRESENT Dept of Highway
SUPPORT _____ OPPOSE ☒ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SENATE BILL 269

Senate Bill 269 introduced by Conover and others is an attempt to revise the methods of payment in eminent domain or condemnation cases. Section 3 of the bill could have a profound impact on the Department of Highways. The bill, if enacted into law, could create many more problems than it purports to cure. These problems are probably the result of a failure to analyze the language used in the bill, plus a lack of understanding how the provisions of this bill relates to the other sections in Chapter 30 of Title 70, MCA.

As an example, on line 16 of page 5 the bill provides "If a fee simple interest" is taken then payments may be made on an installment basis. The Department has no quarrel with the idea behind this provision. It should be pointed out then the Department is forbidden by law to condemn a fee simple interest in anyone's land. The most that the Department can take is a fee, less the mineral rights. A problem could occur the first time a landowner requested such annual payments and the Department was unable to accommodate since it had not taken a fee simple interest.

Subsection (c) on pages 5 and 6 provides for payments to be made on an annual basis at the option of the defendants. This provision will create untold problems of which a few are as follows:

1. First, it would permit the Defendants to change the nature of the estate sought to be condemned from an easement to a leasehold interest. The total annual payments could exceed the fair market value of the easement. In the case of a private condemning authority this could result in a taking of its property without due process.

2. Second, subsection (c) requires that payments be made on an annual basis, but is silent on who determines the amount of the annual payments, the court or the jury. The bill requires that the annual payments must be made for the "value of the use of the land". What does the value of the use of land mean? Is it the rental value of a strip 100 feet wide and a mile long? Is it the rental value of the land that adjoins it?

3. The bill states that payment must be made "in the same manner as a lease payment". In determining the annual payment, what is the length of the lease? I am certain that this committee realizes that the length of the lease is an important factor in determining the amount that will be paid.

4. On page 6, lines 9 and 10, it states that the annual payments "may not be changed or altered as a result of subsequent circumstances". Does this mean that if property is sold, the payments cannot be made to the new landowner who owns the underlying estate upon which the easement rests?

5. This committee is aware that land is often bought and subdivided into smaller parcels. Assume an easement is condemned

and annual payments are required. What happens if the property adjoining it is subdivided and there are many owners? Are the annual payments to be prorated among the owners of the underlying estates? If they are, then on what basis?

6. As this committee is aware sometimes more than one party owns a piece of property. What happens if one owner wants annual payments under subsection (c) and the others want the payment in hand. This could easily happen where the property is being sold on a contract for deed.

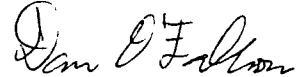
These are just a few of the myriad of problems that this provision would create. I would suggest that this bill be given a do not pass recommendation.

(Written testimony submitted by the Department of Highways.)

JRB:snk:3X

There was an error in my testimony when I said that depreciation to land adjoining land to be condemned is not compensated for. Under Montana Law said depreciation is compensated for. I apologize for my error, as I misread some of my research. The error was not intentional, and as far as I know our bill does not affect this part of the law. Again, I am sorry as well as extremely embarrassed for making this mistake.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan O'Fallon".

Dan O'Fallon
Aide to Sen. Conover

Comments on S.B. 269

(Subsequent to the hearing in
House Taxation).

Requested to be submitted
by Beate Galda, Department
of Highways. *Thanks*

NO. 1	NO. 2	NO. 3	NO. 4
NO. 5	NO. 6	NO. 7	NO. 8
NO. 9	NO. 10	NO. 11	NO. 12
NO. 13	NO. 14	NO. 15	NO. 16

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SENATE BILL NO. 269

During the hearing before the House Taxation Committee on March 13, 1981, various questions concerning the manner of determining just compensation under the law of eminent domain were raised. A legislative aide testified that he had researched eminent domain law and that the law did not provide compensation for damage or depreciation to the remainder. This statement was in error. This memorandum is intended to clarify for the Committee the elements of just compensation in eminent domain under present law.

Section 70-30-301, MCA, provides the instructions to the value commissioners (and also the jury if the value commissioners' verdict is appealed) on what they have a duty to determine:

(a) the value of the property sought to be appropriated and all improvements thereon pertaining to the realty and of each and every separate estate and interest therein. If it consists of different parcels, the value of each parcel and each estate or interest therein must be separately assessed.

(b) if the property sought to be appropriated constitutes only a part of a larger parcel, the depreciation in value which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned and the construction of the improvements in the manner proposed by the plaintiff.

(from §70-30-301(3), MCA) (Emphasis added)

Section 70-30-302, MCA (which is proposed to be amended in section 2 of the bill), gives the date for the measure of the compensation for all property actually taken and the basis of depreciation in value of the property not actually taken but

injuriously affected. Thus the statutes provide for the payment of depreciation in value for the remaining property affected by the taking.

Montana Supreme Court cases have defined the fair market value to be determined. In State v. Peterson, a 1958 case, the court defined "market value" as

"the price that would in all probability result from fair negotiation, where the seller is willing to sell and the buyer desires to buy The owner has the right to obtain the market value of the land, based upon its availability for the most valuable purpose for which it can be used, whether so used or not."
134 Montana Reports, page 70.

Thus the bill does not substantially change the elements of payment of just compensation except in section 3 where it requires payments to be "for the value of the use of the land in the same manner as a lease payment." This provision conflicts with existing law because there has been no attempt to amend existing statutes on valuation.

(Submitted to the Committee by the Department of Highways.)

SENATE BILL 269

Tandy Riddle wishes to endorse this bill, and says it is very important to her area, Sweetgrass County; per phone call made on 3/12.

Terry Riddle
McLeod, Montana

Chairman
House Taxation Committee
Capitol Station
Helena, Montana

March 11, 1981

Re: SB 269

Mr. Chairman and Honorable Members of the Committee:

We, the undersigned, encourage the taxation Committee to support Senate Bill 269. As you are aware, Eastern Montana is severely impacted by the recent oil boom. One small gas plant alone proposes to build approximately 600 miles of feeder pipeline throughout Eastern Montana and Western North Dakota. The Northern Tier and Northern Border Pipelines--the largest pipelines ever constructed in North America--both affect several hundred Montana landowners.

Montana's current eminent domain laws never anticipated development on this scale; they offer the landowner little or no protection. Montana is one of a very few states which allow so-called "quick take" procedures to be used against landowners. One has only 20 days to respond to a condemnation notice, a time wholly inadequate to prepare a proper legal defense. What is more, current law allows projects to be built before compensation has been determined; this of course works against the whole concept of fair market value. In fact, studies show that landowners in states with "quick take" laws generally receive only 50-60% of fair market for their property. This discrepancy is certainly borne out in Eastern Montana, where Federal and Tribal lands (on which the laws of eminent domain do not apply) receive compensation that is beyond the wildest dreams of the private landowners. Northern Border Pipeline, for example, is paying \$46.93 per rod for an easement crossing Tribal lands, regardless of whether these lands are cropland or pasture. By comparison, private landowners are being offered \$25.00 per rod for an easement and damages across cropland, and \$12.84 per rod for an easement and damages across pasture land. Such unconscionable discrepancies fly in the face of "fair market value" or "just compensation."

SB 269 by no means offers all the answers, but it is a step in the right direction. It at least offers up the term "fair market value" as a basis for negotiation. The provision for annual payments is a good one, although it should also provide some means of adjustment to account for inflation and appreciation in land values. But all in all, it is a good piece of legislation; it offers the landowner a little protection without obstructing development. We strongly support this bill, and encourage you to do the same.

Respectfully submitted,

Robert P. Wilson

Ralph S. Edmonson

Walter Harmon	Bainville Mont.
Walter Little	"
Philip Little	"
John Higgins	"
Louis Felsen	"
Edna Pacovsky	"
Dianna Briske	"
Betty Gustaf	"
Walter L. Gustaf	"
Ruth Smith	"
Sophie Pacovsky	"
John Gustaf	"
Shella Gustaf	"
Mary S. Gustaf	"
Lorothy Yipman	"
Edna Gustaf	"
Walter Pacovsky	Bainville Mont.
Walter S. Sailer	"
Lloyd S. Sailer	"
Louise S. Sailer	"

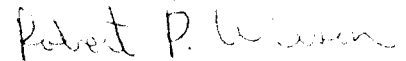
March 11, 1981

Mr. Ken Nordtvedt
Chairman
House Taxation Committee
Helena, Montana 59601

Dear Mr. Nordtvedt:

Enclosed is a letter from several Eastern Montana landowners concerned about the passage of SB 269. Please distribute this letter to the members of your committee. We would also greatly appreciate our letter being read aloud at your Friday hearing.

Sincerely,



Robert P. Wilson

VISITORS' REGISTER

HOUSE *Taxation* COMMITTEE

PILL SB 107

Date 3/13/81

SPONSOR McCallum

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 24, 1981

[REDACTED]
[REDACTED] This bill allows the taxpayer to pay taxes under protest to the county or state, and then provides an [REDACTED]

[REDACTED] process, and [REDACTED]

[REDACTED] order [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
before they take the payment of protested taxes to court. Having to take such cases to the district court is a long and expensive process for both the state and taxpayer. If the taxpayer can get a tax hearing before these boards, and if these boards have the power to uphold their decision, i.e. the right to order a refund of these protested taxes, then hopefully, [REDACTED] I feel that this is exactly what this bill does, and I hope you will act favorably on it.

Refund.
Process

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL SB 210
 SPONSOR Sen. Tax Comm.

Date 3/13/81

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

April 10, 1981

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 17

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES; AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105, AND 15-15-106, MCA."

Respectfully report as follows: That SENATE Bill No. 17

third reading (blue), be amended as follows:

1. Page 4, line 8.
Following: "OP"
Strike: "JUDGEMENT"
Insert: "judgment"

AND AS AMENDED
BE CONCURRED IN

XXXXXX

STANDING COMMITTEE REPORT

March 21, 1961

MR. **SPEAKER**

We, your committee on **TAXATION**

having had under consideration **SENATE** Bill No. **107**

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO PURSUE DECLARATORY JUDGMENT PROCEEDINGS TO TEST THE VALIDITY OF TAX LEVIES; PROVIDING AN EXCEPTION FROM THE REQUIREMENT OF PAYMENT OF TAXES UNDER PROTEST; PROVIDING FOR RELIEF TO ALL AFFECTED TAXPAYERS IF THE CHALLENGED LEVY IS DECLARED ILLEGAL; AND AMENDING SECTIONS 15-1-401, 15-1-402, AND 15-1-404, MCA."

Respectfully report as follows: That **SENATE** Bill No. **107**,
third reading (blue), be amended as follows:

1. Page 2, line 15.
Following: "[SECTION"
Strike: "7"
Insert: "2"

2. Page 3.
Following: line 15
Insert: "(b) The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."
Reletter: subsequent subsection

3. Page 3, line 16.
Following: "UNDER"
Strike: "THIS SUBSECTION"
Insert: "subsection (3) of this section"

UNLESS
AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

April 16, 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 210

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXPAYERS TO CHALLENGE ASSESSMENT RULES AND PROCEDURES BEFORE THE STATE TAX-APPEAL-BOARD IN THE DISTRICT COURT; PROVIDING THAT RELIEF GRANTED IN SUCH A PROCEEDING MAY APPLY TO ALL SIMILARLY SITUATED TAXPAYERS; AMENDING SECTION 15-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 210, third reading (blue), be amended as follows:

1. Page 3, line 9.

Following: line 8

Strike: "(D)"

Insert: "(b) The court shall exclude a taxpayer from an action brought pursuant to [section 1] if the person bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests to be excluded by the date specified in the notice."

Reletter: subsequent subsection

Following: "UNDER" on line 9

Strike: "THIS SUBSECTION"

Insert: "subsection (3) of this section"

AND AS AMENDED
BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

April 11, 1961

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 269

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE METHODS OF PAYMENT IN EMINENT DOMAIN PROCEEDINGS; PROVIDING FOR PAYMENT OF CURRENT FAIR MARKET VALUE; REQUIRING PRORATION OF TAXES AND WEED CONTROL; AND AMENDING SECTIONS 70-30-301, 70-30-302, AND 70-30-308, MCA."

Respectfully report as follows: That SENATE Bill No. 269, third reading (blue), be amended as follows:

1. Page 5, line 25 through line 10 on page 6.
Following: "involved," on page 5, line 25
~~entirety~~ line 25 through line 10 on page 6 in their entirety
Insert: "in either a single payment or in not more than five consecutive annual installments."

AND AS AMENDED
BE CONCURRED IN

DO PASS