

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
February 12, 1981

The twenty-sixth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 268:

TAXING THE COSTS OF IMPANELING A JURY  
AGAINST PARTIES WHO FAIL TO INFORM THE  
COURT OF A SETTLEMENT.

Senator Graham, District 29, Lodge Grass, introduced the bill as a result of many conversations he has had with clerks of the district court. He outlined the problem leading to this bill as being that of settlements reached orally by the attorneys for the principal parties in an action, who have then failed to notify the court of such a settlement in time to avoid calling a jury. This results in unnecessary expenses.

FURTHER CONSIDERATION OF HOUSE BILL 10:

Jim Lear, attorney with the Legislative Council, presented Rep. Keedy's additional information on the revised fiscal note. This information is contained on the attached Exhibit A.

CONSIDERATION OF SENATE BILL 287:

PROVIDING FOR DISPOSITION OF ABANDONED  
REAL PROPERTY INTERESTS ACQUIRED FOR A  
PUBLIC USE.

Senator Manley, District 14, Drummond, presented the bill, and described its purpose as being the solution to the problem of landowners who have had rights of way acquired through their land for public use, and then later abandoned. He said that this abandoned property should be returned to the owner of the adjacent land.

John Scully, in telling the strong points of the bill and the areas where he felt it needed work, stated that the bill addresses a very real problem. He told of a branch line in Gallatin County which had been abandoned by the Milwaukee Railroad. When the Milwaukee took over the privately owned

railroad and expanded it they started a checkerboard-style condemnation process and thereby coerced the landowners into selling their land. When the Milwaukee Railroad originally took the right of way, they never kept the fences and culverts repaired; they didn't keep the weeds down; they didn't burn the right of way; they didn't pay the taxes. He said that the train is currently being run for no other purpose than to maintain the right of way. He felt that if the conditions made at the time of acceptance are not kept up, this should be taken into consideration when determining abandonment. This bill, he stated, would not deal just with the Milwaukee, but all other easement situations such as with telephone lines, power lines, and roadways.

Mr. Scully then described the experience of the Manhattan Company in Gallatin County, which sold some land without including the right of way in the contract; and now the owner of the company wants ownership to the right of way. Mr. Scully feels that the land in question should revert to the present owner of the adjacent lands. He felt that subsection (3) of Section 2 should be broadened, but made more specific in terms of what would be attached and what would not be. Regarding the exchange section, he would be opposed to anybody's being able to exchange. Regarding fee title property, Section 6, he feels that it does not separate fee title interest from easement interests. He ended by saying that he supports Senator Manley's endeavor on this bill, but he feels the problem is more complex than the bill indicates.

Mons Tiegen, representing the Montana Stockgrowers and Cowbellers, told of his ranch's problem with the abandoned branch line in his area, which transferred the easement to the State Highway Department, which has told him that some of it will be held for auction. Since the portion of land involved runs through his hay meadow, he does not want a subdivision put in. He feels the land should somehow revert to him as the adjacent landowner.

Speaking in opposition to the bill on behalf of the Montana Power Company was Michael Zimmerman. He said that the time limit imposed in Section 2 would be unrealistic and unfair, as the regulatory lags required to obtain permits often extend beyond the time limit.

George Bennett, representing Montana-Dakota Utilities and Northern Plains Natural Gas Company, presented written testimony (marked Exhibit B and attached to these minutes).

Jim Hughes, speaking for Mountain Bell, agreed with the previous testimony against the bill, and said that he feels the bill would cause his company problems.

Will Hutchison, representing Montana Department of Highways, opposed the bill for three reasons: (1) no clear designation of interests created and abandoned; (2) unclear designation as to who qualifies for owners of the reversion interests; and (3) various portions of the bill conflict with present law. He ended by saying that it would repeal some of the policies now used by the Highway Department to the advantage of the landowner. He left additional written comments which are marked Exhibit C and attached to these minutes.

DISPOSITION OF SENATE BILL 268:

Senator Crippen moved that the third amendment shown on the attached Committee Report be adopted. His motion passed unanimously. Senator Olson moved that the first and second amendments shown on the attached Committee Report be adopted, and his motion passed unanimously. Senator Mazurek moved that the fourth amendment shown on the attached Committee Report be adopted, and the motion carried unanimously. Then Senator Olson moved that the bill DO PASS AS AMENDED, and his motion passed unanimously.

CONSIDERATION OF SENATE BILL 265:

AMENDING 72-15-301 TO INCREASE THE  
COMPENSATION FOR ESTATE PUBLIC  
ADMINISTRATIONS.

Senator Hager, District 30, Yellowstone County, presented the bill.

Senator Anderson asked David Niss if this bill would apply only to small estates of \$7,500 or less. David replied that it would apply to any situation where the public administrator is used. Senator Hager said that a public administrator can only handle small estates. Further research on this question will be done by David.

CONSIDERATION OF SENATE BILL 29:

TO PROHIBIT PERSONS WHO ESTABLISH  
RESIDENCE NEAR AGRICULTURAL OR FARMING  
OPERATIONS, ETC., FROM BRINGING  
NUISANCE SUITS.

Senator Hager presented this bill, saying that it is based on legislation recently passed in Massachusetts and Georgia. He said the purpose of the bill is to prevent an animal raiser from being forced out of business because of subsequent development of the surrounding area.

Speaking in support of the bill were Jo Brunner, of Women

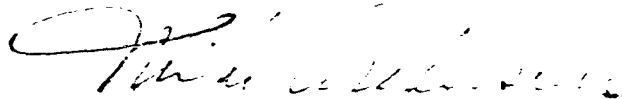
Involved in Farm Economics; Alice Fryslie, representing Montana Cattle Feeders Association, Montana Stockgrowers, National Farmers Organization, and Montana Cowbells, who read a letter from the Montana Cattle Feeders in support of the bill (marked Exhibit D and attached to these minutes); Donald Johannsen, of the National Farmers Organization; Pat Underwood, representing the Montana Farm Bureau; Bill Asner, representing Agricultural Preservation Association, Park County Legislative Association, Sweetgrass County Preservation Association, and Stillwater County Agricultural Legislative Association; and Frank Thompson, representing Montana Association of Conservation Districts.

Senator Hager then presented some proposed amendments (marked Exhibit E and attached to these minutes).

Senator Crippen asked if the intent of the bill was to preclude building motels, shopping centers, and similar projects. Senator Hager replied that the intent is to protect pre-existing farm businesses.

Senator Halligan moved that the amendments listed on attached Exhibit E be adopted. His motion passed unanimously.

Senator Mazurek then stated that he had a concern for the person who might build next to a pre-existing small farm which might suddenly expand into a full-scale feedlot or hog farm. He requested that the committee delay a decision upon the bill until he has worked out an amendment to cover this eventuality.



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Senator Anderson  
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/12/81

NAME	PRESENT	ABSENT	EXCUSED
<del>Anderson, Mike, Chr. (R)</del>	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

SUPPORT?

AMEND:

OPPOSE?

COMMENTS:

NAME: Mons Teyon DATE: 2/12/81

ADDRESS: Helena Mont.

PHONE: 442-3420

REPRESENTING WHOM? Mont. Stockgrowers & Contractors.

APPEARING ON WHICH PROPOSAL: SB 29

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: \_\_\_\_\_

NAME: Michael E Zimmerman DATE: Feb 12 '80

ADDRESS: 40 E Broadway Battle Mt 59201

PHONE: 723-5421 ext 2404

REPRESENTING WHOM? MPC

APPEARING ON WHICH PROPOSAL: SB297

DO YOU: SUPPORT?                      AMEND?                      OPPOSE? ✓

COMMENTS: The scope of the Bill is too broad in that  
it reaches out to cause forfeiture of property  
purchased by private utilities for a public use.  
This property was obtained by a voluntarily negotiated  
purchase and should not be considered abandoned  
if the public use is ceased.

Some of the standards causing abandonment  
are vague and may have an adverse impact on property  
interests held for utility purposes.



NAME: GERRIE J BENNETT DATE: 2/12/81

ADDRESS: 406 FULLER HELENA 59601

PHONE: 443-3640

REPRESENTING WHOM? MONT. DAK. UTILITIES; NORTHERN PLAINS  
NAT. GAS CO.

APPEARING ON WHICH PROPOSAL: SB 257

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: WRITTEN TESTIMONY ATTACHED



DATE: FEB. 12, 1980

ADDRESS: 711 HOLTER HELENA

PHONE: 449-2584

REPRESENTING WHOM? MONTANA DEPARTMENT OF HIGHWAYS

APPEARING ON WHICH PROPOSAL: SB 287

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

56

NAME Jo Brunner BILL No. Senate 29  
ADDRESS Helena DATE 2/12  
WHOM DO YOU REPRESENT W.I.P.E.  
SUPPORT X OPPOSE                      AMEND                     

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We wish to support Senate Bill 29 in its amended form.

We feel such protection for individuals is long overdue. It addresses the problem of subdivisions and residential areas crowding out an established business.

In truth, we would like to see it include the opposite, a business that is offensive should be prohibited from being established in a rural subdivision or small unincorporated town not covered by zoning laws.

Still we endorse Senate Bill 29 as it is presented and urge your approval.

9/6

NAME

*John Asay*

BILL No.

*SB 29*

ADDRESS

*800 5th St. Deer Lodge - 59722*

DATE

*4/12/81*

WHOM DO YOU REPRESENT

*Montana Cattle Feeders Ass'n*

SUPPORT

*X*

OPPOSE

AMEND

*Montana Stockgrowers, Rangeland Managers Ass'n  
Montana*

*Cowbelle*

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME: Donald James DATE: 2/12/81

ADDRESS: Birch

PHONE: 443-4914

REPRESENTING WHOM? Donald James

APPEARING ON WHICH PROPOSAL: 5329

DO YOU: SUPPORT? / A MEND? / OPPOSE? /

COMMENTS: We feel that an established business  
should not be harassed because of an  
adverse condition which is a normal part of  
that business. - The control of odor is for  
the most part outside of presently existing  
technology available to a small business  
or agricultural operation.

Our interests are being jeopardized  
by legislation involving continued complaints  
from people who immediately moved into close  
proximity with the facility and now complain of the  
presenting odor problem. We feel this bill will  
produce the same sort of legal problems for  
agriculture and other rural operators.

NAME: PAT UNDERWOOD DATE: FEB 12, 1981

ADDRESS: Box 1267 Bozeman, MT. 59715

PHONE: 587-3153

REPRESENTING WHOM? MONT. Farm Bureau

APPEARING ON WHICH PROPOSAL: SB 29

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: we support passage of  
SB 29.

NAME: BILL ASHER DATE: FEB. 12 1981

ADDRESS: MANHATTAN

PHONE: 284-6664

REPRESENTING WHOM? <sup>list</sup> SEE BILL

APPEARING ON WHICH PROPOSAL: SE 29

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: REPRESENTING AGRICULTURAL PRESERVATION ASSOCIATION

PARK COUNTY LEGISLATIVE ASSOCIATION SWEETGRASS COUNTY

PRESERVATION ASSOCIATION + STILLWATER COUNTY AGRICULTURAL

LEGISLATIVE ASSOCIATION



NAME: Frank C. Thompson DATE: 2/12/1984

ADDRESS: Golf Creek Mont.

PHONE: 235 - 4396

REPRESENTING WHOM? Montana asso of Conservation Districts

APPEARING ON WHICH PROPOSAL: 29

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: \_\_\_\_\_

Exhibit H

MEMORANDUM TO: SENATE JUDICIARY COMMITTEE

22 FROM: JAMES H. LEAR, ATTORNEY & COUNSEL TO HOUSE JUDICIARY COMMITTEE  
RE: HOUSE BILL NO. 10 --- IMPACT ON PRISON POPULATION

In response to a request from Representative Keedy I called California on January 19, 1981, to ascertain the impact of determinate sentencing upon California's prison population as a possible basis for predicting the effect of House Bill No. 10, if enacted, upon Montana's prison population.

This is a summary paraphrasing what Walter Barkdull, Assistant Director, California Department of Corrections, offered in response to my questions:

1) What was the effective date of the determinate sentencing legislation enacted in California?

July 1, 1977

2) What happened to the prison population since that date?

<u>Year</u>	<u>Year-End Population</u>	<u>Annual Increase/Decrease</u>	<u>% Inc./Dec.</u>
1976	18,643		
1977	17,820	-823	-4%
1978	19,994	+2174	+12%
1979	21,692	+1698	+8%

3) Was the increase in prison population during 1978 and 1979 solely attributable to enactment of determinate sentencing provisions?  
No.

4) What factors, then, accounted for the increase?

First, the public dissatisfaction with the ever-increasing crime rate resulted in tougher law enforcement as evidenced by the following figures representing "intake" from the courts of offenders who were not already under the direct supervision of the Department of Corrections:

<u>Year</u>	<u>New Prisoners</u>
1976	6,910
1977	7,558
1978	9,325
1979	9,874
1980	11,000

Second, prison terms were imposed with more frequency over the 1977-1980 period due to several bills enacted throughout that period which precluded suspension of sentence for specific offenses being committed with increased frequency. For example, offenses committed with weapons, offenses involving sale of controlled substances such as heroin, burglary of residences, offenses involving infliction of serious bodily injury, and certain sex offenses, to name a few.

Third, with the advent of uniform sentences the judges were less inclined to suspend offenders. Before July, 1977, the judges would sentence an offender to serve time in a county jail and suspend much, if not all of it, rather than sentence the offender to the state prison because the parole board had the ultimate say as to the amount of time the offender would spend incarcerated. The range of possibilities was enormous in many cases and judges were reluctant to place an offender in such a static situation.

Fourth, determinate sentences have enhanced plea bargain negotiations because of the fear of the all or nothing nature of trial with the result that guilty pleas to lesser offenses have increased ---at less cost to the taxpayers and less pressure to the court dockets.

(5) Was an immediate building program necessary? If not, why?

No. A master plan was developed but community-based release is becoming an acceptable alternative to prison expansion.

(6) Do California and the other states that have adopted determinate or mandatory sentencing provisions offer a common basis for predicting changes in prison population in Montana if Montana enacts mandatory sentencing provisions?

No. None of the states have enough similarity in their sentencing provisions to so predict. Because there are so many variables, all one can do is to guess. The following figures representing prison population prior to enactment of determinate sentencing illustrate the erratic pattern in our prison population over the years and the impossibility of predicting the result of changes in sentencing provisions:

<u>Year</u>	<u>Year-End Population</u>	<u>Annual Increase/Decrease</u>	<u>% Inc./Dec.</u>
1972	17,758		
1973	20,589	+2831	+16%
1974	22,711	+2122	+10%
1975	17,890	-4821	-21%

*Exhibit B*

TESTIMONY OF GEORGE T. BENNETT REPRESENTING  
MONTANA-DAKOTA UTILITIES CO. IN OPPOSITION TO  
SENATE BILL 287

\* \* \* \* \*

Senate Bill 287 is directed at a situation where interests in real property acquired by eminent domain or condemnation are "abandoned".

This subject is already covered by present law, both statutory and case law which has been ignored by this bill. I am appending to my testimony textual material which covers the subject.

Turning to the bill itself, Section 1 thereof defines when an abandonment occurs. The written declaration covered by Section 1(1)(a) is already covered by law where there is a formal abandonment. Subsection (b) is already adequately covered and abandonment can be decreed by a court of competent jurisdiction under present law. Regarding Subsection (c), if there is any regulatory agency which has jurisdiction by law then there is no need to specify this in the bill. Subsection (2) provides that the property is deemed abandoned if the use for which it is taken is discontinued for a period of three years. This is an unusually short period of time and should at least coincide with the period of time for adverse possession which is five years. Also the owner of an interest in property acquired by condemnation should have the protection of this longer period of time in which to rebuild an obsolete plant or otherwise replace or repair a worn out or obsolete plant without being deemed to have abandoned the same. Subsection (3) states simply that there is an abandonment when "it

S.B. 287  
COMMENTS OF MONTANA DEPARTMENT OF HIGHWAYS

The basic scheme of S.B. 287 is to create a common means of reverting abandoned public use lands to previous owners. If adopted in its current form, S.B. 287 will have a serious and immediate impact on state highway lands.

The bill treats abandoned public use lands according to the title of the owner: (1) lands held in "fee simple absolute" upon being abandoned "may" be exchanged or sold by the owner; (2) lands with "less than fee simple absolute" title revert automatically without compensation upon abandonment.

While the bill speaks in terms of lands acquired by eminent domain (condemnation) proceedings, Section 6 makes it clear the bill applies to all public use lands acquired by any means. The DOH acquires about 94% of its lands by negotiated sales and only about 6% through condemnation. The bill applies to all public uses listed in §70-30-102, MCA (attached) and to private as well as state owned lands.

The problems created by S.B. 287 fall into three general categories: (1) The property interests created and abandoned are not clear; (2) The owners of the reversionary interests are not clear; and (3) The bill conflicts with constitutional requirements, existing statutes, and also eliminates many public protections concerning the sale of state lands.

I. THE INTERESTS CREATED AND ABANDONED BY S.B. 287 ARE NOT CLEAR

This bill, by operation of law, will create a reversionary interest in the owner of land sold or taken for a public use - this means the land will, or can, be returned to the former owner

if it is no longer being put to a public use. As a legal matter, this creation of a reversion means all lands purchased or condemned for public use will vest less than a fee simple absolute title in the purchaser/condemnor. In Montana a fee simple absolute cannot be defeasible or contingent, and this bill does just that to all public use lands. §70-16-203, MCA.

If this interpretation is upheld, Sections 3, 4, and 5 could not be given effect as all titles to public use land would be "less than fee simple" and, if abandoned, would fall under Section 2, the automatic reversion provision without compensation.

This effect of the bill must be read with Section 1. That section provides for the abandonment of "any real property interest" when any one of five conditions occurs. Abandonment of the interest means the owner has given up the right of present possession of the property. §70-1-316, MCA. If the owner of public use land has given up the right to possession and the previous owner has a reversionary interest based upon the abandonment it follows as a necessary legal conclusion that the title reverts. Therefore there are two basic problems with the bill regarding Montana property law: (1) the act of creating a remainder in the previous owner in and of itself means all public use land will have "less than a fee absolute" title; and (2) by declaring the real property interest abandoned, the public use owner has lost the right to possess the land and the reversion takes place.

It is hard to predict how a court would rule in interpreting the bill, but the three most likely scenarios are:

(1) Since the owner's interest (or title) is abandoned, the law must act to fill a void so that the owner of the reversion reacquires the land. This means the land was not held in fee simple absolute and Section 2, automatic reversion without compensation, applies.

(2) While the possessing interest in the land is abandoned, the owner retains an undefined interest which normally could be sold or exchanged. However, since such an interest is "less than fee simple absolute" Section 2 once again applies.

(3) While the real estate interest is abandoned, the abandonment has no effect on the title. The owner has fee simple absolute title to the land and has the discretionary option to retain it for future use or to sell or exchange it pursuant to Sections 3, 4, and 5.

The bill in essence creates a Catch 22. If interpretation (1) or (2) above is used, Sections 3, 4, and 5 of the bill become useless. If (3) is used, Section 1 becomes useless.

In the bill's absence of a retroactive clause, the bill will only affect public use land acquired after its effective date. §1-2-109, MCA. The Montana Supreme Court has said new laws providing for sale of DOH land can be applied to land purchased before the new law if the new law does not:

"...impair the underlying right [title] or impose additional duties on the owner..."

Castles v. State ex rel Montana DOH, 607 P.2d 1223 (1980).

Under interpretation (1) and (2) above there could be no retroactive effect as the nature of the title is changed. Under



(3) there would be no change in the nature of the title so the bill could be applied to land acquired before the bill.

If the bill cannot be applied to previously owned land, there would be an interesting situation of a new law applying to newly purchased land and no law applying to the previously owned land as the bill repeals DOE's present disposition statutes.

## II. THE OWNERS OF REVERSION INTERESTS ARE NOT CLEAR.

The automatic reversion of Section 2 is given to the "original owner of the fee or his heirs, assigns, or successors in interest at the time of abandonment". The way this is phrased, anyone of the above persons could claim the reversion. The fee in many of the DOE's easements have been sold numerous times, divided between surface fee and mineral fee, and subdivided into small residential tracts, some of which border the easement and some of which don't. Who gets the automatic reversion?

Sections 3, 4, and 5 provide a reversion, or preferential purchase right (depending on the interpretation of Section 1), in "the owner from whom the interest was originally acquired by the condemnor or the owner's successor in interest". Given the example of the subdivision of the owner's remaining land, who must the DOE offer the land to?

III. THE BILL CONFLICTS WITH MONTANA'S CONSTITUTION AND EXISTING STATUTES, AND ELIMINATES MANY OF THE SAFEGUARDS OF THE CURRENT STATUTE.

A. S.B. 287 has no fair market value requirement, except in private sales to the previous owner (p. 4, line 17). Montana's Constitution provides no state lands can be disposed of except pursuant to general laws providing for disposition or until fair market value has been paid for the land. Art. X, §11, cl. 2. In the only case interpreting this clause, the Montana Supreme Court held:

[Art. X, §11] provides that no such land shall be disposed of except pursuant to the statutes providing for such disposition. The section also indicates "full market value" should be received for the property...  
Norman v. State, \_\_\_ Mont \_\_\_, 597 P.2d 715 (1979).  
(emphasis added).

The failure of the bill to provide for fair market value appraisals and sales is contrary to the Norman decision and appears to be contrary to the Montana Constitution.

B. Various provisions of the bill conflict with current Montana statutes which are not repealed by the bill. These conflicts include:

- (1) The current definition of highway "abandonment", §60-1-103(1), MCA;
- (2) The ability of the highway department to acquire land for future use, §60-4-106;
- (3) The ability of the highway department to lease its unused lands, §60-4-106;

(4) The ability of the highway department to acquire whole parcels, §60-4-105; and

(5) The ability of owners of reversions to bring lawsuits for "injury to the inheritance", §70-16-105.

These conflicts are just those directly affecting the DOH.

There are numerous other conflicts with Montana's general property law concerning property rights and reversions.

C. The bill removes the following public protections from the sale of highway department lands:

(1) The use of appraisals is dropped from most sales;

(2) private sales to people other than previous owners are dropped;

(3) prohibition of sales below 90% of fair market value is dropped;

(4) proceeds going into state treasury to credit of DOH is dropped;

(5) time limit for the previous owner to meet the high bid is dropped;

(6) prohibition of transfer of title pending full cash payment is dropped;

(7) DOH discretion in terms and conditions of sales and exchanges is dropped;

(8) compensation for the reversion of some fee lands is dropped.

Exhibit D

# Montana Cattle Feeders, Inc.

P.O. Box 30736

Billings, Montana 59107

Phone 406-962-3248

Ray Gerringa  
President

Mike Davey  
1st Vice President

Stan Brown  
2nd Vice President

Jack Asay  
Executive Vice President

Dennis Flick  
Secretary/Treasurer

February 10, 1981

Senate Judiciary Committee  
Room 331  
Montana Capitol

Mr. Chairman and Committee Members:

My name is John Asay. I represent the Montana Cattle-feeders Association. We endorse Senate Bill 29 and strongly urge this committee to grant it an affirmative vote.

This legislation offers justifiable protection for the huge investments of existing rural livestock businesses from the risks imposed by capriciously located later development.

Passage of Senate Bill 29 into law will impose responsible judgement on exploiters of rural property, inject fairness into relative judicial determinations and offer relief from one unpredictable and unfair risk to an already high-risk agricultural investment.

Thank you for your favorable consideration.

9

AMENDMENTS FOR SENATE BILL 29

1. Title, line 5.

Following: "RESIDENCE"

Insert: "OR BUSINESSES"

2. Page 2, lines 3 and 4.

Following: "result of"

Strike: "changed residential conditions"

Insert: "the establishment of residences or businesses"

3. Page 3, lines 6 and 7.

Following: "result of"

Strike: "changed residential conditions"

Insert: "the establishment of residences or business"

DATE February 12, 1981

## COMMITTEE ON JUDICIARY

SB 29

SB 287 SB 268

SB 265

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Gene Pigeon	I. D. U.	SB 287		✓
Will Hutchison	Mont. Dept of Highways	SB 287		✓
Jim Hughes	MOUNTAIN BELL	SB 287		✓
W. T. Bennett	MONT. P. U. UTILITIES - NAT. GAS	SB 287		✓
Michael E Zimmerman	Mont. Power Co.	SB 287		✓
John Sully	Self	"		✓
Don Shannon	N. F. U.	SB 29	✓	
Pat Anderson	Mont. Farm Bureau	SB 29	✓	
J. P. ...	N. I. F. E.	SB 29	✓	
Tom Dowling	Mont. RR Assn	287		
Janet Manley	visitor			
Kerry Manley	visitor			
Mike Mearns	NRA	268		
Mons. Terpin	Self	SB 287	✓	
"	Mont. Stockgrowers + Cattle	SB 29	✓	
Alice Frazier	Mont. Farm Bureau	SB 29	✓	
Donald Summers for the	National Farmer Union	SB 29	✓	
Don Asch	ATF - S. H. SCH + SCHAD	SB 29	✓	

(Please leave prepared statement with Secretary)

(21)

# STANDING COMMITTEE REPORT

February 12, 1931

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 268

Respectfully report as follows: That SENATE Bill No. 268  
be amended as follows:

1. Title, line 4.  
Following: "TO"  
Strike: "TAX"  
Insert: "ASSESS"
2. Line 15.  
Following: "hearing,"  
Strike: "tax"  
Insert: "assess"
3. Line 18.  
Following: "under"  
Strike: "3-5-201"  
Insert: "3-15-201"
4. Line 19 through line 20.  
Following: "against"  
Strike: "the parties in equal proportion"  
~~DO PASS~~ Insert: "any party"

And, as so amended,  
DO PASS

Mike Anderson Chairman.