

HOUSE BILL NO. 66

INTRODUCED BY BENNETT, KEEDY, HARP, IVERSON,  
KEYSER, DAILY, PAVLOVICH, KANDUCH,  
ANDERSON, CONN

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on State Administration.
	On motion by chief sponsor, Representatives Keedy, Harp, Iverson, Keyser, Daily, Pavlovich, Kanduch, Anderson, Conn were added as authors to the pre-filed bill.
January 7, 1981	Fiscal note requested.
January 12, 1981	Fiscal note returned.
January 14, 1981	Committee recommend bill do pass as amended. Report adopted.
January 15, 1981	Bill printed and placed on members' desks.
January 16, 1981	Second reading, do pass.
January 17, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 19, 1981	Introduced and referred to Committee on Judiciary.
March 25, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in. Ayes, 44; Noes, 4.

IN THE HOUSE

March 28, 1981

Returned from Senate. Con-  
curred in. Sent to enrolling.

Reported correctly enrolled.

1                   HOUSE           BILL NO.   66  
 2   INTRODUCED BY BENNETT

3  
 4   A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN  
 5   INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING  
 6   FROM THE TIME POSSESSION IS SURRENDERED TO THE TIME WHEN THE  
 7   SUMMONS IS SERVED; AMENDING SECTION 70-30-302, MCA; AND  
 8   PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9  
 10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11       Section 1. Section 70-30-302, MCA, is amended to read:

12       "70-30-302. Assessing compensation -- date and measure  
 13   -- interest. (1) For the purpose of assessing compensation,  
 14   the right thereto shall be deemed to have accrued at the  
 15   date of the service of the summons, and its actual value as  
 16   of that date shall be the measure of compensation for all  
 17   property to be actually taken and the basis of depreciation  
 18   in value of property not actually taken but injuriously  
 19   affected. This shall not be construed to limit the amount of  
 20   compensation payable by the department of highways under the  
 21   provisions of any legislation enacted pursuant to the  
 22   federal Highway Beautification Act of 1965.

23       (2) If an order be made letting the plaintiff into  
 24   possession, as provided in 70-30-311, the full amount  
 25   finally awarded shall draw interest at the rate of 10% per

1   annum from the date ~~on which the property owner surrenders~~  
 2   ~~possession of the property in accordance with the terms of~~  
 3   ~~such order~~ of the service of the summons to the earlier of  
 4   the following dates:

5       (a) the date on which the right to appeal to the  
 6   Montana supreme court expires or, if appeal is filed, to the  
 7   date of final decision by the supreme court; or

8       (b) the date on which the property owner withdraws from  
 9   court the full amount finally awarded.

10       (3) If the property owner withdraws from court a  
 11   fraction of the amount finally awarded, interest on such  
 12   fraction shall cease on the date it is withdrawn but  
 13   interest on the remainder of the amount finally awarded  
 14   shall continue to the earlier of the aforesaid dates defined  
 15   in (2)(a) and (2)(b) of this section until the full amount  
 16   is withdrawn from the court.

17       (4) None of the amount finally awarded shall draw  
 18   interest after the date on which the right to appeal to the  
 19   Montana supreme court expires.

20       (5) No improvements put upon the property subsequent to  
 21   the date of the service of summons shall be included in the  
 22   assessment of compensation or depreciation in value, nor  
 23   shall the same be used as the basis of computing such  
 24   compensation or depreciation."

25       Section 2. Applicability. This act applies to all

HB 66

LC 0486/01

1 judgments entered after the effective date of this act.  
2 Section 3. Effective date. This act is effective on  
3 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 48-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, 19 81, there is hereby submitted a Fiscal Note for House Bill 66 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act changing the time when interest is drawn on an award in a condemnation proceeding from the time possession is surrendered to the time when the summons is served.

Assumptions

1. The Department of Highways is the only state agency affected by the proposed legislation.
2. The calendar year 1979 caseload at the Department of Highways is representative.

Fiscal Impact

	<u>FY 1982</u>	<u>FY 1983</u>	<u>Biennium Total</u>
Interest expense under current law	\$137,900	\$137,900	\$275,800
Interest expense under proposed law	<u>189,600</u>	<u>189,600</u>	<u>379,200</u>
Increased interest expense due to proposed legislation	<u>\$ 51,700</u>	<u>\$ 51,700</u>	<u>\$103,400</u>

The additional expense is to the Earmarked Revenue Fund.

*David M. Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-12-80

Approved by Committee  
on State Administration

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18 of that date shall be the measure of compensation for all  
19 property to be actually taken and the basis of depreciation  
20 in value of property not actually taken but injuriously  
21 affected. This shall not be construed to limit the amount of  
22 compensation payable by the department of highways under the  
23 provisions of any legislation enacted pursuant to the  
24 federal Highway Beautification Act of 1965.

25 (2) If an order be made letting the plaintiff into

1 possession, as provided in 70-30-311, the full amount  
2 finally awarded shall draw interest at the rate of 10% per  
3 annum from the date ~~on which the property owner surrenders~~  
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6 the following dates:

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8 Montana supreme court expires or, if appeal is filed, to the  
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21 Montana supreme court expires.

22 (5) No improvements put upon the property subsequent  
23 to the date of the service of summons shall be included in  
24 the assessment of compensation or depreciation in value, nor  
25 shall the same be used as the basis of computing such

1 compensation or depreciation."

2 Section 2. Applicability. This act applies to all  
3 ~~judgments-entered~~ SUMMONS\_SERVED after the effective date of  
4 this act.

5 ~~Section-3--Effective--date--This-act-is-effective-on~~  
6 ~~passage-and-approval~~

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THIRD READING



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