

HOUSE JOINT RESOLUTION NO. 64

INTRODUCED BY JACOBSEN, LUND, SHONTZ, HOLLIDAY,
McBRIDE, OBERG, ELLISON, BENGTON, ABRAMS, MARKS,
KEMMIS, QUILICI, D. BROWN, SCHULTZ, ROTH, THOFT,
CONROY, R. MANNING, NEUMAN, MENAHAN, HUENNEKENS,
ZABROCKI, VINCENT, O'CONNELL, VINGER, DEVLIN,
BENNETT, YARDLEY, KENNERLY, IVERSON, HARRINGTON
NILSON, HARPER, C. SMITH, SHELDEN, TEAGUE, FAGG,
UNDERDAL, ANDERSON, BERGENE, ERNST, SWITZER,
SALES, MANUEL, J. RYAN, PEDA, McLANE, WALLIN, METCALF,
PAVLOVICH, DUSSAULT, BERTELSEN, FABREGA, ASAY

IN THE HOUSE

March 30, 1981	Introduced and referred to Committee on Judiciary.
April 2, 1981	Committee recommend bill do pass as amended. Report adopted.
April 3, 1981	Bill printed and placed on members' desks.
April 7, 1981	Motion pass consideration.
April 9, 1981	Second reading, do pass. On motion rules suspended and bill placed on third reading this day. Third reading, passed. Ayes, 91; Noes, 2. Transmitted to Senate.

IN THE SENATE

April 10, 1981	Introduced and referred to Committee on Judiciary.
April 16, 1981	Committee recommend bill be concurrred in. Report adopted.
April 17, 1981	Second reading, concurrred in.

April 17, 1981

On motion rules suspended.
Bill placed on calendar for
third reading this day.

Third reading, concurred in.
Ayes, 48; Noes, 0.

IN THE HOUSE

April 20, 1981

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

Reported correctly enrolled.

1 *Greg E. Hill* HOUSE JOINT RESOLUTION NO. 64
 2 INTRODUCED BY *Richard Roth* *Thoft* *McLane* *Cowley* *Richard Worthington*
 3 *Rayton Adams* *William Kemmis* *Andrew Davidson*
 4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
 5 REPRESENTATIVES OF THE STATE OF MONTANA TO REQUEST AN
 6 INTERIM STUDY OF ALL ASPECTS OF MONTANA'S LAWS RELATING TO
 7 EMINENT DOMAIN. *Harvington* *Parlow* *Nelson* *Stacy*
 8 *Dessaut* *Shelton* *Engel* *Metcalfe* *Chadwick*
 9 WHEREAS, "eminent domain" is defined in 70-30-101, MCA,
 10 as "the right of the state to take private property for
 11 public use"; and
 12 WHEREAS, the application of eminent domain is a *Meruti*
 13 necessary function of the state in order to promote the
 14 general welfare and provide for the public good; and
 15 WHEREAS, the authority of the sovereign state to take
 16 private property for public use raises fundamental questions
 17 about the rights of private property owners; and
 18 WHEREAS, Montana statutes grant the power of eminent
 19 domain to private interests under certain circumstances; and
 20 WHEREAS, the application of eminent domain is
 21 increasingly jeopardizing the rights of private landowners
 22 and the preservation of agricultural land; and
 23 WHEREAS, the potential for serious conflict is
 24 increasing between those with agricultural interests and
 25 those who might use the power of eminent domain for their

1 own profit; and
 2 WHEREAS, private landowners are concerned about the
 3 continued viability of their agricultural operations as
 4 sections of their land increasingly are taken through
 5 eminent domain proceedings; and
 6 WHEREAS, private landowners generally are concerned
 7 about the overall process used in the taking of their land
 8 by means of eminent domain.
 9
 10 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
 11 OF REPRESENTATIVES OF THE STATE OF MONTANA:
 12 That an appropriate interim committee be assigned to
 13 study all aspects of Montana's laws regarding eminent
 14 domain. Such a study shall include but not be limited to an
 15 analysis of:
 16 (1) what constitutes an appropriate public use, with
 17 particular consideration given to the granting of the power
 18 of eminent domain to a private interest for private profit;
 19 (2) the criteria for assessing compensation to
 20 landowners;
 21 (3) the method of payment to landowners;
 22 (4) what constitutes an appropriate compensation for
 23 the conduct of surveys on private land;
 24 (5) the overall procedure used for exercising eminent
 25 domain;

1 (6) alternatives for providing a process for notifying
2 landowners of their rights;

3 (7) the factors considered in determining the highest
4 and best use of the land in an eminent domain proceeding;

5 (8) the possibility of limiting the use of eminent
6 domain in certain instances and eliminating its use in
7 others;

8 (9) the desirability of compensating landowners for
9 the increase in operating costs incurred when certain land
10 is removed from their control;

11 (10) generally what is and what should be compensable
12 under the laws of eminent domain;

13 (11) the feasibility of establishing annual payments
14 with an option for renegotiation of the payments as the
15 value of the land changes;

16 (12) the relationship between the laws of eminent
17 domain and the Montana Environmental Policy Act; and

18 (13) the advantages and disadvantages of granting the
19 power of eminent domain for a project before all necessary
20 permits and other legal proceedings have been obtained and
21 completed.

22 BE IT FURTHER RESOLVED, that the committee report its
23 activities, findings, and recommendations to the 48th
24 Legislature.

-End-

Approved by Committee
on Judiciary

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23 general welfare and provide for the public good; and

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25 private property for public use raises fundamental questions

1 about THE APPROPRIATE BALANCE BETWEEN NECESSARY PUBLIC USES
2 AND the rights of private property owners; and

3 WHEREAS, Montana statutes grant the power of eminent
4 domain to private interests under certain circumstances; and

5 WHEREAS, the application of eminent domain is
6 increasingly jeopardizing the rights of private landowners
7 and the preservation of agricultural land; and

8 WHEREAS, the potential for serious conflict is
9 increasing between those with ~~agricultural~~ PRIVATE PROPERTY
10 interests and those who might use the power of eminent
11 domain ~~for-their-own-profit~~; and

12 WHEREAS, private landowners are concerned about the
13 continued viability of their agricultural operations as
14 sections of their land increasingly are taken through
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16 WHEREAS, private landowners AND CONDEMNERS generally
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25 value of the land changes;

1 (12) the relationship between the laws of eminent
2 domain and, the Montana Environmental Policy Act, AND THE
3 MONTANA MAJOR FACILITY SITING ACT; and

4 (13) the advantages and disadvantages of granting the
5 power of eminent domain for a project before all necessary
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