

HOUSE BILL NO. 135  
INTRODUCED BY YARDLEY

IN THE HOUSE

January 8, 1983	Introduced and referred to Committee on Natural Resources.
January 26, 1983	Committee recommend bill do pass. Report adopted.
January 27, 1983	Bill printed and placed on members' desks.
January 28, 1983	Second reading, do pass.
January 29, 1983	Considered correctly engrossed.
January 31, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 1, 1983	Introduced and referred to Committee on Natural Resources.
March 10, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.
March 15, 1983	Third reading, concurred in. Ayes, 35; Noes, 13.

IN THE HOUSE

March 15, 1983	Returned to House.
March 16, 1983	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 135

INTRODUCED BY *Gundley*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A WIND ENERGY EASEMENT; PROVIDING THAT SOLAR AND WIND ENERGY EASEMENTS ARE SERVITUDES ATTACHED TO LAND; AMENDING SECTION 70-17-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 70-17-101, MCA, is amended to read:

"70-17-101. Servitudes attached to land. The following land burdens or servitudes upon land may be attached to other land as incidents or appurtenances and are then called easements:

- (1) the right of pasture;
- (2) the right of fishing;
- (3) the right of taking game;
- (4) the right-of-way;
- (5) the right of taking water, wood, minerals, and other things;
- (6) the right of transacting business upon land;
- (7) the right of conducting lawful sports upon land;
- (8) the right of receiving air, light, or heat from or over or discharging the same upon or over land;
- (9) the right of receiving water from or discharging

the same upon land;

(10) the right of flooding land;

(11) the right of having water flow without diminution or disturbance of any kind;

(12) the right of using a wall as a party wall;

(13) the right of receiving more than natural support from adjacent land or things affixed thereto;

(14) the right of having the whole of a division fence maintained by a coterminous owner;

(15) the right of having public conveyances stopped or of stopping the same on land;

(16) the right of a seat in church;

(17) the right of burial;

(18) the right of conserving open space to preserve park, recreational, historic, aesthetic, cultural, and natural values on or related to land;

(19) the right of receiving sunlight or wind for recognized nonfossil forms of energy generation."

NEW SECTION. Section 2. Wind energy easement. (1) An easement obtained for the purpose of insuring the undisturbed flow of wind across the real property of another must be created in writing and is subject to the same conveyancing and instrument recording requirements as other easements on real property.

(2) An instrument creating a wind energy easement must

-2- INTRODUCED BILL

*H/B 135*

1 include:

2 (a) a legal description of the real property benefited  
3 and burdened by the easement;

4 (b) a description of the dimensions of the easement  
5 sufficient to determine the horizontal space across and the  
6 vertical space above the burdened property that must remain  
7 unobstructed;

8 (c) the restrictions placed upon vegetation,  
9 structures, and other objects that would impair or obstruct  
10 the windflow across and through the easement; and

11 (d) the terms or conditions, if any, under which the  
12 easement may be changed or terminated.

13 NEW SECTION. Section 3. Effective date. This act is  
14 effective on passage and approval.

-End-

Approved by Committee  
on Natural Resources

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