HOUSE BILL NO. 135

INTRODUCED BY YARDLEY

IN THE HOUSE

		***	HE HOUSE	
January 8	3, 1983			Introduced and referred to Committee on Natural Resources.
January 2	26, 1983			Committee recommend bill do pass. Report adopted.
January 2	27, 1983			Bill printed and placed on members' desks.
January 2	28, 1983			Second reading, do pass.
January 2	29, 1983			Considered correctly engrossed.
January 3	31, 1983			Third reading, passed. Transmitted to Senate.
		IN T	HE SENATE	
Pebruary	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 12, March 15,				w *
·		IN T	HE HOUSE	in. Third reading, concurred
·	. 1983	IN T	HE HOUSE	in. Third reading, concurred
March 15,	, 1983 , 1983	IN T	HE HOUSE	in. Third reading, concurred in. Ayes, 35; Noes, 13.

Reported correctly enrolled.

1	HOLAS BILL NO. /35
2	INTRODUCED BY
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A WIND ENERGY
5	EASEMENT; PROVIDING THAT SOLAR AND WIND ENERGY EASEMENTS ARE
6	SERVITUDES ATTACHED TO LAND; AMENDING SECTION 70-17-101.
7	MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
8	
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	Section 1. Section 70-17-101, NCA, is amended to read:
11	*70-17-101. Servitudes attached to land. The following
12	land burdens or servitudes upon land may be attached to
13	other land as incidents or appurtenances and are then called
14	easements:
15	(1) the right of pasture;
16	(2) the right of fishing;
17	(3) the right of taking game;
18	(4) the right-of-way;
19	(5) the right of taking water, wood, minerals, and
20	other things;
21	(6) the right of transacting business upon land;
22	(7) the right of conducting lawful sports upon land;
23	(8) the right of receiving air: light, or heat from or
34	anna an diagharaina Abalianna man an anna Isande

(9) the right of receiving water from or discharging

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S	(10) the right of flooding land;
3	(11) the right of having water flow without diminution
4	or disturbance of any kind;
5	(12) the right of using a wall as a party wall;
6	(13) the right of receiving more than natural support
7	from adjacent land or things affixed thereto;
8	(14) the right of having the whole of a division fence
9	maintained by a coterminous owner;
10	(15) the right of having public conveyances stopped or
11	of stopping the same on land;
12	(16) the right of a seat in church;
13	(17) the right of burial;
14	(18) the right of conserving open space to preserve
15	park, recreational, historic, aesthetic, cultural, and
16	natural values on or related to landa;
17	(19) the right of receiving sunlight or wind for
18	recognized nonfossil forms of energy generation."
19	NEW SECTION. Section 2. Wind energy easement. (1) An
20	easement obtained for the purpose of insuring the
21	undisturbed flow of wind across the real property of another
22	must be created in writing and is subject to the same
23	conveyancing and instrument recording requirements as other
24	easements on real property.
25	(2) An instrument creating a wind energy easement must

-2- INTRODUCED BILL +18 135

the same upon land;

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- (a) a legal description of the real property benefited
 and burdened by the easement;
 - (b) a description of the dimensions of the easement sufficient to determine the horizontal space across and the vertical space above the burdened property that must remain 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
- (d) the terms or conditions: if any under which the easement may be changed or terminated.
- 13 <u>NEW SECTION</u> Section 3. Effective date. This act is 14 effective on passage and approval.

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Approved by Committee on Natural Resources

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19	(5) the right of taking water, wood, minerals, and
20	other things;
21	(6) the right of transacting business upon land;
22	(7) the right of conducting lawful sports upon land;
23	(8) the right of receiving air, light, or heat from or
24	over or discharging the same upon or over land;

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- 11 (d) the terms or conditions: if any, under which the 12 easement may be changed or terminated.
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48th Legislature HB 0135/02

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