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House BILL NO. 414
[Signature]

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ARTIFICIAL MONUMENT" FOR THE PURPOSE OF LAND SURVEYS; REQUIRING THE PRESERVATION OF MONUMENTS AND ARTIFICIAL MONUMENTS FOR THE PURPOSES OF LAND SURVEYS; AND AMENDING SECTION 70-22-103, MCA."

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

Section 1. Section 70-22-103, MCA, is amended to read:

"70-22-103. Definitions. Except ~~where~~ when the context indicates a different meaning, terms used in this part ~~shall be~~ are defined as follows:

(1) An "accessory to a corner" ~~is~~ means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(2) An "artificial monument" means a road, railroad track, or similar, relatively permanent cultural feature that has been used to identify the location of any parcel or tract of land in a deed filed at the office of the county clerk and recorder.

(3) The "board" is the board of professional engineers and professional land surveyors, provided for in 2-15-1873.

~~(3)~~(4) A "corner", unless otherwise qualified, means a property corner or a property controlling corner or a public land survey corner or any combination of these.

~~(4)~~(5) A "monument" is an accessory that is presumed to occupy the exact position of a corner.

~~(5)~~(6) A "property controlling corner" for a property is a public land survey corner or any property corner ~~which~~ that does not lie on a property line of the property in question but ~~which~~ that controls the location of one or more of the property corners of the property in question.

~~(6)~~(7) A "property corner" is a geographic point on the surface of the earth and is on, is a part of, and controls a property line.

~~(7)~~(8) A "public land survey corner" is any corner actually established and monumented in an



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1 original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private
2 person from the United States government.

3 ~~(8)~~(9) A "reference monument" is a special monument that does not occupy the same geographical
4 position as the corner itself but whose spatial relationship to the corner is recorded and ~~which~~ that serves
5 to witness the corner.

6 ~~(9)~~(10) A "registered surveyor" is a surveyor who is registered to practice land surveying under
7 Title 37, chapter 67, and has a paid-up license for that calendar year or who is authorized under Title 37,
8 chapter 67, to practice land surveying."

9

10 **NEW SECTION. Section 2. Monument preservation.** (1) Prior to the time that a person engages
11 in activity that will or is likely to disturb or destroy a monument or the accessories to a monument, the
12 person shall engage a registered surveyor to:

- 13 (a) locate and reference the monument or the accessories to the monument; and
- 14 (b) file a corner record showing the location of the references to the monument or to the
15 accessories to the monument.

16 (2) Within 30 days after a person has completed activity that has disturbed or destroyed a
17 monument or the accessories to a monument, the person shall engage a registered surveyor to:

- 18 (a) restore or replace the monument or the accessories to the monument from the references
19 established in subsection (1)(b); and
- 20 (b) file a new corner record as required in 70-22-104.

21 (3) Prior to the time that a person engages in activity that will or is likely to disturb or destroy an
22 artificial monument, the person shall engage a registered surveyor to:

- 23 (a) locate and reference the artificial monument; and
- 24 (b) establish permanent reference monuments at known locations relative to the artificial
25 monument.

26 (4) Within 30 days after a person has completed activity that has disturbed or destroyed an
27 artificial monument, the person shall engage a registered surveyor to prepare and file a certificate of survey
28 pursuant to 76-3-404, showing the relationship of the reference monuments established as required in
29 subsection (3)(b) to the artificial monument so that the location of land legally described with reference to
30 the artificial monument may be accurately determined.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0414, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill defining "artificial monument" for the purpose of land surveys, and requiring the preservation of monuments and artificial monuments for the purpose of land surveys.

ASSUMPTIONS:

1. The Montana Department of Transportation (MDT) acquires, on the average, 300 parcels of property per year. Assume that each parcel has at least two affected property corners, for a total of 600 sites in need of surveying.
2. The MDT also purchases approximately 300 construction easements every year. Each construction easement will also have at least two property corners, or 600 sites needing surveying.
3. It is assumed that each time a highway is reconstructed, widened, has centerline shifted, or in some cases overlay, artificial monuments may be disturbed. There are at least twenty five projects per year that would fall into this category. And, assume that there are 30 monuments disturbed per project, or 750 (30 x 25) instances needing action per this bill.
5. In order to reestablish center or control lines, a retracement survey would be performed and a certificate of survey filed. Past history indicates this work costs about \$10,000 per project depending on the length and terrain covered.
6. Assume that each property corner will require 6 hours to travel to, locate, temporarily reference, file a new corner record; then return to the location, reestablish the property corner, set a new monument, and file a new corner record as per 70-22-104, MCA.
7. The MDT would contract to have the necessary work performed. Assuming a crew of two could accomplish the work, assume an average price of \$67/hour for a crew.
8. Calculation of impact:

assumptions 1 & 2: 1,200 markers x 6 hours/marker x \$67/hour =	\$482,400
assumption 3: 750 markers x 6 hours x \$67 =	301,500
assumption 5: 25 projects x \$10,000 =	<u>250,000</u>
Total	\$1,033,900
9. Assume the projects effected are federal aid projects funded 20% state special and 80% federal special.
10. The MDT has approached this bill on the assumption that all work will be contracted, since the work must be performed by a registered surveyor (RS), and the MDT currently has only 1 RS on staff. If this bill passes, the MDT will evaluate and determine the most efficient and economical method of absorbing the workload, which may involve hiring RSs.

FISCAL IMPACT:

Department of Transportation:

	FY98	FY99
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating expense	1,033,900	1,033,900
 <u>Funding:</u>		
State special (02)	206,800	206,800
Federal special (03)	<u>827,100</u>	<u>827,100</u>
Total	1,033,900	1,033,900

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Missoula county was asked to estimate the impact of this bill on their county. By using their own staff, they estimated an annual cost of \$3,000. Assuming Missoula county represents 10% of the state, the statewide impact on expenditures would be in the range of \$30,000.

Dave Lewis 2.6.97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 DANIEL MCGEE, PRIMARY SPONSOR DATE

Fiscal Note for HB0414, as introduced

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