

1 HOUSE BILL NO. 198

2 INTRODUCED BY K. PETERSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A PUBLIC UTILITY'S POWER OF EMINENT DOMAIN;
5 CLARIFYING THAT A PERSON ISSUED A CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT HAS
6 THE POWER OF EMINENT DOMAIN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
7 RETROACTIVE APPLICABILITY DATE."

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

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11 NEW SECTION. **Section 1. Power of eminent domain.** A public utility as defined in 69-3-101, its
12 affiliates, and its subsidiaries may acquire by eminent domain, as provided in Title 70, chapter 30, any interest
13 in property for a public use authorized by law in the exercise of its duties as a utility pursuant to Title 69 and in
14 meeting state and federal obligations to provide service.

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16 NEW SECTION. **Section 2. Power to exercise eminent domain.** (1) A person issued a certificate
17 pursuant to this chapter may acquire by eminent domain, as provided in Title 70, chapter 30, any interest in
18 property for a public use authorized by law to construct a facility in accordance with the certificate.

19 (2) The issuance of a certificate in accordance with this chapter conclusively establishes that a taking
20 is a necessary public use needed to commence to construct the facility in accordance with the certificate and Title
21 70, chapter 30.

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23 NEW SECTION. **Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an
24 integral part of Title 69, chapter 3, part 1, and the provisions of Title 69, chapter 3, part 1, apply to [section 1].

25 (2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 20, part 1, and the
26 provisions of Title 75, chapter 20, part 1, apply to [section 2].

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28 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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30 NEW SECTION. **Section 5. Retroactive applicability.** [Section 2] applies retroactively, within the

1 meaning of 1-2-109, to certificates issued after September 30, 2008.

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