MINUTES OF THE MEETING OF THE APPROPRIATIONS COMMITTEE
January 31, 1983.

The Appropriations Committee met at 7:30 p.m. on January 31, 1983, in Room 104, with Chairman Francis Bardanouve presiding and all members were present. Judy Rippingale, Legislative Fiscal Analyst was also present. HOUSE BILLS 95 and 243 were heard. EXECUTIVE ACTION was taken on House BILLS 95 and 243.

(Tape 1: Track 1:000)
HOUSE BILL 243: "A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO THE INDIAN LEGAL JURISDICTION PROGRAM IN THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR ENDING JUNE 30, 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." was heard.

Rep. ASAY, the bill's chief sponsor, explained that the purpose of this bill is to appropriate $149,000 to continue the funding of the Indian Jurisdiction projects through June 30, 1983. He stated that the primary need for this money is to settle the suit in which the courts have set aside income from the Crow coal lands, which money is now being held in the courts.

Proponents:
DAVID E. WANZENRIED, Executive Assistant to the Governor, stated that the Indian Jurisdiction project was set up in 1977. This supplemental request represents a lack of foresight and a lack of control, on the Executive's part, over matters in the federal court system, the Crow coal case being the most important case. He stated that this project really serves two purposes: 1. It provides a litigation system for the state agencies which are subject to law suits filed by Indian tribes against a state agency (in most cases, a department of state government is challenged, that is, it's authority is challenged at some point); and 2. The project was begun to represent state agencies to present a unified state effort in litigation on behalf of the state, for in many cases the questions which have been issued run to the basic core of the state's interest.

HELENA S. MACLAY, one of two contract attorneys from Missoula, explained the legal aspects of the project pertaining to each tribe involved. (Exhibit 1.) She stated that, of these tribes, the Crow Tribe has the largest monetary impact on the state.

Attorney Maclay also submitted an "Opinion in the United States Court of Appeals for the Ninth Circuit" on the Blackfeet Tribe vs. Montana, in which the tribe challenged the application of five state oil and gas taxes to production on the reservation. (Exhibit 2.) She stated that nobody knew for sure just yet, but that this case may involve 5, 6 or 7 million dollars.

JANDEE MAY, Office of Budget & Program Planning (OBPP), stated that the total request of $149,000 could best be broken down into two categories... the immediate costs and the costs yet to be incurred. The immediate costs of $12,900 has already been paid. The Governor,

because of the necessity of these costs, from his own budget paid $12,900 of expenses. There was $4,000 to Attorney Maclay for hours put in on Indian cases from November 17, 1982 to December 31, 1982. There was an $8,000 printing bill for water adjudication cases. There was a final payment of $900 for the Roth (Namen Case), a Flathead Lake case starting in the early '70's for which the state agreed to pay 1/2 of the cost.

The breakdown on the costs yet to be incurred from January to the end of this fiscal year is $136,100. $26,000 and $11,600 would allow an extension of services for the two contract lawyers, Maclay and Boggs. After the Crow case was remanded back to the District Court, the Anderson law firm out of Billings was hired. This firm has taken over the case and will carry it to completion, thus the $60,000 request. Operating expenses will be $18,000, which would mainly be printing, travel, etc. $17,500 is requested for the assistance of Mr. Randolph in Washington, D.C. who is assisting in the presentation of the water adjudication cases to the Supreme Court. He previously worked for the Solicitor General in arguing U.S. cases in front of the Supreme Court and his expertise in how to argue a case has been immeasurably helpful to Montana lawyers. Finally, $3,000 for Agency Legal Services, a program in the Attorney General's office. At a cost of $35 an hour, they will be assisting the Anderson law firm in the discovery process. Also on the staff of the Agency Legal Services is a lawyer who previously worked for the Indian Jurisdiction project.

Opponents: None.

Discussion:
Rep. BENGTSON asked what was the amount transferred by the Legislature into the Indian Jurisdiction project from the Coal Severance Tax? DAVID WANZENRIED replied that in the special session of November, 1981, moneys were reauthorized for the Attorney General to continue to wrap up the Commonwealth-Edison case... $50,000 for that purpose and other coal severance tax-related challenges. About $17,500 of that amount was transferred from those moneys which were set aside for challenges to the state's coal severance tax to this project, particularly for the Crow coal case.

Rep. BENGTSON asked what total amount is going to be requested for the 1984/85 biennium to pursue these Indian Jurisdiction projects? JANDEE MAY replied that the request for the 1984/85 biennium is $574,623 for the first year - this would contain a $500,000 biennial appropriation which could be carried into the second year; and the 1985 request is for $74,498.

Rep. QUILICI asked where the tribes get some of their legal services? HELENA MACLAY replied that the tribes are represented by high-powered attorneys, mostly from Washington, D.C., who have represented various tribes in Montana for many years. She stated that those attorneys

provide the state with good challenges when they file their lawsuits, and it was her understanding that their fees are comparably high. She said she understands that there is also a group in Boulder, Colorado called the Native American Rights Fund which provides substantial assistance to the various tribes. They are getting good and consistent representation which, over a period of time, provides a very good challenge to the state.

The hearing closed at 8:05 p.m.

(Tape: Track 1: 113)
HOUSE BILL 95: "A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE MONEY FOR SANITARY REVIEW OF SUBDIVISIONS BY THE DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES FOR THE BIENNIUM ENDING JUNE 30, 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." was heard.

Rep. GENE DONALDSON, the bill's chief sponsor, explained that the bill is a supplemental appropriation to the Department to carry on the activity of the Subdivision Bureau. He said that in the 1981 session an attempt was made to raise the fees for the subdivision lots and it was basically unsuccessful. The result is that the activity has been curtailed and virtually shut down. If some relief is not given at this time, it will be closed down entirely.
Rep. BARDANOUVE asked what the number of the bill is which would raise the fees? Rep. DONALDSON replied that he thought it was HB 118, but was not sure where it was in the process. Rep. DONALDSON said he will make an amendment to move down to $58,000 from $64,000 in the Executive meeting.

Proponents:
DON WILLEMS, Administrator of the Environmental Sciences Division of the Department of Health & Environmental Sciences, gave a history of the Water Quality Bureau. (Exhibit 3.)

CHARLES LANDMAN, representing the Montana Environmental Information Center (MEIC), stated that review of subdivisions is vital to people who live in and around those developments. The MEIC is concerned about reduced review now being provided by the Water Quality Bureau. He said that Montana law does not say what will happen if the review is not done. The state may be open for a law suit or it's possible that development might take place without a review.

DENNIS REHBERG, of the Montana Association of Realtors, supported the bill, but wants the committee to take a close look at expenditures of the supplemental request.

JOAN MILES, Lewis & Clark County Health Department, stated they don't have a contract with the state to do subdivision review, and neither do they have the staff or resources to do the reviews, but that they do receive frequent applications for review - anywhere from 2 to 8 applications per month. She stated that they support the bill.

Minutes of the meeting of the Appropriations Committee
January 31, 1983.

Opponents: None.

Discussion:
Rep. WALDRON asked Dennis Rehberg if his organization is supporting an increase in fees to resume the subdivision process when the next fiscal year starts? DENNIS REHBERG stated that they were in opposition to raising the lot fees in any way, and that they are in opposition to raising the lot fee from the current $30. Rep. WALDRON then asked if they were expecting the Legislature to fund the Subdivision Bureau with General Fund money? DENNIS REHBERG stated they were not, but feel the Subdivision Bureau (or Water Quality Bureau) should staff at a level which the lot fees will afford. He stated they have heard many times that the Subdivision Bureau went broke because the lot fees were too low and they do not feel this is correct. They felt it went broke because of the lack of lots being reviewed - a basic economic problem, because when you have an agency that is totally funded by lot fees, you have to consider the highs as well as the lows and they don't feel the Department of Health did this in their staffing levels.

Rep. BENGTSON asked if this would continue to be a Water Quality Bureau or if it would be a separate Subdivision Bureau? DON WILLEMS replied that the feeling now is that it would stay in the Water Quality Bureau.

Rep. MENAHAN asked if Dennis Rehberg's statement were true in regard to fees and staffing? DR. JOHN J. DRYNAN, Director of the Department of Health & Environmental Sciences, stated he did not believe this was so because in the subdivision review, you have to have enough qualified personnel to do the reviews in the peaks and valleys which occur; and in addition, there is a 60-day limit to getting the reviews completed. In most major subdivision reviews, they have the full 60 days, but in the minor cases, the counties have taken up to 50 days in returning those cases and they have only 10 days to review.

Rep. BARDANOUVE asked Rep. Shontz if he had any comments, since he was Chairman of the Human Services Subcommittee? Rep. SHONTZ replied that in the subcommittee they did review this area and recommended the amount requested by the Department be fully funded from fees generated by the subdivision review process. He asked Rep. Donaldson what the $58,000 funded in regard to FTE's (full-time-equivalent employees)? Rep. DONALDSON replied that it appeared to fund 4 people from now until July 1, 1983, plus the travel and other expenses involved.

Rep. SHONTZ said he did not see any reference in the bill on the fees that will be generated between now and the end of the fiscal year and asked if Rep. Donaldson took that into account when he developed the bill? Rep. DONALDSON replied that some of the fees which come in will go out to local governments. He anticipated that and felt it would be better handled through the Human Services Subcommittee.

Minutes of the meeting of the Appropriations Committee
January 31, 1983.

Rep. SHONTZ then stated that the subcommittee did not recommend that the Department start the fiscal year with any particular fund balance and he thought that, for the benefit of discussion, he would move that HB 95 be amended to reduce the General Fund appropriation by the amount of fees generated during the balance of the biennium. Rep. BARDANOUVE stated that in Section 17-2-108, the expenditure of non-General Fund money is first and it says "the Department shall apply expenditures against non-General Fund money wherever possible before using the General Fund appropriation". Rep. DONALDSON said he would strongly recommend that the committee not reduce this amount because they need the money to keep going. Rep. SHONTZ then withdrew his motion.

The hearing closed at 8:25 p.m.

***EXECUTIVE ACTION:

Amendment to HB 95:

Rep. DONALDSON made a motion that House Bill 95, page 1, line 14 be amended so that the $64,000 would be amended downward by $6,000, to $58,000. The motion was seconded by Rep. SHONTZ and passed unanimously.

(Tape 1: Track 1:210)

HOUSE BILL 243:

Rep. QUILICI made a motion that HB 243 do pass.

Discussion:

Rep. QUILICI stated that in Fiscal Year 1983 there was $9,848,000 of coal tax collected. In Fiscal Year 1984 there will be $10,336,000. Only 19% goes into the General Fund, but it is a tremendous impact on the state. That's why he asked Ms. Maclay to come up and tell the committee that we have some real high-priced attorneys that the State of Montana is facing on these coal related matters and he thought we should have the best in Montana to take care of our rights as far as these cases are concerned; and that's why he made the motion.

The motion was seconded and passed unanimously.

Other business:

Rep. WALDRON said he came across a law in Illinois that allows the state to be reimbursed for the incarceration of prisoners. He said he'd like to put together a bill and see how it would work out. He said that - just by way of illustration of what can be done - Galen State Hospital, which used a lot of money from the Earmarked Revenue Fund from the liquor tax - about $190,000 for a biennium, he found that reimbursement from some of the people who can pay in the program didn't seem to nick anybody too hard. So he asked the committee to authorize him to put together a bill.

Rep. MENAHAN stated that we also have the State of Nevada which charges them for their medical costs and he thought we should look at that too.

Rep. BARDANOUVE said the committee could not be obligated to anything until it sees the bill... we might throw it out.

Minutes of the meeting of the Appropriations Committee
January 31, 1983.

Rep. WALDRON made a motion that we ask for a committee bill to provide for prisoners to pay for their incarceration costs, including meals.

The motion was seconded and passed unanimously.

Rep. WALDRON presented a written statement on "cash limitation on expenditures". (Exhibit 4.)

JOHN NORTHEY, from the Legislative Auditor's office, explained that an entity can have appropriation authority for, say, $100,000, but they have a revenue shortfall, so they only have revenue of $90,000; but in another category, the University, as an example, when they collect summer school fees in June, they are not recorded until the next fiscal year because that's when the majority of the funds are expended. That cash is sitting in the bank, so they use that cash up to the limit of their existing appropriation authority and it kind of leap-frogs from year to year. It could put them in a situation where all of a sudden they could come here and say, "We got caught short... we need half a million." What we have attempted to do is stop the minipulation of their cash.

Rep. BENGTSON asked Mr. Northey if this was commonplace? MR. NORTHEY replied that it is an exception... it is not common. If an enrollment dropped and they were using this procedure, all of a sudden they could be facing a shortfall.

Rep. BENGTSON asked Mr. Nichols, the Legislative Fiscal Analyst (LFA) to explain it too. MR. NICHOLS stated that last session they had two issues. One was the increased enrollment and the other was utilities MSU overestimated on their revenues and therefore got a lesser General Fund supplemental appropriation than they would have ordinarily got, so they didn't have enough money to spend up to their appropriation; and then their utilities came in considerably below the estimate, so they had a reversion on that. So that made the fund balance go negative.

Rep. BARDANOUVE said that when we passed that legislation on revenue anticipation notes, we were very concerned that at no time would the state be able to roll these liabilities over into the next fiscal year.

Rep. QUILICI asked if this could happen in the University System, could it happen, for instance, in Social & Rehabilitation Services (SRS)? Rep. WALDRON stated that if they get some revenue in this fiscal year that was supposed to be accounted for in the next fiscal year, it could happen.

Rep. WALDRON made a motion that we authorize a committee bill dealing with this particular issue. The motion was seconded and passed unanimously.

The meeting adjourned at 8:55 p.m.

Minutes of the meeting of the Appropriations Committee
January 31, 1983

Original Minutes signed
FRANCIS BARDANOUVE

jc

EXHIBIT 1
HB 243
1/31/83
Asay

INDIAN JURISDICTION PROJECT

I. WHAT IS IT?

The Indian jurisdiction project was to established to provide the State of Montana with expert legal advice and representation in matters involving Indian law. The Indian law area is so complex and unique that it is extremely difficult for non-specialists to adequately assist and defend the state.

This Indian law resource provided to state agencies has served two primary functions; the first and most significant function is to serve as a litigation unit in the event that the state is named as a defendant in a lawsuit. The litigating attorneys are intimately familiar with both Indian law and federal court practice. The second function is to provide legal advice to state agencies about their routine contacts with Indian reservations. This legal service provides advice to agencies that is useful in avoiding confrontation and litigation.

The project is composed of two contract attorneys, the Chief Counsel, and a staff attorney from the Governor's Office, and an attorney from the Attorney General's office.

The four major cases in which the project has been actively involved and an issue summary of those cases are set forth below:

(1) CROW TRIBE OF INDIANS V. MONTANA

The Crow Tribe is challenging Montana's right to impose the coal severance tax and gross proceeds tax on the Crow Reservation and ceded strip which includes the Westmoreland Resources mining operation. The state collects about $10 million per year in coal severance tax from this mine and Big Horn County collects about $1.5 million per year in gross proceeds tax. While this case began in 1978, the costs grew sharply as a result of a U.S. Supreme Court action in October, 1982. The court sent the case back to the federal district court for a full hearing.

On January 6, 1983, the Federal District Court granted the Crow Tribe an injunction enjoining defendants State of Montana and Department of Revenue from taking any action to enforce or collect the Montana coal severance tax from Westmoreland Resources, Inc., to the extent that the tax is imposed on coal produced on the ceded strip. The Court ordered all tax payments to be made to the Court in the interim.

(2) NORTHERN CHEYENNE TRIBE OF INDIANS V. ADSIT

This case involves seven different suits brought in Federal District Court by the United States and various Indian tribes against the State of Montana and thousands of individual water users within the State. Three suits were filed in 1975, and four more were added in April of 1979. The Jurisdiction Project entered the cases as attorney of record in the 1979 cases, and assumed responsibility for the 1975 cases at the same time. The

Federal District Court dismissed all seven cases on November 29, 1979, in deference to the Montana Water Use Act (Senate Bill 76), and five different appellants appealed to the Ninth Circuit. The Project filed Montana's Appellee Brief on July 24, 1980.

The case was argued on July 15, 1981, and the decision was issued on February 22, 1982. The Court held that Montana could not adjudicate Indian water rights in state courts. The Project filed a petition for certiorari in the Supreme Court on May 24, 1981. This petition for review was granted by the U.S. Supreme Court in October of 1982. The Project filed its brief in November, 1982 and will file another brief in January. The case will probably be argued in March of 1983.

(3) BLACKFEET TRIBE V. MONTANA

The Blackfeet Tribe has challenged the application of five state oil and gas taxes to production on the reservation. The case was filed in November, 1978 in Federal Disrict Court in Great Falls. In January of 1981, the judge granted summary judgment for the state. In December of 1982, the Ninth Circuit affirmed. The Blackfeet may petition the United States Supreme Court for review. The Project will oppose this petition. If the court grants review, however, the Project will brief the matter and attend the oral argument in Washington, D.C.

(4) THE ASSINIBOINE & SIOUX TRIBES V. MONTANA

This case involves a tribal challenge to Montana's new car sales tax and the motor vehicle property tax. The Jurisdiction Project on behalf of the state made a motion to dismiss or, in the alternative, motion for summary judgment. Plaintiff's made a motion for partial summary judgment. Oral arguments were made on April 30, 1982, in Federal District Court in Great Falls. A decision is pending.

II. Funding for the 1983 Biennium

The Indian Legal Jurisdiction Project's budget for FY 83 was $65,698. As of today the entire budget has been committed. In addition, the Governor has agreed to pay from his budget, $12,900 for immediate and necessary expenses including attorneys' fees and printing costs incurred prior to January 1, 1983.

Immediate Costs

Maclay	$4,000
Printing	8,000
Roth (Namen Case)	900
	$12,900

Remaining costs of $136,000 will be incurred in the remaining six months of FY 83.

Jan - June 30.

Maclay	$26,000
Boggs	11,600
Retained Counsel for Crow Coal Case	60,000
Operating Expenses	18,000
Randolph (Adsit)	17,500
Agency Legal Services	3,000
TOTAL	$ 136,100

III. Supplemental Request

In order for the state to continue to defend its right to impose the coal severance and gross proceeds tax on the Crow Reservation and ceded strip, a supplemental of $149,000 is requested.

This supplemental fund will allow the Governor's Office to continue to contract with the retained counsel to prepare and present the state's position in this case and pay other associated costs. The supplemental will also allow the Project to continue its efforts in the cases involving (1) adjudication of Indian water rights (Adsit), and (2) payment of state taxes on reservations such as the new car sales tax (Assiniboine) and oil and gas taxes (Blackfeet).

Without this additional funding, the state will be unable to continue its defense of its positions.

EXHIBIT 2
HB 243
1/31/83
Asay

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE BLACKFEET TRIBE OF INDIANS, Plaintiff-Appellant, vs. WILLIAM A. GROFF, Director, Montana, Department of Revenue, STATE OF MONTANA; GLACIER COUNTY, Montana; and PONDERA COUNTY, Montana, Defendants-Appellees.	No. 81-3041 D.C. No. CV 78-61-GF O P I N I O N

On Appeal from the United States District Court
for the District of Montana
The Honorable Paul G. Hatfield, District Judge, Presiding
Argued and submitted February 3, 1982

Before: SNEED, ANDERSON, and REINHARDT, Circuit Judges.

J. BLAINE ANDERSON, Circuit Judge:

The Blackfeet Tribe of Indians (the "Tribe") filed suit seeking equitable relief against state taxation of oil and gas production undertaken by the Tribe's non-Indian lessees on the Blackfeet Reservation. Named as defendants were William Groff as Director of the Montana Department of Revenue, the State of Montana, Glacier County, Montana, and Pondera County, Montana (all simply the "State"). The district court, the Honorable Paul G. Hatfield presiding, granted the State's motion for summary judgment.[1/] We affirm.

I. BACKGROUND

The Blackfeet Tribe, under the supervision of the Department of the Interior, is the lessor of 125 parcels of tribal land for oil and gas mining purposes. The Tribe is the beneficial owner of the mineral rights in issue. The United States holds the legal title in trust for the Tribe.

The lessees (or "producers") are not Indian or Indian-owned entities. The Tribe receives royalty payments based on the amount of oil and gas produced. Oil and gas leasing on the reservation began in 1932 and has continued until the recent past.

Four Montana taxing statutes are at issue.[2/] One has been in force at all times relevant to this action. Two were enacted in the 1970's and the other in 1953. All four statutes tax different aspects of the production of the oil and gas extracted by the non-Indian lessees. The Tribe admits it has not paid any of these taxes directly to the State; the producers have paid the taxes. The Tribe asserts, however, that the producers have deducted the Tribe's share of taxes from the royalty payments.

The Tribe brought this action in 1978. Both the Tribe and the State moved for summary judgment. The district court granted summary judgment in favor of the State.

II. DISCUSSION

District Judge Hatfield based his grant of summary judgment on the belief the 1924 Act authorized state taxation of reservation oil and gas production; because the 1924 Act authorized the taxes at issue, it was unnecessary to reach the issue of whether the legal incidence of the tax is on the Tribe. The Tribe argues on appeal that the 1924 Act is no longer in effect and the incidence of the tax adversely impacts its inherent right of sovereignty. As this appeal is from a summary judgment, our review is the same as that of the trial court. National Industries, Inc. v. Republic National Life Ins. Co., 677 F.2d 1258, 1265 (9th Cir. 1982). Few, if any, facts are in dispute. Virtually all issues are legal and involve the often difficult questions of jurisdiction in Indian Country.

A. Congressional Authorization to Tax

A state's power to tax transactions arising in Indian Country is severely limited. This is especially true when Indian interests are affected. Thus, it was early established that the states could not tax Indian trust property. The Kansas Indians, 72 U.S. (5 Wall.) 737 (1867). More recently, it has been held that the states may not tax the income earned by tribal members on the tribe's reservation, McClanahan v. Arizona State Tax Commission, 411 U.S. 164, 36 L.Ed.2d 129, 93 S.Ct. 1257 (1973), the personal property of tribal members, Bryan v. Itasca County, 426 U.S. 373, 48 L.Ed.2d 710, 96 S.Ct. 2102 (1976), or sales involving tribal members, Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463, 48 L.Ed.2d 96, 96 S.Ct. 1634 (1976), and Washington v. Confederated Tribes of the Colville Reservation, 447 U.S. 134, 65 L.Ed.2d 10, 100 S.Ct. 2069 (1980).

State jurisdiction over the affairs of non-Indians in Indian Country often presents more difficult issues. Such jurisdiction must usually be analyzed in terms of federal preemption and/or the Tribe's limited right of sovereignty. White Mountain Apache Tribe v. Bracker, 448 U.S. 136, 142, 65 L.Ed.2d 665, 672, 100 S.Ct. 2578 (1980). If the state taxation of non-Indians in Indian Country is not preempted, Warren Trading Post Co. v. Arizona Tax Commission, 380 U.S. 685, 14 L.Ed.2d 165, 85 S.Ct. 1242 (1965), it may be upheld if the state's interest in taxing the non-Indians is substantial and outweighs the sovereignty interest of the tribe. See Confederated Colville Tribes, supra, 447 U.S. 134, 65 L.Ed.2d 10.

The major exception to the limited power of the states to tax Indian or non-Indian interests in Indian

Country is when there is an express authorization by Congress for the tax. See Bryan v. Itasca Country, supra, 426 U.S. 373, 48 L.Ed.2d 710, and McClanahan v. Arizona State Tax Commission, supra, 411 U.S. 164, 36 L.Ed.2d 129. The district judge found, and the State argues, such authorization exists. Our task, then, is to determine whether Congress has evinced its consent to the taxes at issue.

We have little difficulty finding such consent in the Act of May 29, 1924, 43 Stat. 244 (the "1924 Act"). This statute, currently codified at 25 U.S.C. § 398, amended the Act of February 28, 1891, 26 Stat. 795, 25 U.S.C. § 397.[3/] The 1891 Act authorized the leasing of tribal property for grazing and mining purposes, within certain specified regulations. The 1924 Act includes a specific procedure for oil and gas leasing and provides in part:

> That the production of oil and gas and other minerals on such lands may be taxed by the state in which said lands are located in all respects the same as production on unrestricted lands, and the Secretary of the Interior is authorized and directed to cause to be paid the tax so assessed against the royalty interests on said lands. . . .

The 1924 Act's authorization of state taxation of oil and gas production and net proceeds under tribal leases on the Blackfeet Reservation was upheld in British-American Oil Prod. Co. v. Board of Equalization of Montana, 299 U.S. 159, 81 L.Ed. 95, 57 S.Ct. 132 (1936).

B. Effect of the Act of 1938

The Tribe contends the 1924 Act's tax authorization was abrogated by the Act of May 11, 1938, 52 Stat. 347, codified at 25 U.S.C. §§ 396a-396g (the "1938 Act").[4/] The 1938 Act did not expressly repeal the 1924 Act.[5/] While we recognize the 1938 Act was an attempt to provide uniformity in an area which has been described as a "patch-work state,"

F. Cohen, Handbook of Federal Indian Law, 328 (1942 Ed.), we cannot agree with the Tribe that this act impliedly repealed the 1924 Act's tax authorization.[6/]

At the outset, we note the opinion in Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 71 L.Ed.2d 21, 102 S.Ct. 894 (1982), while not dispositive, offers support for our conclusion the 1938 Act did not repeal the 1924 Act. In Merrion, the Court upheld the right of the Jicarilla Apache Tribe to tax oil and gas production on its reservation. New Mexico had in existence its own oil and gas production taxes pursuant to the Act of March 3, 1927, 44 Stat. 1347, 25 U.S.C. §§ 398a-e. The 1927 Act's main purpose was to extend the 1924 Act's coverage to executive order reservations. See, F. Cohen, Handbook of Federal Indian Law, 534 (1982 Ed.) The Court noted in Merrion that it was not deciding the issue whether the state could tax oil and gas production through leases entered under the 1938 Act. 455 U.S. at ____, 71 L.Ed.2d at 38, fn. 17. Nonetheless, the Court treated the 1927 and 1938 Acts as a composite whole and made no indication the state lacked the authority to tax. We believe a similar analysis should apply to the 1924 and 1938 Acts.

The 1938 Act attempts to make uniform the law governing the leasing of tribal (unallotted) lands for mineral purposes. Letter from Charles West, Acting Secretary of the Interior, to the House Committee on Indian Affairs, June 17, 1937, reprinted in H. R. Rep. No. 1872, 75th Cong., 3d Sess. (1938); S. Rep. No. 985, 75th Cong., 1st Sess. (1937). It does so by regulating the leasing of all minerals, not solely certain types of mineral leasing. 25 U.S.C. § 396a. It also regulates the procedures for entering a lease and allows the Department of Interior to issue rules to that effect. 25 U.S.C. § 396d. The legislative history also makes it clear the 1938 Act was designed

to further the purposes of the Indian Reorganization Act of 1934, 25 U.S.C. §§ 461-479. Letter from Charles West, supra. The Reorganization Act was quite clearly an effort to reverse the assimilation policies of the Allotment Acts and to encourage Indian self-government. See Fisher v. District Court, etc., 424 U.S. 382, 387, 47 L.Ed.2d 106, 111 96 S.Ct. 943 (1976). The 1938 Act furthers these goals by giving tribes more control over the decisions to lease and by streamlining the leasing process to secure a higher economic return to the tribes.

Against the policy and scope of the 1938 Act, we must balance the long-recognized rule that repeals by implication are strongly disfavored. Morton v. Mancari, 417 U.S. 535, 549, 41 L.Ed.2d 290, 300, 94 S.Ct. 2474 (1974); Posadas v. National City Bank, 296 U.S. 497, 503, 80 L.Ed. 351, 355, 56 S.Ct. 349 (1936). As explained by the Supreme Court in Posadas:

> There are two well-settled categories of repeal by implication--(1) where provisions in the two acts are in irreconcilable conflict, the later act to the extent of the conflict constitutes an implied repeal of the earlier one; and (2) if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate similarly as a repeal of the earlier act. But in either case, the intention of the legislature to repeal must be clear and manifest . . . .

296 U.S. at 503, 80 L.Ed. at 355 (Emphasis added).

We see no "irreconcilable conflicts" in the language of the 1924 Act and the 1938 Act. There is no doubt the two statutes are capable of coexistence. The 1938 Act primarily uses and expands the oil and gas leasing procedures outlined in the 1924 Act and applies them to all leases. Section 1 of of the 1938 Act, 25 U.S.C. § 396a, reiterates much of the language of the 1924 Act regarding

tribal council consent, BIA approval, and a general ten-year durational limit on the leases. Section 2 of the 1938 Act, 25 U.S.C. § 396b, expands on the 1924 Act's public auction requirements. The 1938 Act is silent regarding taxation. The language of the statutes does not evince a clear indication that repeal of the taxing authorization was intended. On its face, taxation of oil and gas production is quite compatible with the 1938 Act.

Nor does the legislative history supply the necessary showing of intent. It is true, as the Tribe argues and we have noted, the 1938 Act was an effort to make uniform the leasing laws and to bring them into harmony with the policies of the Indian Reorganization Act. The terms of the 1938 Act make it evident, however, it was the intent of Congress to supply uniformity by placing the leasing of mineral rights other than oil and gas within a statutory framework similar to that provided for in the 1924 Act. See Letter from Charles West, supra. Also, to bring leasing into harmony with the Reorganization Act, the drafters of the 1938 Act attempted to create a system which would provide the tribes with the "greatest return on their property." Id. Apparently, the drafters of the bill believed the new act would streamline the leasing process and thereby increase the availability of leases for all types of minerals.[7/] The streamlined process, however, was substantially derived from the 1924 Act. Neither the language of the statute nor the legislative history persuades us that there is an irreconcilable conflict or repugnancy between the 1924 and 1938 Acts.

The only possible conflict between the 1924 and the 1938 Acts involves the Reorganization Act's self-determination and self-sufficiency policies. Arguably, these policies conflict with the continued authorization of state

taxation which might tend to reduce tribal income. This possible conflict, however, must be viewed in light of another Reorganization Act policy which was the desire to encourage tribes "to enter the white world on a footing of equal competition." Statements of Rep. Howard, 78 Cong. Rec. 11732, quoted in Mescalero Apache Tribe v. Jones, 411 U.S. 145, 152, 36 L.Ed.2d 114, 121, 93 S.Ct. 1267 (1973); see also Fort Mojave Tribe v. San Bernadino County, 543 F.2d 1253, 1256 (9th Cir. 1976), cert. denied, 430 U.S. 983, 52 L.Ed.2d 377, 97 S.Ct. 1678 (1977). State taxation is one of the realities of an equal footing. We do not believe this possible policy conflict rises to the level of irreconcilability required to constitute an implicit repeal.[8/]

Even though the 1938 Act is a more comprehensive and general statute than the 1924 Act, a fact which sometimes will lead to a finding of an implied repeal of the earlier act, Posadas, supra, 296 U.S. at 503, 80 L.Ed. at 355, we still do not find there to be the requisite conflict. This conclusion is supported by the rule that "[w]here there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one regardless of the priority of enactment." Morton, supra, 417 U.S. at 550-551, 41 L.Ed.2d at 301.

The Tribe argues the canon of construction which provides that ambiguities in statutes are to be resolved in favor of the Indians applies to this case. See, e.g., Bryan v. Itasca County, supra, 426 U.S. at 392, 48 L.Ed.2d at 723. We cannot agree. The 1924 Act's tax authorization is unambiguous. This "canon of construction is not a license to disregard clear expressions of . . . congressional intent." DeCoteau v. District County Court, 420 U.S. 425, 447,

43 L.Ed. 300, 315, 95 S.Ct. 1082 (1975); Andrus v. Glover, 446 U.S. 608, 619, 64 L.Ed.2d 548, 558, 100 S.Ct. 1905 (1980). Nor does the 1938 Act create any ambiguity. It is silent on the repeal of the 1924 Act. The Tribe's use of this canon of construction would have us amend the 1938 Act to include an express repeal of the 1924 Act. That, however, would be going beyond a liberal interpretation of an ambiguous clause or phrase to the point of judicial legislating. This we will not do. See Fry v. United States, 557 F.2d 646, 649 (9th Cir. 1977), cert. denied, 434 U.S. 1011, 54 L.Ed.2d 754, 98 S.Ct. 722 (1978).

Additionally and perhaps most importantly, there has been a long-term administrative interpretation upholding the right of states to tax oil and gas production on the reservations notwithstanding the silence of the 1938 Act. This, outside compelling reasons otherwise, is sufficient to support the continued validity of the 1924 Act. See Assiniboine & Sioux Tribes v. Nordwick, 378 F.2d 426, 432 (9th Cir. 1967), cert. denied, 389 U.S. 1046, 19 L.Ed.2d 838 (1968); Baur v. Mathews, 578 F.2d 228, 233 (9th Cir. 1978); Castillo-Felix v. Immigration and Naturalization Service, 601 F.2d 459, 465 (9th Cir. 1979). Beginning in 1943, the Department of Interior interpreted the 1924 Act to be of continued effectiveness despite the 1938 Act. Several supporting interpretations were made until a contrary interpretation was issued in 1977. See 84 Interior Dec. 905 (1977) and its references to the prior opinions. Generally, the construction of a statute by the agency charged with its administration is entitled to great weight, especially when, as here, Congress has refused to alter the administrative interpretation. Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, 381, 23 L.Ed.2d 371, 384, 89 S.Ct. 1794

(1969). The contrary interpretation by the Solicitor of the Department of Interior in 1977 does not change the result in this case. Unless the original interpretation of the statute by the Department was clearly wrong, which we do not believe to be true, it is not appropriate for the Department to reverse its long held construction of a statute. See United States v. Leslie Salt Co., 350 U.S. 383, 396, 100 L.Ed. 441, 451, 76 S.Ct. 416 (1956); Power Brake Equipment Company v. United States, 427 F.2d 163, 164 (9th Cir. 1970); Red Lion, supra, 395 U.S. at 381, 23 L.Ed.2d at 384. Furthermore, the presumption against repeal by implication, the long and consistent interpretation by the Department of Interior, and congressional acquiescence in that interpretation all lead to the conclusion the 1977 opinion is erroneous.

We hold, then, that the 1924 Act and its authorization to tax reservation oil and gas production was not implicitly repealed by the 1938 Act.

C. Leases Under the 1938 Act

The Tribe contends that even if the 1924 Act is not found to be repealed by the 1938 Act, 113 of the leases in question were entered pursuant to the 1938 Act; therefore, the 1938 Act controls and it does not contain an authorization to tax. For the following reasons, we reject this argument.

Most, if not all, of what has been said concerning the implied repeal of the 1924 Act applies with equal force to the Tribe's contention. Having found the 1924 Act to still be in force, we would be remiss to find it lacked any effect. "When two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective." Morton, supra, 417 U.S. at 552, 41 L.Ed.2d at 301; Radzanower v. Touche Ross & Co., 426 U.S. 148, 48 L.Ed.2d 540, 96 S.Ct. 1989 (1976).

Furthermore, the fact the leases were made pursuant to the 1938 Act does not affect the State's power to tax. The critical aspect is the State's authorization to tax, not the statute under which the leases were made. In any event, both statutes purport to regulate leasing on the same lands--unallotted reservation property.[9/] It is not a strain on our reasoning to find the two acts have a concurrent, cumulative, and compatible effect. We hold, therefore, the 1924 Act's taxing authorization applies with equal force to leases made pursuant to the 1938 Act.

III. CONCLUSION

We find the 1924 Act to permit Montana to tax oil and gas production on the Blackfeet Reservation. The 1938 Act did not impliedly repeal the 1924 Act and its authorization for the taxes at issue.

The decision of the district court is AFFIRMED.[10/]

F O O T N O T E S

1/ The district court opinion is reported at 507 F.supp. 446 (D. Mont. 1981).

2/ The Montana taxing statutes are:

(1) The Oil and Gas Conservation Tax, § 82-11-131, M.C.A. (formerly § 60-145, R.C.M. 1947);

(2) The Resource Indemnity Trust Tax, § 15-38-104, M.C.A. (formerly § 84-7006, R.C.M. 1947);

(3) The Oil and Gas Severance Tax, § 15-36-101, M.C.A.

(4) The Oil and Gas Net Proceeds Tax, § 15-23-601, et seq., M.C.A. (formerly § 84-7201, et seq., R.C.M. 1947).

(3) The 1891 Act provides:

> SEC. 3. That whenever it shall be made to appear to the Secretary of the Interior that, by reason of age or other disability, any allottee under the provisions of said act, or any other act or treaty can not personally and with benefit to himself occupy or improve his allotment or any part thereof the same may be leased upon such terms, regulations and conditions as shall be prescribed by such Secretary, for a term not exceeding three years for farming or grazing, or ten years for mining purposes: Provided, That where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the Council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

The 1924 Act states in full:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That unallotted land on Indian reservations other than lands of the Five Civilized Tribes and the Osage Reservation subject to lease for mining purposes for a period of ten years under the proviso to section 3 of the Act of February 28, 1891 (Twenty-sixth Statutes at Large, page 795), may be leased at public auction by the Secretary of the Interior, with the consent

of the council speaking for such Indians, for oil and gas mining purposes for a period of not to exceed ten years, and as much longer thereafter as oil or gas shall be found in paying quantities, and the terms of any existing oil and gas mining lease may in like manner be amended by extending the term thereof for as long as oil or gas shall be found in paying quantities: Provided, That the production of oil and gas and other minerals on such lands may be taxed by the State in which said lands are located in all respects the same as production on unrestricted lands, and the Secretary of the Interior is hereby authorized and directed to cause to be paid the tax so assessed against the royalty interests on said lands: Provided, however, That such tax shall not become a lien or charge of any kind or character against the land or the property of the Indian owner.

4/ The 1938 Act provides:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter unallotted lands within any Indian reservation or lands owned by any tribe, group, or band of Indians under Federal jurisdiction, except those hereinafter specifically excepted from the provisions of this Act, may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesmen for such Indians, for terms not to exceed ten years and as long thereafter as minerals are produced in paying quantities.

SEC. 2. That leases for oil-and/or gas-mining purposes covering such unallotted lands shall be offered for sale to the highest responsible qualified bidder, at public auction or on sealed bids, after notice and advertisement, upon such terms and subject to such conditions as the Secretary of Interior may prescribe. Such advertisements shall reserve to the Secretary of the Interior the right to reject all bids whenever in his judgment the interest of the Indians will be served by so doing, and if no satisfactory bid is received, or the accepted bidder fails to complete the lease, or the Secretary of the Interior shall determine that it is unwise in the interest of the Indians to accept the highest bid, said Secretary may readvertise such lease for sale, or with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations: Provided, That the foregoing provisions shall in no manner restrict the right of tribes organized and incorporated under sections 16 and 17 of the Act of June 18, 1934 (48 Stat. 984), to lease lands for mining purposes as therein provided and in accordance with the provisions of any constitution and charter adopted by any Indian tribe pursuant to the Act of June 18, 1934.

SEC. 3. That hereafter lessees of restricted Indian lands, tribal or allotted, for mining purposes, including oil and gas, shall furnish corporate surety bonds in amounts satisfactory to the Secretary of the Interior, guaranteeing compliance with the terms of their leases: Provided, That personal surety bonds may be accepted where the sureties deposit as collateral with the said Secretary of the Interior any public-debt obligations of the United States guaranteed as to principal and interest by the United States equal to the full amount of such lands or other collateral satisfactory to the Secretary of the Interior, or show ownership to unencumbered real estate of a value equal to twice the amount of the bonds.

SEC. 4. That all operations under any oil, gas, or other mineral lease issued pursuant to the terms of this or any other Act affecting restricted Indian lands shall be subject to the rules and regulations promulgated by the Secretary of the Interior. In the discretion of the said Secretary, any lease for oil or gas issued under the provisions of this Act shall be made subject to the terms of any reasonable cooperative unit or other plan approved or prescribed by said Secretary prior or subsequent to the issuance of any such lease which involves the development or production of oil or gas from land covered by such lease.

SEC. 5. That the Secretary of the Interior may, in his discretion, authorize superintendents or other officials in the Indian Service to approve leases for oil, gas, or other mining purposes covering any restricted Indian lands, tribal or allotted.

SEC. 6. Sections 1, 2, 3, and 4 of this Act shall not apply to the Papago Indian Reservation in Arizona, the Crow Reservation in Montana, the ceded lands of the Shoshone Reservation in Wyoming, the Osage Reservation in Oklahoma, nor to the coal and asphalt lands of the Choctaw and Chickasaw Tribes in Oklahoma.

SEC. 7. All Act or parts of Acts inconsistent herewith are hereby repealed.

5/ The 1938 Act contains a general repealer. See Section 7 of the 1938 Act reproduced in footnote 4. Generally, the presence of a general repealer is not considered a strong indication that all prior law on the subject is meant to be repealed. 1A Sutherland Statutory Construction § 23.08 (4th Ed. 1972). In fact, a general repealer has been construed to imply "very strongly that there may be acts on the same subject which are not thereby repealed." Hess v. Reynolds, 113 U.S. 73, 79, 28 L.Ed. 927, 929, 5 S.Ct. 377 (1885); Sutherland, supra, § 23.08.

6/ But cf. Crow Tribe of Indians v. State of Montana, 650 F.2d 1104 (9th Cir. 1981), amended, 665 F.2d 1390 (1982), cert. denied, 51 U.S.L.W. 3281 (10/12/82). In Crow Tribe, this court held the Tribe had stated a cause of action in its suit to enjoin state taxation of the Tribe's non-Indian lessees of coal rights. In so holding, the court stated in dictum the 1938 Act "probably" repealed the prior leasing statutes, apparently including the 1924 Act and its tax authorization. 650 F.2d at 1112, fn. 10. For two reasons, we refuse to follow that conclusion. First, the 1924 Act's tax authorization applies only to oil and gas leasing, not coal, so this issue was not before the court. Second, Crow Tribe is a pleading case and any statements beyond those necessary to sustain upholding the Tribe's statement of a cause of action are dicta.

7/ In addition to being in a "patch-work state," some leasing statutes mandated following the general mineral leasing laws used on public domain lands. This procedure created "long delay and quite an expense to an applicant for a lease." Letter from Charles West, supra.

8/ We believe this arguable policy conflict in the 1938 and 1924 Acts is found primarily through the benefit of hindsight. While the intent of the 1938 Act makes clear the belief the tribes would be able to secure revenue through mineral leasing, we doubt Congress or the Department of Interior had any idea mineral resources on reservations would rise to the level of importance they have today. It is the current import of those resources which makes taxation such a critical issue at present. In our analysis of the 1938 Act, however, our primary emphasis must focus on the intent of Congress at that time, not on the present.

9/ While the 1924 Act, through its predecessor the 1891 Act, does not use the same language to describe the lands to which it applies as the 1938 Act, the 1924 Act has been construed to have had the same coverage as the 1938 Act. British-American Oil Prod. Co., supra, 299 U.S. at 164.

10/ Judge Reinhardt concurs in the result, but was unable to participate in the preparation or approval of this Opinion.

EXHIBIT 3
HB 95
1/31/83
Donaldson

HOUSE BILL 95
Presented by the Department of Health and Environmental Sciences
January 31, 1983

HISTORY OF SUBDIVISION PROGRAM

The "Sanitation in Subdivisions" Law was enacted in 1961.

The Subdivision Bureau was created in FY 1976.

The Subdivision Bureau was closed down in November, 1982 and the program was transferred to the Water Quality Bureau. Two personnel were laid off at that time and an engineer and secretary were transferred to the Water Quality Bureau.

The program operated entirely on general funds before FY 1976.

A fee system was enacted by the 1975 Legislature and this provided a maximum of $15.00 per lot.

The 1977 Legislature raised this to a maximum of $25.00 per lot with a minimum of $10.00 per lot being returned to the counties which contracted with the state.

In 1981, the Legislature raised the fee to a maximum of $30.00 per lot with a minimum of $15.00 per lot being returned to the counties under contract. The department had requested the fee be raised to $40.00 at that time.

General fund money was also provided during FY 1976 - FY 1979. It was provided in the following amounts:

FY 1976	$59,000
FY 1977	62,000
FY 1978	67,000
FY 1979	67,000

At the end of FY 1979 there was a reserve of $224,000 in the earmarked fee account. No general funds have been provided for the program since FY 1979.

The number of lots reviewed and the number of personnel which were used for the past four fiscal years (including this year) have been as follows:

Year	Number of Lots Received for Review	FTE's
1980	9,980	8
1981	8,134	6
1982	6,591	5
1983	4,900 est.	4 est.

Please note that the number of lots reviewed per person has remained about the same for the last four years. Personnel have been reduced as the lots which have been submitted have decreased.

In addition to the two people transferred from the Subdivision Bureau who are supported by fees, several people from the Water Quality Bureau staff are also now involved with the subdivision program on a part-time basis. These personnel are supported by federal and general funds. Not only are these personnel expected to continue to perform the high priority tasks associated with their positions, but they are also expected to review subdivision submittals in a timely manner. Some of their regular duties have been delayed and it is important that they be returned to their regular assignments as soon as possible.

We are essentially broke at this time on the subdivision program. The money that is requested by HB 95 is intended to fund the subdivision program for the last 5½ months of this fiscal year except for the payments to the local health departments for their review assistance. The money for the local governments would be taken from the fees. This amounts to about one-third of the fees received. It is hoped that a small reserve can be established by the end of the fiscal year to give the program a slight cushion.

EXHIBIT 4
Possible Bill
1/31/83

AN ACT TO PROVIDE FOR A CASH LIMITATION ON EXPENDITURES AND PROVIDING FOR AN EFFECTIVE DATE

NEW SECTION

Section 1. Cash Limitation on Expenditures. No agency may expend funds unless the account from which they are to be spent contains a cash balance after subtracting any valid obligations against the account, except for interentity loans authorized in Section 17-2-107, MCA.

Section 2. Effective Date. This act is effective on passage and approval.

RCWork:JR:rc:g

VISITORS' REGISTER

HOUSE APPROPRIATIONS COMMITTEE

BILL HOUSE BILL 243

SPONSOR ASAY

Note: Date

APPROPRIATING FUNDS TO INDIAN LEGAL JURISDICTION PROGRAM IN GOVERNOR'S OFFICE FOR FISCAL YEAR ENDING 6/30/83.

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Wanzenried Dave	Helena	Governor's Office	✓	
Helena S. Maclay	Missoula	Governor's Office	✓	
Mary Jo Murray	Helena	Governor's Office	—	
Mary Jamison	Helena	Governor's Office	✓	
Tom Ismay	Forsyth			
Bert Cromwell	Milk's City	Yellowstone Associates		
Jan Dee May	Helena	OBPP	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

VISITORS' REGISTER

HOUSE APPROPRIATIONS COMMITTEE

BILL HOUSE BILL 95 Date

SPONSOR DONALDSON

Note: ↓
APPROPRIATING MONEY TO DEPT. OF HEALTH & ENVIRONMENTAL SCIENCES FOR SANITARY REVIEW OF SUBDIVISIONS FOR FISCAL YEAR ENDING 6/30/83.

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Charles Landman	Helena	MEIC	✓	
Jim McCauley	Helena	self	✓	
Joe Stratko	Helena	self	✓	
Donna W. Stratko	Helena	self	✓	
R Montgomery	Helena	EPA	✓	
Judy Bartlett	Helena	DHES	✓	
R.J. Hoffman	Helena	DHES	✓	
Dave Lewis	Helena	OBPP	✓	
Steve Pilcher	Helena	Self	✓	
Dennis Rehberg	Helena	Realtors	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

WRITTEN TESTIMONY IN SUPPORT OF HB 95

By: Elizabeth J. Knight, R.S.

Mr. Chairman and committee members, my name is Elizabeth Knight. I am currently employed as the Jefferson-Broadwater County Sanitarian and am president of the Montana Environmental Health Association. The association and I apppreciate the opportunity to submit written testimony in support of HB 95.

The association through a survey to its membership has determined there is a need for the subdivision review process. A functioning Subdivision Bureau or section of the Water Quality Bureau has always been the hub of a cooperative program between local government entities and the state since the programs inception. The problems which will undoubtedly arise should the Water Quality Bureau no longer be able to review submittals are concerns that those of us at the county level do not have the expertise or ability to deal with. We realize the constraints placed on you as legislators with a limited amount of funds to spend in a large number of areas. It seems that an appropriation which allows for functions currently mandated by law to continue, is a necessary one and a small price to pay in opposition to the havoc which will be created by the halt of the review process. We realize that there are currently a number of modifications proposed for the subdivision program. This appropriation is necessary for the interum period to keep the program operative til those changes whatever they might be can properly be implemented.

We urge this committee to carefully consider this appropriation and recommend a do pass of HB 95. Thank you for your consideration of this most important matter.

Sincerely,

Elizabeth J. Knight R.S.

Elizabeth J. Knight, R.S.
President, Montana Environmental Health Assoc.
Jefferson-Broadwater County Sanitarian
Box 622 Boulder, MT 59632

STANDING COMMITTEE REPORT

January 31, 83
..... 19 .....

SPEAKER
MR. .....

APPROPRIATIONS
We, your committee on .....

House 95
having had under consideration ..... Bill No. .....

First White
_____ reading copy (_____)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE MONEY FOR SANITARY REVIEW OF SUBDIVISIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE BIENNIUM ENDING JUNE 30, 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

House 95
Respectfully report as follows: That ..... Bill No. .....
BE AMENDED AS FOLLOWS:

1. Page 1, line 14.
Strike: "$64,000"
Insert: "$58,000"

AND AS AMENDED

~~DO PASS~~

.....
Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 31, 19 83

MR. Speaker

We, your committee on Appropriations

having had under consideration House Bill No. 243

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO THE INDIAN LEGAL JURISDICTION PROGRAM IN THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR ENDING JUNE 30, 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That House Bill No. 243

DO PASS

Francis Bardanouve Chairman.

STATE PUB. CO.
Helena, Mont.