

MINUTES OF THE MEETING OF THE APPROPRIATIONS COMMITTEE
February 11, 1983

The Appropriations Committee met at 7:40 p.m. on February 11, 1983, in Room 104, with Chairman Francis Bardanouve presiding and all members were present. Judy Rippingale, Legislative Fiscal Analyst was also present. HOUSE BILLS 144, 180, 237, 412 and 413 were heard. EXECUTIVE ACTION was taken on House Bills 144, 180 and 412.

(Tape 1: Track 1:788)

HOUSE BILL 412: "A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1983: PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" was heard.

Rep. BARDANOUE, the bill's sponsor, asked Rep. Quilici if his subcommittee had looked the bill over. Rep. QUILICI said they had. Appropriations Committee Vice-Chairman MANUEL presided over the hearing for this bill.

Consumer Counsel

Rep. QUILICI said the the Elected Officials & Highways subcommittee recommended the \$100,000 appropriation, not a General Fund appropriation, be approved. He introduced Jim Paine.

Proponents:

JIM PAINE, Consumer Counsel for the State of Montana, said the \$100,000 appropriation was for unanticipated case loads the Counsel is going to have to participate in... cases before the Montana Public Service Commission (PSC) and the Federal Energy Regulatory Commission (FERC). He stated the Counsel is funded by tax on the regulated entities over which the Public Service Commission has jurisdiction. Every day the Department of Revenue takes into consideration the appropriations for the next fiscal year and then, based on projections and annual reports of the utilities - railroads, motor carriers, etc., that are under the jurisdiction - attempts to establish a mill levy which generates that much money. If there is an over-collection, it is taken into consideration the next year... that is, the appropriation for the next year is established and subtracted from that is the amount generated over and above the previous year's appropriation. In this way, there is no room for abuse in establishing a mill levy. This year the Consumer Counsel is running short of funds. He further explained that there are three cases they did not anticipate:

1. A general rate increase by Mountain States Telephone & Telegraph Company should be filed in March... or perhaps as late as April. They are asking for approximately \$65,000 to retain consultants to participate in the case. Consultants amount to about 62% of the budget and this money will be expended by the cases they are currently involved in. Mountain Bell cases are the most expensive cases. They generally have to retain about three expert witnesses in order to be effective. They have to hire a "capital" person, a "revenue requirements" person and a "rate design" witness, which is someone to make

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recommendations on how the additional revenue is to be divided among the various classes.

2. They are going to hear from the PSC on this same case. Montana Dakota Unilities Company (MDU) has filed an application with FERC whereby they are seeking to transfer all their production and all their transmission assets to a subsidiary. That subsidiary will come under the jurisdiction of FERC, which would take the jurisdiction from the five states in which MDU does business. This would leave the PSC with jurisdiction only over natural gas rates in the distribution centers in the various communities that they serve. The Consumer Counsel believes this should be resisted. If those assets are transferred, MDU will realize a higher rate of return on those assets and that rate increase will be passed on from the wholesale level to the retail level.

2. They are seeking relief because they are participating in a cost-study as a result of the last Mountain Bell rate case. The PSC has asked them to perform a "cost of service" study on local exchange rates (what you pay for your monthly telephone rate... your flat rate). Mountain Bell has indicated it cannot and has not in the past performed such a study. In the last Mountain Bell rate case, the Consumer Counsel retained the services of a witness who did perform such a study. The PSC would like to update that to 1981 data. The Consumer Counsel thinks it would be of benefit to Montana consumers to do the study.

Mr. PAINE said the Consumer Counsel's office represents the consuming public before the PSC, federal agencies, and appropriate state and federal courts.

Opponents: None.

Public Service Commission

Proponents:

BILL OPITZ, Executive Director of the PSC, referred to his letter to Dave Lewis (OBPP) on HB 84 on which the Appropriations Committee held a hearing on February 4. (Note: It is "Exhibit 6 in the Minutes of 2/4/83.) He said that letter contained the reasons for requesting the \$20,000 in HB 412. \$10,000 is for the A.T. & T. antitrust lawsuit and \$10,000 is for the MDU reorganization contest. He said, "Last year the PSC returned \$53,000 to the General Fund and HB 84, which has now passed second reading, gives back to the PSC \$25,000. The \$20,000 requested in HB 412 is an additional amount, so the PSC in reality is staying within its biennial budget." There was an additional \$50,000 reversion (a special line-item appropriation that was passed last session) to assist the PSC in litigation with the Montana Power Company. That case was settled and the entire \$50,000 reverted back to the General Fund in 1982.

Rep. MANUEL said the Natural Resources subcommittee recommended this modification.

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Department of Natural Resources

Vice-Chairman MANUEL called on the Department of Natural Resources (DNR) to present a proposed amendment.

BOB ROBINSON, Deputy Director of the DNR, presented the proposed amendment. (Exhibit 1.) He said the result of the limitation placed on the amount due under the filing fees - \$40 maximum, \$480 per district - is that the average amount received is a little over \$18 per claim for the 200,000 claims.

Rep. MANUEL said the Natural Resources subcommittee recommended the amount be paid.

Rep. BARDANOUVE asked Mr. Robinson how much money the DNR is authorized to spend from fees collected? Mr. ROBINSON said their appropriation for this fiscal year for the DNR was \$1,461,000; for Reserved Water Rights it was \$270,000; for Centralized Services it was \$101,000; and for Montana Water Courts it was \$395,000. (Note: These figures were "rounded out" - for actual amounts, see attached Exhibit. (Exhibit 2.) He said they were still within their appropriation. Rep. BARDANOUVE asked if they had spending authority over and beyond what they have spent? Mr. ROBINSON said the \$575,000 does not need an additional appropriation and that they were within their spending authority. Rep. BARDANOUVE then asked, "What is the total spending authority you have in this area?" Mr. ROBINSON replied, "We're authorized to spend \$2,372,000." Rep. BARDANOUVE asked, "How much of that have you spent?" Mr. ROBINSON replied, "\$1.7 million dollars... that's with this appropriation." Rep. BARDANOUVE then requested the Fiscal Analyst and Mr. Robinson "to sit down and reconcile the figures as to the total authorized expenditures you have had and if there is a spending authority which will not be used, we should reduce that - the authorization over what you have spent."

JUDY RIPPINGALE said, "Bob, the way the appropriation bill works, you'll get \$575,000 of General Funds and also you should have the \$575,000 of spending authority." Mr. ROBINSON said, "We don't need the spending authority." JUDY RIPPINGALE said, "So, could we reduce the other Fund spending authority by an equal amount?" Mr. ROBINSON said, "There isn't any money left in the Earmarked Fund anyway."

Reps. MENAHAN, DONALDSON, BARDANOUVE and Mr. ROBINSON held a brief dialogue on the history of the program in regard to water rights, personal property rights, SB 76 and the budget spending authority thinking of the last Legislature.

Opponents: None.

Office of Public Instruction

Rep. BENGTON said \$350,000 is required to pay the state's share of

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the statutory transportation schedule. In fiscal year 1982, the state's share was \$4,882,631. This exceeded the appropriation by \$158,186. The Office of Public Instruction anticipates costs will exceed appropriation by \$190,000 in 1983. This brings a biennial supplemental to \$250,000. If more money is appropriated than is needed, the funds revert.

Opponents: None.

School for Deaf and Blind

Rep. BENGTON said the School for Deaf and Blind request is for \$30,000 for utility costs that came about because they moved into the cottages faster than they anticipated and the agency budget was established prior to their move into these new cottages. In fiscal year 1982, utility costs were budgeted at \$55,976; however, \$82,857 was actually spent. The amount appropriated for 1983 was \$73,838. \$41,516 has been spent for utilities. They need \$30,000.

Opponents: None.

Colleges and Universities

Rep. BENGTON presented an amendment to the bill as follows: (Exhibit 3.) In addition to the amendment submitted by Rep. Bengtson, the Legislative Fiscal Analyst submitted the following as part of the amendment:

"2. Page 3

Following: line 9

Insert: "Section 6. House Bill 500, Laws of Montana 1981, Section C. Natural Resources and Business Regulation; Department of Natural Resources, item 5. Water Resources Division, Fiscal Year 1983. Other Appropriated Funds is reduced from \$2,840,433 to \$1,764,026.

Section 7. House Bill 500, Laws of Montana 1981, Section A. Legislative, Judicial, and Administrative Agencies; Judiciary, item 9, Water Courts Supervision, Fiscal Year 1983. Other Appropriated Funds is reduced from \$349,762 to \$230,762."

Renumber: Subsequent section."

Reps. LORY, STOBIE, BARDANOUVE and BENGTON had a brief discussion on enrollment increases and millage shortfall. Rep. BARDANOUVE stated this was hammered out with the Regents, the Governor's office and the subcommittee.

Opponents: None.

Department of Justice

Rep. BARDANOUVE inquired if there were any questions on this portion

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of the bill? Rep. QUILICI explained that the \$52,000 for the County Attorney payroll is because they hired two County Attorneys full-time at \$26,000 each and "We are mandated by law to pick up these salaries." Transportation of prisoners is for \$16,000 because "You never know how many prisoners are going to be transported across the state - you never know what the judges are going to do - and it's pretty hard to budget for these."

BOB KUCHENBROD, Administrator of Centralized Services, Department of Justice, made several brief comments in regard to the request for County Attorneys and transportation of prisoners.

Opponents: None.

Department of State Lands

Rep. MANUEL said the Natural Resources subcommittee heard this and their recommendation is that it be paid.

DENNIS HEMMER, Commissioner of State Lands Department, read a prepared statement. (Exhibit 4.)

Opponents: None.

Department of Revenue

JOHN CLARK, Deputy Director of Support Services, Department of Revenue, said the \$350,000 supplemental is for additional funds to send to counties under the reimbursement plan. He said February 1 was the deadline for county treasurers to submit their data and they now have 48 counties which they feel have submitted good data, but 6 counties haven't reported and 2 are questionable. They are going to have to go back and work with them. During the first year of the biennium they spent \$15 million and now they are certain they are going to have to spend more than \$15 million out of a \$30 million dollar biennial appropriation, so that is why they are requesting this supplemental.

Rep. QUILICI said the Elected Officials & Highways subcommittee concurred in this recommendation.

Opponents: None.

Supreme Court

Rep. QUILICI submitted an amendment to this portion of the bill. (Exhibit 5.) He said the printed amendment before the committee had an error in it. The \$10,300 figure for Clerk of Court should be \$20,300.

Rep. QUILICI said the \$17,000 request is for covering increased costs

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for bar examinations. Instead of conducting one examination a year, they now conduct two. He said the court has increased the examination fee to return to the state the \$17,000. That money goes into the General Fund, so this money will be put back into the General Fund.

He said the Clerk of the Court took office on January 1, 1983, making it necessary to reimburse some of the departing employees with accumulated sick leave, vacation, etc. Also included are expenses for stationery, etc. for a new official.

Opponents: None.

The hearing closed at 8:20 p.m.

(Tape 1: Track 1:1042)

HOUSE BILL 237: A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE DISTRIBUTION OF MONEY RECEIVED BY THE STATE FROM THE FEDERAL MINERAL LANDS LEASING ACT BY INCLUDING DISTRIBUTION TO COUNTIES, CITIES, AND TOWNS; ESTABLISHING HOW A COUNTY, CITY, OR TOWN MAY USE SUCH MONEY; AMENDING SECTIONS 17-3-201 AND 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE" was heard.

Rep. BARDANOUE assumed the chair for the continuation of the meeting.

Rep. BARDANOUE said he introduced a bill on this same subject at the request of the Budget Office and both bills will be heard tonight.

Rep. DEVLIN, the bill's chief sponsor, presented the history of how the bill came about and that history is contained in an Act of the 94th Congress - the "Federal Land Policy and Management Act of 1976". (Exhibit 6.) He said it was brought to his attention by the City-County attorney in Miles City. The federal Act says, "50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service;...".

In 1977/79 the state started to distribute the funds: 37.5 percent went to highways; 62.5 percent went into the School Equalization Fund. (Exhibit 7.) There was no consideration given to those subdivisions which were socially or economically impacted. In 1981 several counties asked for an Attorney General's opinion. (Exhibit 8.) In that opinion the Attorney General mentioned this could be accomplished by administrative rule. That opinion further stated, "Since the legislature has not provided a method for determining

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priority, this must be done administratively by the agencies entrusted with the funds under Sections 17-3-201 and 20-9-343, MCA."

Rep. DEVLIN continued speaking. When this opinion came out in March, 1981 it was too late to do anything in the 1981 session and that is why it is here today. He said, "I fear if we don't start following the guidelines, we are in danger of losing the federal funds." He then said there is a possibility of some litigation coming from some of the counties.

The distribution on HB 237 is 15 percent to the state highway account; 20 percent to the counties in which royalties were generated; and 40 percent to all counties, cities, and towns within the state on a per capita basis, using the most recent federal decennial census; and 25 percent to school equalization aid as provided in Section 20-9-343, MCA.

He said the fiscal note he had when the bill was discussed in the House said the impact on the public schools would be \$17 million dollars, but \$17 million dollars is about the whole fund. The way he figures it, the fiscal note should have read in the neighborhood of a \$10.6 million dollar impact on monies going back to local government; \$6.6 million dollars on the Foundation Program; and a \$4 million dollar impact on the highways. The per capita basis on which the money would go back to local government would be about \$8.97 per person.

Proponents:

BOB BROOKS, Powder River County Attorney, stated he was the county attorney in Powder River before, during and after they had mineral development. He submitted a copy of a letter he sent to the Attorney General requesting an opinion because the State of Montana is not following the federal law. (Exhibit 9.) After the Attorney General ruled that the State of Montana had not acted in accordance with federal law and the Legislature had not acted, he suggested that the administration of the departments effected - highways and education - should have the authority to follow the federal law. Mr. BROOKS submitted a letter from Ed Argenbright, Superintendent of Public Instruction, saying his hands are tied. (Exhibit 10.) He said Mr. BECK, Highway Department attorney, holds a similar position. He then submitted copies of documents showing the intent of Congress (Exhibit 11.)

Mr. BROOKS said the impacted counties authorized him to file a lawsuit against the agencies administering the money and he was putting the case together when he learned of this type of bill, which he hopes will solve the problem in the State of Montana. He said he would like to see some amendments to the bill.

Mr. BROOKS said that should they have to file a lawsuit, with the

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materials they have, they are going to win for the counties against the state. They don't want to do this. He said the impact on counties having mineral development is seriously impacting their schools, roads, services, etc. He said their taxation didn't come as fast as the mineral development - almost three years later. He thought the intent of Congress was to help prevent the problems in the impacted areas, so he suggested (1) the fixed sum going to the schools enters the same fund which lacks flexibility; therefore, his suggestion is "take an amount of money, put it into the school funds and in a year when no county is suffering from an impact, spend it just as you do the Foundation money; but in the year when the elected official, in his judgment, says, 'Hey, your Powder River schools... your Baker schools... your Sidney schools are so impacted and we don't have any money coming from anywhere, we can use this money discretionary to put it there.' So, I would like to see an amendment to that portion of this law giving those people a chance to give a priority to impacted areas when and where the need arises. (2) And the same way with the proportion going to the highway funds." Mr. BROOKS continued by saying, "As you are all aware, the highway funds go into the district thing. Once the districts are there, they have a lot of problems getting help on a priority basis. Some of the things we cannot do anything with in our district is our highways... the highway from Miles City to Baker is terrible, but there isn't money in the district to take care of it. Rosebud County, which has the coal development in that district, has spent everything they can trying to get a road into Colstrip and it's under construction now, but they're hurting for highways moneys. So if it were possible to use this federal impact money in the method required by Congress, I think everybody would be happy.

Rep. BARDANOUVE asked Mr. Brooks if he had any amendments, or was he just proposing this as a possibility? Mr. BROOKS said he hadn't written any. Mr. BROOKS said he also supports the approach presented in HB 413 to be heard tonight. He also warned that if they don't sue, somebody else will, unless this thing is straightened out, but he didn't want to see that.

Rep. BARDANOUVE said the committee would not act on this bill tonight.

Rep. BILL HAND concurred with the testimony in favor of the bill.

DARRYL MEYER, Great Falls, said he would like to see the bill passed.

DARREL HANSON, rancher from Powder River County and past member of the Planning Board, supported the bill.

Rep. HANSON supported the bill.

KEVIN FENNER, Planner and Administrator from Fallon County, supported the bill.

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MIKE STEPHENS, Montana Association of Counties, supported the bill.

BONNIE TIPPY, Montana Coal Council, supported the bill

Opponents:

GARY WICKS, Director of the Highway Department, opposed the bill in the following categories: (1) Impact on Highways: He said, "Under the current law where 37.5% goes to highways, in 1984 the Highway Earmarked Account will receive \$6.6 million dollars; in 1985 we expect to receive \$7.5 million dollars. Under HB 237, in 1984 we would receive about \$4 million dollars less; and in 1985, we would receive about \$4.5 million dollars less... that's \$8.5 million dollars over the biennium. The money that does into the Highway Earmarked Account is used to match federal dollars... that is, by having that match money available, we are able to match federal dollars at about a 25% to 75% or 20% to 80% ratio... so, with the money there, we're in a lot better position to make it go a lot farther. The important thing is that the Highway Earmarked Account is going broke. We have a bill in HB 16 that passed the Taxation Committee a couple of days ago to raise the fuel taxes by 3 cents a gallon this year and 2 cents a gallon 18 months later. If this bill is passed, we will have to add an additional 1 cent fuel tax increase on that bill to make up for the lost revenue we are talking about here. A 1 cent fuel tax raises about \$5 million dollars, so over the biennium, we're looking at about 1 cent increase to cover the loss of the Highway Earmarked Account. (2) Equity: He said, "Out of the Highway Earmarked Account we already distribute a significant amount of money to local governments. We are, under the formula established by the Legislature, required to distribute \$6.5 million dollars a year to local governments. The Governor's proposal - the gas tax increase - would increase that by \$2.5 million dollars, since we are asking that 1/2 cent of the 3 cent gas tax increase be devoted to local governments. Right now the state makes a significant contribution to county roads. The secondary road program is a federal/state program, with the federal government putting up 75% and the state putting up 25%. That 25% in state dollars comes from everybody in the state. It seems to me the people of Montana are contributing fairly significantly to the secondary road program. (3) Legal Aspects: The federal law requires the funds shall be distributed as the Legislature of the state may direct, giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased. The method of determining how priority is given is left up to the state. Our problem is that we do have the federal law... we do have the Attorney General's opinion, and as the Attorney General suggested, we were not able to do this administratively because our statutes are that the money be distributed according to the formula, so we don't have the flexibility to comply with the law. However, the distribution is left up to the Legislature and what the highway is proposing - and we've got it in HB 730 - is what we think is a better

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approach. We are advocating that the money be distributed on the basis of what the federal law requires. The language in Section 4 of our bill says that the Department of Highways shall expend the Reconstruction Trust Funds throughout the state on the basis of need, and priority shall be given to those projects made necessary in whole or in part by the impacted mineral development. It is our judgment that the language in this bill fully complies with the state and federal requirements."

Rep. DEVLIN said Mr. Wicks has had two years to address this issue to the counties and he has not done so. He said, "(1) The federal guidelines weren't followed, (2) we have an Attorney General's opinion that says as much, and we have to remember that the Highway Department and the Office of Public Instruction have had a windfall out of this. Had they been distributed correctly in the first place and had they dealt with this problem, I wouldn't be here today." He closed his statement on his bill by saying it is up to the committee.

Discussion:

Rep. BENGTON said she was concerned and is interested in knowing how other Legislatures have dealt with this... what priorities they have put in place to accommodate this law... and whether Rep. Devlin's approach is universally accepted or is this just a way that he came upon? She said she would like to find this out before the committee takes consideration of this bill.

Rep. PECK asked Gary Wicks if the impacted areas are receiving any consideration under the current law? Mr. WICKS said, "They are not because of the Financial District Law that sets out statutory formula for the distribution of highway funds.

The hearing closed at 9:05 p.m.

(Tape 1: Track 1:1335)

Vice-Chairman WALDRON assumed the chair at this time, as Rep. BARDANOUVE was the sponsor of the next bill to be heard.

HOUSE BILL 413: "A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ALLOCATION OF FEDERAL MINERAL LANDS LEASING ACT ROYALTY PAYMENTS; AMENDING SECTIONS 17-3-201, 20-9-331, 20-9-333, AND 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE" was heard.

Rep. BARDANOUVE, the bill's sponsor, said he was unaware when he signed this bill that Rep. Devlin would have a companion bill on the same subject. He said the Budget Office requested he sign this bill because the Administration was concerned about the issues that had been raised. He said the arguments on this bill are the same as the arguments on HB 237 and the only issue on HB 413 is "how the pie will be divided". He said he is not an opponent of HB 237, but it is a bill which has a different manner of appropriating the money... the philosophy is the same.

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Rep. BARDANOUVE quoted the following figures and later asked the committee secretary to see that each member of the committee has a copy when they go into Executive Session on the bill:

COMPARATIVE FIGURES BETWEEN HB 237 AND HB 413

		1984	1985
NOW:	Total amount available.....	\$17,655,709	\$20,113,565
	Foundation Program..... 67%	11,034,818	12,570,978
	Highways..... 33%	6,620,891	7,542,587
HB237	Total amount available.....	\$17,655,709	\$20,113,565
	Foundation Program..... 25%	4,413,927	5,028,391
	Highways..... 15%	2,648,356	3,017,035
	Counties impact..... 20%	3,531,142	4,022,713
	Per capita..... 40%	7,062,284	8,045,426
HB413	Total amount available.....	\$17,655,709	\$20,113,565
	Foundation Program..... -0-	-0-	-0-
	Highways..... 33%	6,620,891	7,542,587
	*County School Fund..... 67%	*11,034,818	*12,570,978

*This transfers the Foundation Program money to the counties for schools.

Proponents:

DAVE LEWIS, OBPP, said, "There is a federal mandate to direct this money into the impacted areas. What they are doing in this bill is attempting to treat that mineral money in the same way as the forest service payments are treated on the west side... in other words, this money would go to the counties as an offset against Foundation Program payments. There is one problem with the bill. Unless another piece of legislation - which is in process right now - passes, we could have a cash-flow problem in the first year; however, I am aware that the Audit Committee, and I believe Rep. Waldron, are presenting a bill to require the County School District to anticipate these funds. If that bill is passed, we simply have a wash as far as the Foundation Program is concerned."

Opponents:

JAMES MOCKLER, Executive Director of the Montana Coal Council opposed the bill.

Rep. DEVLIN opposed the bill. He thinks it does not address the problem.

Rep. BARDANOUVE closed on his bill and stated this bill, he thinks, attempts to meet the federal guidelines.

The hearing closed at 9:15 p.m.

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(Tape 1: Track 1:1436)

HOUSE BILL 144: "A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE MONEY TO THE GOVERNOR'S OFFICE TO PAY THE STATE'S SHARE OF THE INDIVIDUAL AND FAMILY GRANT PROGRAM PROVIDING DISASTER RELIEF FUNDS TO FLOOD VICTIMS" was heard.

Rep. JAN BROWN, the bill's sponsor, said this bill was requested by the Department of Military Affairs. It is an appropriation bill to reimburse the federal government for Montana's share (25%) of disaster relief funds granted to Lewis & Clark County following the 1981 flood. The federal government paid 75% of the cost of the flood.

Proponents:

CARLYN GILBERTSON, Administrator of the Disaster and Emergency Services Division, Department of Military Affairs, said they were the agency which handled this money during the 1981 flood. He supported the bill.

Opponents: None.

Rep. J. BROWN closed on her bill by recommending it pass.

The hearing closed at 9:25 p.m.

(Tape 1: Track 1:1463)

HOUSE BILL 180: "A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSTITUTIONS FOR PAYMENT OF A JUDGMENT AGAINST THE STATE OF MONTANA BY MARJORIE LANGLOIS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" was heard.

Rep. JAN BROWN, the bill's sponsor, said this bill is for payment of a judgment in a sex discrimination case.

Proponents:

CURT CHISHOLM, Deputy Director of the Department of Institutions, submitted a summary titled "Langlois vs State". (Exhibit 12.) He stated, "Marjorie Langlois applied for a job at the Montana State Prison back in May, 1977, in fact she appeared twice, was interviewed for the job and twice was recommended by the screening committee for the job as the No. 1 candidate. The administration at Montana State Prison did not hire her, stating that in the interest of inmate privacy, they felt they needed a bona fide occupational qualification based on sex that could apply to discriminate against her for the job. She filed a complaint with the Human Rights Commission and they ruled that we had wronged her - a factfinder who worked for them did - but when it went before the full board, they surprisingly found in our favor. She then appealed to the First District Court and the court reversed and modified the Human Rights Commission's decision on this matter and found the Human Rights Commission was 'at fault in theory and in fact of law' and the plaintiff was entitled to recovery. In the meantime, to protect her rights, she also filed suit in federal

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court. The District Court remanded us back to the Human Rights Commission for award of damages. We used the federal court as the vehicle to award the damages and damages were awarded by Judge Hatfield in June, 1982. The federal court had us base the award to her on a salary she would have earned had she gotten the job from June, 1977 through June, 1982, based on the salary of the person who got the job, plus sick-leave, plus vacation time. We have computed the interest and the allowable attorney's fee which were awarded in the judgment. Once this bill passes, we will have to amend in the appropriate amount of money to take care of the interest up to that point in time. The only loose end I would like to mention at this time is that we have been put on notice by Ms. Langlois's attorney that we probably owe interest on the attorney fees also. I have asked her to contact our attorney and negotiate that matter so I can report back to your committee before this bill is passed on as to whether or not we owe the fees. To be fair about it, I think we probably do because of the preponderance of case law, both in Montana and the Ninth Circuit Court. We did not calculate interest on this, so in Section 4 of this bill it shows a total payoff as of February 11, 1983 - which is today - of \$82,433.52; and then we compute the interest bi-weekly thereafter to the end of the biennium. Rep. BARDANOUVE asked, "Why until the end of the biennium?" Mr. CHISHOLM said, "At whatever point in time the Governor signs the bill and we have the money is the amount of money we need to amend into the bill at that time."

JOAN JONKEL, attorney for Marjorie Langlois, supported the bill.

Opponents: None.

Rep. JAN BROWN closed on her bill.

Discussion:

Rep. PECK asked if we have any further responsibility in terms of re-employing the lady? Mr. CHISHOLM said there is some implication that if the job does come up, we do have some obligation toward that. Ms. Langlois's attorney said she asked Judge Hatfield that question and he said there was no obligation.

The hearing closed at 9:30 p.m.

(Tape 1: Track 1:1518)

Other business:

Rep. MANUEL requested permission to draft a bill to determine salary upgrades.

Rep. HEMSTAD quoted the title of the proposed bill: "AN ACT TO REQUIRE THAT SALARY UPGRADES BE REFLECTED IN THE CURRENT FUNDING LEVEL BY A CORRESPONDING REDUCTION IN FULL-TIME EQUIVALENT EMPLOYEES AND THAT

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ADDITIONAL FULL-TIME EQUIVALENT EMPLOYEES BE AUTHORIZED ONLY BY MODIFIED BUDGET REQUEST APPROVAL, AMENDING SECTION 17-7-102 AND 17-7-123, MCA."

Rep. BARDANOUE asked if Rep. MANUEL wants to introduce this as a committee bill? Rep. MANUEL said they are asking the full committee if they could draft the bill.

Rep. SHONTZ made a motion that permission to draft the bill on salary upgrades be approved. The motion was seconded and passed unanimously.

Rep. SHONTZ asked that the committee allow the Human Services subcommittee to draft three bills: (1) to allow recovery of additional costs for licensing ambulances - a \$25 minimum fee; (2) to allow an increase in fees for licensing and surveying medical institutions - approximately \$3.55 per bed; (3) repeal the law requiring the Department of Health and Environmental Sciences to license radiation facilities.

Rep. SHONTZ made a motion that permission be given to draft a bill to repeal the licensing requirement on radiation facilities. The motion was seconded and passed unanimously.

Rep. SHONTZ made a motion that permission be given to draft a bill to recover additional costs for licensing ambulances. The motion was seconded and passed unanimously.

Rep. SHONTZ made a motion that permission be given to draft a bill to increase fees for licensing and surveying medical institutions. The motion was seconded and passed unanimously.

Rep. BENGTON asked that the committee allow the Education subcommittee to draft a bill to increase the reimbursement rate for school bus transportation and approve additional bus miles, but not receive reimbursement for those miles. A brief discussion was had on the various aspects of the proposed bill. The motion was seconded and passed unanimously. (Exhibit 13.)

Rep. MANUEL said there was a lot of trouble with criteria on licensing boards - who and when to take the tests. Rep. MANUEL made a motion that the full committee draft a bill establishing criteria for licensing boards. The motion was seconded and passed unanimously.

Rep. QUILICI said they sent a bill out of their subcommittee the other day. Rep. BARDANOUE said, "The bill will have to go through the full committee." Rep. QUILICI then explained the bill to the committee and submitted a copy of the bill. (Exhibit 14.) The bill provides that certain payments from the gasoline and vehicle fuels use tax and local assistance program be paid by the Department of Highways rather than the State Treasurer.

Minutes of the meeting of the Appropriations Committee
February 11, 1983

Rep. QUILICI made a motion that the committee approve the bill.
The motion was seconded and passed unanimously.

***EXECUTIVE ACTION:

HOUSE BILL 180: Rep. LORY made a motion that the bill be amended to the correct amount at the proper time and that the amendment be approved. The motion was seconded and passed unanimously.

Rep. LORY made a motion that HB 180 as amended do pass. The motion was seconded and passed unanimously.

HOUSE BILL 412: Rep. BENGTON made a motion that the amendment pertaining to the Supreme Court be approved. (Note: See "Standing Committee Report" dated 2/11/83 in the Minutes - HB 412.) The motion was seconded and passed unanimously.

Rep. BENGTON made a motion that the amendment pertaining to Colleges and Universities be approved. (Note: See "Standing Committee Report" dated 2/11/83 in the Minutes - HB 412.) The motion was seconded and passed unanimously.

Rep. HEMSTAD made a motion that the amendment pertaining to the Department of Natural Resources and Conservation be approved. (Note: See "Standing Committee Report" dated 2/11/83 in the Minutes - HB 412.) The motion was seconded and passed unanimously.

Rep. BENGTON made a motion that HOUSE BILL 412 as amended do pass. The motion was seconded by Rep. WALDRON and passed, with Rep. SHONTZ voting no.

HOUSE BILL 144: Rep. LORY made a motion that House Bill 144 do pass. The motion was seconded by Rep. QUILICI and passed unanimously.

The meeting adjourned at 10:15 p.m.



REPRESENTATIVE BARDANOV

jc

PROPOSED AMENDMENT TO HOUSE BILL 412 (Introduced Copy)

1. Page 2.

Following: line 15

Insert: "DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

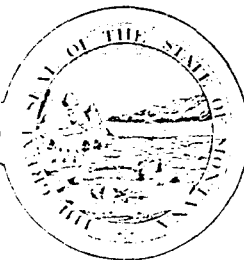
Water Rights Adjudication Program Funding	\$575, ⁰⁰⁰ 258	\$ -0-
-------------------------------------------	--------------------------------------	--------

Renumber: subsequent lines
Adjust: General fund total page 3, line 9 accordingly.

DG:cm:d

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

EXHIBIT 2
HB 412
2/11/83
Bardanouve



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

STATE OF MONTANA

(406) 449-3712

HELENA, MONTANA 59620

MEMORANDUM

TO: Dave Lewis, Budget Director

FROM: Leo Berry, Director
Department of Natural Resources & Conservation

DATE: January 26, 1983

SUBJECT: Water Rights Adjudication Program Funding

Earmarked fund shortfalls for the Water Rights Adjudication Program created by insufficient fees must be addressed this legislative session. Section 85-2-242, MCA, indicates that if sufficient revenues are not available from the earmarked revenue fund, created with filing fees, expenses shall be paid from the state's general fund. Funding has become the next major hurdle for Montana's Adjudication program. At this time the Montana Water Court and DNRC are continuing their good faith efforts in an expeditious and efficient adjudication program while the Compact Commission continues similar efforts in the negotiation of Federal Reserved Water Rights.

The following table indicates the planned FY-83 expenditures for the adjudication program and includes expenses for the Reserved Water Rights Compact Commission that is staffed by this Department. A detailed breakdown can be found on the attached Operational Plan/Budget Amendment forms (B212).

	FY-83 <u>Authorized</u> (<u>\$</u>)	<u>Proposed</u> (<u>\$</u>)
DNRC	1,977,072	1,416,588
Supreme Court	395,000 ←	276,000
Totals	2,372,072	1,692,588
Earmarked Funds Available		1,117,332
General Fund Balance		575,256

As you can see, the Department's and the Water Court's proposed expenditures are considerably less than our authorized levels. Of course, the earmarked fund is not sufficient to cover FY-83 costs, indicating that the general fund would have to be tapped in accordance with Montana statutes to cover the deficit.

We request that you authorize the necessary steps so that the Water Court and the Department can expend \$575,256 from the general fund as mandated by 85-2-242 (MCA) thereby allowing the Department and Supreme Court to continue the adjudication and quantification of Montana's water rights.

A statewide adjudication is an expensive process even in its most streamlined form. The first fiscal note, prepared in April 1979, projected expenditures from FY-80 to FY-85 to be \$15,763,569. Current expenditure estimates for FY-80 to FY-85 are \$8,301,696. Table 1 identifies the budgeted and actual spending levels since the passage of Senate Bill 76 and indicates that the earmarked fund users have operated in a frugal manner. Approximately 23% of the legislative appropriations made since the inception of Senate Bill 76 programs have been saved. This is due primarily to concerted efforts in managing an efficient cost-effective program whose size coincides with the immediate goal to be met.

Filing fees were set in statute at \$40 per claimant per division. Claims on decreed rights were exempt from filing fees and two or more exempt uses from the same source could be filed for a single \$40 fee (individual domestic use and stockwater use of surface water without a diversion and groundwater were exempted from the adjudication process).

Monies resulting from this fee schedule were far less than anyone projected. For the 201,165 claims received only \$3,713,017 in fees were received for the earmarked revenue fund. This translates into an average of \$18.46 per claim submitted. The potential for revenue shortfall became apparent to DNRC in early 1982. During the last six months 56% of the claims were submitted and it was during this last rush period that the fee deficiencies became apparent. When the shortfall was projected steps were taken to reduce spending while still meeting our minimum mandated goals. Operating expenses were cut, positions were left vacant and within DNRC's adjudication staff some reduction in force actions were taken.

Again we request you authorize the spending of \$575,256 general fund monies for this fiscal year. Without this authorization neither the Court, Department nor Compact Commission can effectively continue pursuit of their mandated goals.

TABLE 1

Fiscal Year	Program	Earmarked Legislative Appropriation	Expenditures
1980*	DNRC-Adjudication Staff	430,000.00**	\$400,845.12
	-Reserved Water Rights		16,211.16
	Montana Water Courts		2,327.83
1981*	DNRC-Adjudication Staff	1,100,000.00	663,061.00
	-Reserved Water Rights		52,840.00
	Montana Water Courts		59,862.00
1982	DNRC-Adjudication Staff	1,380,888.00	1,084,327.00
	-Reserved Water Rights	214,964.00	138,506.00
	-Centralized Services	103,014.00	102,984.00
	Montana Water Courts	235,522.00	125,000.00
1983***	DNRC-Adjudication Staff	1,461,158.00	1,131,588.00
	-Reserved Water Rights	270,036.00	215,000.00
	-Centralized Services	101,841.00	101,841.00
	Montana Water Courts	395,023.00	288,000.00
	Totals	5,692,446.00	4,382,393.00

*Appropriations in FY-80 and FY-81 were made to a general Adjudication account and all parties charged to that DNRC account. During the next biennium each entity was allocated its own appropriation.

**The FY-80 appropriation of \$430,000.00 contains \$100,000.00 seed money.

***Expenditures for FY-83 are projected figures. Year end totals will differ somewhat.

1740	485000 (140260)	Compued Com	24
841	14530	Cou/Sus	21
	87311	Cou/Sus	21
1158	125491	WTNATS	24
	1335667	WTNATS	

739
000

7739
1232

6407

1076407

1764026

PROPOSED AMENDMENT TO HB 412 - FOR COLLEGE AND UNIVERSITY
SUPPLEMENTAL

1. Page 2, line 20

Strike: lines 20 through 23 in their entirety

Insert:

"Montana State University	\$781,213	\$180,635
University of Montana	233,767	509,000
Eastern Montana College	179,178	277,415
Northern Montana College	284,375	106,620
Western Montana College	21,078	95,000
Montana College of Mineral Science and Technology	399,171	37,308

The fiscal 1983 expenditures from the current unrestricted subfund at each of the units of the Montana University system listed below shall not exceed: Montana State University - \$40,647,582, University of Montana - \$33,196,957, Eastern Montana College - \$11,464,876, Northern Montana College - \$5,849,355, Western Montana College - \$3,272,002, Montana College of Mineral Science and Technology - \$7,520,321, except by any amount granted from the vacancy savings contingency fund appropriated to the Governor's Office in HB 500 of the 47th Legislature. To the extent revenues generated under provisions of Section 20-25-423, MCA, exceed \$13,079,452 in fiscal 1983 general fund shall revert."

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

MY NAME IS DENNIS HEMMER. I'M THE COMMISSIONER OF STATE LANDS. I AM HERE TODAY TO EXPLAIN WHY THE DEPARTMENT HAS OVERSPENT ITS APPROPRIATION FOR FIRE SUPPRESSION, THAT IS FIGHTING FIRES, IN FISCAL YEARS 1982 AND 83.

DETERMINING THE AMOUNT IT WILL COST TO FIGHT FIRES FOR A GIVEN YEAR IS AN IMPOSSIBLE TASK. AS YOU CAN SEE BY LOOKING AT THE DIFFERENCE BETWEEN OUR SUPPLEMENTAL REQUESTS FOR 1982, \$775,000, AND 1983, \$22,000, THE COSTS FOR AN INDIVIDUAL YEAR VARIES DRASTICALLY. THE 1981 LEGISLATURE APPROPRIATED \$60,000 PER YEAR FOR FIRE SUPPRESSION AND AUTHORIZED DEFICIT SPENDING TO COVER THE BALANCE OF THE FIRE FIGHTING COSTS. THE DEPARTMENT FIGHTS ALL FIRES IN ITS PROTECTION AREAS AND THEN UTILIZES FUNDS APPROPRIATED FOR OTHER USES TO COVER THE COST OF FIRE FIGHTING. WE THEREFORE NEED A SUPPLEMENTAL APPROPRIATION IF WE ARE TO CONTINUE TO OPERATE THE FORESTRY DIVISION THE BALANCE OF THIS FISCAL YEAR, AND TO FIGHT ANY FIRES DURING THE EARLY PART OF THE FIRE SEASON,

THE DEPARTMENT THEREFORE REQUESTS A SUPPLEMENTAL APPROPRIATION OF \$797,354.

PROPOSED AMENDMENT TO HOUSE BILL 412

1. Page 3.

Following: line 8

Insert: "SUPREME COURT

Clerk of Court

Boards and Commissions

2

10,300

17,000"

Adjust: General fund total page 3, line 9 accordingly

To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Land
 Policy and
 Management
 Act of 1976.

TABLE OF CONTENTS

TITLE I—SHORT TITLE; POLICIES; DEFINITIONS

- Sec. 101. Short title.
- Sec. 102. Declaration of policy.
- Sec. 103. Definitions.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

- Sec. 201. Inventory and identification.
- Sec. 202. Land use planning.
- Sec. 203. Sales.
- Sec. 204. Withdrawals.
- Sec. 205. Acquisitions.
- Sec. 206. Exchanges.
- Sec. 207. Qualified conveyees.
- Sec. 208. Conveyances.
- Sec. 209. Reservation and conveyance of mineral interest.
- Sec. 210. Coordination with State and local governments.
- Sec. 211. Omitted lands.
- Sec. 212. Recreation and Public Purposes Act.
- Sec. 213. National forest townsites.
- Sec. 214. Unintentional Trespass Act.

TITLE III—ADMINISTRATION

- Sec. 301. BLM directorate and functions.
- Sec. 302. Management of use, occupancy, and development.
- Sec. 303. Enforcement authority.
- Sec. 304. Service charges and reimbursements.
- Sec. 305. Deposits and forfeitures.
- Sec. 306. Working capital fund.
- Sec. 307. Studies, cooperative agreements, and contributions.
- Sec. 308. Contracts for surveys and resource protection.
- Sec. 309. Advisory councils and public participation.
- Sec. 310. Rules and regulations.
- Sec. 311. Program report.
- Sec. 312. Search and rescue.
- Sec. 313. Sunshine in government.
- Sec. 314. Recordation of mining claims and abandonment.
- Sec. 315. Recordable disclaimers of interest.
- Sec. 316. Correction of conveyance documents.
- Sec. 317. Mineral revenues.
- Sec. 318. Appropriation authorization.

TITLE IV—RANGE MANAGEMENT

- Sec. 401. Grazing fees.
- Sec. 402. Grazing leases and permits.
- Sec. 403. Grazing advisory boards.
- Sec. 404. Management of certain horses and burros.

MINERAL REVENUES

30 USC 191.

30 USC 1001
 note.

SEC. 317. (a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. 181, 191), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning; (ii) construction and maintenance of public facilities, and (iii) provision of public service;"]

Federal Mineral Leasing Act Funds
Federal Fiscal Year 1982

<u>County</u>	<u>100 Percent</u>	<u>State Total</u>	<u>62.5 Percent Schools</u>	<u>37.5 Percent Highways</u>
Beaverhead	\$ 1,367,168	\$ 683,584	\$ 427,240	\$ 256,344
Bighorn	1,467,621	733,810	458,631	275,179
Blaine	712,715	356,358	222,724	133,634
Broadwater	161,353	80,676	50,422	30,254
Carbon	1,586,632	793,316	495,822	297,494
Carter	792,413	396,206	247,629	148,577
Cascade	52,389	26,194	16,371	9,823
Chouteau	187,814	93,907	58,692	35,215
Custer	329,789	164,894	103,059	61,835
Daniels	23,593	11,796	7,372	4,424
Dawson	719,842	359,921	224,951	134,970
Deer Lodge	122,573	61,286	38,304	22,982
Fallon	4,640,491	2,320,246	1,450,154	870,092
Fergus	170,133	85,066	53,166	31,900
Flathead	667,218	333,609	208,506	125,103
Gallatin	122,679	61,340	38,338	23,002
Garfield	589,100	294,550	184,094	110,456
Glacier	125,570	62,785	39,241	23,544
Golden Valley	22,412	11,206	7,004	4,202
Granite	330,415	165,208	103,255	61,953
Hill	234,075	117,038	73,149	43,889
Jefferson	151,834	75,917	47,448	28,469
Judith Basin	33,277	16,638	10,399	6,239
Lake	78,242	39,121	24,451	14,670
Lewis and Clark	561,079	280,540	175,338	105,202
Liberty	208,169	104,084	65,052	39,032
Lincoln	82,953	41,476	25,922	15,554
McCone	294,828	147,414	92,134	55,280
Madison	501,839	250,920	156,825	94,095
Meagher	262,316	131,158	81,974	49,184
Mineral	529	264	165	99
Missoula	24,072	12,036	7,522	4,514
Musselshell	212,548	106,274	66,421	39,853
Park	101,293	50,646	31,654	18,992
Petroleum	330,996	165,498	103,436	62,062
Phillips	2,000,993	1,000,496	625,310	375,186
Pondera	147,585	73,792	46,120	27,672
Powder River	3,135,125	1,567,562	979,726	587,836
Powell	306,736	153,368	95,855	57,513
Prairie	427,955	213,978	133,736	80,242
Richland	2,259,469	1,129,734	706,084	423,650
Roosevelt	33,520	16,760	10,475	6,285
Rosebud	6,814,999	3,407,500	2,129,688	1,277,812
Sheridan	69,605	34,802	21,751	13,051
Silverbow	131,270	65,635	41,022	24,613
Stillwater	109,418	54,709	34,193	20,516
Sweet Grass	95,607	47,804	29,878	17,926
Teton	150,537	75,268	47,042	28,226
Toole	629,960	314,980	196,862	118,118
Treasure	10,216	5,108	3,192	1,916
Valley	589,118	294,559	184,099	110,460
Wheatland	11,379	5,690	3,556	2,134
Wibaux	1,095,437	547,718	342,324	205,394
Yellowstone	16,467	8,234	5,146	3,088
	<u>\$35,305,358</u>	<u>\$17,652,679</u>	<u>\$11,032,924</u>	<u>\$6,619,755</u>
	=====	=====	=====	=====

STATE
OF
MONTANA
ATTORNEY GENERAL
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59601 TELEPHONE (406) 449-2026

3 March 1981

Robert J. Brooks
County Attorney
Powder River County
Box 345
Broadus, Montana 59317

Denzil Young
County Attorney
Fallon County Courthouse
Baker, Montana 59313

James Seykora
County Attorney
Big Horn County Courthouse
Hardin, Montana 59034

Gentlemen:

You have requested my opinion on the following question:

Does 30 U.S.C. § 191 require the state to spend the money distributed thereunder by giving priority to areas impacted by federal mineral development?

Fifty percent of all money received by the federal government from certain types of mineral leasing is returned to the states in which the mineral development takes place. 30 U.S.C. § 191. That section provides that the money distributed to the states is to be used

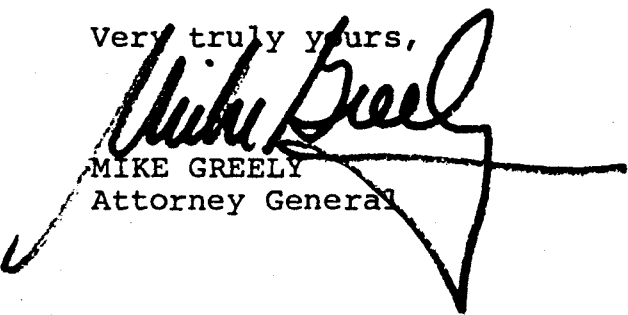
as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service [Emphasis added.]

The Montana legislature has allocated 62 1/2% of this money to the school foundation program (§ 20-9-343, MCA) and 37 1/2% to the state highway account (§ 17-3-201, MCA). Neither of these statutes makes any mention of giving priority to impacted areas. I do not know whether priority is actually given in the expenditure of funds from either category.

Robert J. Brooks
Denzil Young
James Seykora
Page 2
3 March 1981

The federal statute is plain and unambiguous. It requires that these funds be spent giving "priority to those subdivisions of the State socially or economically impacted" by federal mineral leasing development. The State must comply with this federal mandate if it accepts the funds. Sammons Trucking v. Boedecker, 158 Mont. 397, 400, 492 P.2d 919 (1972). The statute, of course, does not direct that all of the money be spent in impacted areas, but only that priority be given to expenditures in those areas. The method for determining how priority is given is left up to the State. Since the legislature has not provided a method for determining priority, this must be done administratively by the agencies entrusted with the funds under sections 17-3-201 and 20-9-343, MCA.

Very truly yours,



MIKE GREELY
Attorney General

Robert J. Brooks

Attorney At Law

COUNTY ATTORNEY
Powder River County
Telephone 436-2365

Box 345
BROADUS, MONTANA
59317

December 15, 1980

The Honorable Mike Greely
Attorney General of the
State of Montana
Helena, Montana 59601

Dear Mr. Greely,

Would you please give us your opinion on whether the federal mineral monies distributed to Montana under 30 U.S.C. paragraph 191 as amended in 1976 must be spent by giving "priority" to areas such as ours which are impacted by federal mineral development.

As you are aware, the Montana Legislature properly allocated these funds, 62½% to the school foundation program (20-9-344 MCA), and 37½% to the state highway account (17-3-201 MCA). Neither the highway department nor the school foundation appears to be giving the federally - required "priority."

It appears to us, that Montana has no choice, under Federal and State law, but to give the priorities.

By way of explanation of this question, we are submitting the following background.

On September 21, 1976 Congress amended 30 U.S.C. 191 to increase from 37½% to 50% the amount of revenues derived from federal mineral development to be made available to the states in which the federal mineral development takes place. Prior to the 1976 amendment 30 U.S.C. paragraph 191 provided:

Said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct.

After the 1976 amendments, 30 U.S.C. paragraph 191 read:

Said moneys paid to any of such States on or after January 1, 1976 to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service.

The legislative history of the 1976 amendment, includes a House Report, a Senate Report and testimony by a Utah county commissioner. House Report No. 94-681, which I do have, provides in relevant part:

The current (that is pre-1976) restrictions on the manner in which monies return to the States from the sale of Federal leases within their borders are onerous. When an area is newly opened to large-scale mining, local governmental entities must assume the responsibility of providing public services needed for new communities, including schools, roads, hospitals, sewers, police protection, and other public facilities, as well as adequate local planning for the development of the community. Since paragraph 35 of the Mineral Leasing Act of 1920 currently provides that the monies returned to the States be available only for schools and roads, it is difficult for affected areas to meet the needs of their new inhabitants.

197 U.S. Code Cong. Admin. News, p. 1955.

During the process of enacting the 1976 amendments, Congress rejected the recommendation of the Department of the Interior that the states be given complete discretion as to the expenditure of coal and other mineral leasing receipts from federal lands. See, 1976 U.S. Code Cong. and Admin. News, p. 1970 and 1981-82. The legislative history makes it apparent that the 1976 amendment constitutes a compromise -- on one hand, Congress agreed to remove the restrictions as to how the states might spend the federal mineral revenues, but at the same time Congress inserted, for the first time, specific restrictions as to where the states must spend their federal mineral development monies.

Under these circumstances, it seems that the school foundation and the highway department must give "priority" to areas which are impacted by Federal mineral development.

Respectfully submitted,



Robert J. Brooks
Powder River County Attorney

Denzil R. Young, Jr.
Fallon County Attorney

James Seykora
Big Horn County Attorney



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59601
(406) 449-3095

Ed Argenbright
Superintendent

November 23, 1981

Fallon County Commissioners
Powder River County Commissioners
Big Horn County Commissioners

RE: Expenditures of Mineral Act Monies (30 US Code 191) through 20-9-341 through 20-9-349.

I am in receipt of your letter dated October 30, 1981 requesting an explanation of distribution of monies from the state equalization aid program. I have requested my staff to accumulate the material necessary to answer the specific questions you outlined on page two of your letter.

The first question posed is whether the amounts of federal monies received by the State of Montana and this agency for the last five years through the development of federal monies in our counties? The monies received by the state through the development of federal minerals as best we could determine on the records in this office are as follows:

1. U. S. Oil and Gas Receipts

FY 80-81	\$7,380,403.99
FY 79-80	5,146,239.25
FY 78-79	4,701,657.43
FY 77-78	4,426,413.77
FY 76-77	3,634,903.70

2. The second question is a requested detailed explanation of how those monies have been allocated by your agency.

Monies referred to in your letter are not allocated by this agency. Section 20-9-343 MCA, 2(d) directs that these monies be paid into and become a part of the earmarked revenue fund for state equalization aid. Sections 20-9-344, 20-9-345, 20-9-346 and 20-9-347 MCA sets forths the specific manner in which this office handles this money.

Apparently your concern is that the State Superintendent has discretionary powers on distribution of these monies. Under Montana Law this is not the case. Under Montana law the Board and the Superintendent carry out the mandates of a formula set by the legislature. Section 20-9-344 (2) states:

November 23, 1981

Page Two

"The Board of Public Education shall administer and distribute the state equalization aid in the matter and with the powers and duties provided by law. To this end, the Board of Public Education shall: (8)(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law; (b) at the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and (c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each districts annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the Board of Public Education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of the school revenue. See also section 20-2-121 MCA.

Section 20-9-346 (3) MCA states: Superintendent of Public Instruction shall administer the distribution of the state equalization aid by: (3) distributing by state warrant the state equalization aid, for each district entitled to such aid, to the county treasure of the the county where the district is located, in accordance with the distribution ordered by the Board of Public Education. The Board in turn must follow the mandates of the law.

Therefore, the State Superintendent has no discretionary powers on the allocation of state equalization aid. The specific formula that accounts for every penny of the state equalization aid is laid out in its entirety in section 20-9-347. The state legislature mandates that the Superintendent of Public Instruction apportion the state equalization aid, in accordance with Section 20-9-346 and on the basis of Section 20-9-347.

3. A detailed explanation of how, when, where these monies were expended in our individual counties? The funds for equalization (40 mills, earmarked revenue fund, and the legislature appropriation) are used to support the general fund to the school district and may be used for any expenditure allowable in the general fund.

I retrieved the informal opinion dated March 3, 1981 from the Attorney General in regard to the question of distribution of federal mineral leasing monies to impacted areas. The method for determining how priority is given is not left up to this state agency. The state legislature

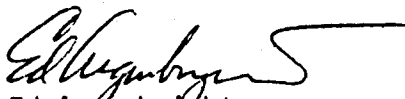
November 23, 1981

Page Three

specifically outlined and designated the Board of Public Education, who in turn must follow the mandates of the statute pursuant to 20-9-347 for the distribution of these monies that has been intrusted to the Board of Public Education and the Office of Public Instruction.

Please consider my office open and available to any and all further discussion on this important matter. I am willing to meet with you at any time convenient and to discuss with my financial experts any and all concern of the state equalization aid program.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ed Argenbright', with a long horizontal flourish extending to the right.

Ed Argenbright
Superintendent

EA:dk

cc: Allen Gunderson
Hidde Van Duym

Calendar No. 561

94TH CONGRESS }
1st Session }

SENATE

REPORT
No. 94-583

NATIONAL RESOURCE LANDS MANAGEMENT ACT

DECEMBER 18 (legislative day, DECEMBER 15,) 1975.—Ordered to be printed

Mr. HASKELL, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 507]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 507), to provide for the management, protection, and development of the national resource lands, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

That (a) this Act may be cited as the "National Resource Lands Management Act".

(b) TABLE OF CONTENTS.—

- Sec. 2. Definitions.
- Sec. 3. Declaration of policy.
- Sec. 4. Rules and regulations.
- Sec. 5. Public participation.
- Sec. 6. Advisory boards and committees.
- Sec. 7. Annual report.
- Sec. 8. Director.
- Sec. 9. Appropriations.

TITLE I—GENERAL MANAGEMENT AUTHORITY

- Sec. 101. Management.
- Sec. 102. Inventory.
- Sec. 103. Land use plans.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

- Sec. 201. Authority to sell.
- Sec. 202. Disposal criteria.
- Sec. 203. Sales at fair market value.
- Sec. 204. Size of tracts.
- Sec. 205. Competitive bidding procedures.
- Sec. 206. Right to refuse or reject offer of purchase.
- Sec. 207. Reservation of mineral interests.
- Sec. 208. Conveyance of reserved mineral interests.
- Sec. 209. Terms of patent.
- Sec. 210. Conforming conveyances to State and local planning.
- Sec. 211. Authority to issue and correct documents of conveyance.
- Sec. 212. Recordable disclaimers of interests in land.
- Sec. 213. Acquisition and exchange of land.
- Sec. 214. Omitted lands.

Subsection (e) requires that, during the period prior to completion of the plan, the Secretary must execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California Desert area, to provide for the public use of those lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

Subsection (f) directs that the advisory committee to be established pursuant to section 6 (and the requirements of the Federal Advisory Committee Act (86 Stat. 770) concerning balanced representation, independence, etc.) be formed within 60 days of the enactment of S. 507. The committee would be named the "California Desert Area Advisory Committee."

Subsection (g) provides assurances that the national resource lands within the California Desert Area will be subject to all laws relating to the national resource lands. It also provides for coordination between the Secretaries of the Interior, Agriculture, and Defense, to the extent such cooperation is possible given the constraints of laws relating to the management of the lands under each Secretary's jurisdiction.

Subsection (h) requires the Secretary to report to the Congress no later than two years after the enactment of S. 507, and annually thereafter in the report required in section 7, on the progress in, and any problems concerning, the implementation of section 309, together with any recommendations to remedy such problems.

Subsection (i) authorizes the appropriation of not more than \$40,000,000 for fiscal years 1977 through 1981. The funds are to remain available until expended.

MINERAL REVENUES

Section 310. This section amends section 35 of the Mineral Leasing Act of 1920 (41 Stat. 437, 450), as amended. Section 35 of the 1920 Act provides that 37½ percent of the revenues from the leasing of minerals, including coal, gas, phosphate, sodium, potassium, oil, oil shale, native asphalt, and solid and semi-solid bitumen and bituminous rock and tar sands, on Federal lands are to be paid to the States in which the Federal lands are located. Section 35 requires that the States use this money "for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct". Among other things, that section also provides that another 52½% of those mineral revenues are to be paid into the Reclamation Fund.

It now appears that many of the western public land States will experience substantial oil shale and coal development in the near future. If so, State and local governments will have to provide a wide range of community services to large numbers of new residents. Roads and schools are just two of those services. Water and sewer treatment plants, health and emergency services, police and fire protection all must be considered, planned, and funded. The Committee recognizes a need to alter section 35 to provide necessary flexibility to State and local governments to accommodate the inevitable, extraordinary economic, social, and environmental effects which such "energy booms" will have. The Federal Government has the responsibility of assisting the local people who must bear the often severely adverse, localized

intent
/ *

7

impacts of fuels development which benefits the public on a nationwide basis.

Subsection (a) of section 310 amends section 35 of the 1920 Act to increase from 37½ percent to 60 percent the share of 1920 Act mineral leasing revenues paid to the States. The additional revenues derived from the 22½ percent increase would be used as the legislatures of the States direct, giving priority to those areas suffering impact problems as a result of energy development, for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services. The share of revenues paid to the Reclamation Fund would be reduced by the 22½ which would be paid to the States, thus placing the Reclamation Fund share at 30 percent.

The utility of these additional revenues will be reduced significantly if paid to the States only upon their receipt by the Federal Government. In order to accommodate the expected growth which energy development will bring, the affected State and local governments need to expend those funds prior to the occurrence of the development. Unless the planning can be done, the sewers laid, the health and emergency services provided before development, those governments will be able only to react to, rather than guide, growth and mitigate, rather than avoid, its adverse impacts.

Subsection (b) is designed to provide the funds to meet these front-end needs. It authorizes loans to the States and subdivisions limited to the anticipated revenues from the 22½ percent portion to be returned to the States in a ten year period. The loans are to be repaid to the Treasury, with 3 percent interest, by the recipients from their portions of the 22½ percent of the revenues during the time the revenues are collected, as the Secretary of the Interior directs.

RECORDATION OF MINING CLAIMS

Section 311. One of the most persistent and significant roadblocks to effective planning and management of most Federal lands, including the national resource lands, is the status of hardrock mining and mining claims on those lands under the Mining Law of 1872, as amended (30 USC 22-47). The status accorded mining and its implications for the public land planner were recently outlined as follows:

The prime concern of public land managers is that mining is given a preferential status on almost all the public lands under the present law. Under the policy of "free mining" a prospector is unrestricted as long as he is diligently exploring for mineral deposits, without regard to the impact which his activity may have on other uses of the land. . . . This situation has obviously compromised the ability of public land managers to develop and administer a comprehensive plan which provides, in an even and balanced way, for all uses of the public lands. Mining lies outside this process. Because mining tends to dominate other uses whenever and wherever it occurs, the land management policies implemented by the agencies are continually subject to displacement by a mineral claimant.²⁰

²⁰ W. Condon and D. Jackman, "Reforming the Mining Laws—The Case For A Leasing System", *Public Land Management—A Time For Change?*, Stanford, California (1971), p. 8.

LANGLOIS vs STATE

1.	Judgment awarded by state district courts total amount of gross salary for David Beatty from 6/28/77 to 3/5/82.	\$71,753.40
	With interest at 6% from 6/28/77 to 6/30/79	\$1,432.29
	With interest at 10% from 7/1/79 to 3/5/82	<u>\$4,788.18</u>
	Subtotal	\$ 6,220.47 <u>77,973.87</u>
2.	Plus: Benefits	
	Annual Leave plus Interest at 10% (2,197.17 + 219.72)	2,416.89
	Sick Leave plus Interest at 10% (1007.03 + 100.70)	<u>1,107.73</u>
	Subtotal	3,524.62 <u>81,498.49</u>
3.	Less: Interim earnings of Plaintiff (6/28/77 through 3/5/82)	[23,416.32] <u>58,082.17</u>
	3/6/82 - 6/22/82 (Add'l salary and Interest)	<u>3,272.27</u>
	Total Judgment	<u>61,354.44</u>
4.(a)	Allowable Interest at 10% per annum 6/23/82 through 2/11/83	3,933.37
	Plus court costs	<u>17,145.71</u>
	Total Payoff 2/11/83	<u>82,433.52</u>
(b)	Principal	61,354.44
	Allowable Interest at 10% per annum 6/23/82 through 2/25/83	4,168.73
	Plus court costs	<u>17,145.71</u>
	Total Payoff 2/25/83	<u>82,668.88</u>
(c)	Principal	61,354.44
	Allowable Interest at 10% per annum 6/23/82 through 3/11/83	4,404.08
	Plus court costs	<u>17,145.71</u>
	Total Payoff 3/11/83	<u>82,904.23</u>

(d) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 3/25/83	4,639.38
Plus court costs	<u>17,145.71</u>
Total Payoff 3/25/83	83,139.53
(e) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 4/8/83	4,874.73
Plus court costs	<u>17,145.71</u>
Total Payoff 4/8/83	83,374.88
(f) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 4/30/83	5,244.52
Plus court costs	<u>17,145.71</u>
Total Payoff 4/30/83	83,744.67
(g) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 5/14/83	5,479.87
Plus court costs	<u>17,145.71</u>
Total Payoff 5/14/83	83,980.02
(h) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 5/14/83	5,715.17
Plus court costs	<u>17,145.71</u>
Total Payoff 5/28/83	84,215.32
(i) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 6/11/83	5,950.52
Plus court costs	<u>17,145.71</u>
Total Payoff 6/11/83	84,450.67
(i) Principal	61,354.44
Allowable Interest at 10% per annum	
6/23/82 through 6/30/83	6,269.93
Plus court costs	<u>17,145.71</u>
Total Payoff 6/30/83	84,770.08

Langlois v. State

April 30, 1983	@	*\$78,500.15
Interest @ 10%		<u>6,710.11</u>
Total Payoff		\$85,210.26

June 30, 1983	@	*\$78,500.15
Interest @ 10%		<u>8,022.09</u>
Total Payoff		\$86,522.24

*Includes court costs at \$17,145.71

EXHIBIT 13
(No bill...
yet)
2/11/83
Bengtson

----- BILL NO. -----

INTRODUCED BY -----

BY REQUEST OF THE JOINT APPROPRIATIONS

SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE REIMBURSEMENT RATE FOR SCHOOL BUS TRANSPORTATION; TO CLARIFY THAT A SCHOOL DISTRICT MAY APPROVE BUS MILES IN ADDITION TO APPROVED BUS ROUTES BUT MAY NOT CLAIM REIMBURSEMENT FOR THE ADDITIONAL MILEAGE; AMENDING SECTION 20-10-141, MCA."

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

Section 1. Section 20-10-141, MCA, is amended to read:

"20-10-141. Schedule of maximum reimbursement by bus mileage rates. (1) The following bus mileage rates for school bus transportation constitute the maximum reimbursement to districts for school bus transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates shall not limit the amount which a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school bus transportation during the ensuing school fiscal year. All bus miles traveled on routes approved by the county transportation committee are reimbursable. A district may approve

1 ~~additional bus miles but may not claim reimbursement for~~
2 ~~such mileage.~~ Any vehicle, the operation of which is
3 reimbursed under the rate provisions of this schedule, shall
4 be a school bus, as defined by this title, driven by a
5 qualified driver on a bus route approved by the county
6 transportation committee and the superintendent of public
7 instruction.

8 (2) The rate per bus mile traveled shall be determined
9 in accordance with the following schedule when the bus is
10 used for transportation of eligible transportees:

11 (a) ~~60 12~~ cents in fiscal ~~1982 1984~~ and ~~65 80~~ cents in
12 fiscal ~~1983 1985~~ and each year thereafter per bus mile for a
13 school bus with a rated capacity of not less than 12 but not
14 more than ~~50 45~~ children; and

15 (b) when the rated capacity is more than ~~50 45~~
16 children, an additional ~~2-1/2~~ 2 cents per bus mile for each
17 additional child in the rated capacity in excess of ~~50 45~~
18 shall be added to a base rate of ~~60 12~~ cents in fiscal ~~1982~~
19 ~~1984~~ and ~~65 80~~ cents in fiscal ~~1983 1985~~ and each year
20 thereafter per bus mile.

21 (3) The rated capacity shall be the number of riding
22 positions of a school bus as determined under the policy
23 adopted by the board of public education."

-End-

(FOR LEGISLATIVE COUNCIL USE ONLY)

LC No. _____
Date of Request _____
Drafter _____ Date drafted _____
Requestor(s) _____

☐ SB ☐ HB ☐ SJB ☐ HJB
☐ SR ☐ HR ☐ SJR ☐ HJR
Subject _____

BILL DRAFTING REQUEST

Legislative Council
Room 138 — State Capitol
Helena, Montana 59620
(406) 449-3064

BILL DRAFTER CHECKLIST

Drafter V. L. Lincay Lane Phone 9-2032

NOTE: Each question on checklist calls for "yes", "no", or "N/A" (not applicable) response. Page number references are to Bill Drafting Manual.

Conformity with state and federal Constitu-
tions considered (p. 1)? YES

Existing Montana statutes reviewed to avoid
conflicts, duplication, or confusion (p. 1)? YES

Note attached indicating source of draft (e.g.,
model act, other state statute, etc.; p. 3)? N/A

Internal references checked using internal ref-
erence list (p. 4)? YES

Fiscal note required (p. 23)? YES

Statement of legislative intent required (p. 24)? NO

Code placement and applicability considered;
codification instruction included in draft
or suggested assignment of statute numbers
attached (pp. 26, 51)? N/A

Title contains one subject clearly expressed
(p. 38)? YES

(FOR LEGISLATIVE COUNCIL USE ONLY)
REVIEW

	Initials	Date
Legal	_____	_____
Director	_____	_____
Reader	_____	_____
Drafter	_____	_____

(FOR LEGISLATIVE COUNCIL USE ONLY)
FINAL REVIEW

From Alter _____
Drafter _____
Final final _____

SUBSTANCE OF PROPOSED LEGISLATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 7-14-102 AND 15-70-101, MCA, TO PROVIDE THAT CERTAIN PAYMENTS FROM THE GASOLINE AND VEHICLE FUELS USE TAX AND LOCAL ASSISTANCE PROGRAM BE PAID BY THE DEPARTMENT OF HIGHWAYS RATHER THAN THE STATE TREASURER AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

This change will not alter the distribution or allocation of the gasoline tax but will merely provide that the warrants for the payments to the cities and counties will be issued by the Department of Highways rather than by the Department of Administration. The Department of Highways collects and maintains all the information necessary to make the proper allocations and then transfers the information to the Department of Administration to issue the warrants. This bill will allow the Department of Highways to issue the warrants thereby allowing the warrants to be shown as expenditures in the general ledgers of the Department of Highways rather than the Department of Administration and eliminating duplicative handling of information. It is believed that this will be a more efficient and appropriate procedure.

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 7-14-102 AND 15-70-101, MCA, TO PROVIDE THAT CERTAIN PAYMENTS FROM THE GASOLINE AND VEHICLE FUELS USE TAX AND LOCAL ASSISTANCE PROGRAM BE PAID BY THE DEPARTMENT OF HIGHWAYS RATHER THAN THE STATE TREASURER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 7-14-102, MCA, is amended to read:

7-14-102. Allocation of state funds for public transportation.

(1) (a) The department of commerce shall allocate each year one-half of the funds appropriated for the purposes of this section among the cities and urban transportation districts of the state which operate or contract for the operation of general public transportation systems.

(b) (i) A city or urban transportation district is eligible for an allocation based upon the ratio of its local financial support for public transportation to the total local financial support for all general public transportation systems in the state. Local financial support shall be determined by dividing the city's or district's expenditure of local revenues for public transportation operations during the fiscal year by the mill value of the city or urban transportation district. Each applicant city and urban transportation district shall compute its expenditure of local revenues for public transportation operations for a fiscal year immediately following the end of such year and shall apply allocations received against that deficit.

(ii) A city or urban transportation district may not receive more than 50% of any year's expenditure of local revenues for public transportation operations as an allocation under this section.

(2) One-half of the funds appropriated for the purposes of this section

shall be paid by the ~~state treasurer~~ department of highways

to the counties of the state in the manner provided in 15-70-101(1)(a). Money distributed to counties under this section shall be used by the counties for highway or other transportation purposes.

(3) The department of commerce may make rules for the keeping of accounts for and otherwise implementing this section."

Section 2. Section 15-70-101, MCA, is amended to read:

" 15-70-101. Disposition of funds. All taxes, interest, and penalties collected under this chapter shall be turned over promptly to the state treasurer who shall place the same in the earmarked revenue fund to the credit of the department of highways, ~~except those~~ . Those

funds hereinbelow allocated to cities, towns, and counties, ~~which funds~~ shall be paid by the ~~state treasurer~~

department of highways

directly to such cities, towns, and counties.

(1) \$6,500,000 of the funds collected under this chapter shall be allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (a) and (b) hereof:

(a) \$2,950,000 shall be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the federal-aid interstate system and the federal-aid primary system, bears to the total rural road mileage in the state, exclusive of the federal-aid interstate system and the federal-aid primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state;

(b) \$3,550,000 shall be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

(2) All funds hereby allocated to counties, cities, and towns shall be used exclusively for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys or for the share which such city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system or urban extensions thereto.

(3) Upon receipt of the allocation provided herein, the governing bodies of the recipient counties, cities, and towns shall inform the department of highways of the purposes for which the funds will be expended so that the county commissioners, the governing body, and the department of highways may coordinate the expenditure of public funds for road improvements.

(4) All funds hereby allocated to counties, cities, and towns shall be disbursed to the lowest responsible bidder according to applicable bidding

procedures followed in all cases where the contract for construction, reconstruction, maintenance, or repair is in excess of \$4,000.

(5) For the purposes of this section where distribution of funds is made on a basis related to population, the population shall be determined by the last preceding official federal census.

(6) For the purposes of this section where determination of mileage is necessary for distribution of funds, it shall be the responsibility of the cities, towns, and counties to furnish to the department of highways ~~and state treasurer~~ a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted shall be subject to review and approval by the department of highways.

(7) None of the funds authorized by this section shall be used for the purchase of capital equipment.

Section 3. Effective date. This Act is effective on passage AND approval.

- end -

VISITORS' REGISTER

HOUSE APPROPRIATIONS COMMITTEE

BILL HOUSE BILL 412

SPONSOR BARDANOUE

Note: ↓ Date FEBRUARY 11, 1983

APPROPRIATE MONEY TO VARIOUS STATE AGENCIES FOR F/Y ENDING 6/30/83; PROVIDE FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS.

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name BONNIE TIPPY Committee On Appropriations
Address 2301 Colonial Drive Date 2-11-83
Representing MT COAL COUNCIL Support ✓
Bill No. HB 237 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

STANDING COMMITTEE REPORT

FEBRUARY 11

83

19.....

MR. Speaker.....

We, your committee on Appropriations.....

having had under consideration House..... Bill No. 144

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE MONEY TO THE GOVERNOR'S OFFICE TO PAY THE STATE'S SHARE OF THE INDIVIDUAL AND FAMILY GRANT PROGRAM PROVIDING DISASTER RELIEF FUNDS TO FLOOD VICTIMS."

Respectfully report as follows: That House..... Bill No. 144

DO PASS

STANDING COMMITTEE REPORT

FEBRUARY 11

19 83

MR. Speaker

We, your committee on Appropriations

having had under consideration House Bill No. 180

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO THE
DEPARTMENT OF INSTITUTIONS FOR PAYMENT OF A JUDGMENT AGAINST THE STATE
OF MONTANA BY MARJORIE LANGLOIS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That House Bill No. 180

BE AMENDED AS FOLLOWS:

1. Page 1, line 12.
Strike: "\$78,500.15"
Insert: "\$84,272.00"

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

1 of 2

FEBRUARY 11,

83

19.....

SPEAKER

MR.

APPROPRIATIONS

We, your committee on

HOUSE

412

having had under consideration Bill No.

FIRST

reading copy (WHITE)
color

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO VARIOUS
STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1983; PROVIDING
FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

HOUSE

412

Respectfully report as follows: That..... Bill No.

BE AMENDED AS FOLLOWS:

1. Page 2.

Following: line 15

Insert: "DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Rights Adjudication Program \$ 575,000"

2. Page 2, line 20

Strike: lines 20 through 23 in their entirety

Insert:

"MONTANA STATE UNIVERSITY	\$ 781,213	\$ 180,635
UNIVERSITY OF MONTANA	233,767	509,000
EASTERN MONTANA COLLEGE	179,178	277,415
NORTHERN MONTANA COLLEGE	284,375	106,620
WESTERN MONTANA COLLEGE	21,078	95,000
MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY	399,171	37,308

XXXXXX
DO PASS

FEBRUARY 11,

19 83

The fiscal 1983 expenditures from the current unrestricted subfund at each of the units of the Montana University system listed below shall not exceed: Montana State University - \$40,647,582, University of Montana - \$33,196,957, Eastern Montana College - \$11,464,876, Northern Montana College - \$5,849,355, Western Montana College - \$3,272,002, Montana College of Mineral Science and Technology - \$7,520,321, except by any amount granted from the vacancy savings contingency fund appropriated to the Governor's Office in HB 500 of the 47th Legislature. To the extent revenues generated under provisions of Section 29-25-423, MCA, exceed \$13,079,452 in fiscal 1983, general fund shall revert."

3. Page 3.

Following: line 8

Insert: "SUPREME COURT

Clerk of Court

Boards and Commissions

\$ 20,300

17,000"

4. Page 3, line 9

Strike:

"\$3,514,107 \$ 100,000"

Insert:

"\$4,126,437 \$1,305,978"

5. Page 3.

Following: line 9

Insert: "Section 6. House Bill 500, Laws of Montana 1981, Section C. Natural Resources and Business Regulation: Department of Natural Resources, item 5, Water Resources Division, Fiscal Year 1983. Other Appropriated Funds is reduced from \$2,840,433 to \$1,764,026.

Section 7. House Bill 500, Laws of Montana 1981, Section A. Legislative, Judicial, and Administrative Agencies: Judiciary, item 9, Water Courts Supervision, Fiscal Year 1983. Other Appropriated Funds is reduced from \$349,762 to \$230,762."

Renumber: subsequent section.

AND AS AMENDED DO PASS