

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on January 25, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Rene'e Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 97, SB 152, SB 162
Executive Action: SB 139

HEARING ON SB 152

Opening Statement by Sponsor:

SEN. THOMAS KEATING, SD 5, Billings, presented a handout titled, "Allocation of RIT Proceeds and Interest (1997 Biennium)".

EXHIBIT 1. He reported SB 152 is a repealer of the Resource Indemnity Trust Tax (RITT), which is 1/2 of 1% of the gross proceeds of oil, gas, coal, and certain minerals directed into a \$100 million constitutional trust. **SEN. KEATING** stated that the repeal would be effective as of the 1st of January of the year following the year that the trust reached or exceeded \$100 million. He explained that the RITT is tax on mineral extraction, and since the enactment of the tax those mines have been falling into the trust. **SEN. KEATING** remarked that the RITT balance as of FY '95 is over \$91 million, and the fund will reach

\$96,259,000 by FY '97. He stated at current levels the fund will achieve the \$100 million balance in either 1998, or 1999. He acknowledged when the fund reaches a \$100 million balance the extraction industry feels it has achieved the goal of the \$100 million extracted from the industry, and the purpose of the tax has been served. **SEN. KEATING** said it should be rescinded, allowing the mineral industry at least a small tax break. **SEN. KEATING** explained what will happen if this bill is passed. He commented when the fund has reached \$100 million or more, the Governor will issue an executive order that the tax is rescinded, and the fund will remain inviolate. He explained the interest income will still be allocated to the Department of Natural Resource projects. He defined a list of uses, and allocations which are located on Page 2 of the handout (**See Exhibit 1**).

{Tape: 1; Side: A; Approx. Counter: 13.6.}

Proponents' Testimony:

Jerome Anderson, Attorney representing Shell Western Exploration, Inc. commented Shell has a vested interest in this tax. He stated the fund has become a slush fund because the use of it has gone far beyond its original stated purpose. **Mr. Anderson** declared when the fund reaches the \$100 million point the tax should be terminated.

Ward Shanahan, Attorney representing Stillwater Mining Company, stated the company supports SB 152, and summarized why some of the diversions of money occurred in the RITT revenues.

Gail Abercrombie, Executive Director, Montana Petroleum Association, reported the debate on the use of the RITT funds, and the interest, has been going on for quite a length of time. She commented that the Association supports the use of the funds as intended.

Jim Mockler, Executive Director, Montana Coal Council, stated the RITT fund is .4% on coal because of the method of taxation. He commented past legislatures basically promised the mineral industries that the tax would be charged until it reached \$100 million and then it would be gone. **Mr. Mockler** asked the committee to uphold the promise.

Dennis Iverson, Montana Gas Association, suggested that more be done than simply capping the fund. He pointed out, that as a matter of policy, we should redirect the use of the funds.

Ken Williams, Entech/MPC, asserted the legislature intended a \$100 million fund, otherwise they would have proposed another number. He said the legislature implicitly implied the tax would sunset when that fund reached \$100 million.

Russ Ritter, Montana Resources, Butte, Montana, said, "what's fair is fair, we were told \$100 million, and when it was capped it would be over with." He commented that the responsibility of

the legislature is to take that action.

Patrick Montaben, President, MSR, and Vice President, Northern Montana Oil and Gas Association, Cut Bank, Montana, explained the Association has 70 members in Northern Montana consisting of small oil and gas independents. He announced that the 1/2 of 1% is critical to bottom line economics for smaller wells. He further explained more critical are the jobs which are tied to the small stripper wells. **Mr. Montaben** remarked that the spirit of the tax has been lost.

Rep. Gary Feland, HD 88, Scobey, acknowledged that as a small stripper producer from Northern Montana he supports this bill for the reasons previously stated.

Jim Jensen, Executive Director, Montana Environmental Information Center, reported he is in an unusual situation. He stated the EIC, has for its entire existence, opposed the non-reclamation uses for the Resources Indemnity Tax. **Mr. Jensen** remarked the money should be put back where the real need is.

Opponents' Testimony:

SEN. DOROTHY ECK, SD 17, Bozeman, commented her memory of the initiation of this fund was to indemnify the people of Montana for the loss of a resource. She stated Montana has lost a lot of resources over the years. **SEN. ECK** gave examples of other states which have benefited from the fund. She voiced her concern that no one really expected this fund would be used to basically run National Resource Departments.

Janet H. Ellis, Montana Audubon Legislative Fund, presented written testimony opposing SB 152. **EXHIBIT 2. Ms. Ellis** commented, "we do not feel that future generations of Montana will be indemnified by a trust of \$100 million."

Informational Testimony:

None

{Tape: 1; Side: A; Approx. Counter: 38.8.}

Questions From Committee Members and Responses:

SEN. LORENTS GROSFIELD asked **SEN. KEATING** what the significance of Section 3 is. **SEN. KEATING** answered that §15-38-104 is the RITT tax for the drilling bond.

SEN. GROSFIELD questioned **John Tubbs** in regard to calculations on the handout. **Mr. Tubbs** stated it isn't labeled in the handout but the metal tax proceeds which are indicated in the handout as the 15.5%, not the total protraction.

SEN. GROSFIELD asked **Mr. Jensen** if he supports the repeal of the tax. **Mr. Jensen** stated "that is correct, it is unfair to

continue the tax on those industries."

SEN. FRED VAN VALKENBURG asked SEN. KEATING how much tax is paid on the privately owned minerals while they are still in the ground, not being developed at all. SEN. KEATING said there isn't any tax on minerals that are in place. SEN. VAN VALKENBURG questioned SEN. KEATING in regard to how much taxes are paid on trees that are standing uncut. SEN. KEATING said he wasn't sure what the amount is, but there is a property tax that is paid. He explained that most of the mineral owners in this state are landowners as well, and they pay taxes on their surface like anyone else who owns surface lands. SEN. VAN VALKENBURG asked SEN. KEATING how long it takes generally for an oil or coal field to reproduce itself. SEN. KEATING answered, "oh, maybe about 1 million years." SEN. VAN VALKENBURG asked SEN. KEATING how long it takes a tree to reproduce itself. SEN. KEATING answered, "about 50 years." SEN. VAN VALKENBURG asked SEN. KEATING if he feels there is a difference in how trees are taxed and how minerals are taxed based on what has been discussed. SEN. KEATING stated that the taxation on minerals is substantially higher than the taxation on trees.

CHAIRMAN GERRY DEVLIN stated, "one is a renewable resource, and one is not."

SEN. VAN VALKENBURG asked SEN. KEATING what would have been the value of \$100 million in 1973. SEN. KEATING answered, "probably \$200 million".

Closing by Sponsor:

SEN. KEATING commented he hoped the committee will grant this repealer for the people in the extraction industry.

HEARING ON SB 162

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, SD 24, Great Falls, stated that SB 162, was reviewed by the Environmental Quality Council. He said the EQC heard testimony from industries, the Department of Revenue, and various effected entities in support of this legislation. SEN. DOHERTY commented that there is currently a tax credit which is set to expire at the end of the year, and requests that the credit be extended for another couple of years. He explained he has a constituent in Great Falls who owns a gas station, and he used the tax credit to purchase a machine to recycle oil.

Proponents' Testimony:

None

Opponents' Testimony:

None

Informational Testimony:

None

{Tape: 1; Side: A; Approx. Counter: 51.2.}

Questions From Committee Members and Responses:

SEN. GROSFIELD commented he recalls there was information from the EQC regarding tax deductions on this issue and asked SEN. DOHERTY if more information could be provided. SEN. DOHERTY said the EQC does have information on tax deductions for recycling materials.

SEN. MACK COLE asked SEN. DOHERTY how many businesses are using this tax credit. SEN. DOHERTY commented there were about 100 to 200 businesses using it. He explained that the Department of Revenue has been working with the Department of Natural Resources and Conservation to gather usage figures.

SEN. GROSFIELD commented there are two issues being dealt with in this legislation. He explained there is the purchase of a machine to process used oil, and there is the incentive for businesses to use recycled materials in the course of the business. SEN. DOHERTY remarked the EQC has the information and he will request it after the hearing today.

SEN. BARRY "SPOOK" STANG asked SEN. DOHERTY if cardboard balers were included. SEN. DOHERTY said that they may be. He affirmed the DOR has a list of what will qualify for the tax credit.

CHAIRMAN DEVLIN commented usually when a law is given a couple of years for trial, if it's going to be extended, numbers are presented to show why the law should be extended. SEN. DOHERTY said that he would get the numbers from the DOR. CHAIRMAN DEVLIN asked Neil Peterson (Department of Revenue) how the DOR determines what qualifies for the credit, and what kind of numbers are associated with it. Mr. Peterson presented the following FY '94 data on the program: 1) Individuals claiming the credit were 49, totaling \$200,396.00 in credit; 2) Corporations claiming the credit were 13, totaling \$180,586.00 in credit. He commented that the Department is not in the position to evaluate the success of the recycling credit or the deductions; however, they agree some criteria should be set up to {Tape: 1; Side: B}measure whether this program is functioning as intended. CHAIRMAN DEVLIN voiced concern with the screening method used in the program, and asked Mr. Peterson who is in charge of this. Mr. Peterson said the Income Tax Division, and the Corporate License Division personnel review the claimed credits. CHAIRMAN DEVLIN asked Jeff Martin why this law was put forward without guidelines and rule making authority. Mr. Martin stated he believes the DOR was authorized to develop rules. CHAIRMAN DEVLIN asked Mr. Peterson to furnish the committee with the set of rules. Mr. Peterson said he had not seen them. Mr. Martin volunteered to get a copy of the rules.

Closing by Sponsor:

SEN. DOHERTY commented SB 162 is a worthwhile bill and worthwhile for the environment.

HEARING ON 97Opening Statement by Sponsor:

SEN. MIKE FOSTER, SD 20, Townsend, explained SB 97 is a direct result of going door to door in a campaign. He stated the issue of the way the taxes work for dependent child care has not been very helpful for single mothers, and young families in Montana. He commented on the federal tax form, dependent child care is treated as a credit, and on the state form it is treated as a deduction. SEN. FOSTER proposed to change the deduction into a credit which would key off the federal tax form, and the filer would automatically get a 25% credit. He stated this is an incentive to people to work away from welfare, and be part of the work force. He affirmed there are some technical corrections needed on the bill.

Proponents' Testimony:

Becky Fleming-Siebenae, Department of Family Services, expressed support for this legislation.

Laurie Koutnik, Christian Coalition of Montana, said this bill brings equity to people who want to work at home. She remarked, "it's a double win for families, especially the working families."

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. DELWYN GAGE commented to SEN. FOSTER parts of this bill came through last session. SEN. FOSTER stated that he tried to be consistent with what was passed last session. He said currently there is a deduction he proposes to change into a credit, in a way that is fair.

SEN. LORENTS GROSFIELD asked SEN. FOSTER if he could give more detail on why the figure 25% was used, and not another number. SEN. FOSTER responded he worked with Jeff Martin, and they agreed 25% was a fair, workable number. SEN. GROSFIELD asked Mr. Peterson (Income Tax Division Bureau Chief, DOR), for a briefing on the technical problems with the bill. Mr. Peterson stated

possibly two areas may need corrections. He explained for federal purposes, in order to claim a credit, a filing status of single head of household must be used, qualified widow(er) with dependent child, or married filing jointly. He reported that for Montana state purposes, when both spouses work outside the home, married filing separately on the same form is usually the best way to file. **Mr. Peterson** suggested the bill be amended to allow a working couple to divide the 25% federal credit equally on the Montana form, and continue filing married filing separately on the same form. He further explained for federal purposes the amount of credit is limited based upon the amount of earned income, allowing the smaller income to be credited.

SEN. BARRY "SPOOK" STANG questioned **Mr. Peterson** in regard to how many people used the credit. **Mr. Peterson** said the fiscal note lists 19,652 Montanans claimed the federal child care credit in 1992. He stated he would try to get the latest data.

SEN. DOROTHY ECK asked **Ms. Fleming-Siebenae** what the registering requirements are for Montana. **Ms. Fleming-Siebenae** said a child care provider that cares for three or more children, including the care provider's own child, under the age of six, can be registered. She explained a care provider caring for 13 or more children must be licensed. **SEN. ECK** voiced her concerns regarding training programs for child care providers. **Ms. Fleming-Siebenae** explained the current training and licensing programs.

CHAIRMAN DEVLIN asked **SEN. FOSTER** what is the basic difference between this bill and **SEN. DOHERTY'S** bill. **SEN. FOSTER** commented that his memory of **SEN. DOHERTY'S** bill is it stayed in the realm of a deduction, and can't be turned into a credit.

Closing by Sponsor:

SEN. FOSTER remarked currently we have a reduction, and reductions are designed to help people, but it isn't helping people. He stated SB 97 is a good mechanism to help people.

{Tape: 1; Side: B; Approx. Counter: 27.4.}

EXECUTIVE ACTION ON 139

Motion: **SEN. DELWYN GAGE** MOVED THE AMENDMENT (221235SC.SRF) presented by **Jeff Martin**.

Discussion: **Jeff Martin** submitted copies of a K-1 schedule for the committee to review.

Motion/Vote: AMENDMENT (221235SC.SRF) CARRIED UNANIMOUSLY.

Motion: **SEN. GAGE** MOVED SB 139 DO PASS AS AMENDED.

Discussion: **SEN. FRED VAN VALKENBURG** commented he is concerned that the committee is making it very clear that the only income

the Old Fund Liability Tax (OFLT) applies to is ordinary income. He said his fear is that we will see an effort to move what might be ordinary income into the area of capital gains in order to avoid paying significant amounts of OFLT. **SEN. VAN VALKENBURG** said, "this will be particularly true if Congress changes the capital gain law to provide very significant tax advantage to capital gains."

CHAIRMAN DEVLIN stated, "if they changed it, that would bring more folks into the capital gains area" and commented, "I don't know how we could avoid that!" **SEN. VAN VALKENBURG** said, "I don't know either."

Vote: **MOTION CARRIED UNANIMOUSLY.**

INFORMATIONAL DISCUSSION ON SB 126

Discussion: **CHAIRMAN DEVLIN** asked **Mick Robinson** to present the information that the committee requested on SB 126. **Mr. Robinson** explained the computer processing charge stating that the Department of Revenue's charge is 9% of what the Department of Administration charges. He reported the reason for the difference in charges is that the DOR runs a smaller, slower computer. **Mr. Robinson** highlighted printing charges, and the breakdown of charges given to the Billings Association of Realtors. He stated that a significant amount of data were requested by the Association (56,958 property record cards), which averages out to a cost of 2.7¢ per record card. He said that it actually took 10 hours of system development charge to segment the information they were looking for. **Mr. Robinson** asserted that the DOR simply wants to recover their costs, commenting that they aren't budgeted to provide that information.

CHAIRMAN DEVLIN asked **Mr. Robinson** what happens if this bill is killed. **Mr. Robinson** stated that the present language in HB 50 allows the DOR to charge. He remarked that this bill tries to clarify that local governments won't be charged, and to have language in the bill that talks about other types of requests that the DOR receives from various agencies. **Mr. Robinson** explained that requests are public information, but DOR is not mandated to provide it in an electronic format. He further explained the DOR is mandated to provide access, which is provided at the courthouse.

SEN. DOROTHY ECK commented the Billings Realtors stated they researched charges from other states. **SEN. ECK** asked **Mr. Robinson** if he had that information. **Mr. Robinson** responded the DOR is still investigating the charges.

Mr. Robinson reported he would like to work with the Association. He stated he doesn't feel this is an unreasonable charge, maybe the Association needs to modify their requests.

Jeff Martin acknowledged he telephoned the State of Kansas. He

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reported their charges range from \$14.00 to \$30.00 an hour depending on who is performing the job. **Mr. Martin** stated that the information Kansas provided is very limited, and relates to the appraised value of the property. He said the information has to be obtained at the county level, and their charges are considerably higher.

SEN. LORENTS GROSFIELD asked if the 1.1 million number pertains to all the records on the system for the State of Montana. **Mr. Robinson** commented he wasn't able to speak to that, and asked if **Mary Whittinghill (Administrator, Computer Division, DOR)** could come on another day to discuss this issue. **CHAIRMAN DEVLIN** commented Executive Action will not be taken on SB 126 on this date. He asked the committee to meet with the realtors to discuss this issue.

SEN. MACK COLE reported he met with the Billings Realtors. He said that the Realtors think they can request certain data, without the computer going through all the other data that isn't needed. He suggested the Realtors meet with the DOR staff.


{Tape: 1; Side: B; Approx. Counter: 55.9.}

Discussion: **SEN. DELWYN GAGE** spoke in regard to Congress changing the income tax picture, particularly, on capital gains. He mentioned some years ago there was the big tax change, and because the State of Montana is tied to federal code, the state got a big windfall. **SEN. GAGE** said, "in this instance with the change in capital gain rates, if that happens when we aren't in session, we may get a windfall or we may get a bat in the rear end with our revenues. I wonder if at some point we need to consider freezing our income tax codes, until the next session, based on the Internal Revenue Code as it exists while we are in session here." **SEN. GAGE** affirmed he would visit with the DOR. **CHAIRMAN DEVLIN** commented there is some danger of exactly that. He stated whatever is changed will have a direct effect on the revenues of this state. **CHAIRMAN DEVLIN** remarked the committee should be thinking along the lines of how that might be handled in advance of it happening, so there won't be a special session.

ADJOURNMENT

Adjournment: 9:55 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

950125TA.SM1

ROLL CALL

DATE _____

[illegible]

CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 139 (first reading copy -- white), respectfully report that SB 139 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

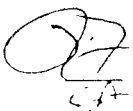
That such amendments read:

1. Page 1, line 24.

Strike: "has filed or may file with"

Insert: "received from the entity that reports income to"

-END-



Amd. Coord.
Sec. of Senate

221235SC.SRF

SB #152



RIGWAT PROCEEDS, RIT TRUST INTEREST EARNINGS, AND EXPENDITURES
1997 Biennium

RIGWAT PROCEEDS PROJECTIONS	RIGWAT Proceeds	Metal Mine Tax Proceeds	Deposits To RIT Trust	Trust Balance
FY 95	\$2,979,674	\$797,469	\$2,463,107	\$91,776,719
FY 96	3,041,004	872,800	2,268,621	94,045,340
FY 97	3,030,203	823,029	2,213,892	96,259,232

RIT TRUST INTEREST EARNINGS PROJECTIONS	FY96	FY97	TOTAL
	7,703,657	7,763,086	15,466,743

TOTAL 1995 BIENNIUM ALLOCATION OF RIT INTEREST EARNINGS	\$15,466,743
Environmental Contingency Account	\$175,000
Oil & Gas Production Damage Mitigation Account	50,000
Renewable Resource Grant & Loan Program	2,000,000
Reclamation & Development Grants	3,000,000
Water Storage Account	500,000
TOTAL BIENNIAL APPROPRIATIONS	5,725,000
AMOUNT AVAILABLE FOR FURTHER DISTRIBUTION	9,741,743

Distribution of Remaining Interest Earnings

Account	Renewable Resource	Reclamation & Development	Hazardous Waste/ CERCLA	Environmental Quality Protection	TOTAL
Percent Distribution of RITT Interest	36%	40%	18%	6%	100%

Beginning Balance	\$572,226	\$212,524	\$968,414	\$841,669	\$2,594,833
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Revenues					
RIT Interest	\$3,507,027	\$3,896,697	\$1,753,514	\$584,505	\$9,741,743
RIGWAT Proceeds	607,121	1,821,362			\$2,428,483
Debt Service Sweep (04011 and 04008)	919,444				919,444
RRD Loan Repayments	238,900				238,900
Interest (STIP)			120,000	120,000	240,000
Cost Recoveries			514,000	1,237,000	1,751,000
Administrative Fees	10,000				10,000
State Owned Project Revenue	459,290				459,290

Total Funds Available	\$6,314,008	\$5,930,583	\$3,355,928	\$2,783,174	\$18,383,693
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Appropriation					
Montana State University, Havre	240,000				240,000
DNRC Centralized Services Division	875,245	154,001			1,029,247
DNRC Conservation and Resource Development	649,931	1,185,566			1,835,497
DNRC Water Resources Division	1,737,971	2,051,709			3,789,680
Reserved Water Rights Compact Commission	131,638	534,516			666,154
DNRC State Water Projects	1,690,000				1,690,000
DSL Reclamation Division		2,082,177			2,082,177
DSL Central Management		78,085			78,085
DHES Environmental Division			3,415,016	2,802,350	6,217,366
DHES Radon		50,000			50,000
Governor's Office -- Flathead Basin Commission	80,082				80,082
Water Court	1,024,296				1,024,296
State Library	322,007	285,036			607,043
Environmental Quality Council		28,083			28,083
Pay Plan					0

Total Appropriations	\$6,751,170	\$6,449,174	\$3,415,016	\$2,802,350	\$19,417,710
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Projected Biennium Ending Balance	(\$437,162)	(\$518,590)	(\$59,088)	(\$19,176)	
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Potential Allocation of Metal Mines Tax	\$169,583	\$508,749			
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Projected Balance with Allocation of Metal Mine Tax	(\$267,579)	(\$9,842)	(\$59,088)	(\$19,176)	
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SENATE TAXATION

DATE January 25, 1995EXHIBIT NO. 1BILL NO. SB #152NAME Janet H. Ellis

ADDRESS _____

HOME PHONE _____ WORK PHONE _____

REPRESENTING Montana Audubon Legislative FundAPPEARING ON WHICH PROPOSAL? SB 152DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

According to the sponsors of the legislation that created the Resource Indemnity Trust Tax, the purpose of the RITT was to 'indemnify' the citizens of Montana for the loss of a nonrenewable resource. We oppose this bill because we do not feel that ~~the~~ future generations of Montana will be indemnified by a trust of \$100 million. A nonrenewable resource is gone forever — something difficult to put a price tag on.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE-

January 25, 1995

SENATE COMMITTEE ON

Taxation

BILLS BEING HEARD TODAY:

SB 97 Senator Foster

SB 152 Senator Keating SB 162 Senator Doherty

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
GAIL ABERCROMBIE	MT Petroleum Assn	152	X	
DEANIS MCKENNA	M B M C	152		
Gary Felton	HID 88	452	✓	
Jim Mockler	MT Coal Assoc	152	✓	
Ward Granahan	STILLWATER MINING	152	✓	
Ken Williams	Entech/MPC	152	✓	
Patrick Montana	MSR NMOGA	152	✓	
Becky Fleming-Sickman	DES - Helena	97	✓	
Lauree Karchuk	Christian Coalition of MT	97	✓	
Russ Bittor	MT Resour	152	✓	
Norm Anderson	Shelbourn Exp Assn	152	✓	
Janet Ellis	MT Audubon	152		✓
Neil Peterson	Dept. of Revenue	97 162		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY