

1 *House* BILL NO. *533*
 2 INTRODUCED BY *Conroy, Baugton, Linn, Halverson*
 3 *Heubing Day Wynick Smith*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS
 5 GOVERNING COAL MINING LEASES ON STATE LANDS; PROVIDING FOR
 6 BIDDING, TERMS, ELIGIBLE LESSEES, AND ROYALTIES ON SUCH
 7 LEASES; AMENDING SECTIONS 81-501, 81-502, AND 81-503, R.C.M.
 8 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 81-501, R.C.M. 1947, is amended to
 12 read as follows:

13 "81-501. Coal mining leases. (1) The state board of
 14 land commissioners may lease in such manner as it considers
 15 in the best interests of the state any state lands to which
 16 the title is vested in the state and in which the coal or
 17 coal rights are not reserved by the United States for
 18 exploring for, mining, removing, selling, and disposing of
 19 the coal therein, upon the terms and conditions herein
 20 stated, and subject to such rules and regulations as the
 21 board prescribes. Leases shall be awarded by competitive
 22 bidding (with sealed bids) on a bonus bidding system. Such
 23 leases shall run for ten (10) years, with one-tenth (1/10)
 24 of the accepted bonus bid payable upon acceptance of the bid
 25 and one-tenth (1/10) payable upon each anniversary date of

1 the lease. The board may not accept bids submitted on a
 2 royalty bidding basis. No bid shall be accepted for less
 3 than the fair market value, as determined by the board, of
 4 the coal subject to the lease. Prior to issuing a lease,
 5 the board shall evaluate the coal and land proposed to be
 6 leased, giving opportunity for and consideration to, public
 7 comments on such evaluation. This power extends to state
 8 lands no matter how acquired, and extends to state lands
 9 which have been sold but in which the coal rights are
 10 reserved by the state, whether the lands are under
 11 certificate of purchase or patents have been issued; in such
 12 cases and in all cases where the lands are under lease for
 13 grazing, agriculture, or similar purposes, care shall be
 14 taken in issuing the coal mining lease to protect the rights
 15 of the purchaser or lessee. No coal lease may be approved
 16 or issued after the effective date of this act without
 17 satisfactory assurances that all applicable provisions of
 18 sections 50-1034 through 50-1057 and 50-1601 through 50-1617
 19 can and will be met.

20 (2) These coal leases are subject to the condition
 21 that the coal must be mined, handled, and marketed in a
 22 manner that will prevent as far as possible all waste of
 23 coal, and are also subject to the condition that the mining
 24 operations shall be carried on in a systematic and orderly
 25 manner that will not make subsequent mining operations more

HB 533

1 difficult or expensive. A violation of any of these
2 conditions is grounds for the forfeiture of the lease, after
3 a hearing before the board."

4 Section 2. Section 81-502, R.C.M. 1947, is amended to
5 read as follows:

6 "81-502. Maximum term of lease--form. No coal mining
7 lease may be issued for more than ~~twenty-(20)~~ ten (10)
8 ~~years, but-the-board-may-establish-rules-for-the-renewal--of~~
9 ~~a--lease--at--the-expiration-of-the-term-it-considers-proper~~
10 ~~and-necessary; and the conditions of the lease are subject~~
11 ~~to readjustment at the end of its primary term of ten (10)~~
12 ~~years and at the end of each five (5) year period thereafter~~
13 ~~if the lease is extended. A lease not producing in paying~~
14 ~~quantities at the end of the primary term shall be~~
15 ~~terminated. For the purpose of this section, "paying~~
16 ~~quantities" means that quantity of coal which would pay a~~
17 ~~profit to the lessee if he operated the mine and marketed~~
18 ~~the coal. The board shall prescribe the form of the lease."~~

19 Section 3. Section 81-503, R.C.M. 1947, is amended to
20 read as follows:

21 "81-503. Royalty. The compensation of the state under
22 all coal mining leases shall be upon a royalty basis and
23 shall be fixed and determined by the board. The amount of
24 such royalty shall be based upon the kind, grade and
25 character of the coal in each particular mine, upon the

1 size, shape and nature of the coal vein, strata or body, and
2 upon the shipping and marketing facilities for the product.
3 Consideration shall also be given to every other known
4 factor effecting the value of each particular coal mining
5 lease; but in no case shall the royalty for the coal mined
6 be less than ~~twelve-and-one-half-(12-1/2)-cents-per-ton-of~~
7 ~~two-thousand-(2,000)-pounds~~ twenty percent (20%) of the
8 f.o.b. mine price of a ton prepared for shipment."

9 Section 4. There is a new R.C.M. section numbered
10 81-511 that reads as follows:

11 81-511. Limitations on leasing. The state board of
12 land commissioners shall not issue leases:

13 (1) to any corporation the majority stock of which is
14 controlled by interests foreign to the United States and any
15 corporation, individual, or person who contracts the sale of
16 coal from such leased lands to any individual, corporation
17 or person foreign to the United States shall have the lease
18 terminated; or

19 (2) if after a determination of the amount, location,
20 and quality of the coal on the lands for lease, the
21 extraction of the coal from such lands by strip mining
22 methods would adversely affect the methods of recovery of
23 deep minable coal from such operations on such lands in the
24 future.

25 Section 5. Grandfather clause. Nothing in this act

LC 1041

1 may be construed to impair the obligation of any contract
2 entered into by the board before the effective date of this
3 act.

-End-

HB 593

Approved by Committee
on Natural Resources

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DAY, WYRICK, SMITH

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LEASES; AMENDING SECTIONS 81-501, 81-502, ~~AND~~ 81-503, ~~AND~~
81-510, R.C.M. 1947; AND REPEALING SECTION 81-504, R.C.M.
1947."

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the title is vested in the state and in which the coal or
coal rights are not reserved by the United States for
exploring for, mining, removing, selling, and disposing of
the coal therein, upon the terms and conditions herein
stated, and subject to such rules and regulations as the
board prescribes. ~~Leases shall be awarded by competitive~~
~~bidding (with sealed bids) on a bonus bidding system. Such~~
~~leases shall run for ten (10) years, with one-tenth (1/10)~~

~~of the accepted bonus bid payable upon acceptance of the bid~~
~~and one-tenth (1/10) payable upon each anniversary date of~~
~~the lease. The board may not accept bids submitted on a~~
~~royalty bidding basis. No bid shall be accepted for less~~
~~than the fair market value, as determined by the board, of~~
~~the coal subject to the lease. Prior to issuing a COAL~~
~~MINING lease, the board shall evaluate the coal and land~~
~~proposed to be leased FOR THE PURPOSE OF DETERMINING THE~~
~~FAIR MARKET VALUE OF ANY COAL RESERVES LOCATED ON THE LAND,~~
~~giving opportunity for and consideration to, public comments~~
~~on such evaluation. This power LEASES SHALL BE AWARDED BY A~~
~~COMPETITIVE BID SYSTEM, INCLUDING A BONUS BID FOR THE FIRST~~
~~YEAR'S RENTAL, AND NO LEASE SHALL BE AWARDED AT LESS THAN~~
~~FAIR MARKET VALUE. THE AUTHORITY TO LEASE extends to state~~
~~lands no matter how acquired, and extends to state lands~~
~~which have been sold but in which the coal rights are~~
~~reserved by the state, whether the lands are under~~
~~certificate of purchase or patents have been issued; in such~~
~~cases and in all cases where the lands are under lease for~~
~~grazing, agriculture, or similar purposes, care shall be~~
~~taken in issuing the coal mining lease to protect the rights~~
~~of the purchaser or lessee. No coal lease may be approved~~
~~or issued after the effective date of this act without~~
~~satisfactory assurances that all applicable provisions of~~
~~sections 50-1034 through 50-1057 and 50-1601 through 50-1617~~

1 ~~can-and-will-be-metr.~~ EVERY COAL LEASE SHALL BE CONDITIONED
 2 UPON COMPLIANCE WITH CHAPTERS 10 AND 16, TITLE 50, R.C.M.
 3 1947.

4 (2) These coal leases are subject to the condition
 5 that the coal must be mined, handled, and marketed in a
 6 manner that will prevent as far as possible all waste of
 7 coal, and are also subject to the condition that the mining
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 19 IN COMMERCIAL QUANTITIES. but-the-board-may-establish--rules
 20 for--the-renewal-of-a-lease-at-the-expiration-of-the-term-it
 21 considers-proper-and-necessary, and-the-conditions--of--the
 22 lease--are THE RENTAL AND ROYALTY TERMS OF EACH LEASE SHALL
 23 BE subject to readjustment TO REFLECT FAIR MARKET VALUE at
 24 the end of its primary term of ten (10) years and at the end
 25 of each five (5) year period thereafter if the lease is

1 extended PRODUCING COAL IN COMMERCIAL QUANTITIES. A lease
 2 not producing ~~in-paying~~ COAL IN COMMERCIAL quantities at the
 3 end of the primary term shall be terminated, UNLESS THE
 4 LEASED LANDS ARE DESCRIBED IN A STRIP MINE PERMIT ISSUED
 5 UNDER SECTION 50-1039, R.C.M. 1947, OR IN A MINE SITE
 6 LOCATION PERMIT UNDER SECTION 50-1607, R.C.M. 1947, PRIOR TO
 7 THE END OF THE PRIMARY TERM, AND THE LEASE SHALL NOT BE
 8 TERMINATED SO LONG AS SAID LANDS ARE COVERED AND DESCRIBED
 9 UNDER VALID PERMIT. For the purpose of this section,
 10 "paying CHAPTER, "COMMERCIAL quantities" means that quantity
 11 of coal which would--pay--a--profit--to--the-lessee-if-he
 12 operated-the-mine-and--marketed-the--coal CAN BE SOLD AT
 13 PROFIT IN THE COMMERCIAL MARKET. The board shall prescribe
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 18 all coal mining leases shall be upon a RENTAL AND royalty
 19 basis and shall be fixed and determined by the board. THE
 20 RENTAL SHALL BE ON A PER ACRE BASIS BUT IN NO CASE SHALL IT
 21 BE LESS THAN TWO DOLLARS (\$2) PER ACRE. The amount of such
 22 royalty shall be based upon the kind, grade and character of
 23 the coal in each particular mine, upon the size, shape and
 24 nature of the coal vein, strata or body, and upon the
 25 shipping and marketing facilities for the product.

1 Consideration shall also be given to every other known
 2 factor effecting the value of each particular coal mining
 3 lease; but in no case shall the royalty for the coal mined
 4 be less than ~~twelve-and-one-half-(12-1/2)-cents-per-ton-of~~
 5 ~~two--thousand--(2,000)--pounds~~ twenty--percent-(20%) TWELVE
 6 PERCENT (12%) of the f.o.b. mine price of a ton prepared for
 7 shipment."

8 SECTION 4. SECTION 81-504 IS REPEALED.
 9 SECTION 5. SECTION 81-510, R.C.M. 1947, IS AMENDED TO
 10 READ AS FOLLOWS:

11 "81-510. Disposition of royalties and other receipts.
 12 ~~The department shall credit--fees--and--penalties--collected~~
 13 ~~under--coal--mining--leases--to--the--general--fund,--and--rentals,--~~
 14 ~~royalties,--and--bonuses--to--the--permanent--fund--arising--from~~
 15 ~~the--grant--to--which--the--land--under--each--particular--lease~~
 16 ~~belongs.~~ All fees, rentals, royalties and bonuses collected
 17 under state coal leases shall be paid to the department of
 18 state lands and credited as follows: All fees shall be
 19 credited to the state general fund, all rentals and bonuses
 20 shall be credited to the income fund of the grant to which
 21 the lands under each lease belong; all moneys collected as
 22 royalties shall be credited to the permanent fund arising
 23 from the grants the land under lease belongs."

24 Section 6. There is a new R.C.M. section numbered
 25 81-511 that reads as follows:

1 81-511. Limitations on leasing. The state board of
 2 land commissioners shall not issue leases:

3 (1) to any corporation the majority stock of which is
 4 controlled by interests foreign to the United States and any
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 6 coal from such leased lands to any individual, corporation
 7 or person foreign to the United States shall have the lease
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 10 and quality of the coal on the lands for lease, the
 11 extraction of the coal from such lands by strip mining
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 13 deep minable coal from such operations on such lands in the
 14 future.

15 Section 7. Grandfather clause. Nothing in this act
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 18 act.

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 18 AND SO LONG THEREAFTER AS COAL IS PRODUCED FROM SUCH LANDS
 19 IN COMMERCIAL QUANTITIES, but the board may establish rules
 20 for the renewal of a lease at the expiration of the term if
 21 considers proper and necessary, and the conditions of the
 22 lease are THE RENTAL AND ROYALTY TERMS OF EACH LEASE SHALL
 23 BE subject to readjustment TO REFLECT FAIR MARKET VALUE at
 24 the end of its primary term of ten (10) years and at the end
 25 of each five (5) year period thereafter if the lease is

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 11 of coal which ~~would pay a profit to the lessee if he~~
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15 Section 7. Grandfather clause. Nothing in this act
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 17 entered into by the board before the effective date of this
 18 act.

-End-

March 20, 1975

SENATE COMMITTEE ON NATURAL RESOURCES AND FISH AND GAME

AMENDMENTS TO HOUSE BILL NO. 533

That House Bill No. 533, third reading, be amended as follows:

1. Amend page 6, section 6, line 4.

Following: "States"

Insert: ", except for those interests within countries whose borders are contiguous to the United States"

2. Amend page 6, section 6, line 7.

Following: "States"

Insert: ", except those countries contiguous to the United States"

March 25, 1975

SENATE COMMITTEE OF THE WHOLE

AMENDMENTS TO HOUSE BILL NO. 533

That House Bill No. 533, third reading, be amended as follows:

1. Amend page 5, section 3, lines 5 and 6.

Following: "~~percent-(20%)~~"

Strike: "TWELVE PERCENT (12%)"

Insert: "ten percent (10%)"

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 25 shipping and marketing facilities for the product.

1 Consideration shall also be given to every other known
 2 factor effecting the value of each particular coal mining
 3 lease; but in no case shall the royalty for the coal mined
 4 be less than ~~twelve-and-one-half-(12-1/2)-cents-per--ton--of~~
 5 ~~two--thousand--(2,000)--pounds~~ twenty--percent-(20%) TWENTY
 6 PERCENT-(12%) TEN PERCENT (10%) of the f.o.b. mine price of
 7 a ton prepared for shipment."

8 SECTION 4. SECTION 81-504 IS REPEALED.

9 SECTION 5. SECTION 81-510, R.C.M. 1947, IS AMENDED TO
 10 READ AS FOLLOWS:

11 "81-510. Disposition of royalties and other receipts.
 12 ~~The--department--shall--credit--fees--and--penalties--collected~~
 13 ~~under--coal--mining--leases--to--the--general--fund--and--rentals,~~
 14 ~~royalties--and--bonuses--to--the--permanent--fund--arising--from~~
 15 ~~the--grant--to--which--the--land--under--each--particular--lease~~
 16 ~~belongs.~~ All fees, rentals, royalties and bonuses collected
 17 under state coal leases shall be paid to the department of
 18 state lands and credited as follows: All fees shall be
 19 credited to the state general fund, all rentals and bonuses
 20 shall be credited to the income fund of the grant to which
 21 the lands under each lease belong; all moneys collected as
 22 royalties shall be credited to the permanent fund arising
 23 from the grants the land under lease belongs."

24 Section 6. There is a new R.C.M. section numbered
 25 81-511 that reads as follows:

1 81-511. Limitations on leasing. The state board of
 2 land commissioners shall not issue leases:

3 (1) to any corporation the majority stock of which is
 4 controlled by interests foreign to the United States, EXCEPT
 5 FOR THOSE INTERESTS WITHIN COUNTRIES WHOSE BORDERS ARE
 6 CONTIGUOUS TO THE UNITED STATES and any corporation,
 7 individual, or person who contracts the sale of coal from
 8 such leased lands to any individual, corporation or person
 9 foreign to the United States, EXCEPT THOSE COUNTRIES
 10 CONTIGUOUS TO THE UNITED STATES shall have the lease
 11 terminated; or

12 (2) if after a determination of the amount, location,
 13 and quality of the coal on the lands for lease, the
 14 extraction of the coal from such lands by strip mining
 15 methods would adversely affect the methods of recovery of
 16 deep minable coal from such operations on such lands in the
 17 future.

18 Section 7. Grandfather clause. Nothing in this act
 19 may be construed to impair the obligation of any contract
 20 entered into by the board before the effective date of this
 21 act.

-End-