

CHAPTER NO. 513

SENATE BILL NO. 88

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 11, 1979	Introduced and referred to Committee on Judiciary.
January 16, 1979	Committee recommend bill do pass as amended. Report adopted.
January 18, 1979	Printed and placed on Members desks.
January 19, 1979	Motion pass consideration.
January 20, 1979	Second reading, pass consideration.
January 22, 1979	Second reading, do pass as amended.
January 23, 1979	Correctly engrossed.
January 24, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 25, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 24, 1979	Returned from second house. Concurred in as amended.
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March 26, 1979

Second reading, pass
consideration until 3-28-79.

March 28, 1979

Second reading, amendments
adopted.

March 29, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 *Sen. Tamm* BILL NO. *88*
 2 INTRODUCED BY *Tamm*
 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 6 CREATION AND ADMINISTRATION OF TRUSTS IN FAVOR OF ABSENT
 7 OWNERS OF INTERESTS IN MINERALS AND TO REQUIRE THOSE HOLDING
 8 FUNDS FOR ABSENT OWNERS TO PETITION FOR CREATION OF SUCH
 9 TRUSTS."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Creation of trust for absent mineral,
 13 leasehold, or royalty interest owners. (1) Any person who
 14 owns an interest in minerals underlying a tract of land may
 15 petition the district court of the county in which the tract
 16 or a portion of the tract is located to declare a trust in
 17 favor of a person or persons also owning or claiming an
 18 interest in the minerals underlying the tract if their place
 19 of residence and present whereabouts is unknown and cannot
 20 reasonably be ascertained.
 21 (2) In requesting the appointment of a trustee, the
 22 petitioner must show that:
 23 (a) a diligent but unsuccessful effort to locate the
 24 absent owner or claimant has been made; and
 25 (b) appointment of a trustee will be in the best

1 interest of all owners of interest in the minerals.
 2 (3) After determining that the conditions of
 3 subsection (2) have been met, the court shall appoint the
 4 clerk of court as a trustee and shall authorize him to
 5 execute and deliver an oil, gas, or other mineral lease, an
 6 assignment of leasehold interest, a ratification, division
 7 order, or other related document or instrument on such terms
 8 and conditions as the court may approve.
 9 Section 2. No further liability for petitioner. If a
 10 trust in favor of absent owners or claimants of an interest
 11 in minerals has been created and all bonuses, rental
 12 payments, royalties, and other income due to the absent
 13 owners are being or have been paid to the trustee, the
 14 person petitioning for creation of the trust is not liable
 15 for further claims by absent owners for bonuses, rental
 16 payments, royalties, and other income produced after the
 17 creation of the trust.
 18 Section 3. Administration of the trust. (1) The
 19 administration of the trust shall comply with the
 20 appropriate provisions regulating trusts contained in Title
 21 72.
 22 (2) No trustee or attorney fees may be paid from the
 23 trust proceeds.
 24 (3) All bonuses, rental payments, royalties, and other
 25 income shall be paid to the trustee until the trust is

1 terminated and notice of its termination given to all
2 interested parties. The trustee shall distribute all money
3 held in the trust to the person or persons entitled to it
4 upon the order of the district court.

5 (4) A trust in favor of absent owners shall be in
6 force until all absent owners of the mineral interest in
7 question have successfully claimed their share of funds held
8 in trust.

9 (5) The trustee shall invest funds under his
10 management in the manner of a prudent man, as defined in
11 72-21-104. Fifty percent of the interest earned on each
12 trust shall be credited to the general fund of the county in
13 which the mineral interest is located to defray the costs of
14 administration.

15 (6) Funds held in the trusts are subject to the
16 provisions governing abandoned property contained in Title
17 70, chapter 9.

18 Section 4. Existing trust for absent mineral,
19 leasehold, and royalty interest owners — transfer of
20 trustees -- penalty. (1) Any bonuses, rental payments,
21 royalties, and other income now held by any person or
22 association for absent owners or claimants of an interest in
23 minerals underlying a tract of land must be deposited with
24 the clerk of the district court in which the tract is
25 located within 6 months after [the effective date of this

1 act]. An accounting for the funds, any related documents,
2 and any instrument creating a trust must be filed with the
3 funds.

4 (2) No person may in the future personally hold for
5 longer than 6 months any bonuses, rental payments,
6 royalties, and other income for absent owners or claimants
7 of an interest in minerals, but in such case must petition
8 the district court for creation of a trust as provided in
9 [section 1].

10 (3) If any person fails to comply with subsections (1)
11 or (2), he is liable for all attorney fees and court costs
12 and interest on the funds held in trust at twice the current
13 average passbook account rate paid by financial institutions
14 in that district.

15 Section 5. Filing of addresses. Upon the payment of a
16 \$5 fee, any person owning an interest in minerals underlying
17 a tract of land may file with the secretary of state a
18 notice of his address and the legal description of his
19 interest.

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 88

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
CREATION AND ADMINISTRATION OF TRUSTS IN FAVOR OF ABSENT
OWNERS OF INTERESTS IN MINERALS AND TO REQUIRE THOSE HOLDING
FUNDS FOR ABSENT OWNERS TO PETITION FOR CREATION OF SUCH
TRUSTS."

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

Section 1. Creation of trust for absent mineral,
leasehold, or royalty interest owners. (1) Any person who
owns an interest in minerals underlying a tract of land may
petition the district court of the county in which the tract
or a portion of the tract is located to declare a trust in
favor of a person or persons also owning or claiming an
interest in the minerals underlying the tract if their place
of residence and present whereabouts is unknown and cannot
reasonably be ascertained.

(2) In requesting the appointment of a trustee, the
petitioner must show that:

(a) a diligent but unsuccessful effort to locate the
absent owner or claimant has been made; and

(b) appointment of a trustee will be in the best

interest of all owners of interest in the minerals.

(3) After determining that the conditions of
subsection (2) have been met, the court shall appoint the
clerk of court as a trustee and shall authorize him to
execute and deliver an oil, gas, or other mineral lease, an
assignment of leasehold interest, a ratification, division
order, or other related document or instrument on such terms
and conditions as the court may approve.

Section 2. No further liability for petitioner. If a
trust in favor of absent owners or claimants of an interest
in minerals has been created and all bonuses, rental
payments, royalties, and other income due to the absent
owners are being or have been paid to the trustee, the
person petitioning for creation of the trust is not liable
for further claims by absent owners for bonuses, rental
payments, royalties, and other income produced after the
creation of the trust.

Section 3. Administration of the trust. (1) The
administration of the trust shall comply with the
appropriate provisions regulating trusts contained in Title
72.

(2) No trustee or attorney fees may be paid from the
trust proceeds.

(3) All bonuses, rental payments, royalties, and other
income shall be paid to the trustee until the trust is

1 terminated and notice of its termination given to all
2 interested parties. The trustee shall distribute all money
3 held in the trust to the person or persons entitled to it
4 upon the order of the district court.

5 (4) A trust in favor of absent owners shall be in
6 force until all absent owners of the mineral interest in
7 question have successfully claimed their share of funds held
8 in trust.

9 (5) The trustee shall invest funds under his
10 management in the manner of a prudent man, as defined in
11 72-21-104. Fifty percent of the interest earned on each
12 trust shall be credited to the general fund of the county in
13 which the mineral interest is located to defray the costs of
14 administration.

15 (6) Funds held in the trusts are subject to the
16 provisions governing abandoned property contained in Title
17 70, chapter 9.

18 Section 4. Existing trust for absent mineral,
19 leasehold, and royalty interest owners -- transfer of
20 trustees -- penalty. (1) Any bonuses, rental payments,
21 royalties, and other income now held by any person or
22 association for absent owners or claimants of an interest in
23 minerals underlying a tract of land must be deposited with
24 the clerk of the district court in which the tract is
25 located within 6 months after [the effective date of this

1 act]. An accounting for the funds, any related documents,
2 and any instrument creating a trust must be filed with the
3 funds.

4 (2) No person may in the future personally hold for
5 longer than 6 months any bonuses, rental payments,
6 royalties, and other income for absent owners or claimants
7 of an interest in minerals, but in such case must petition
8 the district court for creation of a trust as provided in
9 [section 1].

10 (3) If any person fails to comply with subsections (1)
11 or (2), he is liable for all attorney fees and court costs
12 and interest on the SUCH funds held-in-trust at twice the
13 current average passbook account rate paid by financial
14 institutions in that district.

15 Section 5. Filing of addresses. Upon the payment of a
16 \$5 fee, any person owning an interest in minerals underlying
17 a tract of land may file with the secretary of state a
18 notice of his address and the legal description of his
19 interest.

-End-

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INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE CREATION AND ADMINISTRATION OF TRUSTS IN FAVOR OF ABSENT UNLOCATABLE OWNERS OF INTERESTS IN MINERALS AND TO REQUIRE THOSE HOLDING FUNDS FOR ABSENT UNLOCATABLE OWNERS TO PETITION FOR CREATION OF SUCH TRUSTS."

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

Section 1. Creation of trust for absent UNLOCATABLE mineral, leasehold, or royalty interest owners. (1) Any person who owns an interest in minerals underlying a tract of land may petition the district court of the county in which the tract or a portion of the tract is located to declare a trust in favor of a person or persons also owning or claiming an interest in the minerals underlying the tract if their place of residence and present whereabouts is unknown and cannot reasonably be ascertained.

(2) In requesting the appointment of a trustee, the petitioner must show that:

(a) a diligent but unsuccessful effort to locate the absent owner or claimant has been made; and

(b) appointment of a trustee will be in the best

interest of all owners of interest in the minerals.

(3) After determining that the conditions of subsection (2) have been met, the court shall appoint the clerk of court as a trustee and shall authorize him to execute and deliver an oil, gas, or other mineral lease, an ~~assignment-of-leasehold-interest~~ a ratification, division order, or other related document or instrument on such terms and conditions as the court may approve.

Section 2. No further liability for petitioner. If a trust in favor of absent UNLOCATABLE owners or claimants of an interest in minerals has been created and all bonuses, rental payments, royalties, and other income due to the absent owners are being or have been paid to the trustee, the person petitioning for creation of the trust is not liable for further claims by absent UNLOCATABLE owners for bonuses, rental payments, royalties, and other income produced after the creation of the trust.

Section 3. Administration of the trust. (1) The administration of the trust shall comply with the appropriate provisions regulating trusts contained in Title 72.

(2) No trustee or attorney fees may be paid from the trust proceeds.

(3) All bonuses, rental payments, royalties, and other income shall be paid to the trustee until the trust is

1 terminated and notice of its termination given to all
2 interested parties. The trustee shall distribute all money
3 held in the trust to the person or persons entitled to it
4 upon the order of the district court.

5 (4) A trust in favor of absent UNLOCATABLE owners
6 shall be in force until ~~all~~-absent THE UNLOCATABLE owners of
7 the mineral interest in question have HAS successfully
8 claimed their THE share of funds held in trust AND FILED THE
9 NOTICE PROVIDED IN [SECTION 5].

10 (5) The trustee shall invest funds under his
11 management in the manner of a prudent man, as defined in
12 72-21-104. Fifty percent of the interest earned on each
13 trust shall be credited to the general fund of the county in
14 which the mineral interest is located to defray the costs of
15 administration.

16 (6) Funds held in the trusts are subject to the
17 provisions governing abandoned property contained in Title
18 70, chapter 9.

19 Section 4. Existing trust for absent UNLOCATABLE
20 mineral, leasehold, and royalty interest owners -- transfer
21 of trustees -- penalty. (1) Any bonuses, rental payments,
22 royalties, and other income now held by any person or
23 association for absent UNLOCATABLE owners or claimants of an
24 interest in minerals underlying a tract of land must be
25 deposited with the clerk of the district court in which the

1 tract is located within 6 months after [the effective date
2 of this act]. An accounting for the funds, any related
3 documents, and any instrument creating a trust must be filed
4 with the funds.

5 (2) No person may in the future personally hold for
6 longer than 6 months any bonuses, rental payments,
7 royalties, and other income for absent UNLOCATABLE owners or
8 claimants of an interest in minerals, but in such case must
9 petition the district court for creation of a trust as
10 provided in [section 1].

11 (3) If any person fails to comply with subsections (1)
12 or (2), he is liable for all attorney fees and court costs
13 and interest on the SUCH funds held-in-trust at twice the
14 current average passbook account rate paid by financial
15 institutions in that district.

16 Section 5. Filing of addresses. Upon the payment of a
17 \$5 fee, any person owning CLAIMING an interest in minerals
18 underlying a tract of land WHICH IS THE SUBJECT OF A TRUST
19 PROCEEDING UNDER [SECTION 1] HEREOF may file with the
20 secretary-of-state CLERK AND RECORDER OF EACH COUNTY WHEREIN
21 THE MINERAL INTERESTS LIE a notice of his address and the
22 legal description of his interest AND THEREBY ESTABLISH A
23 REBUTTABLE PRESUMPTION THAT SUCH PERSON OWNS THE INTEREST
24 CLAIMED.

25 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

SB 0088/03

1 Definition. The word "person", as used herein shall
2 mean any individual, corporation, partnership, joint
3 venture, trust or other entity capable of owning real
4 property in Montana.

-End-

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INTRODUCED BY TURNAGE, TOME

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE CREATION AND ADMINISTRATION OF TRUSTS IN FAVOR OF ABSENT UNLOCATABLE OWNERS OF INTERESTS IN MINERALS AND TO REQUIRE THOSE HOLDING FUNDS FOR ABSENT UNLOCATABLE OWNERS TO PETITION FOR CREATION OF SUCH TRUSTS."

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(2) In requesting the appointment of a trustee, the petitioner must show that:

(a) a diligent but unsuccessful effort to locate the absent owner or claimant has been made; and

(b) appointment of a trustee will be in the best

interest of all owners of interest in the minerals.

(3) After determining that the conditions of subsection (2) have been met, the court shall appoint the clerk of court as a trustee and shall authorize him to execute and deliver an oil, gas, or other mineral lease, an assignment-of-leasehold-interest, a ratification, division order, or other related document or instrument on such terms and conditions as the court may approve.

Section 2. No further liability for petitioner. If a trust in favor of absent UNLOCATABLE owners or claimants of an interest in minerals has been created and all bonuses, rental payments, royalties, and other income due to the absent owners are being or have been paid to the trustee, the person petitioning for creation of the trust is not liable for further claims by absent UNLOCATABLE owners for bonuses, rental payments, royalties, and other income produced after the creation of the trust.

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terminated and notice of its termination given to all interested parties. The trustee shall distribute all money held in the trust to the person or persons entitled to it upon the order of the district court.

(4) A trust in favor of absent UNLOCATABLE owners shall be in force until ~~all absent~~ THE UNLOCATABLE owners of the mineral interest in question have ~~HAS HAVE~~ successfully claimed their THE share of funds held in trust AND FILED THE NOTICE PROVIDED IN SECTION 5.

(5) The trustee shall invest funds under his management in the manner of a prudent man, as defined in 72-21-104. Fifty percent of the interest earned on each trust shall be credited to the general fund of the county in which the mineral interest is located to defray the costs of administration.

(6) Funds held in the trusts are subject to the provisions governing abandoned property contained in Title 70, chapter 9.

Section 4. Existing trust for absent UNLOCATABLE mineral, leasehold, and royalty interest owners -- transfer of trustees -- penalty. (1) Any bonuses, rental payments, royalties, and other income now held by any person or association for absent UNLOCATABLE owners or claimants of an interest in minerals underlying a tract of land must be deposited with the clerk of the district court in which the

tract is located within 6 months after [the effective date of this act]. An accounting for the funds, any related documents, and any instrument creating a trust must be filed with the funds.

(2) No person may ~~in-the-future~~ personally hold for longer than 6 months any bonuses, rental payments, royalties, and other income for absent UNLOCATABLE owners or claimants of an interest in minerals, but in such case must petition the district court for creation of a trust as provided in [section 1].

(3) If any person fails to comply with subsections (1) or (2), he is liable for all attorney fees and court costs and interest on the SUCH funds held-in-trust at twice the current average passbook account rate paid by financial institutions in that district.

Section 5. Filing of addresses. Upon the payment of a \$5 fee, any person owning CLAIMING an interest in minerals underlying a tract of land WHICH IS THE SUBJECT OF A TRUST PROCEEDING UNDER [SECTION 1] HEREOF may file with the secretary-of-state CLERK AND RECORDER OF EACH COUNTY WHEREIN THE MINERAL INTERESTS LIE a notice of his address and the legal description of his interest AND THEREBY ESTABLISH A REBUTTABLE PRESUMPTION THAT SUCH PERSON OWNS THE INTEREST CLAIMED.

SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

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1 Definition. The word "person", as used herein shall
2 mean any individual, corporation, partnership, joint
3 venture, trust or other entity capable of owning real
4 property in Montana.

-End-

March 16, 1979

HOUSE OF REPRESENTATIVES

Judiciary Committee amendments to SENATE BILL NO. 88,
third reading copy, as follows:

1. Page 3, line 7.

Following: "~~have~~"

Strike: "HAS"

Insert: "have"

2. Page 4, line 5.

Strike: "in the future"

3. Page 4, line 19.

Strike: "HEREOF"

AND AS AMENDED, BE CONCURRED IN.