MINUTES OF THE MEETING
NATURAL RESOURCES SUBCOMMITTEE ON THE LEGACY PROGRAM
SB277 and HB913
March 21, 1985

The first meeting of the Senate Natural Resources subcommittee on the Legacy Program was called to order by Senator Dorothy Eck, Chairman of the Senate Natural Resources Committee, at 12:03 p.m. March 21, 1985, Room 405, State Capitol Building.

ROLL CALL: The following Senators were present: Senator Mohar, Senator Eck, Senator Gage and Senator Harding. Mr. Bob Thompson, staff researcher, was also present.

Senator Eck nominated Senator Mohar as Chairman of the subcommittee. Senator Mohar accepted the nomination and the motion carried.

Chairman Mohar explained this would be an organizational meeting to determine which issues of the two bill need to be addressed.

Mr. Bob Thompson submitted a legislative history of the Resource Indemnity Trust Fund (Exhibit 1) explaining the legislative intent of how the interest from this fund was to be used. Mr. Thompson explained there is more evidence supporting a legislative intent that the funds were to be used for a broad range of environmental programs, with the actual use of the money from the Resource Indemnity Trust Fund Interest Account to be decided by future legislative sessions.

Chairman Mohar stated he found Representative Brown's remark interesting that the intent of the program was to address environmental problems relating to mineral extraction. Ultimately, however, the distributions of funds is the decision of the 1985 legislature.

Senator Gage stated he feels water development is a good program. However, since the Resource Indemnity Trust Fund is a tax on the mineral extraction industry, the money should be used to deal with problems created by the extraction of minerals. Senator Gage feels the bill is too broad when it includes allocating money for the remodeling of historical buildings. Senator Gage is concerned the bill will get so broad that the tax will have to be raised to cover all programs receiving funding.

Chairman Mohar agreed, stating he was amazed at the types of programs which qualify for funding. Chairman Mohar feels a list of priorities should be set.

Senator Eck sugested the subcommittee members give Mr. Thompson direction as to the areas in the bill they would like to [illegible]

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032985
BILL NO. HB913

changed. Chairman Mohar stated he would rather see the bill address preference rather than a straight earmarking of funds.

In regard to the 11 percent allocated to hazardous waste programs, Chairman Mohar feels it is wrong to fund the hazardous waste facility project for two years, when this is going to be an on-going project.

Chairman Mohar also feels the Natural Heritage Resource Information program is a worthwhile program, but they should be encouraged to seek federal and private funds available. Chairman Mohar also had questions concerning the language on page 12, line 21.

Senator Eck stated she would like something in the bill stating that before the money is appropriated, the studies undertaken by the standing and interim committees must be reviewed. Senator Eck suggested language should be placed in the bill regarding water marketing. Senator Eck has also suggested placing language in SB277 providing basic funding for data research. If these data systems are not put in place, Montana could lose the benefits of all the data collected. Senator Eck suggested omitting earmarking all together.

Senator Gage stated he liked SB277, because it did not contain as much earmarking of funds.

Senator Eck suggested the subcommittee could also look at a range of percentages for each earmarked category. Senator Eck reminded the subcommittee there are some funds that require a three-fourths vote of the legislature.

Chairman Mohar stated one difference between the two bills is that under SB277, applicants must be a public entity. HB913 also includes public entities, but it also includes private parties, which broadens the scope of the bill even more.

The members of the subcommittee agreed to meet again and discuss any proposals they may have. The meeting adjourned at 12:30 p.m.

John Mohar

Senator John Mohar, Chairman

To: The Senate Natural Resources subcommittee on HB 913
From: Bob Thompson, EQC
Date: March 19, 1985
Re: The Legislative History of the Resource Indemnity Trust Fund.

Relevant Materials:

The following materials are attached:

1) Article IX, section 2 of the Montana Constitution and sections 15-38-101 through 15-38-202, MCA;
2) Chapter 497, Laws of 1973 (HB 97) and Chapter 117, Laws of 1974 (HB 576);
3) Lists of the legislators during the 1973 and 1974 sessions and the third reading vote on each bill in each house;
4) An excerpt from Governor Judge's State of the State message to the First Regular Session of the Forty-Third Legislature (1973);
5) An excerpt from the House Taxation Committee minutes for January 19, 1973 (concerning HB 97);
6) An excerpt from the House Taxation Committee minutes for February 26, 1973 (concerning HB 97);
7) Testimony presented by P.L. MacDonald, Anaconda Company, on HB 97.
8) Analysis of Use of Resource Indemnity Trust funds by Terry Cohea, Montana Legislative Council, September 24, 1979;
9) Letter from Attorney General Mike Greely to the Environmental Quality Council, January 29, 1982;
10) Briefing Paper by John Carter, EQC, for the EQC on the Resource Indemnity Trust Act, February 3, 1984;
11) Department of Natural Resources Memorandum by Attorney Bob Lane on the legislative history and intent of the Resource Indemnity Trust Fund, January 17, 1984; and
12) Letter from Senator Tom Towe to Bob Lane, DNRC, March 7, 1984.

Brief Legislative History:

Article IX, section 2 of the Montana Constitution is the Reclamation provision. Subsection 1 was adopted in 1972; subsections 2 and 3 were attached in 1974. Statutory language establishing the Resource Indemnity Trust was adopted in 1973. The minutes from the Senate Taxation Committee in February, 1983, suggest that subsections 2 and 3 of Article 9, section 2 were drafted to make the fund permanent (attachment 6).

Legislative Intent:

The constitutional language concerning the Resource Indemnity Trust (RIT) was offered as HB 576 by Representative Bardanouve in the 1974 session. The minutes and testimony on this bill do not give a clear indication of the intended use of the interest proceeds. This lack of information may in part be due to the enactment in the previous session (1973) of the statutory Resource Indemnity Trust Fund Act (the statutory RIT language). This act, which was introduced as HB 97, received more attention and input from interested parties.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 03/19/85
BILL NO. HB 913

Some indication of the intent behind the RIT concept may be obtained by examining the history of HB 97. Governor Judge's State of the State speech (attachment 4) and Mr. MacDonald's testimony (attachment 7) support a broad interpretation of the bill. Governor Judge stated that the proposed RIT fund "would be applied to correct environmental damage, provide recreational areas and establish new opportunities for people to continue to live and work in Montana." Mr. MacDonald expressed his concern about the use of RIT funds when he stated:

> "Again, H.B. No. 97 - This large slush fund to be created, you are all aware, any subsequent legislature can invade for any purpose. Funds originating from resources in Western Montana can be used for boating on Fort Peck Dam, funds from oil and coal production in Eastern Montana can be used for fishing on Flathead Lake."

In addition, Senator Towe's notes on his copy of HB 97 indicate Mr. Romine of the Montana Mining Association thought the bill would allow funding of water developments (attachment 12).

Research to date has not uncovered any evidence supporting the position that the legislative intent was to limit funding to projects related to mine reclamation. However, the placement of the RIT provisions in Article IX, section 2, with the mining-oriented reclamation provision in subsection 1 supports this position (see Goetz letter to Senate Natural Resources Committee, March 16, 1185).

Subsequent interpretations support a variety of positions regarding the legislature's intended use of RIT funds. In support of a broad use is the actions by subsequent legislatures which have resulted in an appropriation of funds for a variety of purposes (attachments 8, 10). Attorney General Greely's opinion on this question also supports a broad interpretation of the constitutional RIT provisions (attachment 9) by suggesting that project funding is largely a matter of legislative discretion. Finally, Attorney Lane's internal DNRC memorandum states that, because the fund is a trust, it must have a defined range of possible projects. He then further suggests that "the RIT fund must have a purpose with the general characteristics being for the mitigation of losses caused by the taking of natural resources, the development of replacement renewable resources that would live on after the renewable resources are gone, and the development or acquisition of recreational areas."

Interpretations that RIT funds are intended for the projects relating to the reclamation of "disturbed land" are advanced principally by Attorney Jim Goetz and the Butte-Silver Bow and Anaconda-Deer Lodge local governments. Their position is indicated by public testimony and the threatened filing of a law suit in August, 1983 (see Senate Natural Resources minutes, March 16, 1985).

ATTACHMENT 1

Minerals, Oil, and Gas, Title 82.
Water Use, Title 85.
Fish and Wildlife, Title 87.
Renewable resource development, Title 90, ch. 2.
Renewable energy sources research and development, Title 90, ch. 4.

Constitutional Convention Transcript Cross-References

Adoption, Trans. 2938, 2939.
Committee report, Vol. II 550, 552, 554, 555, 561, 562, 931, 933, 935, 939, 1068.
Debate — committee report, Trans. 1199 through 1271, 1274, 1275, 1637 through 1640.
Debate — style and drafting report, Trans. 2210, 2211, 2928.
Delegate proposals, Vol. I 75, 96, 107, 108, 193, 240, 252, 261, 308, 309.
Final consideration, Trans. 2454, 2455.
Text as adopted, Vol. II 1099.

Section 2. Reclamation. (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

(2) The legislature shall provide for a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.

(3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars ($100,000,000), guaranteed by the state against loss or diversion.

Compiler's Comments

1974 Amendment: Constitutional Amendment No. 1 (see Appendix to 1975 Laws of Montana) inserted subsection designation "(1)" and added (2) and (3).

Cross-References

The Montana Resource Indemnity Trust Act, Title 15, ch. 38.
Notice to surface owner of reclamation plan prior to commencement of mining operation, 82-2-303.
Reclamation, Title 82, ch. 4.
Restoration following plugging of oil or gas well, 82-11-123.

Constitutional Convention Transcript Cross-References

Adoption, Trans. 2938, 2939.
Committee report, Vol. II 552, 555, 556, 931, 933, 935, 939, 1068.
Debate — committee report, Trans. 1199, 1200, 1275 through 1301, 1353 through 1363.
Debate — style and drafting report, Trans. 2211 through 2213, 2928.
Final consideration, Trans. 2455, 2456.
Text as adopted, Vol. II 1099.

Section 3. Water rights. (1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.

(2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.

(3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

Cross-References

Board of Water Well Contractors, 2-15-1862.
Water Pollution Control Advisory Council, 2-15-2107.
Water Courts, Title 3, ch. 7.
Property tax exemptions for certain water projects, 15-6-205, 15-6-206, 15-6-212.

SENATE NATU[illegible] RESOU[illegible]S COMMITTEE
EXHIBIT NO 1
DATE 03218[illegible]
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CHAPTER 38

RESOURCE INDEMNITY TRUST TAX

Part 1 — General Provisions

Section
15-38-101. Short title.
15-38-102. Legislative policy.
15-38-103. Definitions.
15-38-104. Tax on mineral production.
15-38-105. Report of gross yield from mines.
15-38-106. Payment of tax — records — collection of taxes — refunds.
15-38-107. Procedure in case of failure to file statement.
15-38-108. Warrant for distraint.
15-38-109. Restricted access to records.
15-38-110. Deficiency assessment — hearing — interest.
15-38-111. Credit for overpayment — interest on overpayment.
15-38-112. Statute of limitations.

Part 2 — Resource Indemnity Trust Fund

15-38-201. Creation of resource indemnity trust fund.
15-38-202. Investment of resource indemnity trust fund — expenditure — minimum balance.
15-38-203. Purpose of fund usage.

Chapter Cross-References

Resource Indemnity Trust, Art. IX, sec. 2, Mont. Const.

Hard-rock mining impact property tax base sharing, Title 90, ch. 6, part 4.

Part 1

General Provisions

15-38-101. Short title. This chapter shall be known and may be cited as "The Montana Resource Indemnity Trust Act".

History: En. 84-7001 by Sec. 1, Ch. 497, L. 1973; R.C.M. 1947, 84-7001.

15-38-102. Legislative policy. It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. Therefore, it is the purpose of this chapter to provide for the creation of a resource indemnity trust in order that the people and resources of Montana may long endure.

History: En. 84-7002 by Sec. 2, Ch. 497, L. 1973; R.C.M. 1947, 84-7002.

15-38-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means department of revenue.

(2) "Gross value of product" means the market value of any merchantable mineral extracted or produced during the taxable year.

(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens.

History: En. 84-7003 by Sec. 3, Ch. 497, L. 1973; amd. Sec. 23, Ch. 52, L. 1977; R.C.M. 1947, 84-7003.

15-38-104. Tax on mineral production. The annual tax to be paid by the person engaged in or carrying on the business of mining, extracting, or producing a mineral shall be $25, together with an additional sum or amount computed on the gross value of product which may have been derived from the business work or operation within this state during the calendar year immediately preceding at the rate of ½ of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of $5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

History: En. 84-7006 by Sec. 6, Ch. 497, L. 1973; amd. Sec. 1, Ch. 495, L. 1977; R.C.M. 1947, 84-7006.

15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall make out a quarterly statement of gross yield of the mineral from each mine owned or worked by that person during the quarter. This form shall be in the form prescribed by the department and shall be signed by the person or the manager, superintendent, agent, president, or vice-president of the corporation, association, or partnership, if any, and shall be delivered to the department on or before the 60th day following the end of the calendar quarter. The statement shall show the following:

(1) the name and address of the owner or lessee or operator of the mine;

(2) the description and location of the mine;

(3) the quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement;

(4) the amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;

(5) the gross yield or value in dollars and cents.

History: En. 84-7005 by Sec. 5, Ch. 497, L. 1973; R.C.M. 1947, 84-7005; amd. Sec. 3, Ch. 334, L. 1981; amd. Sec. 1, Ch. 226, L. 1983.

Compiler's Comments

1983 Amendment: In first sentence, substituted "quarterly" for "on or before March 31 of each year", and substituted "quarter" for "year preceding January 1 of the year in which the statement is made and the value thereof"; and at end of second sentence, substituted "the 60th

day following the end of the calendar quarter" for "March 31".

1981 Amendment: Substituted "signed by the person" for "verified by the oath of the person" in the second sentence.

15-38-106. Payment of tax — records — collection of taxes — refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 1, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the last calendar quarter is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine each of the four quarterly statements and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

History: En. 84-7007, 84-7008 by Secs. 7, 8, Ch. 497, L. 1973; R.C.M. 1947, 84-7007, 84-7008; amd. Sec. 1, Ch. 585, L. 1979; amd. Sec. 2, Ch. 226, L. 1983; amd. Sec. 4, Ch. 281, L. 1983.

Compiler's Comments

1983 Amendments: Chapter 226 made the following changes: in (1), changed payment deadline from March 31 to March 1; near end of last sentence in (1), after "yield" inserted "for the last calendar quarter"; near beginning of first sentence in (3), inserted "four quarterly" before "statements"; at end of first sentence in (3), deleted "making the statement for the year for which the statement is filed"; and made minor phraseology changes.

Chapter 281, in first sentence of (2), substituted "trust fund of the nonexpendable trust fund type" for "trust account of the trust and legacy fund".

Cross-References

Deficiency assessment procedure, 15-38-110.
Creation of trust fund, 15-38-201.

15-38-107. Procedure in case of failure to file statement. (1) If any person fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall immediately after such time has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the gross yield of the mineral of such person from such business during the calendar quarter immediately preceding the quarter in which the statement is to be filed and shall fix the amount of the tax that would be due to the state if the tax were paid on a quarterly basis from such person for such calendar quarter and shall add to the amount of such tax a penalty of $25 or 2%, whichever is greater.

(2) If any person fails, refuses, or neglects to pay the tax when due, the department shall immediately determine, as nearly as may be possible from any information which the department may be able to obtain, the total gross value of product of the person from the business during the year for which the tax is due and shall fix the amount of tax due to the state and shall add

to the amount a penalty of 8% plus interest at the rate of 1% a month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(3) The department shall mail to the person failing to file a quarterly statement or pay any tax a letter setting forth the amount of tax, penalty, and interest due. The letter shall advise that if payment is not received, a warrant for distraint may be filed.

(4) Penalties may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-38-105 or the failure to pay the tax required by 15-38-106 is provided to the department.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, Ch. 156, L. 1977; R.C.M. 1947, 84-7012(1) thru (3); amd. Sec. 21, Ch. 439, L. 1981; amd. Sec. 3, Ch. 226, L. 1983.

Compiler's Comments

1983 Amendment: Near middle of (1), substituted "gross yield of the mineral" for "total gross value of product"; substituted "quarter" for "year" three times; after "quarter in which the" substituted "statement is to be filed" for "tax is to be paid"; after "due to the state" inserted "if the tax were paid on a quarterly basis"; at end of (1), substituted "$25 or 2%, whichever is greater" for "10% thereof"; at beginning of (2), inserted "If any person . . . penalty of 8%"; in (3), substituted "person failing to file a quarterly statement or" for "person required to file an annual statement and"; in (4), substituted "Penalties" for "The 10% penalty"; after "15-38-105" inserted "or the failure to pay the tax required by 15-38-106"; and made minor phraseology changes.

1981 Amendment: Substituted the last sentence of (2) for a provision that the taxpayer shall pay the amount of tax due within 15 days of receiving the letter.

15-38-108. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, Ch. 156, L. 1977; R.C.M. 1947, 84-7012(4); amd. Sec. 22, Ch. 439, L. 1981.

Compiler's Comments

1981 Amendment: Substituted the first sentence for a procedure whereby the department filed a lien on all real property of the taxpayer; and deleted provision at the end of the section providing that the lien may be enforced in the same manner as judgment liens are enforced.

15-38-109. Restricted access to records. The information furnished by the producer to the department for the purpose of this chapter shall be treated as provided in 15-31-507.

History: En. Sec. 13, Ch. 497, L. 1973; R.C.M. 1947, 84-7013.

15-38-110. Deficiency assessment — hearing — interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the

taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return.

History: En. Sec. 1, Ch. 14, L. 1983.

15-38-111. Credit for overpayment — interest on overpayment. (1) If the department of revenue determines that the amount of tax, penalty or interest due for any year is less than the amount paid, the amount of the overpayment shall be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest shall be allowed on overpayments at the same rate as is charged on deficiency assessments provided in 15-38-110 due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest shall not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) No interest shall be allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall not be considered an overpayment with respect to which interest is allowable.

History: En. Sec. 2, Ch. 14, L. 1983.

15-38-112. Statute of limitations. (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever

period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed r a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

History: En. Sec. 1, Ch. 194, L. 1983.

Part 2

Resource Indemnity Trust Fund

15-38-201. Creation of resource indemnity trust fund. For the purpose of carrying out this chapter, there is a resource indemnity trust fund in the nonexpendable trust fund type. The resource indemnity fund shall be credited with all moneys received as herein provided.

History: En. 84-7004 by Sec. 4, Ch. 497, L. 1973; R.C.M. 1947, 84-7004; amd. Sec. 5, Ch. 281, L. 1983.

Compiler's Comments

1983 Amendment: In first sentence, substi-.ed "trust fund in the nonexpendable trust fund type" for "trust account in the trust and legacy fund"; and in second sentence, changed "account" to "fund".

15-38-202. Investment of resource indemnity trust fund — expenditure — minimum balance. (1) All moneys paid into the resource indemnity trust fund shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall annually be added thereto until it has reached the sum of $10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches $100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the fund may never be less than $100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource indemnity trust fund is greater than $10 million, 30% of the interest income of the resource indemnity trust fund must be allocated to the water development state special revenue account created by 85-1-604.

(3) Beginning in fiscal year 1986, 6% of the interest income of the resource indemnity trust fund must be allocated to the department of health nd environmental sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with Title 75, chapter 10, part 6. Any funds remaining unexpended at the end of each fiscal year will revert to the resource indemnity trust interest account.

History: En. 84-7009 by Sec. 9, Ch. 497, L. 1973; R.C.M. 1947, 84-7009; amd. Sec. 44, Ch. 505, L. 1981; amd. Sec. 6, Ch. 241, L. 1983; amd. Sec. 6, Ch. 281, L. 1983.

Compiler's Comments

1983 Amendments: Chapter 241 inserted (3). Chapter 281, throughout section, changed references to resource indemnity trust "account"

to references to resource indemnity trust "fund"; and in (2), substituted "state special revenue account" for "earmarked account".

Commissioner Correction: In third and fourth sentences of (1), references to "account" were apparently overlooked by Chapter 281. The apparent intent was that "account" become "fund" and the Code Commissioner has changed the references accordingly. The Code Commissioner also changed "resource indemnity trust account" to "resource indemnity trust fund" in (3) pursuant to sec. 48, Ch. 281, L. 1983.

1981 Amendment: Added subsection (2).

Cross-References

Resource Indemnity Trust, Art. IX, sec. 2, Mont. Const.

Board of Investments, 2-15-1005.

Use of funds to reclaim abandoned wells or holes, 82-10-402.

15-38-203. Purpose of fund usage. Any funds made available under this chapter shall be used and expended to improve the total environment and rectify damage thereto.

History: En. 84-7010 by Sec. 10, Ch. 497, L. 1973; R.C.M. 1947, 84-7010.

CHAPTERS 39 THROUGH 49

RESERVED

CHAPTER 50

PUBLIC CONTRACTOR'S FEES AND TAX

Part 1 — General Provisions (Renumbered by Code Commissioner, 1983)

Section

Part 2 — Tax on Contractors

15-50-201. Renumbered 37-71-201 by Code Commissioner, 1983.
15-50-202. Renumbered 37-71-202 by Code Commissioner, 1983.
15-50-203. Renumbered 37-71-203 by Code Commissioner, 1983.
15-50-204. Renumbered 37-71-204 by Code Commissioner, 1983.
15-50-205. Additional license tax imposed.
15-50-206. Withholding license fee from payments — refunds.
15-50-207. Credit against other taxes — credit for personal property taxes and certain fees.
15-50-208 through 15-50-210 reserved.
15-50-211. Renumbered 37-71-211 by Code Commissioner, 1983.
15-50-212. Renumbered 37-71-212 by Code Commissioner, 1983.
15-50-213. Renumbered 37-71-213 by Code Commissioner, 1983.

Part 3 — Contractor's Tax Return

15-50-301. Rule for contractor's return.
15-50-302. Renumbered 37-71-301 by Code Commissioner, 1983.
15-50-303. Renumbered 37-71-302 by Code Commissioner, 1983.

Part 1

General Provisions (Renumbered by Code Commissioner, 1983)

Part Compiler's Comments

Renumbered Sections:

15-50-101. Renumbered 37-71-101 by Code Commissioner, 1983.

ATTACHMENT 2

LAWS OF 1973 (HB576)

CHAPTER NO. 117

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX, SECTION 2, OF THE CONSTITUTION OF MONTANA ESTABLISHING A RESOURCE INDEMNITY TRUST IN THE STATE WHICH SHALL BE FOREVER INVIOLATE AND GUARANTEED BY THE STATE AGAINST LOSS OR DIVERSION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Article IX, section 2, of the constitution of the state of Montana is amended to read as follows:

"Section 2. Reclamation. *(1)* All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

(2) The legislature shall provide for a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.

(3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars ($100,000,000), guaranteed by the state against loss or diversion."

Section 3. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved March 11, 1974

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 1

DATE 03/21/85

BILL NO. HB413

LAWS OF 1974 (HB97)

CHAPTER NO. 497

An Act to Create the Resource Indemnity Trust Account in the Trust and Legacy Fund and to Provide for the Funding of the Account by Imposing a Tax on the Gross Value of Product of all Nonrenewable Resource Extracting Industries.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 84-7001, R.C.M. 1947, which reads as follows:

84-7001. This act shall be known and may be cited as "The Montana Resource Indemnity Trust Act."

Section 2. There is a new section to be numbered 84-7002, R.C.M. 1947, which reads as follows:

84-7002. It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence

our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. Therefore, it is the purpose of this chapter to provide for the creation of a resource indemnity trust in order that the people and resources of Montana may long endure.

Section 3. There is a new section to be numbered 84-7003, R.C.M. 1947, which reads as follows:

84-7003. As used in this act:

(1) "Person" means and includes every individual, partnership, firm, association, joint-stock company, syndicate and corporation.

(2) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(3) "Gross value of product" means the market value of any merchantable mineral extracted or produced during the taxable year.

(4) "Total environment" means air, water, soil, flora, fauna, and also the social, economic, and cultural conditions that influence communities and individual citizens.

(5) "Department" means department of revenue.

Section 4. There is a new section to be numbered 84-7004, R.C.M. 1947, which reads as follows:

84-7004. For the purpose of carrying out this act there is a resource indemnity trust account in the trust and legacy fund. The resource indemnity account shall be credited with all moneys received as herein provided.

Section 5. There is a new section to be numbered 84-7005, R.C.M. 1947, which reads as follows:

84-7005. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source, shall on or before March 31 of each year make out a statement of gross yield of the mineral from each mine owned or worked by that person during the year preceding January 1 of the year in which the statement is made, and the value thereof. This form shall be in the form prescribed by the department, and shall be verified by the oath of the person, or the manager, superintendent, agent, president, or vice-president of the corporation, association,

or partnership, if any, and shall be delivered to the department on or before March 31. The statement shall show the following:

(1) The name and address of the owner or lessee or operator of the mine.

(2) The description and location of the mine.

(3) The quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement.

(4) The amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value: that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of the ores or mineral products or deposits measured by standard units of measurement, yielded to the person engaged in mining.

(5) The gross yield or value in dollars and cents.

Section 6. There is a new section to be numbered 84-7006, R.C.M.1947, which reads as follows:

84-7006. The annual tax to be paid by the person engaged in or carrying on the business of mining, extracting, or producing a mineral shall be twenty-five dollars ($25), together with an additional sum or amount computed on the gross value of product which may have been derived from the business work or operation within this state during the calendar year immediately preceding, at the rate of one-half of one per cent (½ of 1%) of the amount of gross value of product at the time of extraction from the ground, if in excess of five thousand dollars ($5,000).

Section 7. There is a new section to be numbered 84-7007, R.C.M. 1947, which reads as follows:

84-7007. The tax imposed by this act shall be paid by each person to which the tax applies on or before March 31 on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time that the statement of yield is filed with the department.

Section 8. There is a new section to be numbered 84-7008, R.C.M. 1947, which reads as follows:

84-7008. The department shall issue a receipt for the tax and promptly turn the tax over to the state treasurer for deposit in the resource indemnity trust account of the trust and legacy fund.

Section 9. There is a new section to be numbered 84-7009, R.C.M. 1947, which reads as follows:

84-7009. All moneys paid into the resource indemnity trust account shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust account shall annually be added thereto until it has reached the sum of ten million dollars ($10,000,000). Thereafter only the net earnings may be appropriated and expended until the account reaches one hundred million dollars ($100,000,000). Thereafter all net earnings and all receipts shall be appropriated by the legislature and expended provided that the balance in the account may never be less than one hundred million dollars ($100,000,000).

Section 10. There is a new section to be numbered 84-7010, R.C.M. 1947, which reads as follows:

84-7010. Any funds made available under this act shall be used and expended to improve the total environment and rectify damage thereto.

Section 11. There is a new section to be numbered 84-7011, R.C.M. 1947, which reads as follows:

84-7011. The tax imposed by this act shall be first imposed for the whole calendar year 1973, and shall be based on the statement of yield prescribed in section 84-7005.

Section 12. There is a new section to be numbered 84-7012, R.C.M. 1947, which reads as follows:

84-7012. Procedure in case of failure to file statement. If any person shall fail, refuse or neglect to make and file a statement and return within the time prescribed, the department shall, immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the tax is to paid, and shall make and file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the tax due from, and to be paid by such person.

Section 13. The information furnished by the producer to the department of revenue for the purpose of this act shall be treated as provided in section 84-1507, R.C.M. 1947.

Approved: March 29, 1973.

ATTACHMENT 3

OFFICERS AND MEMBERS

OF THE

Forty-third Legislative Assembly of the State of Montana

1973

THOMAS L. JUDGE, Governor

Bill Christiansen, Lieutenant Governor, President of the Senate
Cornie R. Thiessen, President Pro Tem
Percy DeWolfe, President Pro Tem (Ad Interim)
Harold E. Gerke, Speaker of the House

Members of the Senate

NAME	RESIDENCE OR MAILING ADDRESS	DIST. NO.	COUNTY OF RESIDENCE	POLITICS
*Aber, L. M. (Larry)	228 3rd Ave. No., Columbus 59019	7	Stillwater	Republican
Bennett, George T.	P.O. Box 1166, Helena 59601	12	Lewis & Clark	Republican
*Bertsche, Wm. H.	1917 4th Ave. No., Great Falls 59401	13	Cascade	Democrat
*Bollinger, Gordon E.	217 Klein Ave., Glasgow 59230	4	Valley	Democrat
*Boylan, Paul F.	Star Route, Bozeman 59715	11	Gallatin	Democrat
*Breeden, J. W. "Brick"	1202 South Willson, Bozeman 59715	11	Gallatin	Republican
Broeder, Fred O.	Route 4, Kalispell 59901	16	Flathead	Republican
*Carl, Fred G.	P.O. Box 477, Missoula 59801	18	Missoula	Republican
Cochrane, Archie M.	2958 Upper Highwood, Billings 59102	8	Yellowstone	Republican
Darrow, George	804 Midland Bank Bldg., Billings 59101	8	Yellowstone	Republican
Deschamps, G. W. "Por"	Route 2, Mullan Rd., Missoula 59801	18	Missoula	Republican
Devine, John W. (Jack)	Box 1443, Great Falls 59401	13	Cascade	Democrat
DeWolfe, Percy	Box 250, Browning 59517	15	Glacier	Democrat
Drake, Glen L.	So. Annex, Power Block, Helena 59601	12	Lewis & Clark	Republican
*Flynn, Elmer	Route 2, Mullan Rd., Missoula 59801	18	Missoula	Democrat
*Gilfeather, P. J.	2816 4th Ave. So., Great Falls 59401	13	Cascade	Democrat
Goodheart, B. J. "Swede"	P.O. Box 1013, Malta 59538	5	Phillips	Democrat
Graham, Carroll A.	Lodge Grass 59050	1	Big Horn	Democrat
*Groff, W. A. "Bill"	Box 46, Victor 59875	22	Ravalli	Democrat
Hall, Mrs. John Nelson	212 12th St. No., Great Falls 59401	13	Cascade	Democrat
*Harrison, James T., Jr.	1100 Choteau, Helena 59601	12	Lewis & Clark	Republican
*Hazelbaker, Frank W.	Box 430, Dillon 59725	21	Beaverhead	Republican
*Himsl, Matt[1]	305 4th Ave. E., Kalispell 59901	16	Flathead	Republican
James, David F.	P.O. Box 221, Joplin 59531	14	Liberty	Democrat
*Jensen, Arthur N.	P.O. Box 668, Superior 59872	23	Mineral	Democrat
Keenan, P. J.	1112 East Fifth, Anaconda 59711	19	Deer Lodge	Democrat
*Klindt, Herbert J.	402 Alderson Ave., Billings 59102	8	Yellowstone	Republican
*Lowe, William R. "Bill"	1008 Poly Dr., Billings 59102	8	Yellowstone	Republican
Lynch, Neil J.	2101 Harrison Ave., Butte 59701	20	Silver Bow	Democrat
McCallum, George	Niarada 59852	23	Sanders	Republican
McDonald, John K. (Jack)	Belt 59412	13	Cascade	Democrat
*McGowan, Gordon	Rural Route, Highwood 59450	14	Chouteau	Democrat
*McKeon, Luke	316 E. 7th, Anaconda 59711	19	Deer Lodge	Democrat
McNamer, William R.	P.O. Box 1383, Billings 59103	8	Yellowstone	Republican
*McOmber, Gordon	R.R. 2, Fairfield 59436	15	Teton	Democrat
Manning, Dave	Hysham 59038	6	Treasure	Democrat
Mathers, William L.	P.O. Box 267, Miles City 59301	2	Custer	Republican
Moore, Jim	Two Dot 59085	9	Wheatland	Republican
Moritz, Earl	1024 W. Evelyn, Lewistown 59457	10	Fergus	Republican
Nees, Stanley	432 B Street West, Poplar 59255	4	Roosevelt	Democrat
Northey, Harry T.	514 Daly Ave., Missoula 59801	18	Missoula	Republican
*Rosell, Antoinette Fraser	4200 Rimrock Road, Billings 59102	8	Yellowstone	Republican
*Shea, James R. "Jimmy"	604 West Daly St., Walkerville 59701	20	Silver Bow	Democrat
*Siderius, George	c/o Somer's Stage, Kalispell 59901	16	Flathead	Democrat
*Sorenson, C. F. (Smoky)	#9 Brookwood Park, Rte. #1 So., Gt. Falls 59401	13	Cascade	Democrat
Story, Peter R.	Emigrant 59027	11	Park	Republican
Thiessen, Cornie R.	Box 195, Lambert 59243	3	Richland	Democrat
*Turnage, Jean A.	P.O. Box 450, Polson 59860	17	Lake	Republican
*Vaimo, Leonard E.	1701 Grand Ave., Butte 59701	20	Silver Bow	Democrat
*Zody, A. A.	503 So. Pearson, Glendive 59330	3	Dawson	Democrat

*Term expires 1975; all other Senators four-year terms.

1. Replaced Bennett, W. F., resigned Dec. 1972.

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SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 1

DATE 03 21 85

BILL NO. HB 913

House of Representatives

NAME	RESIDENCE OR MAILING ADDRESS	DIST. NO.	COUNTY OF RESIDENCE	POLITICS
Aageson, Dave	Gildford 59525	14	Hill	Republican
Ainsworth, A. L. (Bud)	4111 Timberlane, Missoula 59801	18	Missoula	Republican
Asbjornson, J. O. "Boots"	P.O. Box 794, Winifred 59489	10	Fergus	Republican
Baeth, William R. (Bill)	805 Minnesota Ave., Libby 59923	23	Lincoln	Democrat
Bardanouve, Francis	Harlem 59526	5	Blaine	Democrat
Barrett, Fred O.	259 SW Maple, Lewistown 59457	10	Fergus	Republican
Baucus, Max S.	525 So. Fifth St. East, Missoula 59801	18	Missoula	Democrat
Bell, John F.	Birdseye, Helena 59601	12	Lewis & Clark	Republican
Bennetts, Barbara K.	25 South Benton, Helena 59601	12	Lewis & Clark	Democrat
Bradley, Dorothy M.	Box 114, Rt. 3, Bozeman 59715	11	Gallatin	Democrat
Brand, Joe	800 Montana Ave., Deer Lodge 59722	19	Powell	Democrat
Brown, Robert J. (Bob)	Route #1, Whitefish 59937	16	Flathead	Republican
Burnett, James H. "Jim"	Star Route, Luther 59051	7	Carbon	Republican
Campbell, William C.	630 Flowerree, Helena 59601	12	Lewis & Clark	Republican
Castles, Ruth B.	York Route, Helena 59601	12	Lewis & Clark	Republican
Clemow, Tom	Box 828, Jackson 59736	21	Beaverhead	Republican
Colberg, Richard A.	631 Terry Ave., Billings 59102	8	Yellowstone	Democrat
Cotton, Robert S.	S.W. Glasgow, Glasgow 59230	5	Valley	Democrat
Cox, Henry S. "Hank"	1439 Colton Blvd., Billings 59102	8	Yellowstone	Republican
Driscoll, John B.	424 S. 2nd St., Hamilton 59840	22	Ravalli	Democrat
East, Vic	Box 83, Forsyth 59327	6	Rosebud	Republican
Edland, Wallace B.	Box 98, Scobey 59263	4	Daniels	Democrat
Ellerd, Robert A.	2206 Bridger Dr., Bozeman 59715	11	Gallatin	Republican
Fagg, Harrison G.	1414 Mystic Dr., Billings 59102	8	Yellowstone	Republican
Fasbender, Larry	Route 1, Box 23, Fort Shaw 59443	13	Cascade	Democrat
Fleming, James F., Jr.	Box 116, Pablo 59855	17	Lake	Democrat
Flynn, James W.	P.O. Box 524, Dillon 59725	21	Beaverhead	Democrat
Forsgren, Wallace O.	Box 225, Bozeman 59715	11	Gallatin	Republican
Galt, Jack E.	Martinsdale 59053	9	Meagher	Republican
Gerke, Harold E.	202 Mountain View Blvd., Billings 59101	8	Yellowstone	Democrat
Glennen, Robert E.	1005 No. 32nd, Billings 59101	8	Yellowstone	Republican
Greely, Michael T.	409 Strain Bldg., Great Falls 59401	13	Cascade	Democrat
Gunderson, Jack	P.O. Box 187, Power 59468	13	Cascade	Democrat
Hageman, Alvin	Stillwater Co. Rural Rte., Broadview 59015	7	Stillwater	Democrat
Hager, Tom	1540 Elaine St., Billings 59101	8	Yellowstone	Republican
Haines, Tom	15 Martha's Crt., Missoula 59801	18	Missoula	Republican
Hall, John C.	1020 Third Ave. No., Great Falls 59401	13	Cascade	Democrat
Halvorson, Ora J.	244 Woodland Ave., Kalispell 59901	16	Flathead	Democrat
Harper, Hal	509 Logan, Helena 59601	12	Lewis & Clark	Republican
Harper, Robert J. "Bob"	68 Missoula Ave., Butte 59701	20	Silver Bow	Democrat
Healy, John E. (Jack)	624 West Granite, Butte 59701	20	Silver Bow	Democrat
Hodges, William C.	106 25th St. No., Great Falls 59401	13	Cascade	Democrat
Holmes, Mrs. Polly	1620 Ave. F., Billings 59102	8	Yellowstone	Democrat
Holtz, Malcolm E.	2625 4th Ave. No., Great Falls 59401	13	Cascade	Republican
Hubing, Lee	Terry 59349	6	Prairie	Republican
Huennekens, Herb	3216 Rimrock Rd., Billings 59102	8	Yellowstone	Democrat
Jacobsen, Glenn	Reserve 59258	4	Sheridan	Democrat
Johnston, George R.	504 3rd St. S.E., Cut Bank 59427	15	Glacier	Democrat
Jones, Tom L.[2]	31 Second St. East, Kalispell 59901	16	Flathead	Republican
Kendall, Orin P.	P.O. Box 563, Thompson Falls 59873	23	Sanders	Democrat
Kessner, Jack E.	154 Riverview C., Great Falls 59404	13	Cascade	Republican
Kimble, Gary	640 S. 6th E., Missoula 59801	18	Missoula	Democrat
Kolstad, Allen C.	Chester 59522	14	Liberty	Republican
Kosena, Albert E. (Al)	106 No. Main, Anaconda 59711	19	Deer Lodge	Democrat
Kvaalen, Oscar S.	Lambert 59243	3	Richland	Republican
Laas, Walter	Chester 59522	14	Liberty	Democrat
Lee, Robert E. (Bob)	1945 Florida, Butte 59701	20	Silver Bow	Democrat
Linn, Orphey "Bud"	P.O. Box 666, Poplar 59255	4	Roosevelt	Democrat
Lockrem, Lloyd C., Jr.	3109 Edmond St., Billings 59102	8	Yellowstone	Republican
Lombardi, Jerry V.	947 Waukesha, Butte 59701	20	Silver Bow	Democrat
Lucas, James P.	1920 Sudlow, Miles City 59301	2	Custer	Republican
Lund, Art	Box 806, Scobey 59263	4	Daniels	Republican
Lundgren, Conrad F.	844 Woodland, Kalispell 59901	16	Flathead	Republican
Lynch, John "J.D."	527 W. Mercury, Butte 59701	20	Silver Bow	Democrat
McKittrick, Pat	4039 Ella Ave., Great Falls 59405	13	Cascade	Democrat
Manuel, Rex	Fairfield 59436	15	Teton	Democrat
Marbut, Gary R.	Grant Creek, Missoula 59801	18	Missoula	Republican
Marks, Robert L. (Bob)	Clancy 59634	12	Jefferson	Republican
Mehrens, John "Sandy"	206 Evergreen, Anaconda 59711	19	Deer Lodge	Democrat
Menahan, William "Red"	1304 West Fifth, Anaconda 59711	19	Deer Lodge	Democrat
Mercer, Wallace W. (Wally)	Box 1556, Billings 59102	8	Yellowstone	Republican
Murphy, John	Box 40, Stanford 59479	14	Judith Basin	Democrat
Nichols, Norris	Rt. 2, Stevensville 59870	22	Ravalli	Republican
Norman, Bill	440 Connell, Missoula 59801	18	Missoula	Democrat
Olson, S. A.	Glendive Med. Cent., Glendive 59330	3	Dawson	Republican
Prevost, Robert C.	Lambert 59243	3	Richland	Democrat
Quilici, Joe	3040 Kossuth, Butte 59701	20	Silver Bow	Democrat
Regan, Ann K. "Pat"	204 Mountain View, Billings 59101	8	Yellowstone	Democrat
Roberts, Joe R.	920 Main St., Libby 59923	23	Lincoln	Democrat

HOUSE OF REPRESENTATIVES—(Continued)

Rolfe, Tom	1219½ West Koch, Bozeman 59715	11	Gallatin	Republican
Schepens, Henry J.	P.O. Box 591, Sidney 59270	3	Richland	Democrat
Schye, Elmer	P.O. Box 504, White Sulphur Springs 59643	9	Meagher	Republican
Seifert, Carl A.	Box 90, Polson 59860	17	Lake	Republican
Selstad, Tom	133 29th Ave. NW, Great Falls 59404	13	Cascade	Republican
Shelden, Arthur H.	Rt. 1, Box 1650, Libby 59923	23	Lincoln	Democrat
Smith, Carl M.	Olive 59343	1	Powder River	Republican
Staigmiller, John B.	P.O. Box 422, Cascade 59421	13	Cascade	Democrat
Stephens, Robert E.	P.O. Box 218, Dutton 59433	15	Teton	Democrat
Stoltz, Gail	Valier 59486	15	Pondera	Democrat
Swanberg, Gorham E.	P.O. Box 2567, Great Falls 59403	13	Cascade	Democrat
Tierney, John F.	Eden Route, Great Falls 59401	13	Cascade	Republican
Towe, Thomas E.	2640 Burlington Ave., Billings 59102	8	Yellowstone	Democrat
Turman, George	1525 Gerald Ave., Missoula 59801	18	Missoula	Republican
Turner, Clyde A.	920 Kalispell Ave., Whitefish 59937	16	Flathead	Republican
Ulmer, Walter J.	121 So. Merriam, Miles City 59301	2	Custer	Republican
Walborn, John E.	P.O. Box 451, Hardin 59034	1	Big Horn	Republican
Warfield, Bill	Hoffman Route, Livingston 59047	11	Park	Republican
Watt, Robert D.	451 Kensington Ave., Missoula 59801	18	Missoula	Democrat
Yardley, Dan	P.O. Box 482, Livingston 59047	11	Park	Democrat
Zimmer, William (Bill)	P.O. Box 67, Olney 59927	16	Flathead	Democrat

2. Replaced Himsl, Matt, resigned.

3 Compiled and Published from the official files of Frank Murray, Secretary of State, Helena, Montana.

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OFFICERS AND MEMBERS

of the

Forty-Third Legislative Assembly of the State of Montana

1974

THOMAS L. JUDGE, Governor

W. Gordon McOmber, President of the Senate
P. J. Keenan, President Pro Tempore
Harold E. Gerke, Speaker of the House
Walter Laas, Speaker Pro Tempore

SENATE

NAME	RESIDENCE OR MAILING ADDRESS	DIST. NO.	COUNTY OF RESIDENCE	POLITICS
*Aber, L. M. (Larry)	228 3rd Ave. No., Columbus 59019	7	Stillwater	Republican
Bennett, George T.	P. O. Box 1166, Helena 59601	12	Lewis & Clark	Republican
*Bertsche, Wm. H.	1917 4th Ave. No., Great Falls 59401	13	Cascade	Democrat
*Bollinger, Gordon E.	217 Klein Ave., Glasgow 59230	4	Valley	Democrat
*Boylan, Paul F.	Star Route, Bozeman 59715	11	Gallatin	Democrat
*Breeden, J. W. "Brick"	1202 South Willson, Bozeman 59715	11	Gallatin	Republican
Broder, Fred O.	Route 4, Kalispell 59901	16	Flathead	Republican
*Carl, Fred G.	P.O. Box 477, Missoula 59801	18	Missoula	Republican
Cochrane, Archie M.	2958 Upper Highwood, Billings 59102	8	Yellowstone	Republican
Darrow, George	2014 Beverly Hills Blvd., Billings 59102	8	Yellowstone	Republican
Deschamps, G. W. "Por"	Route 2, Mullan Rd., Missoula 59801	18	Missoula	Republican
Devine, John W. (Jack)	Box 1443, Great Falls 59401	13	Cascade	Democrat
DeWolfe, Percy	Box 250, Browning 59517	15	Glacier	Democrat
Drake, Glen L.	So. Annex, Power Block, Helena 59601	12	Lewis & Clark	Republican
*Flynn, Elmer	Route 2, Mullan Rd., Missoula 59801	18	Missoula	Democrat
*Gilfeather, P. J.	2816 4th Ave. So., Great Falls 59401	13	Cascade	Democrat
Goodheart, B. J. "Swede"	P.O. Box 1013, Malta 59538	5	Phillips	Democrat
Graham, Carrol A.	Lodge Grass 59050	1	Big Horn	Democrat
Hall, Mrs. John Nelson	212 12th St. No., Great Falls 59401	13	Cascade	Democrat
*Harrison, James T., Jr.	1100 Choteau, Helena 59601	12	Lewis & Clark	Republican
*Hazelbaker, Frank W.	Box 430, Dillon 59725	21	Beaverhead	Republican
*Himsl, Matt	305 4th Ave. E., Kalispell 59901	16	Flathead	Republican
James, David F.	P.O. Box 221, Joplin 59531	14	Liberty	Democrat
*Jensen, Arthur N.	P.O. Box 668, Superior 59872	23	Mineral	Democrat
Keenan, P. J.	1112 East Fifth, Anaconda 59711	19	Deer Lodge	Democrat
*Klindt, Herbert J.	402 Alderson Ave., Billings 59102	8	Yellowstone	Republican
*Lowe, William r. "Bull"	1008 Poly Dr., Billings 59102	8	Yellowstone	Republican
Lynch, Neil J.	2101 Harrison Ave., Butte 59701	20	Silver Bow	Democrat
McCallum, George	Niarada 59852	23	Sanders	Republican
McDonald, John K. (Jack)	Belt 59412	13	Cascade	Democrat
*McGowan, Gordon	Rural Route, Highwood 59450	14	Chouteau	Democrat
*McKeon, Luke	316 E. 7th, anaconda 59711	19	Deer Lodge	Democrat
McNamer, William R.	P.O. Box 1383, Billings 59103	8	Yellowstone	Republican
*McOmber, Gordon	R.R. 2, Fairfield 59436	15	Teton	Democrat
Manning, Dave	Hysham 59038	6	Treasure	Democrat
Mathers, William L	P.O. Box 267, Miles City 59301	2	Custer	Republican
Moore, Jim	Two Dot 59085	9	Wheatland	Republican
Moritz, Earl	1024 W. Evelyn, Lewistown 59457	10	Fergus	Republican
Nees, Stanley	432 B Street West, Poplar 59255	4	Roosevelt	Democrat
Northey, Harry T.	514 Daly Ave., Missoula 59801	18	Missoula	Republican
†Romney, Miles	425 South 3rd, Hamilton 59840	22	Ravalli	Democrat
*Rosell, antoinette Fraser	4200 Rimrock Road, Billings 59102	8	Yellowstone	Republican
*Shea, James R. "Jimmy"	604 West Daly St., Walkerville 59701	20	Silver Bow	Democrat
*Siderius, George	c o Somer's Stage, Kalispell 59901	16	Flathead	Democrat
*Sorensen, C. F. (Smoky)	#9 Brookwood Park, Rte. #1 So., Gt. Falls 59401	13	Cascade	Democrat
Story, Peter R.	Emigrant 59027	11	Park	Republican
Thiessen, Cornie R.	Box 195, Lambert 59243	3	Richland	Democrat
*Turnage, Jean A.	P.O. Box 450, Polson 59860	17	Lake	Republican
*Vaimo, Leonard E.	1701 Grand Ave., Butte 59701	20	Silver Bow	Democrat
*Zody, A. A	503 So. Pearson, Glendive 59330	3	Dawson	Democrat

*Term expires 1975; all other Senators four-year terms.
†Appointed to replace W. A. "Bill" Groff, resigned (term expires 1975
1. Replaced Bennett, W. F., resigned Dec. 1972

2
20-22

HOUSE OF REPRESENTATIVES

NAME	RESIDENCE OR MAILING ADDRESS	DIST. NO.	COUNTY OF RESIDENCE	POLITICS
Aageson, Dave	Gildford 59525	14	Hill	Republican
Ainsworth, A. L. (Bud)	4111 Timberlane, Missoula 59801	18	Missoula	Republican
Asbjornson, J. O. "Boots"	P.O. Box 794, Winifred 59489	10	Fergus	Republican
Baeth, William R. (Bill)	805 Minnesota Ave., Libby 59923	23	Lincoln	Democrat
Bardanouve, Francis	Harlem 59526	5	Blaine	Democrat
Barrett, Fred O.	259 SW Maple, Lewistown 59457	10	Fergus	Republican
Baucus, Max S.	525 So. Fifth St. East, Missoula 59801	18	Missoula	Democrat
Bell, John F.	Birdseye, Helena 59601	12	Lewis & Clark	Republican
Bennetts, Barbara K.	25 South Benton, Helena 59601	12	Lewis & Clark	Democrat
Bradley, Dorothy M.	Box 114, Rt. 3, Bozeman 59715	11	Gallatin	Democrat
Brand, Joe	800 Montana Ave., Deer Lodge 59722	19	Powell	Democrat
Brown, Robert J. (Bob)	Route #1, Whitefish 59937	16	Flathead	Republican
Burnett, James H. "Jim"	Star Route, Luther 59051	7	Carbon	Republican
Campbell, William C.	630 Flowerree, Helena 59601	12	Lewis & Clark	Republican
Castles, Ruth B.	York Route, Helena 59601	12	Lewis & Clark	Republican
Clemow, Tom	Box 828, Jackson 59736	21	Beaverhead	Republican
Colberg, Richard A.	631 Terry Ave., Billings 59102	8	Yellowstone	Democrat
Cotton, Robert S.	S.W. Glasgow, Glasgow 59230	5	Valley	Democrat
Cox, Henry S. "Hank"	1904 St. John's, Billings 59102	8	Yellowstone	Republican
Driscoll, John B.	424 S. 2nd St., Hamilton 59840	22	Ravalli	Democrat
East, Vic	Box 83, Forsyth 59327	6	Rosebud	Republican
Edland, Wallace B.	Box 98, Scobey 59263	4	Daniels	Democrat
Ellerd, Robert A.	2206 Bridger Dr., Bozeman 59715	11	Gallatin	Republican
Fagg, Harrison G.	1414 Mystic Dr., Billings 59102	8	Yellowstone	Republican
Fasbender, Larry	Fourte 1, Box 23, Fort Shaw 59443	13	Cascade	Democrat
Fleming, James F., Jr.	Box 116, Pablo 59855	17	Lake	Democrat
Flynn, James W.	P.O. Box 524, Dillon 59725	21	Beaverhead	Democrat
Forsgren, Wallace O.	Box 225, Bozeman 59715	11	Gallatin	Republican
Galt, Jack E.	Martinsdale 59053	9	Meagher	Republican
Gerke, Harold E.	202 Mountain View Blvd., Billings 59101	8	Yellowstone	Democrat
Glennen, Robert E.	#7 Prairieview Drive, Casa Village, Billings 59102	8	Yellowstone	Republican
Greely, Michael T.	409 Strain Bldg., Great Falls 59401	13	Cascade	Democrat
Gunderson, Jack	P.O. Box 187, Power 59468	13	Cascade	Democrat
Hageman, Alvin	Stillwater Co. Rural Rte., Broadview 59015	7	Stillwater	Democrat
Hager, Tom	1540 Elaine St., Billings 59101	8	Yellowstone	Republican
Haines, Tom	15 Martha's Crt., Missoula 59801	18	Missoula	Republican
Hall, John C.	1020 Third Ave. No., Great Falls 59401	13	Cascade	Democrat
Halvorson, Ora J.	244 Woodland Ave., Kalispell 59901	16	Flathead	Democrat
Harper, Hal	309 Logan, Helena 59601	12	Lewis & Clark	Republican
Harper, Robert J. "Bob"	68 Missoula Ave., Butte 59701	20	Silver Bow	Democrat
Healy, John E. (Jack)	624 West Granite, Butte 59701	20	Silver Bow	Democrat
Hodges, William C.	106 25th St. No., Great Falls 59401	13	Cascade	Democrat
Holmes, Mrs. Polly	1620 Ave. F., Billings 59102	8	Yellowstone	Democrat
Holtz, Malcolm E.	2625 4th Ave. No., Great Falls 59401	13	Cascade	Republican
Hubing, Lee	Terry 59349	6	Prairie	Republican
Huennekens, Herb	3216 Rimrock Rd., Billings 59102	8	Yellowstone	Democrat
Jacobsen, Glenn	Reserve 59258	4	Sheridan	Democrat
Johnston, George R.	504 3rd St. S.E., Cut Bank 59427	15	Glacier	Democrat
Jones, Tom L.[2]	31 Second St. East, Kalispell 59901	16	Flathead	Republican
Kendall, Orin P.	P.O. Box 563, Thompson Falls 59873	23	Sanders	Democrat
Kessner, Jack E.	154 Riverview C., Great Falls 59404	13	Cascade	Republican
Kimble, Gary	640 S. 6th E., Missoula 59801	18	Missoula	Democrat
Kolstad, Allen C.	Chester 59522	14	Liberty	Republican
Kosena, Albert E. (Al)	106 No. Main, Anaconda 59711	19	Deer Lodge	Democrat
Kvaalen, Oscar S.	Lambert 59243	3	Richland	Republican
Laas, Walter	Chester 59522	14	Liberty	Democrat
Lee, Robert E. (Bob)	1945 Florida, Butte 59701	20	Silver Bow	Democrat
Lien, Orphey "Bud"	P.O. Box 666, Poplar 59255	4	Roosevelt	Democrat
Lockrem, Lloyd C., Jr.	3109 Edmond St., Billings 59102	8	Yellowstone	Republican
Lombardi, Jerry V.	947 Waukesha, Butte 59701	20	Silver Bow	Democrat
Lucas, James P.	1920 Sudlow, Miles City 59301	2	Custer	Republican
Lund, Art	Box 806, Scobey 59263	4	Daniels	Republican
Lundgren, Conrad F.	844 Woodland, Kalispell 59901	16	Flathead	Republican
Lynch, John "J.D."	527 W. Mercury, Butte 59701	20	Silver Bow	Democrat
McKittrick, Pat	4039 Ella Ave., Great Falls 59405	13	Cascade	Democrat
†Mann, C. Thornton	P.O. Box 75, Victor 59875	22	Ravalli	Republican
Manuel, Rex	Fairfield 59436	15	Teton	Democrat
Marbut, Gary R.	Grant Creek, Missoula 59801	18	Missoula	Republican
Marks, Robert L. (Bob)	Clancy 59634	12	Jefferson	Republican
Mehrens, John "Sandy"	206 Evergreen, Anaconda 59711	19	Deer Lodge	Democrat
Menahan, William "Red"	1304 West Fifth, Anaconda 59711	19	Deer Lodge	Democrat
Mercer, Wallace W. (Wally)	Box 1556, Billings 59102	8	Yellowstone	Republican
Murphy, John	Box 40, Stanford 59479	14	Judith Basin	Democrat
Norman, Bill	440 Connell, Missoula 59801	18	Missoula	Democrat
Olson, S. A.	Glendive Med. Cent., Glendive 59330	3	Dawson	Republican
Prevost, Robert C.	Lambert 59243	3	Richland	Democrat
Quilici, Joe	3040 Kossuth, Butte 59701	20	Silver Bow	Democrat

HOUSE OF REPRESENTATIVES—(Continued)

Regan, Ann K. "Pat"	204 Mountain View, Billings 59101	8	Yellowstone	Democrat
**Roberts, Joe R.	c/o Law School, Univ. of Montana Missoula, Montana 59801	23	Lincoln	Democrat
Rolfe, Tom	1219½ West Koch, Bozeman 59715	11	Gallatin	Republican
Schepens, Henry J.	P.O. Box 591, Sidney 59270	3	Richland	Democrat
Schye, Elmer	P.O. Box 504, White Sulphur Springs 59643	9	Meagher	Republican
Seifert, Carl A.	Box 90, Polson 59860	17	Lake	Republican
Selstad, Tom	133 29th Ave. NW, Great Falls 59404	13	Cascade	Republican
Shelden, Arthur H.	Rt. 1, Box 1650, Libby 59923	23	Lincoln	Democrat
Smith, Carl M.	Olive 59343	1	Powder River	Republican
Staigmiller, John B.	P.O. Box 422, Cascade 59421	13	Cascade	Democrat
Stephens, Robert E.	P.O. Box 218, Dutton 59433	15	Teton	Democrat
Stoltz, Gail	Valier 59486	15	Pondera	Democrat
Swanberg, Gorham E.	P.O. Box 2567, Great Falls 59403	13	Cascade	Democrat
Tierney, John F.	Eden Route, Great Falls 59401	13	Cascade	Republican
Towe, Thomas E.	2640 Burlington Ave., Billings 59102	8	Yellowstone	Democrat
Turman, George	1525 Gerald ave., Missoula 59801	18	Missoula	Republican
Turner, Clyde A.	920 Kalispell Ave., Whitefish 59937	16	Flathead	Republican
Ulmer, Walter J.	121 So. Merriam, Miles City 59301	2	Custer	Republican
Walborn, John E.	P.O. Box 451, Hardin 59034	1	Big Horn	Republican
Warfield, Bill	Hoffman Route, Livingston 59047	11	Park	Republican
Watt, Robert D.	451 Kensington Ave., Missoula 59801	18	Missoula	Democrat
Yardley, Dan	P.O. Box 482, Livingston 59047	11	Park	Democrat
Zimmer, William (Bill)	P.O. Box 67, Olney 59927	16	Flathead	Democrat

2. Replaced Himsl, Matt, resigned

†appointed to replace Norris Nichols, resigned) (term expires 1975)

**Address change—(Joe R. Roberts) (temporary until January 1974) (home address—920 Main St., Libby 59923)

Compiled and Published from the official files of Frank Murray, Secretary of State, Helena, Montana.

55-45.

HB 97

THIRD READING OF HOUSE BILLS

1973

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

House Bill No. 166 was passed by the following vote:

Ayes: Aageson, Ainsworth, Baeth, Bardanouve, Baucus, Bennetts, Bradley, Brown, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fasbender, Flynn, Forsgren, Glennen, Greely, Gunderson, Hageman, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lombardi, Lucas, Lundgren, Lynch, McKittrick, Marbut, Marks, Mehrens, Menahan, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Schye, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 81.

Noes: Asbjornson, Barrett, Bell, Burnett, Fagg, Galt, Hager, Mercer, Seifert, Selstad. Total 10.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Brand, Fleming, Halvorson, Kessner, Lund, Manuel, Smith. Total 7.

House Bill No. 517 was passed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Huennekens, Jacobsen, Jones, Kendall, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lombardi, Lucas, Lund, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Schye, Seifert, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 91.

Noes: Johnston, Lundgren, Selstad. Total 3.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Brand, Halvorson, Kessner, Smith. Total 4.

House Bill No. 97 was passed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Barrett, Baucus, Bell, Bennetts, Bradley, Brown, Campbell, Castles, Clemow, Colberg, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Glennen, Greely, Hageman, Hager, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Shelden, Staigmiller, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 86.

Noes: Brand, Burnett, Cotton, Galt, Gunderson, Schye, Seifert, Selstad. Total 8.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Bardanouve, Halvorson, Kessner, Smith. Total 4.

House Bill No. 55, having been read three several times, was concurred in by the following roll call vote:

Ayes: Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Jensen, Klindt, Lowe, Lynch, Manning, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Turnage, Vainio, Zody. Total 41.

Noes: Aber, Boylan, Flynn, Himsl, James, Mathers, Thiessen. Total 7.

Absent and not voting: Keenan. Total 1.

Excused: Drake. Total 1.

House Bill No. 56, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: Keenan. Total 1.

Excused: Drake. Total 1.

House Bill No. 57, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Boylan, Breeden, Broeder, Carl, Cochrane, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Moritz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: Keenan. Total 1.

Excused: Drake. Total 1.

Senate

House Bill No. 97, having been read three several times, was concurred in by the following roll call vote:

Ayes: Bennett, Bertsche, Bollinger, Boylan, Broeder, Carl, Darrow, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Himsl, James, Jensen, Lynch, Manning, McDonald, McGowan, McKeon, McOmber, Moore, Nees, Shea, Siderius, Sorenson, Thiessen, Turnage, Vainio, Zody. Total 33.

Noes: Aber, Breeden, Cochrane, Deschamps, Hazelbaker, Klindt, Lowe, Mathers, McCallum, McNamer, Moritz, Northey, Rosell, Story. Total 14.

Absent and not voting: Groff, Keenan. Total 2.

Excused: Drake. Total 1.

House Bill No. 217, having been read three several times, was concurred in by the following roll call vote:

Ayes: Bennett, Bertsche, Bollinger, Breeden, Broeder, Cochrane, Darrow, Deschamps, DeWolfe, Flynn, Gilfeather, Graham, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, McCallum, McKeon, McNamer, McOmber, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Vainio, Zody. Total 34.

Noes: Aber, Boylan, Carl, Devine, Goodheart, Groff, Mathers, McDonald, McGowan, Moore, Moritz, Story, Thiessen, Turnage. Total 14.

Absent and not voting: Keenan. Total 1.

Excused: Drake. Total 1.

House Bill No. 350, having been read three several times, was concurred in by the following roll call vote:

HB 576

That House Bill No. 931 do pass. (87-2)

That House Joint Resolution No. 60 do pass. (77-6)

That the committee rise and report.

House of Rep.

MANUEL, Chairman

As a substitute motion, Greely moved that House Bill No. 720 be segregated from the Committee of the Whole report and as amended, the report be adopted.

Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner: House Bill No. 576 was passed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Brown, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Gunderson, Hageman, Hager, Haines, Halvorson, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lockrem, Lucas, Lund, Lundgren, Lynch, McKittrick, Mann, Marks, Mehrens, Menahan, Murphy, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Seifert, Shelden, Smith, Staigmiller, Stephens, Stoltz, Swanberg, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 90.

Noes: Greely. Total 1.

Excused: Hall, Lombardi, Marbut, Mercer, Tierney. Total 5.

Absent or not voting: Burnett, Manuel, Schye, Selstad. Total 4.

House Bill No. 671 was passed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Brown, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Hubing, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kessner, Kimble, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lockrem, Lucas, Lund, Lundgren, Lynch, McKittrick, Mann, Manuel, Marks, Mehrens, Menahan, Murphy, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Seifert, Selstad, Shelden, Smith, Staigmiller, Stephens, Stoltz, Swanberg, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 92.

Noes: None.

Excused: Hall, Lombardi, Marbut, Mercer, Tierney. Total 5.

Absent or not voting: Burnett, Halvorson, Schye. Total 3.

House Bill No. 682 was passed by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Brand, Brown, Burnett, Campbell, Castles, Clemow, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Halvorson, R. Harper, Healy, Hodges, Holtz, Hubing, Jacobsen, Johnston, Jones, Kendall, Kessner, Kolstad, Kosena, Kvaalen, Laas, Lee, Lien, Lockrem, Lucas, Lund, Lundgren, Lynch, McKittrick, Mann, Manuel, Marks, Mehrens, Menahan, Murphy, Olson, Prevost, Quilici, Regan, Rolfe, Schepens, Schye, Seifert, Selstad, Shelden, Smith, Staigmiller, Stephens, Stoltz, Swanberg, Turman, Turner, Ulmer, Walborn, Warfield, Yardley, Zimmer, Mr. Speaker. Total 84.

Noes: Bennetts, Bradley, Colberg, H. Harper, Holmes, Huennekens, Kimble, Norman, Roberts, Towe, Watt. Total 11.

The Conference Committee Report on House Amendments to Senate Bill No. 524, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bertsche, Boylan, Breeden, Broeder, Carl, Darrow, Deschamps, Devine, Drake, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Hazelbaker, Himsl, James, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, Moore, Moritz, Nees, Northey, Romney, Rosell, Shea, Siderius, Sorensen, Story, Thiessen, Turnage, Vainio, Zody, Mr. President. Total 45.

Noes: None.

Absent and not voting: None.

Excused: Bennett, Bollinger, Cochrane, DeWolfe, Jensen. Total 5.

House Amendments to Senate Joint Resolution No. 55, having been read three several times, were concurred in by the following roll call vote:

Ayes: Aber, Bertsche, Boylan, Breeden, Broeder, Carl, Darrow, Deschamps, Devine, Drake, Flynn, Gilfeather, Goodheart, Graham, Hall, Hazelbaker, Himsl, James, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, Moore, Moritz, Nees, Northey, Romney, Rosell, Shea, Siderius, Sorensen, Story, Thiessen, Turnage, Vainio, Zody, Mr. President. Total 44.

Noes: Harrison. Total 1.

Absent and not voting: None.

Excused: Bennett, Bollinger, Cochrane, DeWolfe, Jensen. Total 5.

House Bill No. 466, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bertsche, Boylan, Breeden, Broeder, Carl, Darrow, Deschamps, Devine, Drake, Flynn, Gilfeather, Goodheart, Graham, Hall, Hazelbaker, Himsl, James, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, Moore, Moritz, Nees, Northey, Romney, Rosell, Shea, Siderius, Sorensen, Story, Thiessen, Turnage, Vainio, Zody, Mr. President. Total 44.

Noes: None.

Absent and not voting: Harrison. Total 1.

Excused: Bennett, Bollinger, Cochrane, DeWolfe, Jensen. Total 5.

House Bill No. 576, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bertsche, Boylan, Breeden, Carl, Darrow, Deschamps, Devine, Drake, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Hazelbaker, Himsl, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, Moore, Moritz, Nees, Northey, Romney, Rosell, Shea, Siderius, Sorensen, Story, Thiessen, Turnage, Vainio, Zody, Mr. President. Total 43.

Noes: None.

Absent and not voting: Broeder, James. Total 2.

Excused: Bennett, Bollinger, Cochrane, DeWolfe, Jensen. Total 5.

House Bill No. 590, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Bertsche, Boylan, Breeden, Broeder, Carl, Darrow, Deschamps, Devine, Drake, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Hazelbaker, Himsl, James, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, Moore, Moritz, Nees, Northey, Romney, Rosell, Shea, Siderius, Sorensen, Story, Thiessen, Turnage, Vainio, Zody, Mr. President. Total 45.

Gov Judge's State of the State message, Jan 1973 (Democrat party)

We have inherited the frontier principle of helping others but we do not have the resources to adequately assist many people who cannot earn a decent living.

Balancing the contradictions between the realities and the great expectations of Montana is the critical challenge of political leadership in 1973 and the remaining years of this decade.

Open land and the resource potential of the West were once considered to be infinite. Times have changed. The land has been degraded and locked up and resources have been recklessly depleted. Too often we respond to land and resource management questions with the answers of a hundred years ago.

It is time that we establish a new land ethic in this country, particularly in Montana where we still have something of value to protect. Consumer demands have extracted a terrible price from the land. And we cannot continue foolishly to meet these demands without regard for tomorrow.

Since the days when mercenary hunters slaughtered the buffalo into virtual extinction, Montana's resources have been greedily exploited.

Outsiders came in and extracted the resources, sent the profits elsewhere and left us with nothing but the forlorn memories of their passing.

We must change our attitudes about the disposition of our resources. And we must answer three essential questions in regard to any development.

1. What effect will the development have on our environment, our economy and our society?

2. What will Montana and our people receive for the development?

3. Is this what Montanans want for their state?

Montanans for the first time must control their own destiny. We have an obligation to provide people with the facts and the alternatives to enable them to make rational and informed decisions.

It is time that we set goals for Montana. Priorities for progress. These must be the goals Montanans want for their state and for their children.

I believe a fundamental goal is to protect the qualities of life that make Montana a special place to live and at the same time provide employment opportunities and security for our people.

Eastern Montana was once a remote and ignored area, lost in the vast interior of this country. The prairies and mountains and pine hills are a land of legend—the location of the last desperate battles of the Indian wars.

When the signal smoke had vanished forever from the promontories, the land was forgotten by the remainder of the country. And the farmers and stockmen came to earn a hard living from the earth.

Now Eastern Montana has been rediscovered because of an unprecedented demand for energy. There are an estimated 30 billion tons of strippable low-sulphur coal buried beneath the plains. The industrial development based on this energy source could be one of the largest in the world.

The coal to be torn from the land and utilized in steam generation and gasification plants is only an interim or stop gap energy source. If we do not accept our responsibilities today, the destructive boom and

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032185
BILL NO. HB913

bust cycle will be repeated again. Our resources will be exploited without appropriate compensation for Montanans. And the stark beauty of the plains will be changed into an unworldly landscape of spoil banks leaching acidic wastes into our streams and occluding our skies with poisonous dust.

To deny the possibility of this apparition you must enact and I must sign into law the strongest strip mining control regulations in the history of this country.

The land must not be reclaimed for only cosmetic effect. It must be restored to beneficial use—agriculture, recreation or other purposes. And if these requirements cannot be met, strip mining should not be allowed to proceed.

I also propose that the tax per ton on coal be increased to provide the state a more just return from the development of this irreplaceable resource.

Every time a ton of coal, a pound of copper, a barrel of oil or a cubic foot of natural gas is taken from the ground, Montana loses something that can never be replaced. These resources ideally belong to Montanans —the men and women who settled and built this state. And I believe Montanans should be compensated when the resource wealth of their State is diminished.

I, therefore, recommend creation of a Resource Indemnity Trust Fund —a levy on all non-renewable resources extracted in Montana. A levy of one-half of one per cent would be assessed on the gross value of coal, metal mines, oil and natural gas production. This would raise approximately $1 million per year. This trust fund will be exclusive of all existing and future levies on these resources.

The earnings from this tax would be invested. The interest income would be available for immediate problems. The principal would be set aside to be utilized when the taxed resources are ultimately depleted. Then the fund would be applied to correct environmental damage, provide recreational areas and establish new opportunities for people to continue to live and work in Montana.

The Resource Indemnity Trust Fund would be the public's share of Montana's natural resources. This is not too much to demand because this State will relinquish its natural resources to meet the requirements of the national economy in the coming years.

Agriculture is the basis of the State's economy. And it would be a mistake of historic magnitude to allow this renewable resource base to be depleted and destroyed by a hit and run development.

The steam generation and coal gasification plants proposed for the Fort Smith region will consume inordinate quantities of water. It is essential to consider this critical issue now and to establish and determine Montana's right to assure that water required for irrigation and recreation is not monopolized by industrial consumers.

To understand fully the effects of proposed power plants will have on our state, I recommend a comprehensive study assembling all available resources at the federal, state and local level.

I propose a power plant siting bill that will give Montana sufficient time to adequately assess the impacts of proposed installations. Cities and towns possess the authority to decide the location of gas stations. And it is reasonable that the state should be able to control the siting of power plants, transmission lines and rail spurs.

Degradation and depletion of our land resources are occurring—continually because of unguided urban and rural sprawl, improper selection

ATTACHMENT 5

H.

any written testimony

need attachments

January 19, 1973

TAXATION COMMITTEE (Hearing on House Bill 97)

The hearing on House Bill ninety-seven was called to order by Chairman Robert D. Watt at 12:05 p.m., with twelve (12) members present (Absent, Kolstad and Lundgren; Excused, Fagg).

House Bill ninety-seven (97) was briefly explained by one of its sponsors, Larry Fasbender as creating the resource indemnity trust account in the trust and legacy fund and providing for funding of the account by imposing a tax on the gross value of products of all nonrenewable resource extracting industries. This bill was recommended by governor Judge in his State of the State message, as being one of the most far-reaching bills to be put before the legislature this session. Mr. Fasbender introduced two (2) proponents of the bill: Keith Colbo, the present director of revenue, explained how the bill would be handled administratively, and claimed that it would not entail employing more people; John Henson from the department of state lands explained that the trust could be revoked in the future if the legislature so desired. Larry Fasbender made closing remarks on the merits of the proposed bill and urged the committee's most careful deliberation when considering it. Francis Bardanouve, another sponsor of the bill was the last to make positive statements concerning the bill, which he claims would be an inovative concept to be used in years ahead to protect our land, and resources -- or a little insurance policy.

In order those present who spoke against the bill were: former legislator Earl M. Cranston, who represented Oil Resources, Inc.; former legislator Jack Rehberg, who represented Montana Petroleum Assn. & Rocky Mountain Oil and Gas Assn.; Lee H. McCartney, who represented High Crest Oils, Inc.; former legislator, Henry Loble, representing Montana-Dakota Utilities Company; Cal Robinson, who represented Pacific Power and Lights; Bob Corette, who represented Montana Power and Western Energy Co.; Ed Quinn, who represented the Anaconda Company, Primary Metals Div.; Geoffrey L. Brazier, who represented the Western Montana Mining Assn.; Clay McCartney, who represented himself as an independent miner; and Louis Moore, represented himself as an attorney from Billings.

Larry Fasbender spoke next, and claimed that possibly the point and import of the bill had been lost by the preceeding testimony. Because we as Montanans will have to answer to future generations, why not try to protect them Fasbender stated.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. ~~(CONT.)~~ 1
DATE 03/15/83

ATTACHMENT 6

February 26, 1973

TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 12:05 p.m., with all members present.

Chairman Watt appointed a subcommittee to study House Bills three-hundred twenty-seven (327) and three-hundred fifty-four (354), with Ora Halvorson as chairman and the other members being Conrad Lundgren and Robert Stephens.

There being no persons present from out of town interested in House Bill three-hundred ninety-eight (398) which was scheduled for the day, Chairman Watt postponed it until the next day so the committee could act on various bills.

Representative Bill Norman, chairman of the subcommittee on coal taxation, presented to the committee a financial statement devised to show what effect the coal package consisting of House Bills ninety-seven (97), one-hundred sixty-six (166), and five-hundred nine (509) would actually have, and that statement constitutes part of these minutes. Their figures being somewhat contingent on the bills passed by the Natural Resources Committee dealing with disturbed acre fees, the assumptions made by the committee was that the average taxation would be approximately $.50 per ton of coal. Representative Norman stated that the subcommittee had been unanimous in its final decisions. Rep. Ulmer, also a member of the coal committee backed up what had previously been said and also stated that the total tax effect should be fair for everyone in the proposed tax package. Another member, Dan Yardley added that House Bill one-hundred sixty-six (166) would provide more money for the counties, and that particularly because of competition of other states it had been most important for the committee to look at an equitable tax but one that would still raise money.

After some discussion between committee members, Rep. Norman moved that HB166 do pass, and the motion carried with Fagg casting the only no vote.

Next, John Tierney, another subcommittee member, moved that House Bill ninety-seven (97) do pass and in conjunction with his motion suggested that he would like to see the bill made irrevocable. Chairman Watt stated he thought there might be a bill to be introduced that would accomplish that by a constitutional amendment. When the question was called, Rep. Tierney's motion that HB97 do pass carried unanimously.

House Bill five-hundred nine, the last of the coal package, was the next to be acted on. There were various amendments prepared

(CONT.)

ATTACHMENT 7

HOUSE BILL NO. 97 - INDEMNITY TRUST FUND

As a lobbyist for The Anaconda Company, I feel obligated to take a little of your time so that, no matter what your decision might be with regard to this bill, you might be a little better informed as to the consequences.

Montana is a natural resources state, depending on natural resources to keep what economy it has alive.

Let me tell you a little about Anaconda's role in Montana.

It is a Montana corporation.

~~Anaconda spends about half a million dollars a day in Montana to operate its mines and plants.~~

Last year Anaconda's Montana payroll in wages and benefits approximated $96 million.

Our Montana tax bill came to $8.8 million.

Many more millions went to freight, utilities and for goods and services.

In the field of air and water pollution, Anaconda is making significant progress with a 3-year investment of some $85 million, most of it in Montana.

One very significant investment is in the Anaconda, Montana, area of an additional $23 million copper production plant which will be the nation's first commercial-size air pollution-free copper production plant.

You have all heard of the confiscation of Anaconda's properties by the Communist government of Chile. Since then the Company has engaged in a drastic reorganization and retrenchment

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 013185

program to survive.

The Chile take-over was a great blow--Anaconda's stock dropped from over $60 to $12 or $13--dividends dropped from 52¢ per year in 1967 to 10.9¢ in 1971 and were suspended after the second quarter of 1971 until 12.5¢ was paid in December, 1972. This was five quarters with no dividends to stockholders. Anaconda had to sell its Forest Products Division.

Those who purchased Anaconda's stock at $60 per share are receiving a .20% return on their investment; if purchased at $20 per share, they would be receiving a .62% return.

Where do we get the vast amounts of capital hereinabove referred to for investment in Montana? It's largely borrowed and does not originate in this state.

Yet ~~we have been accused of taking the wealth from Montana. If our Butte operation isn't performed on a large scale and as efficiently as possible, there's no way Anaconda can stay in Montana.~~

I mentioned Anaconda paid $8.8 million in taxes in Montana in 1972. It's interesting to note, however, that with the enormous investment in this state, our corporate license tax, which is measured by income, in 1972 was under $15,000. There must be over 100 corporations operating in Montana that make more profit, and let me add that this small profit did not come from our mining operations but from our wire plant.

Let's look at what this legislative body is doing.

In 1972 we paid $511,000 as a contribution to the Employment Security Fund. ~~You're increasing this by 50%.~~

It is proposed to increase our Workmen's Compensation costs by some 60%.

It is proposed to take away any tax incentive for air and water pollution control and to place much more severe restrictions on an operator that is extending itself to its limits in this field.

Neither I nor you have any idea what the tax burden will be for the financing of education, but I hope that when we all go to the well again, like we have in every session, it won't be dry.

I've gone into detail to lay a foundation to discuss House Bill No. 97 so you will know what it does.

This bill applies a gross tax of 1/2 of 1% on the production of natural resources. Anaconda now pays a gross tax on its production. It pays 1.438% on the true value of its production. It pays this whether it makes or loses money. In 1972 it paid $1,311,494. This proposed 1/2 of 1% on the gross merely increases the tax we are already paying by an estimated $700,000 per year.

The Governor called for no tax increase. With all the other increases in costs, this bill proposes an additional $700,000 on one company.

I don't understand several things in this bill. Does it include concentrated ores we bring from out of the state for refining? Section 5 would indicate it does.

I might call attention to the fact that the costs of producing zinc became so high a few years ago that we had to close the zinc mines in Butte. We kept the plant running in Great Falls by treating concentrates from Canada. Costs again climbed and the Canadians wouldn't send us the concentrates. Our plant in Great Falls closed.

~~Again, H. B. No. 97. This large slush fund to be created, you are all aware, any subsequent legislature can invade for any purpose. Funds originating from resources in Western Montana can be used for boating on Fort Peck Dam; funds from oil and coal production in Eastern Montana can be used for fishing in Flathead Lake.~~

The main objection to H. B. No. 97 is the gross inequity. The manner in which the tax is computed is blatantly unfair.

For example, Anaconda spends vast amounts of money extracting worthless material that contains approximately 1/10 of 1% copper from the ground. It then crushes it. From there to a multimillion dollar concentrator where it is treated. Then to Anaconda and, at great expense, is smelted. From Anaconda, the product is shipped to Great Falls Reduction Works, where it is converted to a salable product.

After this stage - after a worthless material is manufactured at great expense into something of value, then the State imposes a gross tax on the value of the product. This is a manufacturing or sales tax with no relation to income. H. B. No. 97 merely

This is what happened.

adds 1/2 of 1% on the present 1.438% already being paid. This increase would cost Anaconda $700,000.

By contrast, the oil producer pays his 1/2 of 1% on oil as it is pumped from the ground with no refining or other costs added.

The coal producer pays so much per ton on coal as it is taken from the ground.

If this tax produces one million dollars a year from all producers of natural resources in the State, isn't it unfair for The Anaconda Company to pay almost three-fourths of the tax.

It is submitted that, if this fund concept is necessary, it would certainly be more fair to compute the tax on metal mines on the value of the product as it comes from the ground and before all the treatment.

Again, if the fund concept is necessary, why not raise it from the corporate license tax? Many say the fair tax is measured by income. At least this would be more equitable.

A few years ago Anaconda was in a financial position to carry on extensive exploration work in this state. That had to be discontinued. However, two significant potential orebodies were discovered, one in the Stillwater, one in the Lincoln area. We sought to sell or joint venture either of these properties with numerous major mining companies.

After examination, we had no takers. Several companies were interested but then, on study, turned our proposition down,

solely on the basis of Montana's high tax rate on the mining industry.

Montana's taxes are higher on mining than Utah, Nevada, Arizona or New Mexico, in which states Anaconda operates.

This state administration called for no tax increase and economic development.

H. B. No. 97 is a grossly inequitable tax that is unnecessary, that seriously jeopardizes the existing mining industry in the state and will definitely discourage any future mining in Montana.

P. L. MacDONALD

Representing The Anaconda Company

ATTACHMENT 3
file

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

TED SCHWINDEN, GOVERNOR
CAPITOL BUILDING
STATE OF MONTANA
(406) 449-3616
HELENA, MONTANA 59620

March 8, 1982

MEMORANDUM

TO: Members of the Joint Subcommittee on Highways

FROM: Teresa Olcott Cohea
Budget and Management Analyst

SUBJECT: PROJECTED COAL TAX TRUST INTEREST AND OIL SEVERANCE TAX REVENUE DURING FISCAL YEARS 1984 - 1985

PROJECTED REVENUE

Coal Tax and Trust Interest

Table I showing our projections for coal tax revenue and trust fund interest through 1989 is attached as background for your discussion. These estimates are, of course, subject to later revision since many complex factors will govern coal prices and production and interest rates during the next seven years: amount of coal leased in the state, demand for coal, the state of the economy, etc.

Oil Severance Tax Revenue

Our current estimates for oil severance tax revenue through fiscal year 1985 are:

	Rate of Tax	Tax to State*
Fiscal Year 1982	5%	$50,061,605
Fiscal Year 1983	5	54,510,133
Fiscal Year 1984	6	71,143,494
Fiscal Year 1985	6	77,190,691

We are currently re-evaluating these estimates in light of falling crude oil prices.

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*Excludes county portion.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 03-21-85

"AN EQUAL OPPORTUNITY EMPLOYER"

BUDGET PROJECTIONS FISCAL YEAR 1984 - FISCAL YEAR 1985

Following are projected general fund revenue and expenditure estimates for the next biennium:

	FY 83	FY 84 (millions)	FY 85
Beginning fund balance	$ 35.3	$ 25.0	$ 26.3
Revenue	332.7	380.1	412.5
Operating expenses:			
Regular operations	312.0	338.5	367.3
Vehicle license	15.0	15.3	15.6
Foundation (HB611)	16.0	25.0	29.0
Total	$343.0	$378.8	$411.9
Ending fund balance	25.0*	26.3	26.9
Surplus as % of general fund	7.5%	6.9%	6.5%

These projections assume:

1. that all interest on the coal trust fund and all oil severance tax revenue (except the county portion) are deposited in the general fund;

2. the cost of regular government operations will grow 8.5% each year;

3. that state revenues will grow 8.5% each year and that $12 million additional revenue will be collected in fiscal year 1984 when the oil severance tax is increased to 6%.

BALANCING THE BUDGET

If the legislature appropriated the interest from the coal tax trust fund and the revenue earned from the 1% oil severance tax added in fiscal year 1984 to a highway reconstruction program, the general fund would lose the following amount of revenue:

	FY 84	FY 85
Coal trust interest	$24.18	$31.54
Oil revenue	12.00	13.02
Total	$36.18	$44.56

With such an appropriation, it would be impossible to balance the state budget unless:

1. projected state expenditures were reduced approximately 10%;

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*Could be $30 million if $5.0 million is reverted.

2. a new revenue source were enacted; or

3. an existing revenue source began to produce substantially more tax revenue.

These alternatives present problems:

1. state expenditures are unlikely to decline if the state is forced to assume current federal programs, such as AFDC and optional Medicaid services; and

2. no existing tax seems likely at this time to produce substantially more revenue.

Table I

COAL SEVERANCE TAX DATA

Fiscal Year	Total Tax (millions)	Trust Interest (millions)	Trust Corpus* (millions)
1982	$ 91.947	$10.70	$121.161
1983	108.053	17.38	175.187
1984	124.316	24.18	237.345
1985	143.947	31.54	309.319
1986	164.632	39.69	391.635
1987	187.947	48.76	485.608
1988	213.895	58.52	592.556
1989	241.842	68.99	713.477

Compiled: December 30, 1981
Office of Budget and Program Planning
Data Processing Systems and Statistics
Terry W. Johnson

*Cumulative totals at the end of each fiscal year.

file

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

TED SCHWINDEN, GOVERNOR

CAPITOL BUILDING

STATE OF MONTANA

(406) 449-3616

HELENA, MONTANA 59620

March 8, 1982

Representative Steve Waldron
1614 South Eleventh West
Missoula, Montana 59806

Dear Steve:

In answer to your questions:

1. The one percent increase in oil severance taxes effective in fiscal year 1984 will raise approximately $25 million in the fiscal year 1984-1985 biennium. This estimate is based on the following assumptions:

	Production	Price
FY 1984	30,700,000	$39.20/barrel
FY 1985	30,800,000	42.35/barrel

The revenue raised will, of course, be less if the projected price is not realized.

2. Montana's oil severance tax is lower than the severance tax in nine other states. However, total taxes imposed on Montana oil production are comparable to major oil-producing states. The attached chart shows the severance tax rates in the twenty-two states imposing an oil severance tax. You'll notice that Montana is tenth on this list. The bottom half of the chart shows the total tax burden in Montana and several major oil-producing states. Montana's fourth on this list.

Please contact me if I can provide any further information.

Yours sincerely,

Teresa

TERESA OLCOTT COHEA
Budget and Management Analyst

Attachment

COMPARISON OF STATE TAXES ON OIL PRODUCTION*

Severance and Excise Taxes on Oil Production

1.	Alaska	-	15.0% of value x economic limit factor**
2.	Louisiana	-	12.5% of value
3.	North Dakota	-	11.5% of gross value
4.	Oklahoma	-	7.085% of gross value
5.	Alabama	-	6-8% of gross value
6.	Mississippi	-	6% of value
7.	Florida	-	5-8% of gross value (escaped oil - 17.5-20.5%)
8.	Michigan	-	5-7.6% of gross value
9.	Oregon	-	6% on production over $3,000 each quarter
10.	Montana	-	5% of gross value (6% effective April 1, 1983)
11.	Wyoming	-	4-6% of gross value
12.	Texas	-	4.6% of market value
13.	Kentucky	-	4.5% of market value
14.	South Dakota	-	4.5% of sales price less royalty paid to federal or state government
15.	Arkansas	-	4-5% of market value plus 25 mills and 2¢ per barrel
16.	New Mexico	-	3.75% of value less certain royalties and transportation costs to first purchaser
17.	Colorado	-	2-5% of market value
18.	Nebraska	-	2-3% of value
19.	Utah	-	2% of value on production over $50,000
20.	Idaho	-	2% of value
21.	Tennessee	-	1.5% of sales price
22.	Indiana	-	1% of value

Total Taxes*** on Oil Production in Various States

1.	Alaska	-	12.25% - 15% of gross value x economic limit factor plus 5.125¢ per barrel
2.	Louisiana	-	13.8% of value
3.	Wyoming	-	13.748-15.748% of value
4.	Montana (with 5% tax)	-	13.002% of gross value
5.	North Dakota	-	12.8% of gross value
6.	Oklahoma	-	7.955% of gross value

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*Source: Commerce Clearinghouse, State Tax Guide and information from Department of Revenue in each state.

**12.25% on oil coming into commercial production after June 30, 1981; increased to 15% after five years production.

***Includes severance, excise, resource indemnity, property, conservation, and sales or use taxes. Texas and California could not be included in this comparison since local production taxes vary so markedly.

Revised March 8, 1982

file

STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/449-2986

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

January 26, 1982

Representative Steve Waldron
Post Office Box 5233
Missoula, MT 59806

Dear Representative Waldron:

The following information is provided in response to your request for these alternative allocations of coal severance tax revenues which would permit additional funding for highways. Each of the three options you requested holds deposits to the constitutional trust fund at one-half of all coal tax monies. The options vary in the amounts allocated to the non-trust fund accounts. Option 1 assumes that all non-trust-fund accounts will continue to receive the dollar amounts allocated to them in fiscal 1981. Option 2 has receipts to the non-trust-fund accounts growing by eight percent annually, consistent with current expectations of inflation. Finally, option 3 has the non-trust-fund accounts receiving amounts which increase at a four percent yearly rate.

Effective October 1, 1981, collections of the coal severance tax are distributed in accordance with the proportions shown in table 1. That same table also shows the dollar amount received by each account during fiscal 1981 with one exception: the fund for conservation districts was not created until October 1; prior to that time that one-fourth percent went to the alternative energy account. Table 1 shows the amounts which conservation districts and alternative energy would have received in fiscal 1981 had the current allocation formula been in effect that year; subsequent tables are based on the assumption that these amounts were received in fiscal 1981.

Given alternative assumptions about the distribution of non-trust-fund monies, tables 2, 3, and 4 indicate the dollar amounts which would go to the various accounts from coal severance taxes and the remainders available for highway funding. All three tables are based on common assumptions as to the total amount of coal taxes which will be collected each year. During the current biennium, revenues are assumed to equal those contained in this office's Budget Analysis published prior to the special session. Projected revenues for the next biennium are premised on eight percent increases in contract sales prices and taxable production growing at a base rate of about 3.5 percent between fiscal 1983 and 1985. Consistent with estimates from the department of revenue, an additional two million tons of production in fiscal 1984 and four million tons in fiscal 1985 are assumed to account for Colstrip 3 coming on line in January, 1984. The department of state lands has considerably higher production forecasts; they also anticipate two new mines opening in the 1985 biennium. If the department of

state lands' projections materialize, revenues will exceed those shown in the following tables. I will, of course, continue monitoring production forecasts.

Of the three options examined, the first, which holds the non-trust-fund allocations at their fiscal 1981 dollar amounts, leaves the largest balances of coal tax monies available for highway funding. As table 2 shows, the balances for highway funding increase from $12.7 million in fiscal 1982 to almost $38 million in fiscal 1985. The second option allows non-trust-fund deposits to grow by eight percent annually, the increase matching the projected rate of inflation. This option, shown in table 3, produces the smallest balances for highway funding; the balance rises from just under $10 million in fiscal 1982 to $25.2 million in fiscal 1985. Option 3, with non-trust-fund allocations increasing at an annual rate of four percent, leaves balances for highway funding which are intermediate to the previous two options. Shown in table 4, the balances range from $11.3 million in fiscal 1982 to almost $32 million in fiscal 1985.

If I can provide further assistance, please contact me again.

Sincerely,

Judith M. Curtis

Judith M. Curtis
Associate Fiscal Analyst

JMC:jt:a

Table 1
Percent Distribution of Coal Severance Tax
Collections and Fiscal Year 1981
Receipts by Account

Category	Percent Distribution	Fiscal Year 1981 Receipts
Const. Trust Fund	50.00	$35,207,511
General Fund	19.00	13,378,906
Educ. Trust Fund	10.00	7,041,512
Local Impact	8.75	6,161,314
School Equalization	5.00	3,520,754
Park Acquisition - Cultural & Aesthetic Proj.	2.50	1,760,376
Alternative Energy	2.25	1,584,339
Renewable Res. Develop.	1.25	880,188
County Land Planning	0.50	352,075
Library Commission	0.50	352,075
Conservation Districts	0.25	176,038
Totals	100.00	$70,415,088

Steve Meyer
Meyer
Meyer
Meyer

Table 2
Total Coal Severance Tax, Account Allocations and Balances Available for Highway Funding Assuming No Increase in Non-Constitutional-Trust-Fund Account Allocations from Fiscal 1981 Dollar Amounts

	FY 1982	FY 1983	FY 1984	FY 1985
Total Coal Severance Tax	$95,801,000	$107,177,000	$125,200,000	$146,300,000
-Const. Trust Fund	47,900,500	53,588,500	62,600,000	73,150,000
-General Fund	13,378,906	13,378,906	13,378,906	13,378,906
-Educ. Trust Fund	7,041,512	7,041,512	7,041,512	7,041,512
-Local Impact	6,161,314	6,161,314	6,161,314	6,161,314
-School Equalization	3,520,754	3,520,754	3,520,754	3,520,754
-Park Acq. & Cult. Proj.	1,760,376	1,760,376	1,760,376	1,760,376
-Alternative Energy	1,584,339	1,584,339	1,584,339	1,584,339
-Renewable Res. Develop.*	880,188	880,188	880,188	880,188
-County Land Planning	352,075	352,075	352,075	352,075
-Library Commission	352,075	352,075	352,075	352,075
-Conservation Districts	176,038	176,038	176,038	176,038
Subtotal	$83,108,077	$ 88,796,077	$ 97,807,577	$108,357,577
Balance Available for Highway Funding	$12,692,923	$ 18,380,923	$ 27,392,423	$ 37,942,423

*Effective July 1, 1983, one-half of this amount would go into a newly-created water development account.

Table 3
Total Coal Severance Tax, Account Allocations and
Balances Available for Highway Funding Assuming
Eight Percent Increase in Non-Constitutional-Trust-Fund Allocations

	FY 1982	FY 1983	FY 1984	FY 1985
Total Coal Severance Tax	$95,801,000	$107,177,000	$125,200,000	$146,300,000
-Const. Trust Fund	47,900,500	53,588,500	62,600,000	73,150,000
-General Fund	14,449,218	15,605,156	16,853,568	18,201,854
-Educ. Trust Fund	7,604,833	8,213,220	8,870,277	19,579,899
-Local Impact	6,654,219	7,186,557	7,761,481	8,382,400
-School Equalization	3,802,414	4,106,607	4,435,136	4,789,947
-Park Acq. & Cult. Proj.	1,901,206	2,053,303	2,217,567	2,394,972
-Alternative Energy	1,711,086	1,847,973	1,995,811	2,155,476
-Renewable Res. Develop.*	950,603	1,026,651	1,108,783	1,197,486
-County Land Planning	380,241	410,660	443,513	478,994
-Library Commission	380,241	410,660	443,513	478,994
-Conservation Districts	190,121	205,331	221,757	239,498
Subtotal	$85,924,682	$ 94,654,61[illegible]	$106,951,406	$121,049,520
Balance Available for Highway Funding	$ 9,876,318	$ 12,522,382	$ 18,248,594	$ 25,250,480

*Effective July 1, 1983, one-half of this amount would go into a newly-created water development account.

Table 4
Total Coal Severance Tax, Account Allocations and Balances Available for Highway Funding Assuming Four Percent Increase in Non-Constitutional-Trust-Fund Allocations

	FY 1982	FY 1983	FY 1984	FY 1985
Total Coal Severance Tax	$95,801,000	$107,177,000	$125,200,000	$146,300,000
-Const. Trust Fund	47,900,500	53,588,500	62,600,000	73,150,000
-General Fund	13,914,062	14,470,625	15,049,450	15,651,428
-Educ. Trust Fund	7,222,172	7,610,069	7,920,743	237,573
-Local Impact	6,407,767	6,664,077	6,930,640	7,207,866
-School Equalization	3,661,584	3,808,048	3,960,369	4,118,784
-Park Acq. & Cult. Proj.	1,830,791	1,904,023	1,980,184	2,059,391
-Alternative Energy	1,647,713	1,713,621	1,782,166	1,853,453
-Renewable Res. Develop.*	915,396	952,011	990,092	1,029,695
-County Land Planning	366,158	380,804	396,036	411,878
-Library Commission	366,158	380,804	396,036	411,878
-Conservation Districts	183,080	190,403	198,019	205,940
Subtotal	$84,516,381	$ 91,669,015	$102,203,735	$144,337,886
Balance Available for Highway Funding	$11,284,619	$ 15,507,985	$ 22,996,265	$ 31,962,114

*Effective July 1, 1983, one-half of this amount would go into a newly-created water development account.

ATTACHMENT 9

STATE
OF
MONTANA

ATTORNEY GENERAL
MIKE GREELY

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

28 December 1981

Dave Brown, Chairman
Subcommittee on Hard-Rock Mining
Environmental Quality Council
Helena, Montana 59620

Dear Mr. Brown:

Thank you for your letter in which you request an opinion concerning:

> Whether funds collected under the Resource Indemnity Trust Act, section 15-38-101, MCA, may be appropriated and expended for the purpose of mitigating the social and economic impacts created by the development of mineral resources in Montana.

I have assigned Allen B. Chronister of my staff to review and report on this matter. Upon receipt of that report, I will determine whether your request provides an appropriate basis for an official opinion.

Very truly yours,

MIKE GREELY
Attorney General

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032185
BILL NO.

STATE
OF
MONTANA

ATTORNEY GENERAL
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59620 TELEPHONE (406) 449-2026

29 January 1982

Deborah Schmidt
Executive Director
Environmental Quality Council
1209 Eighth Avenue
Helena, Montana 59620

Dear Ms. Schmidt:

You have requested my opinion, on behalf of the Environmental Quality Council's Subcommittee on Hard-Rock Mining, on the following question:

> Whether funds collected under the Resource Indemnity Trust Act, section 15-38-101, MCA, may be appropriated and expended for the purpose of mitigating the social and economic impacts created by the development of mineral resources in Montana.

Article IX § 2 of the Montana Constitution provides in part as follows:

> (2) The legislature shall provide for a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.
>
> (3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred milion dollars ($100,000,000), guaranteed by the state against loss or diversion.

This mandate was followed by the enactment of "The Montana Resource Indemnity Trust Act," 15-38-101 through 15-38-202, MCA. The policy of the Act is stated in 15-38-102, MCA:

> It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources. Recognizing that the total environment consists of

> our air, water, soil, flora, fauna, and also of those social, economic and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. Therefore, it is the purpose of this chapter to provide for the creation of a resource indemnity trust in order that the people and resources of Montana may long endure.

The Act provides for an assessment and collection of a tax on mineral production (15-38-104, MCA) and for payment of those collections into a resource indemnity account (15-38-202, MCA). After the tax receipts and interest thereon reach the sum of $10 million, the net earnings "may be appropriated and expended" by the legislature until the account reaches $100 million. (Id.) Thereafter "all net earnings and all receipts shall be appropriated by the legislature and expended" provided that the balance in the account never falls below $100 million. These funds "shall be used and expended to improve the total environment and to rectify damage thereto." (15-38-203, MCA.) The phrase "total environment" is defined as "air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens." (15-38-103(4), MCA.)

The Act clearly provides that the funds need not be expended until the trust account reaches $10 million but that thereafter the available funds (that is, the excess over $100 million) "shall be used and expended to improve the total environment and rectify damage thereto." (15-38-203, MCA). The contemplated use of these funds is to rectify loss or damage to the "total environment" caused by the extraction of nonrenewable natural resources. It is specifically recognized that part of that damage may accrue to the "social, economic, and cultural conditions that influence communities and individual citizens." (15-38-103(4), MCA.)

The constitution in Article IX § 2 does not specify the particular uses to be made of resource indemnity trust funds. That determination was left to legislative discretion. The legislature exercised that discretion by enacting 15-38-101 through 15-38-202, MCA, to provide funding to rectify damage done by the extraction of natural resources. There is no inconsistency between the constitutional mandate and the legislative response.

Therefore, funds made available by the Act may be expended to mitigate the social and economic impacts created by the development of mineral resources in Montana.

Very truly yours,

MIKE GREELY
Attorney General

STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL
STATE CAPITOL
HELENA, MONTANA 59620
(406) 449-3742
Deborah B. Schmidt, Acting Executive Director

GOV. TED SCHWINDEN
Designated Representative:
John North

HOUSE MEMBERS
Dennis Iverson, Chairman
Dave Brown, Vice Chairman
Gay Holliday
Dean Switzer

SENATE MEMBERS
Harold Dover
Dorothy Eck
Mike Halligan
Gary Lee

PUBLIC MEMBERS
Dennis G. Nathe
W. Leslie Pengelly
Glen T. Rugg
Frank S. Stock

December 14, 1981

The Honorable Mike Greely
Attorney General
State of Montana
Capitol Station
Helena, MT 59620

Dear Mike:

As Chairman of the Environmental Quality Council's Subcommittee on Hard-Rock Mining I have become aware of a legal question that is fundamentally significant to the study currently being conducted by us pursuant to HJR 66. The question concerns the proper use of funds collected under the Resource Indemnity Trust Act, 15-38-101, MCA. Specifically we must ascertain whether or not these monies may be appropriated and expended for the purpose of mitigating the social and economic impacts created by the development of mineral resources in Montana.

Because there exists a conflicting point of view among the various interested parties in the state, I now find it necessary and do hereby request from you an official opinion on this matter. I am enclosing for your review a brief memo prepared by the EQC staff on this question.

Please feel free to contact me or the EQC staff if you desire additional information.

Sincerely,

Dave

DAVE BROWN
Chairman
Subcommittee on Hard-Rock Mining

DB:ee
Enclosure

ATTACHMENT 10

STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL
STATE CAPITOL
HELENA, MONTANA 59620
(406) 449-3742

Deborah B. Schmidt, Executive Director

GOV. TED SCHWINDEN
Designated Representative:
John F. North

HOUSE MEMBERS
Dennis Iverson, Chairman
Dave Brown
Hal Harper
Earl C. Lory

SENATE MEMBERS
Mike Halligan, Vice Chairman
Dorothy Eck
James Shaw
Larry Tveit

PUBLIC MEMBERS
Tad Dale
Warren Harding
W. Leslie Pengelly
Frank S. Stock

February 3, 1984

BRIEFING PAPER

NATURAL RESOURCES OVERSIGHT SUBCOMMITTEE
STUDY OF RESOURCE INDEMNITY TRUST TAX ACT

In 1973 Rep. Fasbender introduced House Bill 97 in the 43rd Montana Legislature. This bill, which passed and became law, was named the Resource Indemnity Trust Tax (RITT) Act. The stated purpose of the RITT is "to provide security against loss or damage to [Montana's] environment from the extraction of non-renewable natural resources".[1] The act defines the term environment to include the air, water, soil, and flora, as well as the social, economic, and cultural conditions that influence the lives of the state's citizens.[2] The "security" against loss or damage to the environment that is provided for is a trust account funded by a tax collected from takers of non-renewable natural resources. The principal in this account is prohibited by statute from being appropriated and expended until the fund reaches $100 million.[3] After the fund reaches the sum of $10 million however, which occurred in May 1978, the net earnings may be appropriated.

It should be noted that the trust account is also protected by a provision in Article IX of the Montana Constitution which guarantees that the principal of the trust shall "forever remain inviolate in an amount of $100 million."[4] This guarantee resulted from passage of House Bill 576 by the 1974 Legislature. House Bill 576 was a measure introduced by Rep. Bardanouve, a key supporter of House Bill 97 in the previous session, that submitted the matter to the Montana electorate as a proposed amendment to

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032185
BILL NO. HB012

the state constitution. In November 1974 it passed a vote of the people and the Constitution was appropriately amended thereafter.

While there has been considerable legislative debate since 1973 concerning the amount and overall appropriateness of the RIT Tax imposed on the mining industry, most recently the Legislature has focused its attention on where RITT earnings are spent. Except for a 30 percent share of the earnings, that in 1981 was statutorily allocated to a special revenue account for water projects,[5] the monies can lawfully be used for any purpose that can be deemed to "improve the total environment [or] rectify damage thereto."[6]

Presently a significant portion of the earnings are used to broadly support several state agency programs dealing with natural resources. In light of growing opposition to the use of RITT funds for such purposes, the Environmental Quality Council's Natural Resource Oversight Subcommittee is conducting a review of the matter in order that recommendations may be made to the 1985 Legislature on how the earnings can be properly spent in the future. In developing these recommendations, the attached information showing the source and past use of RITT funds is being considered.

Footnotes

[1] 15-38-102, MCA

[2] Ibid

[3] 15-38-202(1), MCA

[4] Article IX, Section 2, Montana Constitution

[5] 15-38-202(2), MCA
Note however that the 1983 Legislature made an additional allocation of 6% of the income, beginning in FY 1986, to the DHES for implementing hazardous waste control programs.

[6] 15-38-203, MCA

TABLE I

RESOURCE INDEMNITY TRUST TAX RECEIPTS

Fiscal Year	Coal	Oil	Natural Gas	Metals	Other	Total
1974	$ 61,687	$ 640,771	$ 44,475	$ 352,960	$ 38,009	$1,137,902
1975	239,391	1,201,125	49,861	513,940	45,722	2,050,039
1976	409,810	1,294,364	82,754	130,632	63,804	1,981,364
1977	496,340	1,399,698	74,268	160,104	79,309	2,209,719
1978	522,333	1,316,917	165,348	145,173	96,644	2,246,415
1979	225,681	1,434,472	231,530	93,872	121,803	2,107,358
1980	928,798	1,828,947	355,054	353,130	164,393	3,630,322
1981	825,496	3,328,426	419,647	238,595	146,861	4,959,025
1982	1,000,195	5,308,525	491,832	215,776	142,825	7,159,153
1983	1,892,248	4,768,072	522,396	442,858	212,162	7,837,736
Total	$6,601,979	$22,521,317	$2,437,165	$2,647,040	$1,111,532	$35,319,033
% Total	18.7%	63.8%	6.9%	7.5%	3.1%	100.0%

SOURCE: Office of Budget and Program Planning, Governors Office

TABLE II

APPROPRIATIONS OF RITT INVESTMENT EARNINGS
1978 - 1979 FISCAL BIENNIUM

AMOUNT	RECIPIENT	USE
$1,070,000	DHES	Study of health effects of air pollution in certain population centers of the state
30,000	DSL	Study of saline seep

SOURCE: Coal Tax Oversight Subcommittee, Staff Memo 9/24/79

TABLE III

APPROPRIATIONS OF RITT EARNINGS
1980 - 1981 FISCAL BIENNIUM

AMOUNT	RECIPIENT	USE
$ 350,000	DHES	Completion of air pollution study
265,000	DNRC	Studies of proposed High Tongue Dam and New Tongue Dam
591,300	DNRC	Rehabilitation of Cooney Dam
500,000	DNRC	Feasibility study of locating MHD plant in Montana
69,000	DFWP	Recreational improvements in Giant Springs State Park
307,500	DNRC	Implementation of school and hospital program of Federal Energy Conservation Policy Act of 1978

SOURCE: Coal Tax Oversight Subcommittee, Staff Memo 9/24/79

TABLE IV

APPROPRIATIONS OF RITT INVESTMENT EARNINGS
1982 - 1983 FISCAL BIENNIUM

AMOUNT	RECIPIENT	USE
$ 441,330 *	DNRC	Rehabilitation of Cooney Dam
350,000	DNRC	Feasibility study of hydroelectric generation at offshore sites in the Yellowstone River Basin
500,000 *	DNRC	MHD feasibility study
1,208,921	DSL	Operation of Reclamation, Land Administration, and Forestry Division programs
788,912	DNRC	Operation of Conservation District, oil and gas regulations, and water resource programs
Approximately 1,200,000 ** (30% of Earnings)	DNRC	Partial funding of projects under Water Development Program

* Reappropriation of unspent monies from previous biennium

** Note, this money is not directly appropriated from the RITT account. It is allocated to the special water development account along with revenue from other sources and then appropriated from that account to specific water development projects.

SOURCE: Office of Budget and Program Planning, Governors Office

TABLE V

APPROPRIATIONS OF RITT INVESTMENT EARNINGS
1984 - 1985 FISCAL BIENNIUM

AMOUNT	RECIPIENT	USE
$ 1,252,306	DSL	Operation of Reclamation, Land Administration, and Forestry Division programs
1,224,312	DNRC	Operation of Conservation District, oil and gas regulation, water resource, and central services programs
160,474 *	DNRC	Rehabilitation of Cooney Dam
4,585	DNRC	Department audit
150,000 **	DNRC	Study of ancestral Missouri River channel by Sheridan County Conservation District
100,000 **	DNRC	Grant to Milk River Irrigation District for preparation of FERC application for hydroelectric plant on Tiber River
50,000 **	DNRC	Administration of saline seep control project by Triangle Conservation District
48,000 **	DNRC	Grant to City of Glasgow for feasibility study of proposed city-county water project
Approximately 1,300,000 *** (30% of Earnings)	DNRC	Partial funding of projects under Water Development Program

* Reappropriation of unspent monies from previous biennium

** Contingent on funds being available

*** Note, this money is not directly appropriated from the RITT account. It is allocated to the special water development account along with revenue from other sources and then appropriated from that account to specific water development projects.

SOURCE: Office of Budget and Program Planning, Governors Office

ATTACHMENT 1

TO: Leo Berry
Director

FROM: Bob Lane
Legal Counsel

RE: Legislative History and Intent of the Resource Indemnity Trust Fund

DATE: January 17, 1984

INTRODUCTION

This memo describes the legislative history and intent of the Resource Indemnity Trust (RIT) fund as gleamed from three sources: (1) the constitutional and statutory language dealing with the RIT fund; (2) the legislative background of the passage of the law initially creating the RIT fund and the bill passed the next session proposing a constitutional referendum which the voters approved; and (3) the treatment of the RIT fund by subsequent Legislatures.

The Montana Resource Indemnity Trust Act was created by HB 97, Chapter 497, Laws of 1973, is codified as Title 15, Chapter 38, parts 1 and 2, and has been amended twice in manners pertinent to this memorandum. The 1973 1st Regular Session also considered HB 503 which eventually died when the House Committee of the whole adopted the House Taxation Committee's do not pass recommendation. Apparently HB 503 was killed in deference to HB 97.

The 1974 2nd Regular Session passed HB 576, Chapter 117, Laws of 1974, which proposed a referendum to establish the Resource Indemnity Trust in Article IX, Section 2(2) and 2(3) of the Montana Constitution of 1972. The proposed amendment, Constitutional Amendment No. 1, was adopted at the general election of November 5, 1974, and was effective July 1, 1975.

CONSTITUTIONAL AND STATUTORY LANGUAGE

Constitutional Language. Constitutional Amendment No. 1 added subsections 2 and 3 to Article IX, Section 2 which formerly only required reclamation by legislatively set standards. Now Section 2 requires a RIT fund within a $100 million inviolate principal. In construing the constitutional language under the accepted principles of constitutional construction, a constitutional argument evolves that the interest and any principal of the fund subject to appropriation can only be spent for mitigation or reclamation needed as a result of the taking of natural resources, the preservation or development of renewable resource for when the depletable natural resources are gone, and the development or acquisition of recreation areas.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032185

The words "resource indemnity trust" impute certain characteristics to the funds they describe. Indemnity means "to secure another against an anticipated loss" or "to denote a compensation given to make the person whole from a loss already sustained", Black's Law Dictionary. Inherent in the concept of "trust" or "trust fund" is that the funds are held by a trustee for the specific purposes of the trust or that the funds are devoted to a particular purpose from which they cannot be diverted. Again, see Black's Law Dictionary. The term resource, the inviolate nature of the principal, and the funding by taxes on the extraction of natural resources also must weigh in the interpretation of the specific or particular purpose. Thus, to qualify as a trust the RIT fund must have a specific or particular purpose which is now given constitutional protection.

The general rules applicable to constitutional construction are that: the clear and unambiguous meaning of the words used control; construction must give meaning to all the terms and provisions used; absurd results are disfavored; constitutions as the basic framework of government must be construed so as to give life to the otherwise barebones language; and, that state constitutions are a limitation of powers rather than a grant of powers.

Unless the constitutionally protected RIT fund has a specific or particular purpose, there would be in effect no constitutional protection or trust itself and the legislature could treat the fund in any manner they desire as long as the first $100 million of principal is held inviolate and the trust is funded from taxes on the extraction of natural resources. Such an interpretation is untenable. The RIT fund must have a purpose with the general characteristics being for the mitigation of losses caused by the taking of natural resources, the development of replacement renewable resources that would live on after the nonrenewable resources are gone, and the development or acquisition of recreational areas.

STATUTORY LANGUAGE: By statute the use of RIT funds is restricted by §15-38-203, MCA:

> "Any funds made available under this chapter shall be used and expended to improve the total environment and rectify damage thereto."

The legislative policy as set forth in §15-38-102, MCA, talks in terms of "security against loss or damage to our environment from the extraction of nonrenewable natural resources", states that the "state be indemnified for the extraction of those resources, and asserts that the creation of the RIT is "in order

that the people and resources of Montana may long endure." Also, §15-38-202, providing in part for expenditures from the trust, has been amended twice, first, in 1981 to allocate 30% of the interest income to water development and, second, in 1983 to allocate 6% of the interest income to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

While any subsequent Legislature may explicitly amend the above statutory restrictions on the use of funds from the RIT fund that are available for appropriation, the Attorney General has opined on the limitations of implicit, and even explicit, amendments to be imputed to appropriation bills. See 39 ATT'Y GEN. OP. 25. The Attorney General followed City of Helena v. Omholt, 155 Mont. 212, 222, 468 P.2d 764 (1970), where the Montana Supreme Court commented on this legislative practice: "Appropriation bills should not be held to amend substantive statutes by implication."

It should be noted that the constitutional amendment was proposed by the legislature and approved by the voters in 1974 after the RIT fund, with the use of the funds delineated by §§15-38-102 and 15-38-203, MCA, was enacted in 1973. Thus, the referenced statutory language takes on a constitutional hue. The purpose of the constitutional RIT fund is undoubtedly tied to the purpose of the prior enacted statutory RIT fund.

LEGISLATIVE BACKGROUND

As is usually the case, the legislative history, including committee minutes and amendments, is sparse and inconclusive. Committee minutes are not verbatim, their accuracy is suspect, and their incompleteness is self evident. The salient excerpts will be set out here and the complete text of any possibly relevant statements are contained in the accompanying folder.

HB 97. In 1973, Governor Judge recommended the creation of a RIT fund in his State of the State Address to the 1st Regular Session of the Forty-Third Session. He described the purpose of the fund:

> "Then the fund would be applied to correct environmental damage, provide recreational areas and establish new opportunities for people to continue to live and work in Montana."

The purpose of the RIT fund was also described, in less detail, in Governor Judge's 1973 Budget Message sent to the Legislature.

HB 97 was described before the House Taxation Committee by one of its sponsors as being the bill recommended by Governor Judge in his State of the State Address. The sponsor also characterized the bill as being for the protection of future generations. When HB 97 was passed by the House Taxation Committee, there was some discussion of making the fund irrevocable but there was an apparent recognition that this could only be accomplished by a constitutional amendment.

HB 503. The chief sponsor of HB 503 explained before the House Taxation Committee that his bill would be similar to HB 97 but would allow revenues to be spent only in the counties from which the coal was taken.

HB 567. HB 576 was amended in the House Constitution, Elections and Federal Relations Committee. The amendment was a redrafting of subsection (2) with no apparent change in meaning especially with regard to this memorandum.

In the Senate Constitution, Election and Federal Relations Committee there was apparently an extensive discussion of the need and effect of giving the RIT fund constitutional status. Nothing concrete can be gained shedding light on the specific purpose of the trust; however, there is an implicit recognition to be gained from the minutes that the sponsor, lobbyists and committee members were fully aware of the effect of constitutionally creating the RIT fund. Also, the Senate Rules Committee minutes show that a 1973 attempt to propose a constitutional referendum ran afoul of the legislative procedural rules.

LEGISLATIVE INTENT OF RIT FUND

In dealing with the constitutional construction of the specific or particular purpose of the RIT fund, the legislative interpretation of the constitution and statues should be given great weight. This follows a general rule of constitutional construction. As long as the legislature is within the broad constitutional guidelines, the use of the funds would in all probability be upheld. Deference will no doubt be given to legislative interpretations. The past use of the fund should, therefore, be carefully scrutinized.

I believe that prior to the 1981 session the Legislature's use of the interest income of the RIT fund was only for purposes within the statutory and constitutional restraints as described in this memorandum. Bob Robinson is researching the past usage. In the accompanying folder is a memorandum, by a then DNRC employee that describes the appropriations made by the 1977 and 1979 session. Without exception, the interest income appropriated was for natural resource related uses, including monitoring air quality, studying saline seep, studying the Tongue Dam, rehabilitating Cooney Dam, conducting an environmetnal study of a MHD engineering test facility, making recreational improvements and implementing a federal energy conservation program. As already discussed, the two pertinent amendments to the RIT fund statutes both allocated interest income to resource purposes with 30% allocated to water development and 6% allocated to hazardous waste programs.

Therefore, through the 1979 legislative session, the legislative interpretation of the purpose of the RIT fund has been consistent with the general guidelines of the constitutional and statutory language.

CONCLUSION

Based on the legislative history of the enactment of the Montana Resources Indemnity Trust Act and the constitutional referendum, the statutory and constitutional language creating the RIT fund, and the legislative interpretation of the permissible uses of the RIT fund, the specific or particular purpose of the fund can be stated. The fund can be used for mitigation or correction of environmental damage caused by mining, to provide recreational facilities and areas, and for the development of the natural resources of the state, in particular conservation and other renewable natural resources. An even broader use of the funds could arguably be constitutionally permissible.

In summary the argument is that once the RIT fund was given constitutional status, the purpose of the trust is protected against future legislatures. Any trust must have a specific or particular purpose. The broad parameter of the purpose of the RIT fund is established based on the application of the principles of statutory and constitutional construction as described.

cc. Bob Robinson
Don MacIntyre

ATTACHMENT

The Big Sky Country

MONTANA STATE SENATE

SEN. THOMAS E. TOWE
DISTRICT NO. 34

BILLINGS ADDRESS
2525 6TH AVE. NO
BILLINGS, MONTANA 59101
PHONE: 248-7337

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
PHONE: 449-4819 (CAPITOL)
PHONE: 443-2967 (HOME)

March 7, 1984

COMMITTEES:
TAXATION,
STATE ADMINISTRATION,
REVENUE OVERSIGHT

MAR 1984

Mr. Bob Lane
Department of Natural Resources
Capitol Station
Helena, MT 59620

Dear Bob:

I read your memo on the Resource Indemnity Trust Fund with interest. As you may know, I was a member of the Taxation Committee of the House of Representatives when House Bill 97 was submitted in 1973.

My recollection of the matter is consistent with your comments in the legislative background of the memo. In other words, as the comments of Governor Judge in his State of the State Address indicated, the Fund was proposed as a broad fund to be used for all of the people of Montana. First, it was not to be limited to rectifying or indemnifying the state for the specific loss or damage caused by the mining from which the tax was collected. Second, it was not intended to be a fund for the use of the people without limitation. The word "indemnity" was intended in a very broad sense, namely, to indemnify the people of Montana for the loss of a valuable resource. Therefore, those things which made life better for the people of Montana would in fact be a true "indemnification." The focus of attention, however, was placed on such things as development of renewable resources, development of outdoor parks and recreation, and improving the "total" environment in which the people of Montana live.

The most significant evidence that I have to support these statements, in addition to the Governor's comments in his State of the State Address in 1973, are my notes from the hearing in the House Taxation Committee on House Bill 97. Enclosed is a copy of those notes (handwritten on the last page of House Bill 97, LC 0504). Also, enclosed is a copy of my recent letter to Paul Verdon indicating the significance of these notes.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032185

I hope you will find this helpful in your study.

Sincerely yours,

Thomas E. Towe

TET:mp

cc: Paul Verdon
Leo Berry
Deborah Schmidt

Enclosures

The Big Sky Country

MONTANA STATE SENATE

SENATOR THOMAS E. TOWE
SENATE DISTRICT 34

HELENA ADDRESS:
P. O. BOX 127
CAPITOL STATION
HELENA, MONTANA 59620
HELENA PHONE (406) 449-4800

BILLINGS ADDRESS:
2525 SIXTH AVE. NORTH
BILLINGS, MONTANA 59101
BILLINGS PHONE (406) 248-7337

January 25, 1984

COMMITTEES:
TAXATION
STATE ADMINISTRATION
REVENUE OVERSIGHT
RULES

Mr. Paul Verdon
Legislative Council
Capitol Station
Helena, MT 59620

Dear Paul:

Enclosed is a copy of House Bill 97 of the 1973 Session establishing the Resource Indemnity Trust Account. Also, enclosed is an official copy of the Committee Minutes relating to the hearing on the bill which says virtually nothing.

Note, however, on the last page of my copy of the bill are my notes of the hearing. It starts where the figures 19 Jan '73 appear in about the middle of the page. The opponent witnesses are numbered. Note in particular Witness No. 6, Bob Corrette of the Montana Power Company (continued at the top of the page). One of the reasons he opposed it - apparently the only reason that seemed significant to me because it is the only one I noted - is that he opposed the bill because it was "for benefit of all people and all people should pay for it." This certainly captures the understanding I had of the purpose of the bill at the time, namely, that it was not intended to be used particularly as a fund out of which we could take money to take care of social and environmental impacts caused by mining.

Sincerely yours,

Thomas E. Towe

Thomas E. Towe

TET:mp

Enclosures

earnings and all receipts may be appropriated and expended provided that the balance in the account may never be less than one hundred million dollars ($100,000,000).

Section 10. There is a new section to be numbered 84-7010, R.C.M. 1947, which reads as follows:

84-7010. Any funds made available under this act shall be used and expended to improve the total environment and rectify damage thereto.

Section 11. There is a new section to be numbered 84-7011, R.C.M. 1947, which reads as follows:

84-7011. The tax imposed by this act shall be first imposed for the whole calendar year 1973, and shall be based on the statement of yield prescribed in section 84-7004.

-End-