

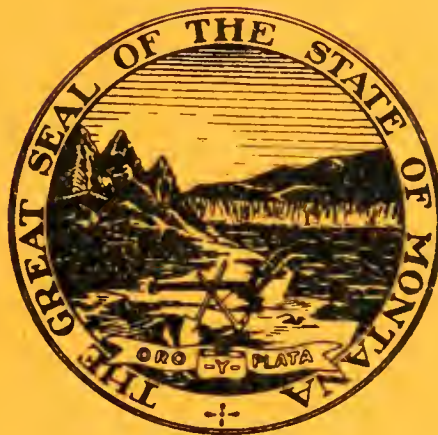
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STATE DOCUMENTS

1977-77

ENERGY AND THE 45TH LEGISLATURE



MONTANA STATE LEGISLATURE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
HELENA, MONTANA  
AUGUST, 1977

ARTHUR H. SHELDEN  
CHAIRMAN

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HOUSE COMMITTEE ON NATURAL RESOURCES  
HELENA, MONTANA  
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RESEARCH STAFF:

EILEEN E. SHORE  
ENVIRONMENTAL QUALITY COUNCIL

DEBORAH B. SCHMIDT  
LEGISLATIVE COUNCIL

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## INTRODUCTION

On January 17, 1977, by a motion adopted by the House of Representatives, the Committee on Natural Resources was assigned the task of reviewing any existing data concerning energy policy in Montana. The motion further stated that upon completion of that review, the committee would propose a legislatively conceived energy policy for Montana. In partial fulfillment of that assignment, the committee presented energy policy recommendations to the Legislature on April 18, 1977.

Because of the time constraints involved in transmittal deadlines and the broad range of issues involved in an energy policy, the committee did not produce its own bill, with one exception. Instead the committee relied on bills introduced by members of the Legislature at large.

The committee divided into three energy subcommittees, which met regularly during the first half of the session in addition to daily meetings of the full natural resources committee. These subcommittees covered three energy subject groups: conservation and public participation, siting of facilities in Montana, and energy extraction and conversion. The subcommittees reviewed almost all energy bills and later met to adopt policy recommendations in their respective areas.

The committee asked its researchers to prepare a detailed summary of all energy matters considered in the 1977 session that would be available to members of the Legislature and the public. The committee felt that this report could be a valuable tool in evaluating the Legislature's progress in dealing with the energy issues facing Montana and provide a basis upon which future legislatures could build policy decisions.

In addition to 1977 energy bills, the report includes the energy policy recommendations described above, a summary of energy-related laws effective when the Legislature convened in January of 1977, and votes of the House Committee on Natural Resources on energy bills and policy recommendations it considered. The energy bills are divided into nine categories, including: coal; major facility siting; water; nonconventional energy sources and energy research; nuclear waste and uranium mining; oil and gas; energy emergencies; conservation, and other.

The report does not presume to criticize the Legislature for its actions or omissions, nor does it advance policy recommendations. It simply provides a factual discussion of the substantial number of energy issues addressed by the Legislature in 1977.

Arthur H. Sheldon  
Chairman  
House Committee on Natural Resources

## RECOMMENDATIONS FOR AN ENERGY POLICY

FOR THE STATE OF MONTANA -- HOUSE NATURAL RESOURCES COMMITTEE

April 16, 1977

### Energy Extraction

1. The federal government should lease no more coal in Montana until a federal law is passed defining a policy on reclamation, including the role of state reclamation laws which are at least as stringent as federal regulations.
2. The Department of State Lands should adopt rules and regulations for coal leasing procedures, including further definition of the selective denial criteria found in Section 9 (50-1042, R.C.M. 1947) of the Strip and Underground Mine Reclamation Act.
3. The Coal Conservation Act should be supported and strengthened.
4. Continued research in the area of revegetation should be supported and any weakening of the Montana Strip and Underground Mine Reclamation Act should be opposed.
5. There should be no reduction of the current coal severance tax.
6. Future oil and gas exploration with adequate safeguards should be encouraged.
7. The Department of Health and Environmental Sciences should develop uranium mining procedures; similar action should also be taken by the federal government.
8. The moratorium on uranium solution mining should be extended until the Board of Health and Environmental Sciences adopts rules regulating this process.
9. The state should utilize and appraise where possible and practical the opportunities for direct use of the earth's heat in agriculture, industrial processes, and the heating and cooling of buildings. The use of such heat through public information, zoning laws, building codes, financial incentives and data collection should be encouraged.
10. The state should make every effort to protect the important and productive alluvial valley floors in Montana.

### Energy Conversion

1. A renewable energy data collection program should be established in the governor's energy resource policy office.

2. The state should permit and encourage shifts from natural gas and oil to coal where environmental standards can be met.
3. Large-scale radioactive waste disposal in Montana should be opposed.
4. Actions which improve the conversion efficiency of large-scale and small -scale energy and industrial facilities should be encouraged.
5. The state should not provide financial support and should otherwise remain neutral in construction of a coal gasification plant in Montana at this time.
6. State agencies should actively pursue federal funding for alternative energy research and development.
7. Every effort should be made to minimize adverse transboundary impacts to Montana from energy developments outside the state; Montana should give the same consideration to its neighboring states and provinces.

#### Siting of Facilities

1. Industrial facilities which would have a significant impact on the communities in which they are to be located should come under the review provided by the Major Facility Siting Act. Appropriate state agencies should continue to monitor the environmental, social, and economic impacts of all facilities approved.
2. In reviewing applications for energy facilities under the Major Facility Siting Act, decisions should be based primarily on Montana's needs, with allowances made for interstate utilities operating in this state. Public need for the product to be manufactured should not be considered in reviewing applications for facilities that do not generate energy.
3. Hearing proceedings and decisions made under the Major Facility Siting Act should be expedited to avoid costly and unnecessary delays.
4. Physical criteria should be established as soon as possible for a siting inventory to identify areas unsuitable for major facilities.

#### Energy Conservation and Public Participation

1. The Department of Administration, as the central authority for enforcement of energy conservation provisions in the state building code should quickly adopt uniform standards for energy conservation in public buildings.
2. Energy conservation and alternative energy income tax incentives should be provided for expenditures for constructing or installing a recognized nonfossil form of energy generation or a capital investment in a building for energy conservation purposes.

3. The state should expand its home weatherization program for citizens of Montana; where practical, weatherization programs should be consolidated within the Department of Community Affairs. Utility companies are encouraged to establish programs, provided for under current law, for low-interest weatherization loans.
4. The state should consider the life-cycle cost of state buildings and vehicles with emphasis on energy conservation throughout the life of the building or vehicle.
5. Local school districts should implement energy conservation by developing curricula for conservation education in the classroom and by conserving energy in school buildings and school transportation systems.
6. Solid waste management should be analyzed as a means of conserving energy.
7. The executive branch of state government should inform the public on the facts surrounding energy issues, with particular emphasis on energy conservation, and should develop and apply effective means for including an informed public in the energy policy process. The AERO program should be commended as an excellent example of involving the public in these issues.

The Montana legislature should act to insure the participation of Montana citizens in, and interim review of, executive branch decision-making on energy issues.

## COAL

### Coal Leasing

#### PASSED:

HB 558<sup>1</sup> - Fabrega - The only legislation introduced to amend present law relating to coal leasing. The bill made the following changes:

1) Operating permits, which mining operators with coal leases must secure before beginning actual mining operations, were converted from a one-year term to a five-year term.

2) Companies with an operating permit must submit annual reports which must include:

- descriptions of the extent of the mining operation;
- a report on the extent to which expectations and predictions made in the original application have been fulfilled;
- a revised schedule or timetable of operations and reclamation, including the number of acres to be affected in the coming year;

The Department of State Lands, after reviewing the annual report and other information it has, may order changes in the mining and reclamation plans.

Amending 50-1039, 50-1040, and 50-1404, R.C.M. 1947.

Repealing 50-1049, R.C.M. 1947.

Third Reading Votes: House: 90-5; Senate: 48-0.

### Taxation of Coal

Four bills were introduced to change Montana's coal taxation statutes. Two bills making minor changes, including a partial property tax exemption for small producers, passed both houses and were signed by the Governor. Bills raising the coal tax from 20% to 30% for lignite coal and lowering the tax for higher sulfur coal which has been subjected to a sulfur removing process prior to being burned, were killed.

#### PASSED:

SB 159<sup>2</sup> - Towe, By request of the Department of Revenue - Exempts from property taxation one-half of the contract sales price of

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<sup>1</sup>Chapter 352, Montana Session Laws 1977.

<sup>2</sup>Chapter 87, Montana Session Laws 1977.

coal sold by a coal producer who extracts less than 20,000 tons per calendar year.

Amending 84-202, R.C.M. 1947.

Third Reading Votes: Senate: 47-0; House: 85-8.

HB 237<sup>1</sup> - Robbins - A technical amendment changing the coal tax exemption from 5,000 tons a quarter to 20,000 a year.

Amending 84-1314, R.C.M. 1947.

Third Reading Votes: House: 95-1; Senate: 49-0.

KILLED:

SB 212 - Towe - Sets the severance tax on lignite coal, which is currently 20% of value, at the same percentage, 30%, applied to all other types of coal. Lignite is currently taxed at the lower rate because, according to the law, it is in less demand and producers of lignite are able to pay lesser amounts of royalty and production tax than producers of sub-bituminous coal. According to the fiscal note the increased tax would have raised coal severance tax revenue approximately \$170,000 per year.

Amending 84-1012, R.C.M. 1947.

Killed in the Senate Committee on Taxation.

HB 269 - Moore - Lowers the severance tax from 30% to 20% of value on coal that emits more than 1.2 pounds of sulfur dioxide (when burned) if it is subjected to any process which makes it more "environmentally acceptable."

Amending 84-1313, R.C.M. 1947.

House Second Reading: 46-54.

Killed by the House on Second Reading.

#### Coal Mining and Associated Facilities

Two bills amending regulation of mining practices failed to gain passage. One would have prohibited mining for coal and uranium on alluvial valley floors; the other would have reduced the amount of coal left after mining is completed by requiring more thorough mining practices than those mandated by present law.

Also failing to gain passage were a House joint resolution requesting an evaluation of the costs and benefits of coal slurry

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<sup>1</sup>Chapter 164, Montana Session Laws 1977.



pipelines and a bill bringing developments directly associated with mining under the state's county zoning district law.

KILLED:

SB 317 - Jergeson - Prohibits coal and uranium mining on alluvial valley floors. The bill defines alluvial valley floors as:

the unconsolidated stream-laid deposits of existing water courses and is limited to the stream channel and flood-plain where current agricultural activities are based on subirrigation or flood irrigation. This definition also applies to those portions of the valley downstream from the uppermost point to the agricultural operations.

The fiscal note found no short range fiscal impact, but states that "in the future if all other coal lands are depleted, prohibiting mining on alluvial valley floors could significantly affect severance tax collections."

Amending 50-1036 and 50-1042, R.C.M. 1947.

Killed in the Senate Natural Resources Committee.

HB 561 - Metcalf - Amends the Strip Mined Coal Conservation Act's definition of "marketable coal." Under the current definition, mining operators must remove as much coal as is economically feasible. This bill would have required removal of as much coal as is technologically feasible. An amendment to the bill limits the requirement to mining as much coal as is technologically feasible so long as the requirement would not cause undue economic hardship.

Amending 50-1403, R.C.M. 1947.  
House Second Reading: 30-65.

Killed in the House on Second Reading.

HJR 31 - Fabrega, By request of the Department of Natural Resources and Conservation - Directs the Department of Natural Resources and Conservation to evaluate available studies of coal slurry pipelines, and to prepare a report with recommendations on the costs and benefits to Montana of using its water for this method of coal export.

Killed in the House Judiciary Committee.

SB 441 - Roberts - Current law excludes an owner's "complete use, development or recovery of any mineral, forest or agricultural resources" from county zoning regulation. This bill allows county regulation of "development directly attributable to the increase in population or activity" caused by such use and development.

Amending 16-4710, R.C.M. 1947.

Killed in the Senate Local Government Committee.

### Reclamation of Strip Mined Land

#### A. State:

Three bills were introduced to change state requirements for reclamation of strip mined land. Existing law and Department of State Lands regulations require that strip mined land be planted with vegetation which is primarily native to the area and will provide "a suitable permanent diverse vegetative cover. . . ." (An exception in the law does allow post-mining uses which do not require revegetation.) The proposed amendments would have allowed less stringent revegetation standards. None of the bills passed.

A bill to establish a strip mined reclamation research account also failed to pass.

#### KILLED:

SB 295 - Dunkle - Allows revegetation which provides "a suitable vegetative stand for crop production or irrigated pasture." The mining operator is required to demonstrate that the land is suitable for these uses.

Amending 50-1045 and 50-1047, R.C.M. 1947.

Died in the Senate Natural Resources Committee.

HB 577 - Conroy - Also allows revegetation for crop production or irrigated pasture, and requires the mining operator to demonstrate that the land is suitable for these uses. Amendments in the House delete the provision allowing revegetation capable of sustaining crop production and tighten the requirements for diverse, permanent and native vegetative cover on reclaimed land which would not be used for irrigated pasture. A further amendment by the Senate was refused by the House.

Amending 50-1045 and 50-1047, R.C.M. 1947.

Third Reading Votes: House: 89-5; Senate: 48-0.

Died in Free Conference Committee.

SB 284 - Thiessen - Allows reclamation for any "productive future use," including "forestry, agriculture, grazing, wildlife habitat, recreation, residential and industrial sites." (The surface owner must consent to the future use.) The bill eliminates the requirement that strip mined land be planted with a permanent diverse cover. Whether revegetation is required at all, and if so, what kind, is determined by its future use.

Amending 50-1039, 50-1043, 50-1045, and 50-1047, R.C.M. 1947.  
Second Reading Votes: Senate: 33-16; House: 75-21.

Killed in the House on Second Reading.

HB 531 - Lien - Establishes a reclamation research account funded by one-fourth of 1% of the proceeds from the coal severance tax. The bill was amended to fund the account with a general fund appropriation rather than the coal severance tax. The fiscal note estimates that funding from the severance tax would have been \$102,500 in FY 78 and \$127,500 in FY 79. The amendment allocating \$100,000 from the general fund was later reduced to \$80,000.

Amending 50-1053 and 84-1319, R.C.M. 1947.  
House Second Reading: 61-39.

Killed in the Senate Taxation Committee.

B. Federal:

Two joint resolutions supported passage of federal strip mine reclamation legislation. A third joint resolution, while not endorsing federal legislation, requests that the Congress not weaken Montana's authority to regulate mining in the state. Two resolutions passed both houses.

PASSED:

HJR 40 - Dassinger, By request of the Governor - Endorses passage of federal strip mine reclamation legislation which allows state reclamation law, if at least as stringent as federal law, to be applied to all mining in the state and which provides federal funds to the state for administration and enforcement of a reclamation program on federal land.

Third Reading Votes: House: 84-14; Senate: 30-17.

SJR 18 - Boylan - Requests that the U.S. Congress not "usurp" Montana's authority by weakening the application of its surface mining statutes.

Third Reading Votes: Senate: 48-0; House: 95-4.

KILLED:

HJR 42 - Kessler - Endorses passage of federal strip mine reclamation legislation.

Died in the House Natural Resources Committee.

## Conversion to Coal From Oil and Gas

### KILLED:

HB 689 - Frates - Allows an investment credit against the corporation license tax by corporations which replace coal fired boilers with the boilers using petroleum products. The credit is determined by reference to credits allowed by federal tax law for investments in depreciable property. The credit may be claimed only for the year in which the investment is made and is effective only after December 31, 1976 and before December 31, 1981.

House Second Reading: 97-0.

Killed in the Senate Taxation Committee.

## Allocation and Investment of Coal Tax Revenues

All but one bill dealing with coal tax revenue allocation were appropriations from existing accounts or from the new trust fund. HB 531 would have established a new account for research in reclamation of strip-mined land. See "Reclamation of Strip-Mined Land," §. 5, for a summary of the bill's provisions.

### Coal Tax Trust Fund:

#### PASSED:

SB 44 - Mathers (Coal Tax Oversight Committee Bill) - In the 1976 election, Montana voters approved an amendment to the Constitution which requires that 25% of the revenues produced by the severance tax on coal, and 50% after 1979, be placed in a trust fund; interest and other income from the fund can be appropriated only upon a 3/4 vote of each house of the legislature.

SB 44<sup>1</sup> adjusts the coal tax distribution formula to bring it into compliance with the 1976 constitutional amendment. The chart on the following page shows the formula changes made by the bill.

The bill also makes the following changes in existing law:

- money from the park acquisition fund may now be appropriated for operation and maintenance of land acquired with fund money;
- money from the parks trust fund may now be appropriated for management as well as acquisition;

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<sup>1</sup>Chapter 540, Montana Session Laws 1977.

COAL TAX DISTRIBUTION FORMULA

Trust Fund	Old Law		SB 44	
	Until 1980	After Jan. 1, 1980	Until 1980	After Jan. 1, 1980
	0%	0%	25% of all tax revenues; the remaining 75% is apportioned as follows:	50% of all tax revenues; the remaining 50% is apportioned as follows:
Countries with Coal Mining Activity	4%	3.5%	2% of the tax paid on coal mined in that county	0%
Alternative Energy Development	2.5%	4%	2.5%	5%
Local Impact and Educational Trust Fund	27.5% - 7/11 Local Impact; 4/11 Educational Trust	35% - 3/7 Local Impact; 4/7 Educational Trust	26.5% - 7/11 Local Impact; 4/11 Educational Trust	37.5% - 7/15 Local Impact; 8/15 Educational Trust
Coal Area Highway Impact	10%	0%	13%	0%
State Equalization Aid	10%	10%	10%	10%
County Land Planning	1%	0%	1%	1%
Renewable Resource Development	2.5%	2.5%	2.5%	2.5%
Parks Acquisition	1.25%	0%	1.25%	0%
Parks Trust	1.25%	5%	1.25%	5%
General Fund	40%	40%	50%	39%

- after 1980, money from the trust fund may be appropriated for operation and maintenance expenses, as well as for land acquisition;
- although the allocation to the coal area highway improvement account is to cease June 30, 1979, any money remaining in the account on that date may be spent for highway improvement until June 30, 1981;
- allocates \$3,000 to each county in the state from the county land planning assistance account, and allows multi-jurisdictional planning boards to receive funds from the account. The remaining money is allocated to counties under the existing formula according to population and land area;
- continues the existence of the Coal Tax Oversight Committee for two years;
- makes appointments of members of the Coal Board subject to the same conditions as quasi-judicial boards (listed in Section 82A-112, R.C.M. 1947);
- establishes requirements for investment of the principal of the trust fund. See "Investment of Trust Fund Income", p. 9.

A section establishing an account within the renewable resource development account for coal utilization research was deleted.

Amending 50-1803, 50-1804, 50-1806, 70-309, 82-3719, 84-3607, R.C.M. 1947.

Third Reading Votes: Senate: 48-1; House: 88-3.

#### Allocation of Trust Fund Income

Legislation was introduced to submit a constitutional amendment to Montana voters providing that all interest and other income from the trust fund be retained until 2001. The bill failed to pass.

Of five bills introduced or amended to appropriate interest and investment income from the trust fund, two were successful: they provide money for expansion of the home weatherization program and for the acquisition of a Charles M. Russell painting. Bills relating to energy conservation in state buildings, funding of an energy office, and providing energy stamps to assist low income people in paying higher energy bills were killed.

#### PASSED:

HB 826 - Meloy - Appropriates \$295,000 to the Montana Historical Society to acquire the Charles M. Russell painting, "When the Land Belonged to God." The appropriation is contingent on \$150,000 in matching funds.

Third Reading Votes: House 98-2; Senate: 48-2.

HB 701 - Appropriates \$300,000 to the Department of Community Affairs for expansion of the home weatherization program. See "Energy Conservation," p. 17.

KILLED:

HB 825 - Driscoll, By request of the Governor - Submits an amendment to the Montana Constitution to retain all income received from the trust fund until 2001, except by a vote of 3/4 of the Legislature. The last session of the legislature before 2001 is to propose four alternatives for the disposition of the income, two of which will be selected by the voters in an election during the first six months of the year 2000.

Amending Article IX, Section 5 of the Montana Constitution.  
House Third Reading: 43-56.

Killed in the House on Third Reading.

HB 204 - Amendments to this bill allocate 1/6 of the trust fund up to \$1 million to an Energy and Resource Policy Office established by the bill. See "Nonconventional Sources and Energy Research," p. 32.

SB 435 - Allocates 1/6 of trust fund income up to \$1 million for energy conservation activities by the Department of Natural Resources and Conservation. See "Energy Conservation," p. 24.

HB 139 - Appropriates up to \$2,050,000 of coal tax trust fund income for funding an energy coupon program to assist low income persons pay for winter utility bills. See "Other," p. 59.

HB 517 - Bengtson - Allocates 30% of the income from the trust fund to support of education in Montana. Seventy-five percent of the allocation is to go to the earmarked revenue fund for state equalization aid to public schools and twenty-five percent is to go to the Board of Regents for support of the Montana university system.

House Second Reading: 21-70.

Killed in the House on Second Reading.

HB 732 - Appropriates \$2 million from the income generated by the coal tax trust fund for testing the feasibility of a financial assistance program to encourage energy conservation and renewable resource measures in homes occupied by low and moderate income families. See "Energy Conservation," p. 18.

#### Investment of Trust Fund Income

Under SB 44 (see p. 6) trust fund principal is permanent and is to be invested in the same manner as other state funds (79-310, R.C.M. 1947). State investments must generally be invested quite conservatively while getting the highest possible return.

Two Senate joint resolutions requesting studies on trust fund investments were successful. As a result, the Coal Tax Oversight Committee will be studying the feasibility of investing the funds to help individuals get a start in agriculture or business and to promote middle and lower income housing in the state.

Three bills to make specific provisions for trust fund investments failed. They would have required: 1) investments to be through Montana financial institutions; 2) investments in Montana residential mortgages; and 3) investments which promote energy conservation and alternative energy development.

PASSED:

SJR 2 - Watt - Requests the Legislative Committee on Priorities to appoint an interim committee to study and present recommendations with proposed legislation to the next legislature on the best way to promote middle and lower income housing through investment of the various state trust funds. It also requests that the study should determine the role of the Board of Investments, the Board of Housing and other state agencies in carrying out such a program. The resolution notes that the coal tax trust fund does not have any requirement that its earnings be maximized.

Third Reading Votes: Senate: 37-10; House: 81-18.

SJR 44 - Towe - Originally requested the Legislative Committee on Priorities to study the feasibility of establishing a state agricultural land bank with coal tax trust funds. The resolution was amended to request a study of the feasibility of investing trust funds in programs which enable young people to get a start in agriculture or business.

Second Reading Votes: Senate: 31-16; House: 63-26.

KILLED:

HB 392 - Tower - Generally requires that trust fund principal be invested only in interest-bearing deposits in Montana banks, building and loan associations, and savings and loan associations, and exempts coal tax trust fund investments from the security requirements of other state investments. Competitive bids solicited quarterly from financial institutions may be accepted or rejected by the Board of Investments. If accepted bids do not total all the funds available, the Board of Investments may invest the remaining money in the same manner as other state funds, and offer them to Montana financial institutions in the next quarter.

Amending 79-309 and 79-310, R.C.M. 1947.

House Second Reading: 36-58.

Killed in the House on Second Reading.



HB 482 - Fabrega - Exempts investment of coal tax trust funds from existing security requirements for mortgages purchased with state trust funds and requires that mortgages purchased with coal tax trust funds be for single owner occupied residences or multi-family residences with substantial occupancy by households of less than Montana median income. Mortgages must: 1) be administered through a Montana financial institution; 2) be secured by a U.S. agency or a national mortgage insurance company; 3) not exceed statutory interest principal and security limits.

Amending 79-309 and 79-310, R.C.M. 1947.  
House Second Reading: 75-20.

Died in the Senate Taxation Committee.

HB 754 - Requires investment of 10% of trust fund income in energy conservation activities. See "Energy Conservation," p. 23.

Renewable Resources Development Bond Account:

Two bills dealing with the renewable resources program were adopted by the Legislature and signed by the Governor. One transfers administrative responsibility for state agency grants under the program from the Department of Administration to the Department of Natural Resources and Conservation. The other appropriates money for six specific reservoir, dam repair, irrigation, solid waste management, and water rights projects.

Bills appropriating clearance fund account money to the renewable resources account, authorizing loans for installation of solar energy collectors by homeowners, repealing the loan program for individuals and modifying eligibility requirements and loan terms failed to pass, as did a provision in SB 44 (see p. 6) which would have allowed allocations from the account for coal utilization research.

PASSED:

HB 708 - Driscoll - Appropriates \$2,980,000 to the Department of Natural Resources and Conservation from the renewable resource clearance fund account for the following projects:

Boulder River reservoir	\$500,000 (grant)
West Bench irrigation projects	90,000 (grant)
Solid waste management program	300,000 (grant)
Solid waste management program	200,000 (loan)
Nevada Creek Dam repair	50,000 (grant)
Water rights study requested under HJR 81 <sup>1</sup>	40,000 (grant)

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<sup>1</sup>See "Water," p. 54.

Third Reading Vote: House: 74-14; Senate: 35-9.

SB 298<sup>1</sup> - Hazelbaker - Transfers administration of the renewable resource development grant program for state agencies from the Department of Administration to the Department of Natural Resources and Conservation. With passage of the bill, DNRC now administers all grants and loans under the Renewable Resources Development Program.

Amending 89-3602, 89-3604, 89-3605, 89-3606, 89-3608, R.C.M. 1947.  
Third Reading Votes: Senate: 48-0; House: 86-4.

KILLED:

HB 779 - Driscoll, By request of the Department of Natural Resources and Conservation - As originally written, appropriates \$5 million from the clearance fund account to implement the renewable resource development loan program.

The Senate amended the bill to appropriate \$1.5 million for state and local agency loans and \$1.5 million for individual loans.

Amending 89-3608, R.C.M. 1947.  
Third Reading Votes: House: 72-18; Senate: 42-6.

Senate Amendments rejected by the House on Second Reading 74-15.

SB 48 - Mathers - As introduced, repeals the Renewable Resource Development Program and allocates coal tax money credited to the program to the general fund. As amended, the bill repeals the program's bonding authority and eliminates the Renewable Resource Development Bond Account (Sinking Fund Account). Coal tax money is allocated to the Renewable Resource Development Account (Clearance Fund Account). Amendments also repeal authority to make renewable resource development loans to individuals and allows loans to be made only to conservation districts.

Amending 84-1319, 89-3602, 89-3603, 89-3607, R.C.M. 1947.  
Repealing 89-3601, 89-3606, 89-3608, 89-3609, R.C.M. 1947.  
Second Reading Votes: Senate: 30-17; House: 25-72.

Killed in the House on Second Reading.

HB 156 - Driscoll, By request of the Department of Natural Resources and Conservation - Allows renewable resource development loans to operators of farms or ranches who are not owners. (Under present law, only owner-operators are eligible for loans.)

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<sup>1</sup>Chapter 323, Montana Session Laws 1977.

The bill also makes the following changes in terms of loans for state and local agencies:

- The repayment period is extended from 30 to 40 years.
- Eliminates the limitation that loans cannot be made for more than \$100,000 or 80% of the fair market value of the security, whichever is less.
- Eliminates the conflict of interest provision.

The Senate Taxation Committee amended into the bill all the provisions of SB 48 (see above).

Amending 84-319, 89-3602, 89-3603, 89-3605, 89-3607, R.C.M. 1947.  
Third Reading Votes: House: 76-17; Senate: 39-10.

Died in Conference Committee.

HB 425 - Allows loans to homeowners of up to \$2,000 for installation of solar energy collectors. See "Nonconventional Energy Sources and Energy Research," p. 37.

Alternative Renewable Energy Research Development and Demonstration Account:

No legislation concerning this program passed. The following bills were introduced:

HB 155 - Provides that loans as well as grants may be approved under the program. See "Nonconventional Energy Sources and Energy Research," p. 36.

HB 425 - Authorizes a cash award for innovative renewable energy devices and the purchase of library books on energy conservation and alternative energy sources. See "Nonconventional Energy Sources and Energy Research," p. 37.

SB 285 - Provides funds from the account for coal utilization research. See "Nonconventional Energy Sources and Energy Research," p. 39.

Local Impact and Educational Trust Fund:

Two bills unsuccessfully attempted to revoke the local impact and educational trust fund, reasoning that it was no longer needed because of the new coal tax trust fund approved by the Montana voters in 1976. One would have appropriated the money allocated to the trust to libraries of the Montana university system. The other would have appropriated the trust fund money to state institutions and the Montana university system. The latter was amended to allow appropriations from the former trust for capital building projects.

Also unsuccessful was a bill to make Indian tribes eligible for grants from the trust fund.

A minor bill appropriating \$15,000 for work done for the Coal Tax Oversight Committee was passed.

PASSED:

HB 55 - Marks - Appropriates \$15,000 for the biennium ending June 30, 1977 to the Legislative Council for its work with the Coal Tax Oversight Committee, which was established by the last legislature to monitor and review new programs authorized and funded by coal tax revenues.

Third Reading Votes: House: 94-0; Senate: 49-0.

KILLED:

HB 445 - Fabrega - Revokes the local impact and educational trust fund and appropriates the money accumulated in the biennium ending June 30, 1977, to the Montana university system for purchase of library books. The bill also amends the section providing for the investment and spending of the local impact and education trust fund account. At present, 10% of the interest produced by investing these funds is used for the support of the public education system, 67.5% is used for the state equalization program, and 22.5% is appropriated to the Board of Regents for the university system. HB 445 strikes these specific allocations and allocates the income from the account to the Board of Regents to be divided among the university system units for the purchase of library books.

Amending 50-1810, R.C.M. 1947.  
House Second Reading: 18-77.

Killed in the House on Second Reading.

HB 823 - Fabrega - As introduced, the bill revokes the trust fund and appropriates the coal taxes allocated to it for the coming biennium (1978-79) to state institutions and the university system. The bill makes the following appropriations from the pooled investment fund:

\$2,440,000 to the Department of Administration for a physical education and recreation complex at the Montana School for the Deaf and Blind;

\$2 million for purchase of a computer at Montana State University;

\$1,439,700 to the Board of Regents for additional facilities at the agricultural experiment station in Bozeman.

Amendments to the bill revise, rather than revoke the trust: The Legislature may appropriate a portion of the trust fund principal for capital building projects of public schools and the university system. Under present law the principal cannot be appropriated. Additional amendments delete the specific appropriations, reinsert the provision that the trust principal cannot be spent, and appropriate 90% of the earned interest to the long range building program for use by public schools and the university system.

Amending 50-1810, R.C.M. 1947.

Second Reading Votes: House: 85-7; Senate: 14-33.

Killed in the Senate on Second Reading.

SB 66 - Towe - Defines "local government unit" to include Indian tribes and makes them eligible for coal impact funds from the local impact and educational trust fund.

Amending 50-1801, 50-1807, 50-1809, R.C.M. 1947.

Killed in the Senate Taxation Committee.

Park Acquisition and Trust Fund:

Two bills were introduced and passed which affect this account.

PASSED:

HB 799<sup>1</sup> - Scully - Authorizes use of funds in the parkland acquisition account for the protection of works of art in the state capitol and other cultural and aesthetic projects. Previous law allowed money from this account to be used only for acquisition of state parks, recreational areas, monuments and historical sites.

Amending 84-1319, R.C.M. 1947.

House Third Reading: 86-1<sup>2</sup>.

SB 44 - Mathers - Allows acquisition money to be used for management, operation and maintenance of land acquired by money from the account. (See p. 6)

Coal Area Highway Improvement Account:

See SB 44, p. 6.

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<sup>1</sup>Chapter 549, Montana Session Laws 1977.

<sup>2</sup>The Senate vote was not available in the Legislative Council file of legislative votes.

County Land Planning Assistance Account:

See SB 44, p. 6.

## ENERGY CONSERVATION

Energy conservation was a subject that stimulated the introduction of a number of bills. Although many conservation bills were introduced, a relatively small number were enacted by the Legislature, in part because the subject inspired several innovative concepts that were met with skepticism by the Legislature.

Conservation bills are divided into five categories: weatherization, building codes, education, transportation, and general.

### Weatherization

Two bills and a resolution encouraging energy conservation through winterization of buildings received legislative approval. This legislation provided various financial incentives or urged the expansion of loan programs for winterization.

Two bills in this category that failed to pass would have been duplicative of programs endorsed in other bills or were regarded eventually as superfluous.

#### PASSED:

HB 292 - Tax deduction for capital improvement, including weatherization, that would result in energy conservation. See "Nonconventional Energy Sources and Energy Research," p. 34.

HB 701<sup>1</sup> - Frates - Appropriates \$300,000 from the interest earnings of the coal tax trust fund to the Department of Community Affairs for expansion of the weatherization program. The bill also consolidates various scattered programs under the Department of Community Affairs as an umbrella organization. Excepted are Title XX moneys which will continue to be administered by the Department of Social and Rehabilitation Services under the Aging Services Program. Title XX funds are used for various home improvement projects, including winterization, for the elderly. The money appropriated by HB 701 is targeted for primarily low and fixed income persons and will be used as matching funds for federal and other grants for winterization purposes.

Third Reading: House: 83-17; Senate: 36-9.

HJR 24 - Hirsch - Commends the Great Falls Gas Company, a small gas utility, for enthusiastically implementing 84-7405, R.C.M. 1947, which allows utilities to make low interest loans to customers for implementation of energy conservation measures. The Great Falls Gas Company has successfully begun a program for providing loans to customers who increase insulation in

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<sup>1</sup>Chapter 583, Montana Session Laws 1977.

their homes while other larger utilities have not chosen to participate in this program. The resolution thanks the Great Falls Gas Company and encourages other utilities to institute similar programs.

Third Reading: House: 97-2; Senate: 36-9.

KILLED:

HB 732 - Harper - Appropriates \$2 million from the interest generated by the coal tax trust fund to the Department of Community Affairs for the purpose of testing the feasibility of a financial assistance program to encourage the installation of energy conservation and renewable energy measures on homes occupied by low and moderate income families. The bill proposes to subsidize winterization measures and installation of nonfossil fuel forms of heating by making grants and loans for such purposes. This bill was never tested in the legislative process, as the sponsor withdrew it before testimony could be taken.

Tabled in the House Natural Resources Committee.

HB 733 - Frates - Similar in purpose to HB 701, this bill proposes to provide the same weatherization services approved in HB 701 but to those people in a slightly higher income bracket. County governing bodies may distribute grants to households, not to exceed \$500 or 25% of project costs, whichever is less. \$350,000 is appropriated from the general fund.

Killed in the House Natural Resources Committee.

Building Codes

Although the Legislature passed in 1975 Chapter 116, Session Laws of 1975, providing for incorporation of energy conservation measures in the state building code, little enough had been accomplished toward this end to stimulate the introduction of several bills to force adoption of suitable conservation standards. The building code legislation had a high success rate: three out of four were enacted.

PASSED:

SB 401<sup>1</sup> - Lowe - Reorganizes and consolidates administrative functions regarding building codes in the Department of Administration's Building Codes Council. Because this authority was diffused, adoption of energy conservation standards was hindered, according to architects, engineers, and contractors who testified.

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<sup>1</sup>Chapter 504, Montana Session Laws 1977.



Amending 66-2416, 66-2417, 66-2427, 66-2802, 66-2805.1, 69-2105, 69-2111, 69-2112, 69-2124, 75-8206, 75-8207, and 82A-1607, R.C.M. 1947.

Repealing 69-4117 and 69-5507, R.C.M. 1947.

Third Reading: Senate: 43-1; House: 78-21.

HB 430<sup>1</sup> - Hirsch - Requires the Department of Administration to draft, hold hearings, publish and implement rules relating to energy conservation in the state building code by February 28, 1978. The bill also allows the adoption of nationally recognized standards such as ASHRAE-90 or those developed by the federal Energy Research and Development Agency.

Amending 69-2111, R.C.M. 1947.

Third Reading: House: 93-2; Senate: 84-1.

HB 144 - Driscoll - Major appropriation bill for capital building projects; includes a \$200,000 appropriation to the Department of Administration for energy conservation in state buildings.

Third Reading: House: 84-8; Senate: 45-1.

KILLED:

HB 731 - Hirsch - Appropriates \$20,000 from the general fund for adoption of energy conservation rules for the state building code. The bill also provides for a \$160,000 appropriation for workshops to instruct local building officials on effective administration of the energy conservation provisions of the code. Included in the bill is a study of insulation types and their effectiveness.

Killed in the House Natural Resources Committee.

Conservation Education

A bill and two resolutions were introduced to promote the education of the public and school children in the advantages of energy conservation practices. Two of the three failed to gain legislative approval.

PASSED:

HJR 75 - House Natural Resources Committee - Urges local school districts to implement energy conservation measures such as conserving fuel in pupil transportation and constructing and maintaining school buildings so as to minimize energy waste. The resolution affirms the need for strong instruction to

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<sup>1</sup>Chapter 173, Montana Session Laws 1977.

school children in the limited supply of nonrenewable resources and the necessity to change our lifestyle to accommodate this fact of life.

House Second Reading: 90-2; Senate Third Reading: 48-0.

KILLED:

HJR 39 - Shelden - Similar to HJR 75, this resolution aims at the Board of Public Education who would develop energy conservation programs and impose them on local school districts. The House Natural Resources Committee preferred the approach embodied in HJR 75 and felt more would be accomplished by allowing local districts to develop individualized programs.

Killed in the House Natural Resources Committee.

HB 740 - Vincent - Requires licensed real estate brokers and salesmen to provide potential home buyers and renters with information on the kinds, amount, and cost of energy used for the preceding 24-month period or for a lesser period of completion. For new construction, the thermal resistance (R) value of insulation is required to be disclosed as well as the total calculated heat loss of the building. Disciplinary action will be taken for those brokers or salesmen who fail to comply.

Amending 66-1937, R.C.M. 1947.

Killed in the House Natural Resources Committee.

Transportation

The 55 mile per hour speed limit prompted the introduction of two bills and a resolution -- one restricting further the speed limit provisions and the others relaxing the law. The latter two gained passage, while the former was rejected.

In addition, one bill and two resolutions concerning energy conservation in state vehicles and a bikeway study as a potential alternative to dependence on the automobile were introduced. The first resolution gained approval, while the bill and the second resolution did not.

PASSED:

HB 626<sup>1</sup> - Sivertsen - Increases the fuel conservation speed limit from 55 m.p.h. to 65 m.p.h. to allow for Montanans to

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<sup>1</sup>Chapter 122, Montana Session Laws 1977.

travel faster across the vast areas of the state while purporting to continue to save fuel. The bill allows the Governor to issue a declaration to this effect when Montana's eligibility to receive federal highway trust funds is not jeopardized.

Amending 32-2144.1, R.C.M. 1947.

Repealing 32-2144.3 and 32-2144.4, R.C.M. 1947.

Third Reading: House: 67-30; Senate: 39-9.

HJR 11 - Teague - Urges Congress to allow a maximum speed of 65 m.p.h. in large rural states.

Third Reading: House: 78-21; Senate: 41-8.

HJR 60 - Bradley - Directs the Department of Administration to make energy efficiency a primary consideration in specifications for bids on vehicles for the state. The resolution directs the acquisition of vehicles that operate on a high number of miles per gallon of fuel, manual transmission, manual steering, brakes, and windows, without air conditioning, at a low vehicle weight, and a high degree of durability.

Second Reading: House: 75-19; Senate: 27-14.

KILLED:

HB 601 - Bradley - Increases the fine for the offense of unnecessary waste of a resource currently in short supply from \$5 to \$5 plus \$1 per mile an hour exceeding 55 m.p.h. The bill restricts the practice of not including this offense as part of the driver's record to only those offenses where the driver does not exceed 70 m.p.h.

Amending 32-2144.6, R.C.M. 1947.

House Second Reading: 31-67.

Killed in the House on Second Reading.

HJR 46 - Harper - Requests the Highway Traffic Safety Division of the Department of Community Affairs to conduct a Montana bikeway and safety study to assess the needs of bicyclists and motorists, resolve conflicts between these groups, and promote safety.

House Second Reading: 60-27.

Killed in the Senate Highways Committee.

SB 208 - Blaylock - Requires the Department of Administration to purchase U.S.-made passenger vehicles that are fuel efficient. The bill establishes an average fuel efficiency level which state cars must meet which is less than or equal to the average fuel efficiency level of the upper one-third of the most fuel

efficient U.S. cars as established by the U.S. Environmental Protection Agency. Law enforcement vehicles used by the highway patrol are exempt from the efficiency requirements.

Killed in the Senate Committee on Highways.

#### CONSERVATION - GENERAL

Several conservation bills not identifiable by one of the previous conservation categories nor able to be grouped into other categories were introduced in 1977; however, all of these bills failed to gain legislative approval. Most of the bills were regarded as too experimental and expensive, too restrictive, or simply superfluous.

#### KILLED:

HB 753 - Bradley - Prohibits the sale or offer for sale of certain unlabeled household appliances or certain appliances which, because of their waste of energy, are suspended by the director of the Department of Business Regulation. The bill seeks to provide consumers with adequate information on the cost of operating certain appliances and with their energy efficiency in relation to other similar appliances. The bill was rejected as being duplicative of a recently enacted federal law.

Killed in the House Natural Resources Committee.

HB 750 - Vincent - Appropriates \$25,000 to the Public Service Commission to analyze whether existing rate structures accurately reflect true costs of service to utility customers and promote conservation of nonrenewable energy resources. If the study supports the revision of rate structures, the PSC is directed to adjust utility rate schedules accordingly. The study is intended to complement the work of the Consumer Counsel.

Killed in the House Business and Industry Committee.

HB 425 - Omnibus conservation bill. See "Nonconventional Energy Sources and Energy Research," p. 37.

HB 692 - Bradley - Bans the burning of gas or propane in any outdoor device used for decoration or advertising purposes and provides a \$200 misdemeanor penalty. The bill was given in the Senate a delayed effective date of July 1, 1978, and excludes devices in use before that date.

Third Reading: House: 53-42; Senate: 25-25.

Killed in the Senate on Third Reading.

HB 754 - Meloy - Requires that 10% of the Coal Tax Trust Fund be:

- deposited in Montana financial institutions for capital investment in energy conserving buildings and equipment;
- invested in general obligations of political subdivisions of Montana whose purpose is to install energy conservation measures in public buildings (including a nonfossil form of energy generation) or to implement energy conservation services for the public;
- invested in corporate bonds which enable the corporation to install energy conservation measures or nonfossil forms of energy conservation in buildings and production processes located in Montana.

Special security requirements for coal tax trust fund investments are deleted.

Amending 79-301, 79-309, and 79-310, R.C.M. 1947.  
House Second Reading: 62-30.

Died in the Senate Taxation Committee.

SB 69 - Blaylock - "The Montana Beverage Container Refund Act," or the "bottle bill" seeks to promote the use of reusable beverage containers to conserve natural resources and prevent litter. The bill requires each beverage container sold in Montana to have a refund value of not less than 5 cents unless it is certified by the Department of Health and Environmental Sciences as usable by more than one manufacturer or acceptable to a manufacturer who will pay its refund value, in which case the refund value is not less than 2 cents. The bill also bans "pop-top" type beverage containers and provides misdemeanor penalties of \$500 fines or imprisonment for 6 months.

Senate Second Reading: 15-34.

Killed in the Senate on Second Reading.

HB 426 - Meloy - Requires performance of life cycle cost analysis before the state may lease or construct a building. The bill seeks to include a new factor in building or leasing that might conflict with the traditional concept of seeking the lowest front-end costs for facilities. It directs the consideration of the long-term costs of owning, operating, and maintaining the facility over the life of the structure and attempts to minimize long-term energy waste. The bill requires the adoption of rules by the Department of Administration for conducting life-cycle cost analysis and for the development of energy performance indices to evaluate the efficiency of energy utilization.

The bill specifies factors for consideration in these analyses such as: fuel costs, site orientation, type of glass, insulation, and variable occupancy of the facility.

Killed in the House Appropriations Committee.

SB 435 - Towe - From an energy conservation account established by the bill, appropriates 1/6 of coal tax trust fund income, up to \$1 million, to the Department of Natural Resources and Conservation (DNRC) for the following energy conservation activities:

- in cooperation with the Department of Administration, to conduct an energy conservation review of existing and proposed state buildings and major purchases, and make recommendations concerning energy efficiency, life cycle analysis, energy use analysis and energy conservation potential; DNRC's recommendations are to be included in the long-range building program and reported to the 1979 legislature;
- at the request of local governments, to evaluate their existing building codes;
- to make recommendations to the Public Service Commission on energy conservation measures available to the utility industry;
- to make energy conservation information available to Montana citizens;
- to develop an energy conservation program which includes making grants and loans for home weatherization and conversion to renewable energy sources.

Died in the Senate Taxation Committee.

## ENERGY EMERGENCY

The problem of how to equitably allocate energy during an emergency was directly addressed by two bills introduced in the House. These bills, based on the Oregon and Washington energy emergency statutes, delegated to the Governor extraordinary powers to curtail or allocate energy during declared energy supply alerts or energy emergencies. The final version of the legislation enacted to mitigate the effects of an energy shortage was arrived at only after extensive debate and revisions, reflecting the impact that such delegation of authority could have on diverse segments of Montana's population. Although the legislature was ultimately willing to grant the Governor these extensive powers, it ensured that legislative oversight and advice would occur throughout the process.

A bill substantially revising the civil defense laws was also enacted and would bear indirectly on an energy emergency situation.

### PASSED:

HB 762<sup>1</sup> - Bradley - Establishes necessary planning and information gathering energy emergency powers for the Governor and defines the conditions under which these powers are to be exercised. The legislative leadership is to be called upon for advice in preparation for and during an energy supply alert and energy emergency. An energy emergency declared by the Governor is effective only for fourteen days, at which time the legislature must meet to extend or terminate the emergency condition. The advice of consumers and producers is also required to be solicited, and energy suppliers and producers must submit curtailment plans.

Amending 79-2501, R.C.M. 1947, and adds 20 new sections.  
Votes on Conference Committee Reports: House: 89-3; Senate: 45-1.

SB 83<sup>2</sup> - Rasmussen - Generally revises the civil defense laws and adds additional powers to the Governor's emergency and disaster capabilities. This bill relates only indirectly to energy emergencies and applies primarily to floods, tornadoes, and other natural disasters; however, these powers would be coordinated with any energy emergency powers.

Amending 77-2301 through 77-2304, 77-2306, 77-2309, 77-2310, and 77-2311, R.C.M. 1947.  
Repealing 77-2305 and 77-2307, R.C.M. 1947.  
Third Reading Votes: Senate: 44-0; House: 93-0.

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<sup>1</sup>Chapter 577, Montana Session Laws 1977.

<sup>2</sup>Chapter 335, Montana Session Laws 1977.

KILLED:

HB 785 - Hand - Provides extraordinary powers to the governor to mitigate the effects of energy resource emergencies or disasters; plans for curtailment of energy would be adopted by the Department of Natural Resources and Conservation. This bill is similar to HB 762 and is based on the Oregon law. HB 762 was used as the final vehicle for the energy emergency law; however, many provisions from HB 785 were incorporated into it.

Killed in the House Natural Resources Committee.



## MAJOR FACILITY SITING

Eleven bills were introduced amending the Major Facility Siting Act. The only one which passed was a bill providing for a voluntary notice of intent to file an application for construction of a facility covered by the Act.

Bills which were killed would have:

- required the filing of a notice of intention to file an application for a citing certificate;
- provided penalties for an applicant who submitted false information in long range plans;
- included the entire state within the scope of "public need";
- reduced time periods and made other changes in the application process;
- replaced the Board of Natural Resources with the Public Service Commission as the decisionmaking authority for facility siting;
- established a facility siting task force;
- provided for forecasting the demand for energy in Montana;
- limited construction of new energy facilities to those needed to meet Montana's energy needs;
- made construction of certain railroad tracks associated with a facility subject to the Act;
- made certain major mineral processing plants subject to the Act;
- eliminated the Act's filing fee requirements;
- exempted fertilizer plants and added requirements for participation in hearings.

The Major Facility Siting Subcommittee of the House Natural Resources Committee considered all bills originating in the House as a package, except for the bill authorizing a voluntary notice of intent to file an application and the bill making the Public Service Commission the decisionmaking body under the Act.

Provisions of all the bills which the subcommittee favored were consolidated into HB 661.

### PASSED:

HB 542<sup>1</sup> - Hirsch, By request of the Governor's Office - Provides that a potential applicant for a certificate of public need and environmental compatability may file a notice of intent to file an application and receive a 5% discount on the required filing fee. The notice of intent must be filed one year before the

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<sup>1</sup>Chapter 179, Montana Session Laws 1977.

application and must specify the type and size of the facility, its preferred location and a description of reasonable alternative locations.

Amending 70-806, R.C.M. 1947.

Third Reading: House: 91-8; Senate: 43-6.

KILLED:

HB 431 - Kessler - Requires a one-year notice of intent to file an application for a certificate of environmental compatibility and public need and extends penalties provided by the Act to submission of false information in long range plans.

Amending 70-821, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 441 - Bradley - Requires that a finding of public need by the Board of Natural Resources be based on consumer requirements within Montana. (Under the Act, a finding of public need is required before the Board can authorize construction of an energy facility.)

Amending 70-810, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 593 - Conroy - Requires a potential applicant to contract with the Department of Natural Resources and Conservation (DNRC) at least one year before filing a formal application for development of information required for the application, and makes the following changes in the application process:

- requires a public hearing within 300 days after a completed application is received;
- reduces the deadline from two years to one year for DNRC to make a report on an application for construction of major energy generating plants, facilities making use of geothermal resources and major electric transmission lines and pipelines;
- sets a deadline of 240 days after a completed application is received for the Departments of Health and Environmental Sciences, Highways, Community Affairs, Fish and Game, and the Public Service Commission to make reports to the DNRC on the application;
- requires the Board of Health and Environmental Sciences to report its findings on air and water quality impacts to the Board of Natural Resources within one year after a complete application is received;
- changes the hearing deadline for the Board of Natural Resources from 120 to 60 days after it receives DNRC's report;

- deletes the list of who may participate in the Board of Natural Resources' hearings and authorizes any person to do so;
- limits the DNRC's participation in hearings to presentations of studies made;
- modifies the Board of Natural Resources' hearing procedures by requiring appointment of a hearing examiner;
- changes the deadline for the Board of Natural Resources to make a decision on an application from 90 days after the last day of hearings to 600 days after the completed application is received;
- requires the Board of Natural Resources to take action within 60 days after receiving information on any conditions which were attached to approval of an application;
- requires the DNRC to review load growth data and projections contained in long range plans and requires it to report the results of its analysis annually to the Board of Natural Resources.

Amending 70-806, 70-807, 70-808, 70-809, 70-810, and 70-815, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 609 - Kimble - Appropriates \$80,000 to the DNRC to support a major facility siting task force established by the bill. The task force is to develop criteria for designating areas of the state which are unsuitable for location of energy facilities, to develop criteria for preferred sites and to report its findings to the Board of Natural Resources by October 15, 1978.

Killed in the House Natural Resources Committee.

HB 661 - Bardanouve, By request of the Governor's Office - As amended by the Facility Siting Subcommittee, the bill:

- makes major industrial facilities that handle or process phosphates, potash, or metal ores subject to the Act. (Applicants wishing to construct such facilities are not required to demonstrate public need as are builders of energy generating facilities);
- retains the exemption of oil and gas refineries from the Act's requirements;
- adds a definition of "transmission substations" which are regulated by the Act;
- excludes producers of hydrocarbon products from the Act's requirements;
- defines "need" as peak demand within Montana projected over a 20-year period. Some allowances for out-of-state sales are made for interstate sales by the

Montana-Dakota Utilities Company and for occasional and emergency sales outside the state. If a utility sells 20% or more of its average annual sales of electricity or synthetic gas to Montana customers, then demand from the utility's entire service area is considered part of Montana demand;

- requires the Department of Health and Environmental Sciences, in consultation with DNRC, to monitor air and water quality and requires DNRC to monitor, in conjunction with other state agencies, other environmental, social and economic conditions. Monitoring plans must be submitted to the Board of Natural Resources within six months after a certificate allowing construction is approved; monitoring reports must be submitted to the Board annually;
- requires the DNRC to prepare a siting inventory and to develop criteria for unsuitable and preferred locations for future facilities;
- requires the DNRC to develop a methodology for forecasting Montana energy demand for one, five, ten, and twenty years into the future. Forecasts must be updated annually. Both the department's and the utility's forecasts will be used in evaluating energy need for individual applications;
- appropriates \$60,000 for the siting inventory and \$60,000 for developing forecasts of energy demand.

Amending 70-802, 70-803 through 70-811, 70-815, 70-820, and 70-821, R.C.M. 1947.

Repealing 70-825 through 70-829, R.C.M. 1947.

House Second Reading: 19-71.

Killed in the House on Second Reading.

HB 697 - Huennekens - Substitutes the Public Service Commission for the Board of Natural Resources as the authority which approves or disapproves applications for facilities regulated by the Major Facility Siting Act.

Amending 70-803, R.C.Ms 1947.

House Second Reading: 29-65.

Killed in the House on Second Reading.

HB 698 - Huennekens - Prohibits construction of energy generating facilities which export from Montana more than 10% of their design capacity, on the grounds that allowing construction of such facilities violates the constitutional mandate for maintenance and improvement of a clean and healthful environment and prevention of unreasonable depletion and degradation of natural resources. Exceptions are made for occasional and emergency sales. "Public need" is defined as Montana-produced energy used primarily within the state.

Amending 70-802 and 70-803, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 702 - Huennekens - Makes construction of an industrial facility costing more than \$25 million which smelts, processes, reduces, refines, or manufactures natural resources subject to regulation under the Act. Timber operations are exempted.

Amending 70-802 and 70-803, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 717 - Meloy - Makes construction of a railroad track more than 25 miles long subject to regulation under the Major Facility Siting Act if it is not already regulated under the Strip Mine Siting Act. Relocation of existing tracks and tracks which were being constructed before January 1, 1977 are exempted.

Amending 70-803, R.C.M. 1947.

Killed in the House Natural Resources Committee.

SB 247 - Dover - As introduced, repeals provisions authorizing state agencies to charge fees for preparation of environmental impact statements under the Montana Environmental Policy Act and for the DNRC to charge a filing fee for an application under the Major Facility Siting Act. The bill was entirely rewritten to limit use of filing fee money to compiling information necessary for reviewing an application. (Under existing law, fee money may be used for monitoring activities as well as information gathering.) A later amendment allows fee money to be used by the DNRC for carrying out all its responsibilities in reviewing an application until the Board of Natural Resources concludes its hearing.

Amending 70-806, 70-818, and 70-824, R.C.M. 1947.

Repealing 69-6518, R.C.M. 1947.

Senate Third Reading: 36-13.

Killed in the House Natural Resources Committee.

SB 324 - Dunkle - Exempts fertilizer plants from the provisions of the Act. The bill was amended to delete the exemption and to require participants in hearings under the Act to register within 60 days of the DNRC's report to the Board of Natural Resources.

Amending 70-803, 70-806, 70-808, and 70-811, R.C.M. 1947.

Third Reading Votes: Senate: 30-19; House: 51-47.

Vetoed by the Governor.



## NONCONVENTIONAL ENERGY SOURCES AND ENERGY RESEARCH

### Energy Research - General

The bill which addressed the general area of the state's role in energy research and policy failed to pass the legislature.

#### KILLED:

HB 204 - Meloy - Establishes an Energy and Resource Policy Office (ERPO) within the Office of the Governor. The Montana Energy Advisory Council can be continued if sufficiently tied to the new office both administratively and functionally. ERPO is directed to:

- serve as an energy information repository within the state;
- prepare recommendations for an energy emergency allocation plan;
- assess trends in energy consumption and analyze their social, economic, and environmental consequences;
- evaluate the relationship of rate policies to energy conservation;
- analyze and make recommendations on energy-related activities of state government;
- make recommendations for an energy policy for Montana;
- formulate a comprehensive state program for energy conservation;
- provide energy conservation information to the public;
- prepare on a continuing basis a comprehensive state energy conversion policy and plan which must include alternative, long term growth goals, a statewide siting inventory, and a proposed siting policy for the coordinated siting of energy conversion facilities to meet Montana's needs;
- prepare an annual report for the legislature which describes the office's activities and energy problems in Montana.

Amendments made in the Senate Taxation Committee: (1) place ERPO in the Department of Natural Resources and Conservation instead of the Governor's office and give the department direct responsibility for carrying out the duties listed in the bill; (2) allocate 1/6 of the income from the coal tax trust fund (see p. 6) up to \$1 million to the department for funding the office.

House Second Reading: 50-47.

Died in the Senate Natural Resources Committee.

Note: Although the bill failed to pass, the legislature did appropriate \$263,500, originally requested for the Energy and Resource Policy Office, to the office of the Lieutenant Governor. On May 20, 1977, Governor Tom Judge rescinded the Executive

Order which established the Montana Energy Advisory Council and transferred all MEAC functions to the Office of the Governor, with direct responsibility placed in the Lieutenant Governor's office. In his letter to Lieutenant Governor Schwinden, Governor Judge directs that "at a minimum, Montana's energy and resource program should include:

1. A state program for energy conservation.
2. A state program for emergency allocation of energy in the event of shortage;
3. A state program encouraging maximum use of alternative energy sources;
4. An assessment of, and specific recommendations for, energy-related situations, including but not limited to land capability and use; water quality, quantity and use; air quality; plant, wildlife and aquatic biota information; and human resource concerns."

#### Renewable Energy Sources

Four bills dealing with alternative renewable energy research and development became law. They provide income tax credits for acquisition of solar or other nonfossil forms of energy generation, transfer energy conservation and alternative energy tax incentives from the property tax to the income and corporation license taxes, establish a solid waste management program, a major purpose of which is to use waste for energy production, and direct the Montana Agricultural Experiment Station to study the economic feasibility of converting wheat and other grains into alcohol as an alternative energy source.

Six bills which failed to gain passage would have authorized loans as well as grants under the present alternative renewable energy sources program, provided for the creation of county alternative energy districts, established a Montana Commission for the Demonstration and Development of Renewable Energy Resources, appropriated funds for the construction of a solar facility at Eastern Montana College, allowed deductions in computing corporate license taxes for investments and operating costs association with research and development of nonfossil forms of energy, shifted tax incentives from the property tax to the income tax, provided energy conservation analysis in subdivision review, authorized low interest loans for solar collectors under the renewable resources development program, and appropriated money for an economic feasibility study of the conversion of wheat and barley into alcohol and related by-products.



PASSED:

SB 167<sup>1</sup> - Rasmussen - Gives an income tax credit to resident individual taxpayers who either install a nonfossil form of energy generation in their homes (personal dwellings) or who acquire a home equipped with such systems for which a credit has not been previously claimed. Credits can be claimed for installation and purchases completed after December 31, 1976, and before December 31, 1982.

Tax credits allowed:

10% of the first \$1,000 of the cost of the system

5% of the next \$3,000 of the cost of the system

Maximum credit: \$250

Tax credits allowed if the federal government provides a substantially similar kind of credit:

5% of the first \$1,000 of the cost of the system

2 1/2% of the next \$3,000 of the cost of the system

Maximum credit: \$125

The credit can be carried over for four taxable years after the system is acquired.

The House Taxation Committee deleted provisions for tax credits and accelerated amortization for owners of real estate used for business or production of income.

Amending 84-4906, R.C.M. 1947.

Second Reading: Senate: 31-9; House: 74-14.

HB 292<sup>2</sup> - Meloy - Transfers energy tax incentives from the property tax to the income and corporate license taxes as deductions. *Former law* exempted the first \$100,000 of a capital investment by taxpayers in a nonfossil form of energy generation from the property tax, and taxed that part of the investment which exceeded \$100,000 at a rate of 7% of true value. Capital investments for energy conservation purposes were taxed at 20% of true value. With the passage of HB 292, a taxpayer is allowed deductions for energy conservation and nonfossil energy generating system expenses from the corporate license taxes or the income taxes according to the following schedule:

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<sup>1</sup>Chapter 574, Montana Session Laws 1977.

<sup>2</sup>Chapter 576, Montana Session Laws 1977.

For Residential Buildings:

100% of the first \$1,000 spent

50% of the next \$1,000 spent

20% of the next \$1,000 spent

10% of the next \$1,000 spent

Maximum deduction: \$1,800

For Non-Residential Buildings:

100% of the first \$2,000 spent

50% of the next \$2,000 spent

20% of the next \$2,000 spent

10% of the next \$2,000 spent

Maximum deduction: \$3,600

Deductions are not allowed for capital investments which would have been made under "established standards of new construction," for expenditures and capital investments financed by state, federal, or private grants for energy conservation.

Amending 84-202, 84-301, 84-1502, 84-4906, 84-7401, 84-7403, R.C.M. 1947.

Third Reading: Senate: 39-9; House: 83-6.

SB 175<sup>1</sup> - Warden, By request of the Department of Health and Environmental Sciences - Establishes a solid waste management program (called a resource recovery program in the bill as introduced), the purpose of which is "to encourage the good management of solid waste and the conservation of natural resources through the promotion or development of systems to collect, separate, reclaim, recycle, and dispose of solid waste for energy production purposes where economically feasible. . . ." In accordance with a state solid waste management plan developed by the Department of Health and Environmental Sciences, local governments may secure state loans for construction of solid waste management facilities, and market or sell energy by-products which are produced from its operation.<sup>2</sup>

Senate Third Reading: 36-8; House Second Reading: 75-22.

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<sup>1</sup>Chapter 575, Montana Session Laws 1977.

<sup>2</sup>SB 175 was introduced to enable the state to take advantage of federal assistance authorized by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 - 6987.

SJR 42 - Dover - Citing the present wheat surplus in the United States, Montana's position as a major wheat producer and the state and national energy crises, the resolution directs the Montana Experimental Station to conduct studies to determine the economic feasibility of converting wheat and barley into alcohol for use as an alternative energy source. The Experiment Station is to report to the next legislature on its conclusions, proposed actions, and the desirability of a "producer check-off tax" as a method of funding any proposed conversion plant. The governor is requested to cooperate with other wheat producing states in research and development of conversion facilities.

Second Reading: Senate: 34-3; House: 57-31.

KILLED:

HB 155 - Driscoll, By request of the Department of Natural Resources and Conservation - Allows the Department of Natural Resources and Conservation to make loans as well as grants under the coal tax funded alternative energy research development and demonstration program. Principal and interest would be deposited into the account which funds the program. The bill also grants the department the authority to allow an applicant to secure patents and copyrights for products produced under a grant or loan. The fiscal note states that although a loan program would generate more applications, additional administration costs could be absorbed by the present staff.

Amending 84-7409 through 84-7412, R.C.M. 1947.

Second Reading: House: 65-29.

Killed in the Senate Taxation Committee.

HB 679 - Meloy - Authorizes the organization of alternative energy districts, which would be similar in structure to presently authorized water and sewer districts. In addition to powers given to water and sewer districts (to fix rates, incur debt, provide for repairs, etc.) an alternative energy district may:

- cooperate with state, federal and private agencies in constructing alternative energy generating facilities either within or outside the district;
- construct, acquire, dispose of and encumber personal property and energy facilities;
- sell energy in any usable form which is derived from a recognized nonfossil form of energy, both to private customers and to public utilities.

Amending 16-4501, 16-4505, 16-4525, 16-4526, R.C.M. 1947.

House Second Reading: 42-49.

Killed in the House on Second Reading.

HB 776 - Vincent - Creates a Montana Commission for the Demonstration and Development of Renewable Energy Resources which has powers to:

- perform research and develop long range programs relating to renewable energy resources and technologies;
- evaluate environmental, institutional and economic implications of alternative technologies and recommend demonstration programs;
- acquire interests in property;
- enter into contracts with public and private agencies to develop renewable energy resources;
- study, acquire, and construct projects;
- sell, either wholesale or retail, the energy and by-products produced by its projects.

The Commission is made up of the Governor, the Director of the Department of Natural Resources and Conservation, and five members appointed by the Governor, one who represents agriculture, one who represents labor organizations, and three who are advocates and researchers of renewable resource use in Montana.

The fiscal note estimates administrative staff expenses would total \$81,196 for the biennium.

Killed in the House Natural Resources Committee.

SB 348 - Murray - Allows a deduction to corporations in computing their corporate license tax for investments made during the taxable year in solar energy research and development or other recognized nonfossil sources of energy generation, including all construction, operating, and maintenance expenses.

Amending 84-1502, R.C.M. 1947.

Killed in The Senate Taxation Committee.

HB 425 - Kimble - This is something of an omnibus energy conservation and alternative energy development bill based on a policy to provide incentives to reduce dependence on natural gas and to mitigate the harmful effects of anticipated gas shortages. The bill:

- authorizes the Board of Natural Resources and Conservation to make loans of up to \$2,000 from the Renewable Resource Development Account to homeowners for the installation of solar energy collectors. Interest on the loans may not exceed the annual percentage rate of 2% less than the prevailing interest rate on the renewable resource development bonds;

- authorizes the Department of Natural Resources and Conservation to award a cash prize of \$10,000 to the Montanan who develops the most efficient, innovative, and inexpensive alternative renewable energy collecting device. Money for the award is to come from the Alternative Energy Research Development and Demonstration Account;
- substitutes property tax incentives for energy conservation investments with an income tax credit of up to 25% of expenses (but no more than \$100 per building per year for 5 years) for insulation materials;
- establishes energy conservation standards for new homes and offers income or corporate license tax credits of \$100 per year for 5 years for builders who meet them;
- requires all new state buildings to meet the energy conservation standards established by the bill;
- requires that energy conservation be considered in environmental assessments of proposed subdivisions;
- authorizes the state library commission to use money from the Alternative Energy Research Development Account (see p. 12) for purchases of books on energy conservation and development of alternative renewable energy sources.

The fiscal note estimates the fiscal impact to be \$202,100 for the biennium.

Amending 84-7401, 84-7403, 89-3603, R.C.M. 1947.

Killed in the House Natural Resources Committee.

HB 841 - Conroy - Appropriates \$25,000 for an economic feasibility study of the conversion of wheat and barley into alcohol and related by-products to be used as an alternative energy source.

Killed in the House Appropriations Committee.

HB 259 - Kimble - Appropriates \$50,000 from the long-range building program to the Department of Administration for the study, design and installation of a solar heating and storage facility at Eastern Montana College if total cost and energy conditions are met.

Killed in the House Natural Resources Committee.

#### Nonrenewable Energy Sources

Three pieces of legislation were introduced which dealt with research and development related to coal. Only a house joint

resolution requesting federal funding for the National Magneto-hydrodynamic (MHD) Energy Extraction Program was successful.

Bills authorizing funding for coal research development and demonstration projects from the alternative energy research development and demonstration account, and the creation of a Montana Commission for the Research of Coal Gasification and Related Fuels were killed.

PASSED:

HJR 94 - Cooney - Citing the efficiency of the MHD method of extracting energy from coal, its relative environmental benefits and Montana's participation in the program (national headquarters are in Butte), the resolution requests \$86 million in federal funding to continue research and development of the process.

Third Reading Votes: House: 91-3; Senate: 46-0.

KILLED:

SB 285 - Thiessen - Amends the provisions of the Alternative Renewable Energy Sources Program to allow allocation of funds for coal utilization research.<sup>1</sup> Under present law, only research in renewable sources may be funded by the program.

The bill deletes portions of the purpose section and the definition section which limits grants to renewable sources and modifies the requirement that the energy sources developed under the program "are harmonious with ecological stability."

Amending 84-1319 and 84-7407 through 84-7412, R.C.M. 1947.

Killed in the Senate Taxation Committee.

HB 531 - Establishes a new account funded by coal tax revenues for research in the reclamation of strip-mined land. See "Reclamation of Strip-Mined Land," p. 5.

HB 687 - Lynch, By request of the Governor - Creates a Montana Commission for the Research of Coal Gasification and Related Fuels which has powers to:

- hire a professional staff without regard to personnel rules or the state personnel classification system;
- study, make recommendations and encourage research concerning the long range programs relating to coal, natural gas, and synthetic fuel resources and their related problems;

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<sup>1</sup>A similar provision was deleted from SB 44, see p. 6.

- solicit and accept gifts, grants, loans and loan guarantees from any source and to comply with their conditions and requirements;
- enter into contracts with any public or private agency to engage in coal and related fuel utilization projects and demonstration programs in order: (1) to determine the feasibility of commercial implementation of the synthetic fuel resources in Montana; (2) to determine the feasibility of the development of technology and the initiation of coal gasification demonstration projects which reasonably may result in synthetic gas production; (3) to determine the feasibility of the site acquisition, development, construction, modification, reconstruction, improvement, betterment, ownership, operation, and maintenance of coal gasification plants and storage and distribution facilities and means by which they can be financed;
- adopt rules and regulations in connection with the exercise and performance of its powers and duties;
- apply for whatever government permits, certificates or approvals are necessary to its authorized activities in the same manner as any other person, firm, or corporation.

The construction section of the bill states that it "shall be interpreted to provide a complete method for the doing of those things authorized herein." Its provisions are to be liberally construed to effectuate the stated purpose, which is "to promote the protection of coal and related fuel sources and thereby to promote the prosperity and welfare of the citizens of Montana."

The Commission is made up of the Governor, the Lieutenant Governor, the Director of the Department of Natural Resources and Conservation, and four members appointed by the Governor who represent the agricultural sector, labor organizations, utilities, and the public. Appointed members serve six-year staggered terms.

Amendments approved by the House Natural Resources Committee made the following changes:

- placed the Commission in the Governor's Office rather than in the Department of Natural Resources and Conservation;
- made rulemaking and all other Commission activities subject to the requirements of the Administrative Procedure Act and Open Meetings Law (with protection for trade secrets);
- substituted provisions of the construction section with language emphasizing the research function and prohibiting any activity associated with the construction or operation of any synthetic fuel production plant;

- required that the Commission make a report to the next legislature of all its financial affairs;
- provided a termination date of June 30, 1979, unless the Commission is specifically extended by law;
- deleted the provision giving staggered terms to appointed members of the Commission;
- appropriated \$81,196 for personnel and operating expenses.

House Second Reading: 39-60.

Killed in the House on Second Reading.

HB 473 - Waldron - Imposes a tax of 1% per 100 gallons of water consumed by a plant which produces commercially useful combustible gas with a process using coal and water. The statement of purpose notes that the coal gasification process involves "the literal consumption of water by detaching the hydrogen atoms from a molecule of water," thus making water as much an energy source as coal. The tax does not apply to water which leaves the gasification plant in the form of vapor, steam, or liquid.

House Second Reading: 40-55.

Killed in the House on Second Reading.



## NUCLEAR WASTE AND URANIUM MINING

Two bills regulating the disposal and storage of nuclear waste in Montana were introduced in the House. As introduced, the bills were remarkably similar with one significant difference: one would have prohibited the disposal and storage of nuclear waste, regardless of where it was produced; the other applied only to nuclear waste produced in other states. After substantial revision in the House Natural Resources Committee, to accommodate various health and educational interests using nuclear materials, the less restrictive bill was enacted. A bill further suspending solution extraction of uranium was also passed. Bills relating to strip mining of uranium were killed.

Conspicuous by their absence were bills directly addressing the controversial subject of construction of nuclear power plants in Montana.

### PASSED:

HB 254<sup>1</sup> - Cooney - Prohibits the disposal of large quantity radioactive materials produced in other states. This prohibition specifically excludes by-product material used, possessed, or transported for educational, scientific, medical, geophysical, and other purposes licensed by the U. S. Nuclear Regulatory Commission. To alleviate the fears that this bill was a "back-door" approach to banning nuclear power in Montana, an exclusion stating that a nuclear facility in Montana is not precluded by this act is contained in the final section.

Third Reading Votes: House: 92-5; Senate: 49-0.

SB 268<sup>2</sup> - Graham - Further suspends solution extraction of uranium until April 1, 1978 unless the Board of Health and Environmental Sciences adopts rules regulating this type of mining before that date. If rules are adopted, mining operations may not begin until they take effect.

Amending 50-1704, R.C.M. 1947.

Repealing 50-1703, R.C.M. 1947.

Senate Third Reading: 49-0; House Second Reading: 52-36.

### KILLED:

HB 190 - Kimble - Prohibits the storage of nuclear waste, regardless of where produced, in Montana.

House Second Reading: 41-56.

Killed in the House on Second Reading.

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<sup>1</sup>Chapter 68, Montana Session Laws 1977.

<sup>2</sup>Chapter 543, Montana Session Laws 1977.

SB 317 - Prohibits uranium strip mining in alluvial valleys.  
See "Coal - Coal Mining and Association Facilities," p. 2.

SB 295, HB 577, SB 284 - These bills make changes in the reclamation requirements for strip-mined land. (The Montana Strip and Underground Mine Reclamation Act regulates coal and uranium strip mining operations.) See "Coal - Reclamation of Strip-Mined Land," p. 4.

## OIL AND GAS

### Production Incentives

Several bills and a resolution whose purpose was to stimulate increased exploration and production of oil and gas reserves were introduced in the 1977 session. The proponents of these measures asserted that their impact would provide not only increased financial benefits to producers, but would also have the psychological effect of changing the existing unfavorable business climate in Montana to increased exploration and production. Three of the four measures were enacted, and the principles of the fourth were incorporated in revised form into a similar bill. Two bills provided incentives to production through a reduction and suspension of the net proceeds tax and the severance tax, while a third encouraged an innovative technique for recovering additional oil and gas. The resolution introduced in this category attempted to encourage production by urging the FPC to deregulate the price of new natural gas.

#### PASSED:

HB 553<sup>1</sup> - Driscoll, By request of the Governor - As introduced, this bill would have exempted new gas production consumed in Montana from the net proceeds tax for a two-year period. After substantial revision in both houses, the bill incorporates some of the intentions of HB 631, which is discussed below. In its final form, HB 553 attempts to promote a sufficient supply of natural gas and to lessen Montana's dependence on Canadian gas by exempting new gas from one-half of the net proceeds tax and all of the severance tax for a three-year period. The gas must meet certain conditions, including:

- (1) It must be placed into a distribution system after diligent completion of the well.
- (2) It must be distributed by a natural gas system serving a majority of Montana consumers or at least 10,000 natural gas customers within Montana.

Amending 84-2202, 84-2207, 84-6204, and 84-6208, R.C.M. 1947.  
Third Reading: House: 79-16; Senate: 35-13.

SB 111<sup>2</sup> - Mathers - Encourages the use of an innovative technique termed "enhanced recovery" in unit-pool production of oil or gas. The bill defines enhanced recovery as "the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool." In order to provide an incentive for members of a pool to utilize this

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<sup>1</sup>Chapter 256, Montana Session Laws 1977.

<sup>2</sup>Chapter 336, Montana Session Laws 1977.

technique, the bill provides for the recovery of costs of the enhanced recovery program at 75% of the owners' increased share of production.

Amending 60-126, 60-131.1, and 60-131.3, R.C.M. 1947.  
Third Reading: Senate: 47-3; House: 95-0.

SJR 22 - Hager - Encourages Congress and the Federal Power Commission to deregulate the price of new natural gas. The desired effect of this deregulation would be increased exploration and production of natural gas, both of which have flagged in recent years.

Third Reading: Senate: 44-6; House: 79-16.

KILLED:

HB 631 - Driscoll - Provides a four-year suspension of tax liability to producers of new gas. The bill was scrapped when producers testified that it would provide no significant benefit to them because the taxes must eventually be paid. The idea of including a modification of the severance tax to encourage production was salvaged from this bill and incorporated into HB 553.

Killed in the House Natural Resources Committee.

Transportation of Oil and Gas

Two resolutions concerning including Montana in any pipeline route that transports Alaskan gas and oil to the Midwest were introduced and adopted overwhelmingly.

PASSED:

HJR 90 - Williams - Requests the Washington Legislature and Governor to encourage and permit the construction and operation of port facilities for unloading crude oil for subsequent transportation by pipeline to the Northwestern states, including Montana. The resolution goes into considerable detail, including a history of Montana's contribution to Washington's energy supplies, Canada's changing oil policies, economic consequences of loss of supply, energy emergency conditions, and the desirability of an all-U. S. transportation system.

Third Reading: House: 91-1; Senate: 47-0.

SJR 17 - E. Smith - Urges the selection and construction of the Arctic gas pipeline inland route alternative for transporting Arctic gas to the inland United States. The resolution also seeks to ensure a distribution point in Montana along any pipeline built across the state for such purposes.

Third Reading: Senate: 44-0; House: 93-1.

Other

PASSED:

HJR 97 - Ramirez - Requests the FPC to withdraw or modify its restriction of the number of new natural gas connections which can be made in 1977 by Montana-Dakota Utilities. The problem is particularly acute in Billings, where as of the date of introduction of this resolution, no new connections could be made in that rapidly growing city.

Third Reading: House: 92-0; Senate: 43-0.

KILLED:

SJR 26 - Devine, By request - Requests the U. S. Congress, State Department, and other appropriate federal agencies to influence the Canadian government to reconsider its action in pricing natural gas to Montanans at \$1.94 per million BTU's. The resolution recommends that the price be \$1.80 per million BTU's.

Killed in the Senate Natural Resources Committee.



## WATER

Two types of bills are discussed in this section; those relating to hydroelectric power and those relating to determination of water rights. Bills addressing problems of irrigation, dam repair, etc., are not discussed.

### Hydroelectric Power

Four joint resolutions addressed the issue of increasing Montana's supply of hydroelectric power. Three of the resolutions were approved by both houses.

#### PASSED:

HJR 19 - Curtiss - Urges the U. S. Department of Interior to give Montana priority over other states in allocating new hydroelectric power from dams located in Montana. The rationale behind the resolution is that Montana should reap the benefits of new power, since it must bear the social and environmental costs.

Third Reading: House: 96-1; Senate: 49-0.

HJR 21 - Fabrega - Requests that the U. S. Bureau of Reclamation and the Energy Research Development Administration make an immediate updated study on constructing a dam on the Sun-Teton Unit of the Missouri River Basin Project to address the needs for power generation, research and development associated with the magnetohydrodynamic method of power generation, irrigation, flood control, and enhanced fishery values.

Third Reading: House: 90-6; Senate: 44-0.

SJR 24 - Jergeson - Noting that the energy crisis is a major concern to Montana and the nation, and that generating capacity at the Fort Peck Dam could be doubled with relative ease, the resolution requests that additional hydroelectric generating facilities be constructed.

Third Reading Votes: Senate: 50-0; House: 96-0.

#### KILLED:

HJR 1 - Mular - In terms almost identical to HJR 21 (see above), the resolution requests a study of the proposed Reichle Dam project as an element of the Jefferson-Whitehall Unit of the Missouri River Basin Project.

House Second Reading: 47-51.

Killed in the House on Second Reading.

HB 785 - Hand - Hydroelectric energy emergency bill. See "Energy Emergency," p. 26.

## Reservoir Construction

Five pieces of legislation were introduced relating to construction of reservoirs. One bill requiring acquisition of off-stream storage sites by conservation districts if funding is available was passed, as was a resolution requesting a study of off-stream storage facilities on the Big Hole River. Two bills which would have regulated the exercise of eminent domain (condemnation) powers for acquisition of reservoir sites and would have required acquisition of reservoir sites in the Yellowstone River Basin by conservation districts were killed. A resolution directing the Department of Natural Resources and Conservation to discuss with Wyoming, the Crow Indian Tribe, and the Northern Cheyenne Indian Tribe the possibility of joint studies of water supply projects in the Tongue and Powder River Basins passed both houses.

### PASSED:

HB 810<sup>1</sup> - Judiciary Committee - Requires all conservation districts in the state to select at least one off-stream water storage site for construction of a reservoir. The site must be acquired if funding is available; conservation districts are directed to seek funding, especially from the renewable resource development fund (see p. 10).

Conservation district supervisors may also select future sites, which will then not be acquired by the state or any local government for any other purpose.

Water from the reservoirs which is not needed by prior appropriators may be sold for any beneficial use on the basis of priorities established by each district according to need and use.

New Sections: 76-119 and 76-120, R.C.M. 1947.  
Third Reading Votes: House: 95-0; Senate: 36-10.

HJR 22 - Day, By request of the Montana Water Subcommittee; Requested by the Department of Natural Resources and Conservation - Citing the problems of water availability in the Tongue and Powder River Basins, potential new demands from both agriculture and industry, and the Yellowstone River Compact's allocation of water between Montana and Wyoming, and between the Crow and Northern Cheyenne Indian Tribes, the resolution directs the Department of Natural Resources and Conservation to investigate the possibility of joint studies of water supply projects with the parties involved and to investigate water marketing possibilities. The resolution also directs the department to conduct special studies on water quality and potential saline seep problems in view of possible new

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<sup>1</sup>Chapter 418, Montana Session Laws 1977.



reservoirs increased irrigation and aqueduct system alternatives. If the study on water quality and saline seep indicates that potential water storage or delivery systems are compatible and desirable, the department is to pursue feasibility studies for projects "that would most benefit the citizens of the state of Montana."

Third Reading: House: 88-0; Senate: 42-3.

HJR 80 - Mular - Citing the need for watershed and irrigation development to support continued agricultural growth, adverse impact on fishing from very high and very low water flows, past flood damage and the possibility of losing water to downstream users in other states, the resolution requests the Department of Natural Resources and Conservation to study the feasibility of off-stream storage on the upper Big Hole River. The department is to report its finding to the next legislature, which must include a description of each unit considered, the benefits and costs of each, and a recommendation of the best unit and potential sources for funding its construction.

Third Reading Votes: House: 89-4; Senate: 45-0.

KILLED:

HB 478 - Curtiss - Requires each conservation district in the Yellowstone River Basin to select one off-stream reservoir site. If federal funding is available, the conservation districts are required to purchase the site selected. Conservation districts are required to actively seek funding, especially from the U. S. Bureau of Reclamation. The bill states the purpose of the reservoirs is to provide water storage for appropriators within the conservation district and to provide water for "additional beneficial uses" according to the following priority:

- a) domestic
- b) municipal
- c) agricultural
- d) industrial
- e) recreational

Amendments to the bill: (1) require acquisition if money from any source (not just the federal government) is available, and directs the conservation district to seek funding, especially from the state renewable resource development fund (instead of the Bureau of Reclamation); (2) give the conservation district supervisors the authority to designate reservoir sites for future reservoir construction. A designated site may not be put to any other use by the state or any of its political subdivisions; (3) limit "additional beneficial uses" to use within Montana; (4) substitute priority uses to be determined by each local district for the list of priorities in the original bill.

House Second Reading: 88-0.

Died in the Senate Agriculture Committee because HB 810 does the same thing for the entire state, not just the Yellowstone River Basin.

HB 538 - Nathe - Requires Department of Natural Resources and Conservation approval of any exercise of eminent domain powers to secure reservoir sites. The approval requirement does not apply to agencies or companies subject to the control of the Public Service Commission unless they are engaged principally in the sale or lease of water. Public and private utilities are exempt under this proposal. In order to get the department's approval, an agency or company must demonstrate that there is a present or "reasonable foreseeable" beneficial use to which the stored water will be put. The exercise of eminent domain will not be allowed for construction of a reservoir whose water will be stored for speculative purposes.

The House Judiciary Committee completely rewrote the bill with an amendment to existing eminent domain law. The substitute bill makes reservoir sites a "public use" if the water will be used for public water supplies, government water resources projects, agricultural and domestic purposes, hydroelectric facilities or energy conversion facilities owned exclusively by rural electric cooperatives or by utilities regulated by the state Public Service Commission.

Amending 93-9902, R.C.M. 1947.  
House Second Reading: 33-62.

Killed in the House on Second Reading.

#### Preference Systems for Water Rights Appropriations

The Montana Water Use Act gives all uses designated as beneficial by law equal status for purposes of appropriation. If a use is considered beneficial, the traditional doctrine of "first in time is first in right" applies.

Two bills were introduced to alter this doctrine to provide that water use permits issued after a certain date would be subject to future appropriations if the future use has a higher preference under a decreasing order of preferences defined by law; however, these two bills failed to gain legislative approval. HJR 23, requesting a study of establishing a preference system of water rights in Montana, also failed to pass; however, an interim legislative study committee will be studying preference systems along with other water related issues during the next two years.<sup>1</sup>

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<sup>1</sup>HB 478, discussed on p. 49, establishes a preference system for waters stored in reservoirs constructed under the bill's provisions. (The bill was killed.)

KILLED:

HJR 23 - Day, By request of the Department of Natural Resources and Conservation - Citing a study by the Department of Natural Resources and Conservation indicating there will not be enough water in the Yellowstone, Tongue, and Powder River Basins for potential future demands, and noting that most western states have a preference system, the resolution requests the Committee on Priorities to assign a standing committee to study the feasibility of adopting a system of rating water uses and establishing a preference of one use over another throughout Montana and within individual water basins.

House Second Reading: 93-0.

Died in the Senate Agriculture Committee.

SB 359 - Lowe - Provides that water rights permits and water reservations approved after the bill becomes law are subject to future appropriations of a higher preferred use according to the following decreasing order of preference:<sup>1</sup>

- (a) domestic and municipal uses;
- (b) agricultural and irrigation uses;
- (c) industrial uses;
- (d) recreational and fish and wildlife uses.

Uses within a class and rights and reservations approved prior to passage of the bill continue to be governed by the "first in time first in right" doctrine.

The bill was amended to allow the Department of Natural Resources and Conservation to exempt appropriations and reservations from the preference system for up to fifty years. In considering whether to grant an exemption, and for what period of time it will last, the department must consider the economic investment the applicant plans to make and the period of time necessary to recover the investment plus a reasonable profit. The bill, as introduced, applies only to users claiming more than 20 cubic feet per second or 14,000 acre-feet per year.

The House Judiciary Committee complete rewrote the bill by substituting the following provisions:

- makes the provisions applicable only to water rights in the Yellowstone River Basin;
- makes the provisions applicable to all appropriations, not just those in excess of 20 cubic feet per second or 14,000 acre-feet;

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<sup>1</sup>When a permit application is received for water previously appropriated to a lower use, the department will consider the water to be unappropriated.

- makes water reservations approved after the effective date of the act subject to future appropriations according to the preference system;
- makes water rights "arising or derived from" a water use permit suspended under the Yellowstone River Basin moratorium and permits granted after the effective date of the act subject to future appropriations according to the preference system;
- establishes the following preference system (in decreasing order):
  - a) domestic use, including municipal domestic use;
  - b) agriculture, irrigation and stockwater uses;
  - c) a minimum flow for recreation, fish and wildlife and water quality, according to an established stream fishery classification system;
  - d) municipal use other than domestic;
  - e) industrial use by means of water storage;
  - f) industrial use by means of direct diversion;
  - g) recreation, fish and wildlife and water quality uses;
  - h) all other uses.
- retains the first in time is first in right provision for uses within a class;
- provides that preferences can be exercised only by compensation or consent of the holder of a water right of a lower class or by a court ordered condemnation of the right;
- amends current law to provide that priority of appropriation for water reservations dates from the date of approval of the reservation; (Priority of appropriation dates from the date of application for a permit for regular appropriations.)
- eliminates the provision in the Yellowstone River Basin Moratorium which makes an established reservation a preferred use over later permit applications which are approved;
- gives the legislature the power to alter the order of preferred uses for particular locations; however, any alterations may not be retroactive.

Amending 89-891 and 89-8-105, R.C.M. 1947.

House Second Reading: 27-69.

Senate Second Reading: 43-3.

Killed by the House on Second Reading.

HB 814 - House Judiciary Committee - Provides that water right permits and reservations approved after July 1, 1977, are subject to future appropriations of a higher preferred use according to the following decreasing order of preference:

- (a) domestic;
- (b) municipal;
- (c) agricultural and irrigation;

- (d) industrial;
- (e) water quality;
- (f) fish and wildlife;
- (g) recreation.

Except for the slightly different preference order and the authority given the Department of Natural Resources and Conservation to exempt appropriations (which was not added to HB 814), HB 814 contains the same provisions as SB 359.

Amending 89-891, R.C.M. 1947.

Died in the House Judiciary Committee.

Appropriation and Determination  
Of Existing Water Rights Under the Water Use Act

Six bills and two resolutions were introduced which dealt with water appropriations under the Montana Water Use Act. Those which passed extended the present moratorium on appropriations from the Yellowstone River, revised fee provisions for environmental impact statements prepared under the Act, added criteria for issuance of water appropriation permits, directed the Department of Natural Resources and Conservation to speed up the adjudication of water rights, requested a study of existing water rights and methods for their determination, and generally clarified the Act's administrative and legal procedures.

Bills establishing a new system to adjudicate existing water rights and providing attorney's fees to prior appropriators were killed.

PASSED:

HB 310<sup>1</sup> - Day, By request of the Department of Natural Resources and Conservation - Prohibits the department from taking action on permit applications for reservoirs with a total planned capacity of 14,000 acre-feet or more or for appropriations with a flow rate of more than 20 cubic feet per second in the Yellowstone River Basin until January 1, 1978, unless the Board of Natural Resources and Conservation makes a final determination on reservation applications<sup>2</sup> or makes a final determination of existing water rights before that date. If lawsuits delay either determination by the Board, the deadline will be extended by the length of the delay; however, it may not be continued beyond

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<sup>1</sup>Chapter 26, Montana Session Laws 1977.

<sup>2</sup>Any federal, state, or local government agency may apply to the Board to reserve water for existing or future beneficial uses or to maintain a minimum flow, level, or quality of water. (89-890(1), R.C.M. 1947).

January 15, 1979. This law is an extension of the original three-year moratorium passed by the 1974 Legislature.

Amending 89-8-105, R.C.M. 1947.

House Second Reading: 93-4; Senate Third Reading: 38-2.

HB 451<sup>1</sup> - Lien - Allows the Department of Natural Resources and Conservation to rely upon environmental studies, investigations, etc., made by the applicant of a water use permit in the preparation of an environmental impact statement (EIS). The department may also, by contract with the applicant, agree to: (1) the estimated cost of the facility (which is the basis for computing fees for preparation of an EIS); (2) the division of responsibility between the department and the applicant in the development of information for the EIS; (3) how the EIS fee will be used; and (4) deductions from the fee for work done by the applicant.

The fiscal note states that HB 451 simply clarifies how the department may use fees and therefore has no fiscal impact.

Amending 89-8-102, R.C.M. 1947.

Third Reading: House: 91-2; Senate: 49-0.

SJR 48 - Committee on Agriculture, Livestock and Irrigation - Citing the great demands being placed on the use and flow of water in Montana and the slow pace of adjudication of existing water rights, the resolution directs the Department of Natural Resources and Conservation to use every possible method to speed up the process, especially as it affects agricultural water rights and reservations of water for future uses. While recognizing that the adjudicated rights will contain a degree of inaccuracy, the resolution mandates the following procedures:

- requesting that voluntary declarations of all existing rights and applications be filed with the department;
- conducting an educational campaign to alert water users of the requested filings;
- accepting claims of groundwater and water rights in small livestock reservoirs without extensive field investigation.

Senate Third Reading: 47-0; House Second Reading: 57-28.

HJR 81 - Day (Judiciary Committee), By request of the Department of Natural Resources and Conservation - Requests the Committee on Priorities to assign an interim committee to study methods for and progress in the determination of existing water rights, including a study of methods used in other western states.

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<sup>1</sup>Chapter 117, Montana Session Laws 1977.

Third Reading Votes: House: 92-1; Senate: 86-0.

HB 664<sup>1</sup> - Day, By request of the Judiciary Subcommittee on Montana Water, By request of the Department of Natural Resources and Conservation - Generally clarifies and makes more specific several provisions of the Water Use Act:

- brings "diffuse surface water" under the Act's provisions;
- specifies how priority dates are determined under some circumstances;
- modifies the time limit for action on an application if an environmental impact statement is required;
- requires that water reservations be for "beneficial use of . . . water in the state of Montana."
- awards attorney's fees to the successful party if the department's decision on a permit application is appealed to district court.

Amending 89-867, 89-875, 89-877, 89-880, 89-884, 89-885, 89-890, 89-892, 89-8-100, 89-8-107, R.C.M. 1947.

House Second Reading: 74-12; Senate Third Reading: 44-6.

SB 316<sup>2</sup> - McOmber - Amends the Water Use Act's criteria for issuing a water appropriation permit. The Department of Natural Resources and Conservation must issue a permit if, in addition to existing requirements, there are unappropriated waters available at times when the water can be put to the proposed uses in the amount and during the period requested.

Amending 89-885, R.C.M. 1947.

Third Reading: Senate: 50-0; House: 97-0.

SB 333<sup>3</sup> - Etchart - Permits the construction of stock water impoundments or pits of less than 15 acre-feet without first obtaining a water use permit. The appropriation must be from a source other than a perennial flowing stream, which is defined as a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, before beginning construction, the appropriator must apply for a permit to enable the Department of Natural Resources and Conservation to determine whether other appropriators' rights have been adversely affected. It may then require modification of the dam or pit at a later date.

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<sup>1</sup>Chapter 416, Montana Session Laws 1977.

<sup>2</sup>Chapter 307, Montana Session Laws 1977.

<sup>3</sup>Chapter 470, Montana Session Laws 1977.

Amending 89-880, R.C.M. 1947.

Third Reading: Senate: 47-0; House: 93-4.

House Amendments to Senate Bill: 47 Yes; 1 No.

HB 809 - Judiciary Committee - Establishes a new system for water rights adjudication to expedite the process and to assure uniformity of adjudication throughout the state.<sup>1</sup> The Governor is to appoint an "adjudication administrator" and as many "special water judges" as are necessary to determine existing water rights. The Department of Natural Resources and Conservation is directed to compile as complete a list as possible of people who might possess an existing right to appropriate water. When it has completed the compilation, the department is to petition the special water judges for an order requiring each person claiming a water right to file within four years a declaration of the right. Notice of the order requiring a declaration must be sent to the individuals named in the list compiled by the department. The special water judges must then hold hearings and issue preliminary and final decrees which establish water rights and priorities in each major drainage basin. Appeals from the special water judges' decisions must be taken directly to the Montana Supreme Court. Once a final decree has been issued and any appeals decided, the department will issue a certificate of water right to each person who has an adjudicated right under a final decree.

The fiscal note estimates the impact to be \$452,393 for FY 78 and \$2,304,261 for FY 79.<sup>2</sup> According to the note, the Department of Natural Resources and Conservation estimated the adjudication process would take ten to twelve years to complete; the Department of State Lands estimated that filing of water rights on state land would take from four to five years.

Amending 89-867, 89-869, 89-870, 89-871, 89-876, 89-877, 89-878, 89-879, 89-891, 89-896, 89-8-102, 89-8-102.1, R.C.M. 1947.  
Repealing 89-872 through 89-875, R.C.M. 1947.  
House Second Reading: 92-0.

Died in the Senate Agriculture Committee.

SB 216 - Boylan - Provides attorney's fees to a prior appropriator who was represented by a lawyer at a hearing where a major appropriation permit was denied. The fees must be paid by the unsuccessful applicant.

Senate Third Reading: 48-0.

Killed in the House Judiciary Committee.

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<sup>1</sup>Under current law, the district courts of the state have primary responsibility for determining existing water rights.

<sup>2</sup>An earlier fiscal note placed the impact at \$388,393 for FY 78 and \$2,163,761 for FY 79.



HJR 31 - Directs a study and report on the use of Montana water for coal slurry pipelines. See "Coal Mining and Associated Facilities," p. 3.



## OTHER

### Impacts on Montana From Canadian Energy Development

Six pieces of legislation were introduced which reflected concern about effects on Montana of pollution from Canadian energy development. Those that were approved request the federal government to negotiate an air quality protection boundary treaty with Canada, provide for enforcement of state air and water pollution laws against residents of Canada, and establish a legislative position on potential pollution from a Canadian power plant complex located four miles from the Montana border.

Bills establishing a task force to study potential pollution problems from Canadian coal development on Cabin Creek, appropriating money to the Governor's Office to fund the task force, and a resolution requesting a federal policy task force to study the same development were killed.

#### PASSED:

HJR 70 - Nathe - Urges the federal government to negotiate a treaty with Canada to protect the air quality of both countries from pollution caused by industrial projects close to the U.S.-Canadian border. The resolution cites the Boundary Waters Treaty of 1909 and the International Joint Commission established by it as models, and urges a similar commission for protection of air quality.

Second Reading: Senate: 47-2; House: 88-0.

SB 393<sup>1</sup> - Brown - Amends the water and air pollution laws to allow enforcement for violations against Canadian residents and others not residing in Montana.

Amending 69-3906, 69-3921.1, 69-4802, 69-4820.1, R.C.M. 1947.  
Second Reading: Senate: 32-7; House: 73-5.

HJR 48 - Nathe - Citing the potential environmental and economic problems which could result from a coal fired power plant complex located four miles north of the Montana border on the East Fork of the Poplar River, the resolution establishes state policy that the Canadian plants should not violate federal or state pollution standards, that the Saskatchewan government should equip the plants with the pollution control technology available and that transboundary impacts on air and water quality should be referred to the International Joint Commission.

Second Reading: Senate: 37-9; House: 86-2.

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<sup>1</sup>Chapter 308, Montana Session Laws 1977.

KILLED:

HJR 20 - Kimble, By request of the Department of Natural Resources and Conservation - Citing the potential transboundary environmental and socioeconomic impacts on the North Fork of the Flathead River drainage from the Cabin Creek coal development in Canada, the resolution requests that a task force be established, to be composed of representatives from federal, state and local agencies, private individuals and members of the Salish-Kootenai Confederation. The task force provides overall guidance and coordination for a federal evaluation of impacts which is requested by the resolution. Also requested is expansion of the existing federal technical interagency task force. The resolution requests that the U. S. State Department encourage the International Joint Commission to review potential impacts and that the Congress appropriate money to be used by state and local governments to gather information and prepare for and resolve problems that might arise.

Second Reading: Senate: 23-22; House: 84-2.  
Senate Third Reading: 21-28.

Killed by the Senate on Third Reading.

HB 390 - Kimble - Establishes a state Cabin Creek task force to act as an information clearinghouse, to develop management policies and to provide leadership for technical activities of the existing federal interagency task force.

Killed by the House Natural Resources Committee.

HB 388 - Kimble - Appropriates \$66,000 to the Governor's Office to create and administer the Cabin Creek Task Force.

Killed in the House Appropriations Committee.

Assistance to Low Income People  
For Increased Energy Costs

PASSED:

HB 701 - Appropriates \$300,000 to the Department of Community Affairs for expansion of the home weatherization program which is primarily for low and fixed income persons. See "Energy Conservation," p. 17.

KILLED:

HB 139 - Lynch - Provides for distribution of energy coupons to assist low income elderly and disabled people in paying home heating bills during the winter months. Both homeowners and renters who pay for their heating are eligible for the stamps

if they meet the low income criteria. The bill appropriates \$2,050,000 to the Department of Social and Rehabilitation Services for the program. The money is to come from income from the coal tax trust fund (see p. 5), and if that is not sufficient, from the general fund.

The fiscal note estimates the program would cost \$1,687,760 and raises the following questions:

1. The coal tax fund requires 3/4 vote to spend. Does this mean that if a majority vote fails and income is available in the coal tax fund that the state general fund pays the \$2,050,000 for this bill?
2. The eligibility criteria of this bill do not state heat source required; so a person could be eligible, use propane for heat and not be able to redeem the stamp.
3. Are the stamps to be transferable?
4. A person may qualify for stamps one month, yet fail to meet the income eligibility test the next. Is only one eligibility test to be used each year?
5. Energy stamps will reduce food stamp eligibility on a dollar for dollar basis and may affect SSI or other federal programs on a similar basis.

Killed in the House Natural Resources Committee.

HB 665 - Holmes - Gives the Department of Social and Rehabilitation Services the authority to use any method of administering energy assistance programs it deems proper, including energy stamps, supplemental payments to persons receiving other forms of assistance, and direct payments to sellers of energy.

Died in the House Natural Resources Committee.

HB 732 - Appropriates \$2 million from the income generated by the coal tax trust fund for testing the feasibility of a financial assistance program to encourage energy conservation and renewable resource measures in homes occupied by low and moderate income families. See "Energy Conservation," p. 18.

HB 733 - Similar in purpose to HB 701, this bill proposes to provide the same weatherization services approved in HB 701 but to those people in a slightly higher income bracket. See "Energy Conservation," p. 18.



## APPENDIX I

### SUMMARY OF MAJOR STATE LAWS

#### RELATING TO ENERGY

##### Introduction

This appendix briefly summarizes the major laws relating to energy effective when the Legislature convened in 1977. This material, with one exception, does not reflect the changes made during the legislative session by the bills summarized in the main body of this report. However, the existing law summaries do not report inaccurately provisions which were changed or repealed by the 45th legislature.

All energy development in the state is subject to the following constitutional provision:

- (1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.
- (2) The legislature shall provide for the administration and enforcement of this study.
- (3) The legislature shall provide adequate remedies for the protection of the environmental life-support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources;

Montana Constitution (1972), Art. IX (Environment and Natural Resources), Sec. 1 (Protection and Improvement)





## ALTERNATIVE RENEWABLE ENERGY SOURCES AND ENERGY CONSERVATION

Research and Incentive Programs (Sec. 70-801 et seq., R.C.M. 1947\*)  
A major energy program which is funded by coal severance tax revenues provides incentives to encourage the development and use of alternative renewable energy sources and energy conservation. The program provides tax incentives for capital investments in a "recognized nonfossil form of energy generation", encourages utilities to make low interest loans to customers to install energy conservation materials and establishes a grant program to stimulate research, development and demonstration of renewable energy sources. The Department of Natural Resources and Conservation may award one year grants to individuals, corporations, partnerships, governmental units, foundations, trusts and educational or scientific institutions.

## FACILITY SITING

Montana Major Facility Siting Act (Sec. 70-801 et seq.). This act states that no person shall build a utility facility in the state without first obtaining a certificate of environmental compatibility and public need from the Department of Natural Resources and Conservation (Sec. 70-804). The act requires a filing fee from each applicant according to the size of the facility. The fee covers the cost of the necessary studies, investigations and publications and other associated costs of the department in carrying out its responsibilities under the act (Sec. 70-806). The department must submit a report to the Board of Natural Resources and Conservation, which has the authority to grant or deny the application. Annual long-range plans from each utility must be furnished to the department; the act specifies the information to be included in the plan. The act also requires that all electric transmission lines carrying 34.5 kilovolts (kv) or more (except 69 kv lines or less above ground less than 10 miles, or 161 kv lines or less underground less than 5 miles in length or 161 kv lines or less, 30 miles in length or less) are covered by the act and require a permit. Lines which carry gas or liquid hydrocarbons from gasification or liquifaction plants also are covered under the act (Sec.70-802).

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\*Revised Codes of Montana, 1947. Further references to the Codes will omit the appellation R.C.M. 1947.

## MINING AND RECLAMATION

Montana Constitution (1972), Art. IX (Environment and Natural Resources), Sec. 2 (Reclamation): "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;"

The Montana Strip and Underground Mine Act (Sec. 50-1034 et seq.), which declares it to be the policy of the state:

- to protect its environmental life-support system from degradation,
- to prevent unreasonable degradation of its natural resources,
- to restore, enhance, and preserve its scenic, historic, archeologic, scientific, cultural, and recreational sites, [and]
- to demand effective reclamation of all lands disturbed by the taking of natural resources (Sec. 50-1035).

The act requires a permit to be issued by the Department of State Lands for coal and uranium strip mines, underground mines and prospecting (Sec. 50-1039-1041). If the surface owner is not the owner of the mineral interests the permit application must include the written consent or waiver by the surface owner to the proposed mining. A comprehensive reclamation plan is required to be submitted to the department as part of the application process. The law also requires an adequate performance bond be given to the department to insure the effective reclamation of the land. The minerals specifically covered by the act are coal and uranium. The act prohibits strip mining of lands with unique or unusual characteristics. There are four specific grounds for refusal or conditional approval of a permit for mining under Sec. 50-1042:

1. The department may not approve the application for a strip mine if on the basis of the application, on site inspection, and the evaluation of the operation by the department it is determined that the requirements of the act will not be observed.

2. The department may not approve an application if the area includes land having "special, exceptional, critical, or unique characteristics" or would have adverse affects on such land. These characteristics are defined as:

- (a) biological productivity, the loss of which would jeopardize certain species of wildlife or domestic stock; or
- (b) ecological fragility, in the sense that the land, once adversely affected, could not return to its former ecological role in the reasonable foreseeable future; or

(c) ecological importance, in the sense that the particular land has such a strong influence on the total ecosystem of which it is a part that even temporary effects felt by it could precipitate a system-wide reaction of unpredictable scope or dimensions; or

(d) scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural, or recreational significance. In applying this subsection, particular attention should be paid to the inadequate preservation previously accorded Plains Indian history and culture.

3. If overburden of some particular nature has historically proven to be a problem for landslides or various forms of water pollution the department shall delete that area from the application.

4. If the operation constitutes a hazard to a personal dwelling or public property the permit may not be allowed until such portions are deleted from the prospecting or strip mining application.

The civil penalties for violation of the act require a fine of not less than \$100 nor more than \$1000 for the violation and the same for every day the violation continues. A willful violation is a misdemeanor and carries a fine of not less than \$500 nor more than \$5000 for each violation. Each day that a violation takes place is a separate offense (Sec. 50-1056).

The Strip Mined Coal Conservation Act (Sec. 50-1401 et seq.). This law provides the Department of State Lands with the authority to review strip mine plans and to disapprove those plans on the basis of waste or non-conservation of marketable coal. The department may require the revision or disapproval of mining plans (Sec. 50-1405). The law provides for the issuance of a two year permit and civil penalties of not less than \$100 nor more than \$1000 for each offense, and the same amounts apply for each day the violation continues. An operator not complying with the terms of an approved strip mining plan is liable to civil penalty of not less than \$1,000 nor more than \$10,000.

The Strip and Underground Mine Siting Act (Sec. 50-1601 et seq.). This act provides control over the location of new strip and underground mines and all associated preparatory work. The law states, "It is the policy of this state to provide adequate remedies for the protection of the environmental life-support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources." The stated purpose of the act is to satisfy the requirement of Art. IX, Sec. 2 of the Montana Constitution and to ensure that adequate information is available on the proposed mining areas in order that adequate plans can be formulated to accommodate those areas (Sec. 50-1602). Under the act no preparatory work is allowed on a mine site until a permit is issued. Grounds for refusal of a permit include inconsistency of the mining plan with the act's policies and purposes; inconsistency with the environmental criteria of Sec. 50-1042; or failure of the reclamation plan to meet requirements of the Strip Mining and Reclamation Act (Sec. 50-1608). The act provides civil penalties plus provisions for willful violations with a fine of

not less than \$500 nor more than \$5,000 for every day during which a violation occurs (Sec. 50-1611).

Coal Mining Leases and Permits (Sec. 81-501 et seq.). The Board of Land Commissioners is given the authority to lease state lands on which the state owns the mineral rights to allow mining of coal. The mining, handling and marketing must prevent as far as possible all waste of coal and the mining must be carried out to avoid making subsequent mining more difficult or expensive. A violation is grounds for the forfeiture of the lease. The maximum term for a lease is 20 years, although the lease may be renewed upon the board's discretion (Sec. 81-502). Royalties for coal are set at a minimum of 12.5 cents per ton (Sec. 81-503). The board is granted broad authority to prescribe additional rules and regulations that it finds necessary and proper relating to the leasing of state land for coal mining purposes (Sec. 81-507). The board is authorized to grant one year permits to private residents and school districts to mine up to 30 tons of coal a year for their individual use. Residents pay a \$5 royalty and the schools pay 12.5 cents per ton for anything over 30 tons (Sec. 81-509).

Prospecting Permits and Mining Leases (metalliferous) (Sec. 81-601 et seq.). The Board of Land Commissioners may lease state lands including the beds of navigable streams and bodies of water to allow mining metalliferous minerals or gems (Sec. 81-602). "Metalliferous" is defined as gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals. Uranium is included in this definition (Sec. 81-601). The board may issue prospecting permits without a lease. Prospectors may apply for leases but the board is not required to grant them (Sec. 81-601.1). If a coal, oil or gas lease is in effect, no metalliferous leases shall be issued unless they are issued to the holder of the coal lease or with the coal lessee's written consent (Sec. 81-610).

## OIL AND GAS

Disposal of Oil and Gas on State Lands (Sec. 81-1701 et seq.). The Board of Land Commissioners is authorized to lease state lands in which the state holds the oil and gas rights. The lessee must exercise caution to prevent the waste of either resource and violations are grounds for forfeiture of the lease (Sec. 81-1701). The term of the lease is 10 years and renewable for as long thereafter as oil and gas are producible (Sec. 81-1702). The state has the power to terminate the lease if, after the second year, drilling has not begun (Sec. 81-1702.2). The board is empowered to permit the underground storage of natural gas but the lessee is required to take reasonable precautions to prevent waste, injury or destruction to oil or gas deposits (Sec. 81-1725).

Conservation of Oil and Gas (Sec. 60-124 et seq.). The Board of Oil and Gas Conservation (Sec. 82A-1508) is given the power to investigate and determine whether any waste exists in the operation of oil or gas wells. The board is given broad power to investigate and prevent the loss or pollution of hydrocarbons and pollution of water by oil or salt water. The board also has control over reclaiming disturbed surface lands. The prevention of waste is one of the board's primary goals. One form of conservation written into the law is pooling or unit operation of oil and gas fields. The proper spacing of producing wells is required for efficient operation and greater oil recovery (Secs. 60-129-131.12). The law also requires the approval of a plan to restore the well site before any new drilling permits are issued (Sec. 60-149). See also, "Pipeline Carriers of Oil - Regulation," p. .

## POLLUTION CONTROL

Control of Radioactive Material (Sec. 69-5804 et seq.). The purpose of this act is to establish and maintain for the state of Montana a single, effective system of regulating sources of ionizing radiation. This act was designed to be compatible with existing federal programs, and as much as possible, consistent with similar programs of other states. Secondly, the act was designed to allow the development and subsequent utilization of sources of ionizing radiation for peaceful purposes. The Board of Health is designated the state radiation control agency, and is empowered to take such measures as it determines necessary to carry out the provisions of this act.

This act specifically requires that the Department of Health and Environmental Sciences provide for the licensing of "persons to receive, possess, or transfer radioactive materials and devices or equipment utilizing such materials" (Sec. 69-5806). Certain exemptions are provided by statute, but beyond those it is unlawful for any person to: "use, manufacture, produce, or knowingly transport, transfer, receive, acquire, own or possess any source of ionizing radiation unless such person, is licensed by or registered with the department" (Sec. 69-5813). Violations of this section are misdemeanors and punishable by fines ranging between \$100 and \$1,000, or by imprisonment between 30 and 90 days, or both. The department was given, within its jurisdiction, the power of inspection. Records of all relevant information relating to the use or possession of ionizing radiation are required by the Department of Health.

The governor, on behalf of the state, may enter into agreements with the federal government concerning state assumption of federal responsibilities with respect to sources of ionizing radiation. Similarly, the Board of Health may enter into agreements with the federal government, other states or interstate agencies concerning cooperative inspections or other actions to control sources of ionizing radiation. Through this process the department can assume many of the regulatory activities presently held by the Nuclear Regulatory Commission.

Control of Water Pollution (Sec. 69-4801 et seq.). The water pollution policy of the state is to conserve water by protecting, maintaining and improving the quality and potability of water for beneficial uses including public water supplies, wildlife, fish and aquatic life, agriculture, industry and recreation. The act provides for a comprehensive program for the prevention, abatement, and control of water pollution.

Pollution is defined as:

contamination, or other alteration of the physical, chemical

or biological properties of any state waters, which exceeds that permitted by Montana water quality standards, including, but not limited to, standards relating to change in temperature, taste, color, turbidity, or odor, or discharge of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife (Sec. 69-4802).

The Department of Health and Environmental Sciences is responsible for the administration of the act. The act makes pollution unlawful and requires current permits to be obtained before any wastes are discharged (Sec. 69-4806).

The act directs the Board of Health and Environmental Sciences to classify all waters in accordance with their present and future most beneficial uses and to formulate standards of water purity giving consideration to the economics of waste treatment and prevention and to review these classifications and standards from time to time. The board also is required to maintain the high quality of state waters where it exists unless it has been affirmatively demonstrated to the board that a change is justifiable as a result of necessary economic or social development and will not preclude present and anticipated use of these waters. New projects or developments are required to provide the degree of waste water treatment necessary to maintain existing water quality. The board is to determine the rules and procedures of the department's administration. The department must issue, suspend, revoke, modify or deny permits to discharge wastes into state waters, consistent with rules made by the board. The department also is given authority to examine and approve or disapprove plans for permits, to collect and furnish information and conduct research relating to the prevention and control of water pollution. The department may issue orders requiring a polluter to clean up any material he may have accidentally or purposefully deposited in or near state waters.

Clean Air Act of Montana (Sec. 69-3904 et seq.). This act makes it the policy of the state to achieve and maintain levels of air quality that will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the convenience and comfort of the people, promote the economic and social development of the state, and facilitate the enjoyment of the natural attractions of the state. The act encourages the support of local and regional air pollution control programs and provides a coordinated statewide program of air pollution prevention, abatement, and control.

The act defines air contaminants as "dust, fumes, mist, smoke, or other particulate matter, vapor, gas odorous substances, or any combination thereof." Air pollution means "the presence in the outdoor atmosphere of one or more air contaminants in a quantity and for a duration which is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life, property, or the conduct of business." (Sec. 69-3906).

The Board of Health has the power to adopt, amend, and repeal rules implementing and consistent with the act, hold hearings, issue orders necessary to effect the purposes of the act, require access to emission records, and establish ambient air quality standards for the state (Sec. 69-3909).

Among other things the Department of Health and Environmental Sciences must enforce the orders of the board, and prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution in the state. The department also must encourage local government units to handle air pollution problems and can pay up to 30 percent of the total cost of local programs (Sec. 69-3909.1).

The department may enter and inspect at any reasonable time the property and premises where an air contaminant source is located to ascertain the state of compliance with the Clean Air Act. The owner or operator of the premises may demand a report setting forth all the facts found which relate to the source's compliance status.

The enforcement provisions of the act provide for notice to violators and the authority to order corrective steps (Sec. 69-3914). Hearings are to be held to adjudicate violations. Alternatively, the department may require alleged violators to appear before the board for a hearing to answer charges or the department may prescribe the penalties as outlined in Sec. 69-3921. The act also gives the department authority to handle emergency situations.



## RENEWABLE RESOURCES

### Renewable Resources Development Program: (Secs. 89-3601 - 3609)

Under this law the state may "levy, impose, assess, and pledge and appropriate to the sinking fund account any tax, charge, fee, rental or other income from any designated source" as enacted by the legislature to implement the provisions of the act.

Further, the act directs 2.5 percent of the coal severance tax revenues to the account. The Montana Board of Examiners is authorized to issue bonds to implement the purposes of the act at the request of the Board of Natural Resources and Conservation, not to exceed \$5,000,000. The Board is authorized to make loans to Montana farmers and ranchers "for any worthwhile project for the conservation, management, utilization, development or preservation of the land, water, fish, wildlife, recreational and other renewable resources in the state" not to exceed \$100,000 or 80 percent of the fair market value of the security. The Department of Natural Resources and Conservation<sup>1</sup> is authorized to recommend to the governor that grants from the sinking fund account be made to any department, agency, board, commission, or other division of state government. Grants may be used for the purchase, lease or construction of projects furthering the purposes of the act, for the purpose of feasibility and design studies for such projects and for development of plans for the rehabilitation, expansion, or modification of existing projects. The governor submits grants for approval by the legislature. The Department may also recommend to the governor that loans from the sinking fund account be made to any division of state government or to any city, county or other political subdivision or local governing body of the state to achieve the act's purpose.

The intent of the act is to use revenue generated by taxes on nonrenewable resources to promote "developments of renewable natural resources that will preserve for the citizens the benefit of the state's natural heritage and to ensure that the quality of existing public resources such as land, air, water, fish, wildlife, and recreational opportunities are not significantly diminished by developments supported by this act."

Coal tax revenues are also allocated to county land planning programs and park acquisition (Sec. 84-1319).

<sup>1</sup>SB 298 transfers administrative responsibility for the state and local grant and loan programs from the Department of Administration to the Department of Natural Resources and Conservation. See p.12.

## TAXATION OF COAL

### Coal Severance Tax (Sec. 84-1313 et seq.)

A severance tax is imposed on each ton of coal produced in Montana according to the following schedule:

<u>Heating quality (BTU per pound of coal)</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
Under 7,000	\$.12 or 20% of value	\$.05 or 3% of value
7,000-8,000	\$.22 or 30% of value	\$.08 or 4% of value
8,000-9,000	\$.34 or 30% of value	\$.10 or 4% of value
Over 9,000	\$.40 or 30% of value	\$.12 or 4% of value

The formula which yields the greater tax is to be used. "Value" means the contract sales price.

The first 5,000 tons produced each year is exempt from the tax.

### Allocation of Coal Tax Revenues

The manner in which the state has chosen to allocate coal tax revenues constitutes a major element of its energy policy. Allocations are made to the following funds and accounts:

- Coal Tax Trust Fund, the principal of which is to remain inviolate; income may be spent only upon a vote of 3/4 of each house of the legislature.<sup>1</sup>
- Appropriations to counties with coal mining activity
- Alternative Energy Development - loans for research and development of alternative renewable energy sources.
- Local Impact and Educational Trust Fund

<sup>1</sup>The trust was established when Montana voters approved a constitutional amendment in November 1976, requiring that 25% of all coal tax revenues, and 50% after 1979, be placed in a trust fund.

- Coal Area Highway Impact
- State Equalization Aid
- County Land Planning
- Renewable Resource Development
- Parks Acquisition and Trust Fund
- General Fund

See p. 7 for the formula under which coal tax revenues are distributed.

## UTILITY AND TRANSPORTATION REGULATION

Montana Constitution (1972), Art. XIII (General Provisions), Sec. 2 (Consumer Counsel):

The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

Public Service Commission--Regulation of Public Utilities (Sec. 70-101 et seq.). This legislation gives the PSC the authority to supervise, regulate, and control all public utilities, including municipally owned utilities, furnishing water, electricity, gas, power, telephone or telegraph service.

The Consumer Counsel Act (Sec. 70-701 et seq.). The Consumer Counsel Committee was created by the legislature to comply with Art. XIII, Sec. 2 of the Montana Constitution. The committee consists of two members of the state senate and two members of the house with one membership from each house of the legislature allotted to each party (Sec. 70-703). The Consumer Counsel Committee appoints a counsel. The act allows the counsel to represent the consuming public and gives the counsel the right and powers of any party in interest. He or she can institute proceedings before the PSC against regulated companies and may examine under oath during any commission proceedings any officer, manager, or employee or any regulated company and may examine their records. The act also allows the counsel to participate on behalf of the consuming public in both the state and federal courts. The counsel is given the power to subpoena witnesses to appear before the PSC (Sec. 70-708). The PSC is required to serve notice of all commission meetings to the counsel and is required also to advise the public of the availability of the consumer counsel in all forms of public notices for hearings before the PSC (Secs. 70-710-711).

Railroads-Regulation by Public Service Commission (Sec. 72-101.1 et seq.). This act states the definitions and terms under which the railroads in Montana are allowed to act. This statute allows the PSC to fix the rates, schedules and classifications of the railroads (Sec. 72-116). The PSC has the power to compel railroad companies to provide adequate accommodations and service for the public (Sec. 72-123).

Motor Carriers-License and Regulation by the Public Service Commission (Sec. 8-101 et seq.). The PSC has the duty, power, and authority to supervise, regulate and fix the rates of motor carriers (Secs. 8-103-104.1). All records of the motor carriers are open to the PSC and an annual report is

required to be filed (Sec. 8-113).

Pipeline Carriers of Oil-Regulation (Sec. 8-201.1 et seq.). Common carriers (pipelines) of petroleum products are determined by this act to be a public interest and are subject to state regulation (Sec. 8-202). The PSC has the power to establish and enforce rates of charges and regulation for the gathering, transportation, loading, and delivering of petroleum products (Sec. 8-214). The PSC has the power to regulate the construction of pipelines and at the same time the utility has the right of eminent domain (Sec. 8-203).

## WATER

Montana Constitution (1972), Art. IX (Environment and Natural Resources), Sec. 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.

Hydroelectric Power Sites on State Lands (Sec. 81-1801 et seq.). This act provides for the lease or licensing of power sites on state lands but makes it unlawful to sell such state-owned sites (Sec. 81-1802). The board is empowered to place such restrictions and regulations in the lease as it may find necessary to protect the interest of the state and its people (Sec. 81-1806). The term of such leases may not exceed 50 years (Sec. 81-1803). The board is allowed to cooperate with the federal government in the joint development of a power site (Sec. 81-1804).

Montana Water Resources Act (Sec. 89-101.1 et seq.). This act makes a statement of necessity and policy relating to water resources. The general welfare requires that water resources of the state be put to optimum beneficial use and not wasted. The public policy is to promote conservation, development and beneficial use of the state's water resources to secure maximum economic and social prosperity for its citizens. The state, through the Department of Natural Resources and Conservation, will coordinate that development and use to effect full utilization, conservation, and protection of its water resources. The section lists domestic, industrial, agricultural, and other beneficial uses plus public recreational purposes and conservation of wildlife and aquatic life. The act also states that public interest requires the construction, operation and maintenance of water works systems. To achieve its objectives and protect

the waters of Montana from diversion to other areas of the nation, the act provides for a coordinated multiple use water resource plan (Sec. 89-101.2). The act requires the department: to prepare a continuing comprehensive inventory of water resources; to formulate the multiple use plan; to submit portions of the plan to each general session of the legislature; to prepare a ground water inventory as a separate component of the comprehensive inventory and to publish the inventories and water plans (Sec. 89-132.1). The chapter provides the Board and Department of Natural Resources and Conservation with the necessary authority to coordinate and develop the state's water resources according to the plan.

Montana Water Use Act (Sec. 89-865 et seq.). This act provides a system for the appropriation and use of surface and groundwater. It also provides a procedure for determining and confirming existing water rights. The act specifically states that the use of water for slurry to export coal from Montana is not a beneficial use (Sec. 89-867). An appropriator of more than 15 cubic feet of water per second may not change the purpose of use of an appropriation right from an agricultural use to an industrial use.

Moratorium on Yellowstone River Basin Appropriations (Sec. 89-8-103 et seq.). This act suspended for a period of three years (until 1977) any action on applications for permits to appropriate surface water for either or both of the following uses:

- (a) a reservoir with a total planned capacity of fourteen thousand (14,000) acre feet or more, or
- (b) for a flow rate greater than twenty (20) cubic feet of water per second (89-8-104).

See p. 52 for the bill passed by the 1977 legislature extending the moratorium.

Yellowstone River Compact (Sec. 89-906 et seq.). The Yellowstone River Compact was designed to define the water rights of each state in the compact: Montana, North Dakota and Wyoming. It gave each state the water rights to those appropriations made before January 1, 1950. Remaining water was appropriated by each state according to a formula of percentages for each drainage in the basin.





APPENDIX II

ACTION BY THE HOUSE COMMITTEE ON NATURAL RESOURCES  
ON ENERGY BILLS AND POLICY RECOMMENDATIONS

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<u>House Bills</u>	<u>Committee Action</u>	<u>Vote</u>
139	Do Not Pass	15 Yes, 1 No, 1 Absent
155	Do Pass	8 Yes, 7 No, 2 Absent
156	Do Pass	14 Yes, 2 Abstaining, 1 Absent
190	Do Not Pass	9 Yes, 8 No
204	Do Pass as Amended	15 Yes, 1 No, 1 Absent
254	Do Pass as Amended	14 Yes, 2 No, 1 Absent
259	Do Not Pass as Amended	8 Yes, 7 No, 1 Abstaining, 1 Absent
292	Do Pass as Amended	Unanimous Yes
390	Do Not Pass	Unanimous Yes
425	Do Not Pass	Unanimous Yes
426	Do Pass as Amended	14 Yes, 1 No, 1 Abstaining, 1 Absent
430	Do Pass	Unanimous Yes
431	Tabled	Unanimous Yes
441	Tabled	Unanimous Yes
473	Do Pass as Amended (As Amended, Without Recommendation)	7 Yes, 7 No, 3 Absent
542	Do Pass	13 Yes, 1 No, 1 Abstaining, 2 Absent
553	Do Pass as Amended	9 Yes, 5 No, 2 Abstaining, 1 Absent
561	Do Pass as Amended	Unanimous Yes
577	Do Not Pass	10 Yes, 5 No, 2 Absent
593	Do Not Pass	10 Yes, 2 No, 1 Abstaining, 4 Absent
609	Tabled	Unanimous Yes
631	Do Not Pass	Unanimous Yes

<u>House Bills (cont'd)</u>	<u>Committee Action</u>	<u>Vote</u>
661	Do Pass as Amended	11 Yes, 5 No, 1 Absent
665	Died in Committee	No vote
679	Do Pass	8 Yes, 6 No, 3 Absent
687	Do Not Pass as Amended	14 Yes, 1 No, 2 Absent
689	Tabled	Unanimous Yes
692	Do Pass as Amended	8 Yes, 7 No, 1 Abstaining, 1 Absent
697	Do Pass	9 Yes, 7 No, 1 Absent
698	To Not Pass Tabled	7 Yes, 8 No, 1 Abstaining, 1 Absent Unanimous Yes
701	Do Pass as Amended	13 Yes, 3 No, 1 Absent
702	Tabled	Unanimous Yes
717	Do Not Pass	9 Yes, 7 No, 1 Abstaining
731	Do Not Pass	Unanimous Yes
732	Tabled	Unanimous Yes
733	Do Not Pass	15 Yes, 1 No, 1 Absent
740	Do Not Pass	13 Yes, 1 No, 3 Absent
753	Tabled	12 Yes, 1 No, 4 Absent
754	Do Pass as Amended	9 Yes, 4 No, 4 Absent
762	Do Pass as Amended	Unanimous Yes
776	Do Not Pass	10 Yes, 5 No, 2 Absent
785	Tabled	12 Yes, 1 No, 4 Absent

House Joint  
Resolutions

	<u>Committee Action</u>	<u>Vote</u>
19	Do Pass	Unanimous Yes
20	Do Pass as Amended	Unanimous Yes

House Joint  
Resolutions  
(cont'd)

Committee Action

Vote

21	Do Pass	Unanimous Yes
24	Do Pass	Unanimous Yes
39	Do Not Pass	Unanimous Yes
40	Do Pass	Unanimous Yes
42	Do Pass as Amended	Unanimous Yes
48	Do Pass	Unanimous Yes
70	Do Pass as Amended	Unanimous Yes
75	Do Pass as Amended	Unanimous Yes
90	Do Pass	Unanimous Yes
94	Do Pass	Unanimous Yes
97	Do Pass as Amended	Unanimous Yes

Senate Bills

Committee Action

Vote

48	Not Concurred In	10 Yes, 7 No
111	Concurred In as Amended	Unanimous Yes
167	Concurred In	Unanimous Yes
175	Not Concurred In as Amended	8 Yes, 7 No, 2 Absent
247	Not Concurred In	9 Yes, 7 No, 1 Absent
268	Concurred In as Amended	Unanimous Yes
284	Not Concurred In	11 Yes, 6 No,
298	Concurred In	Unanimous Yes
324	Not Concurred In as Amended	10 Yes, 6 No, 1 Absent

<u>Senate Joint Resolutions</u>	<u>Committee Action</u>	<u>Vote</u>
17	Concurred In	Unanimous Yes
18	Concurred In	Unanimous Yes
22	Concurred In	Unanimous Yes
24	Concurred In	Unanimous Yes
42	Concurred In as Amended	Unanimous Yes

<u>Policy Recommendations</u> <sup>1</sup>	<u>Committee Action</u>	<u>Vote</u>
Energy Conversion and Extraction	Adopted	8 Yes, 7 No, 2 Absent
Energy Conservation and Public Participation	Adopted	14 Yes, 1 No, 2 Absent
Siting of Facilities		
#1	Adopted	8 Yes, 7 No, 2 Absent
#2	Adopted	Unanimous Yes
#3	Adopted	14 Yes, 1 No, 2 Absent
#4	Adopted	10 Yes, 4 No, 3 Absent

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<sup>1</sup>For the text of the Policy Recommendations, See p. viii.



