

MINUTES OF THE MEETING
NATURAL RESOURCES SUBCOMMITTEE ON THE LEGACY PROGRAM
SB277 and HB913
March 28, 1985

The fourth meeting of the Senate Natural Resources subcommittee on the Legacy Program was called to order by Chairman Mohar at 12:00 p.m., on March 28, 1985, Room 405, State Capitol Building.

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

Chairman Mohar suggested removing the water development program from the scope of the Legacy Program altogether. Senator Eck suggested using the language "natural resource research and reclamation, with preference given to mineral research and reclamation" instead of "mineral research and reclamation."

Chairman Mohar suggested the subcommittee discuss the issue of earmarking with the Natural Resources Committee in order to get direction from the committee as to whether there would be further amendments proposed. Chairman Mohar believes Senator Eck's amendments will leave the RRD fund as an on-going earmarking. Under SB277, this program would have been phased out by 1990. Chairman Mohar stated he is frustrated by trying to pull earmarking out of HB913. The water development program will be pulled out of HB913 leaving allocations basically the same as SB277, with 64 percent of the Resource Indemnity Trust money going to the Legacy Program.

Mr. Thompson submitted proposed amendments for the subcommittee's consideration (Exhibit 1) and a diagram of the proposed allocation of funds (Exhibit 2). Mr. Thompson explained 50 percent of the remaining funds (one-half of 64 percent) will be used for mineral reclamation.

Senator Eck moved the subcommittee recommend to the entire committee the proposed amendments to HB913 be adopted.

Senator Gage stated through past experiences with the Coal Board, if funds are available they will be used. Senator Gage is concerned because some agencies have great needs, but no funding. Senator Gage stated he prefers SB277. Senator Gage also questioned what would happen if programs receiving less priority are actually more beneficial.

Senator Eck stated the weed program, programs suggested by the water marketing committee and projects from the natural heritage program would fall under subsection (b) (Exhibit 2).

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 4
DATE 032985
BILL NO. HB913

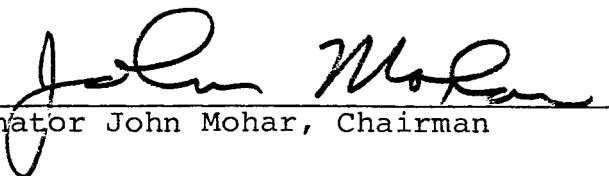
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Chairman Mohar stated he believed it would take a while before the department ran out of projects to fund. With the new amendments, three programs would be funded: Water marketing, the Legacy Program and the hazardous waste program. Chairman Mohar also stated if the full committee decides not to adopt these proposed amendments, they should consider adopting amendment No. 4 proposed by Representative Brown. Upon question from Senator Mohar as to whether it was worth trying to amend HB913 or whether the subcommittee wanted to wait and see what action the House of Representatives takes on SB277, Senator Gage stated he would like to see SB277 passed. Senator Eck agreed, but stated she would feel more comfortable knowing HB913 was in good shape if it became necessary to pass it out of committee.

Mr. George Ochenski, Environmental Information Center, requested Chairman Mohar to consider allocating an additional 5 percent for the hazardous waste program. Mr. Ochenski stated he supports HB913 because it completely funds the hazardous waste program. Chairman Mohar stated these funds were only to implement the program and get the facility operating. The fees for using the facility are intended to fund the operation.

Chairman Eck amended her motion and requested Mr. Thompson to also put language in the bill requiring preference to be given to the hazardous waste program. Senator Gage also suggested adding language regarding the hazardous waste program reflecting "until such time as the program is self-sustaining." Senator Eck's motion carried.

There being no further business to come before the subcommittee, the meeting was adjourned.



Senator John Mohar, Chairman

Senate Natural Resources Subcommittee on HB 913:
March 28, 1985 (meeting 4)

Amendments Recommended By the Subcommittee:

1. Page 3, following line 8.
Insert: "(6) 'Public benefits' means those benefits which accrue to the citizens as a group and enhance the common well-being of the people of Montana."
2. Page 5, lines 10 and 11.
Following: "session"
Strike: "a prioritized list of projects that he recommends to receive grants or loans under the Montana mineral legacy program"
Insert: "all projects determined eligible for grants or loans under the Montana mineral legacy program with his recommended priorities"
3. Page 5, line 13.
Following: "appropriation"
Insert: "to the department"
4. Page 6.
Following: line 13
Insert: "and"
5. Page 6, lines 18 through 25.
Strike: subsection (7) in its entirety.
6. Page 9.
Following: line 14.
Insert: "(5) Any fees collected by the department of health and environmental sciences from users of any facility funded under subsection (3) (d) (ii) must be allocated to the department to pay operational costs of the facilities or, if the operational costs are adequately funded, to obtain matching funds under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Fees collected in excess of these needs must be deposited in the Montana mineral legacy account."
7. Page 9, line 19.
Following: "(1)"
Insert: "There is created an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the office of the governor. (2)"
Strike: "(3)"
Insert: "(5)"
8. Page 9, lines 22 and 23.
Strike: "controlled by the office of the governor"
9. Page 9, line 24.
Strike: "(2)"
Insert: "(3)"

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 1
DATE 032885
BILL NO. HB913

10. Page 10.
Following: line 21.
Insert: "(4) Interest from funds in the environmental contingency account accrues to the Montana mineral legacy account."
Renumber: subsequent sections.
11. Page 14, line 2.
Following: "self-sustaining"
Insert: "; and (e) consider the degree to which jobs are created for persons who need job training, receive public assistance, or are chronically unemployed"
12. Page 32, following line 9.
Insert: "NEW SECTION. Section 31. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."
Renumber: subsequent sections.

Amendments Discussed (Recommended?) by the Subcommittee:

1. Page 8, line 18.
Strike: "37%"
Insert: "at least 30%"
2. Page 8, line 20.
Strike: "37%"
Insert: "at least 30%"
3. Page 8, line 22.
Strike: "15%"
Insert: "at least 10%"
4. Page 8, line 24.
Strike: "11%"
Insert: "at least 6%"
5. Page 9, line 7
Strike: "5% of the total"
6. Page 9, line 8
Strike: "is"
Insert: "are"

Proposed Amendments to HB 913 (Senator Eck):

Insert the policy expressed in 15-38-102 (Resource Indemnity Trust Tax) to insure that the policies do not conflict.

1. Page 1, line 25.

Following: "purpose."

Insert: "It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources."

2. Page 2, line 12.

Following: "economy"

Strike: "based on natural resource development"

The following amendments are designed to insure funding for data resource collection systems and for implementing recommendations of standing and interim legislative committees.

3. Page 8, following line 13.

Insert: "(2) The legislature [shall] [may] appropriate funds it determines necessary for resource and data management by the Montana water resources research center, the Montana groundwater information center, the department of natural resources and conservation's water resource data collection system, and the state library's natural resource information system and natural heritage program.

(3) The legislature [shall] [may] appropriate funds it determines necessary to implement recommendations of standing and interim legislative committees, provided the recommendations promote projects or activities consistent with the policy and purposes stated in [section 2]."

Renumber: subsequent subsections.

Alternative for (2): "The legislature may appropriate funds it determines necessary for programs that collect, organize, and retrieve natural resource data."

Amendments 4 through 11 change the name of the mineral reclamation and research program to the natural resource reclamation and research program.

4. Page 2.

Following: line 19

Insert: "(3) "Natural resource" means any air, water, land, mineral, fish, wildlife, or vegetative resource which has not been transformed into a product for use by humans. Natural resource includes any resource that has been used by humans and returned to the natural environment."

5. Page 11, line 19.

Strike: "Mineral"

Insert: "Natural resource"

6. Page 11, line 20.
Strike: "mineral"
Insert: "natural resource"
7. Page 11, line 22.
Strike: "mineral"
Insert: "natural resource"
8. Page 12, line 2.
Strike: "mineral"
Insert: "natural resource"
9. Page 12, line 5.
Strike: "mineral"
Insert: "natural resource"
10. Page 12, line 6.
Strike: "mineral"
Insert: "natural resource"
11. Page 12, line 12.
Following: "mineral"
Insert: "or natural resource"

Amendment 12 allows further funding of the programs mentioned in amendment 3 if the programs propose special data collection projects. These projects would compete with other projects for funding.

12. Page 13, lines 5 and 6.
Strike: ", operation, and administration"
Insert: "of special data collection projects proposed by the Montana water resources research center, the Montana groundwater information center, the department of natural resources and conservation's water resource data collection system, and the state library's natural resource information system and natural heritage program."

The following amendment is designed to decrease the weight given to previously funded projects in the application evaluation process.

13. Page 13, line 19.
Strike: "promote"
Insert: "consider"

This amendment is designed to address the \$100 million cap and its dwindling value relative to inflation.

14. Page 17, line 18
Following: "million"
Insert: "in [1980] dollars"

This amendment would require an additional reporting to the legislature concerning the state water plan and the water reservation process.

15. Page 26, line 22

Following: "status"

Insert: "of the state water plan, the water reservation process, and"

Proposed Amendments to HB 913 (Senator Mohar):

1. Page 4, line 3.

Strike: "person or"

2. Page 4, line 6.

Following: "program."

Insert: "Persons may submit an application only for those projects which fall within the water development program policy, objectives and limitations stated in 85-1-601, 85-1-602, and 85-1-604."

3. Page 7, following line 23.

Insert: "[(4) An annual appropriation of \$200,000 is made from the mineral legacy account to the environmental contingency account.]

(5) Appropriations may be made from the Montana mineral legacy account for the following purposes:

(a) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other expenses necessarily incurred in the administration of the mineral legacy program;

(b) grants, loans, and allocations to implement mineral legacy program objectives, including:

(i) grants and loans for water development projects;

(ii) grants for mineral reclamation and research projects under the mineral reclamation and research program in [sections 10 through 12];

(iii) grants for renewable resource development projects; and

(iv) allocations for hazardous waste management."

4. Page 7, line 24, through Page 9, line 17.

Strike: Section 7 in its entirety.

5. Page 11, line 25.

Strike: "[section 7(3)(b)]"

Insert: "[section 6]"

6. Page 12, lines 22 and 23.

Strike: ", processing, use, [or development]"

7. Page 13, lines 5 through 8.

Strike: subsection 7 in its entirety.

Proposed Amendment by Representative Brown:

1. Page 9.

Following: line 10

Insert: "(4) If qualified proposals are not received to meet the allocations set forth for any category in subsection (3), remaining funds available for expenditure may be recommended by the department and allocated by the legislature for exceptionally well-qualified projects in another category. If no such projects remain to be funded, unallocated funds in any category must remain in the Montana mineral legacy account."

A middle ground between SB 277 and HB 913 might involve the following components:

Coal Severance Tax (Water Dev) (RRD)*

* Eliminate RRD by gradually diverting funds to water development per SB 277

Resource Indemnity Trust Interest

Water Dev. 30%	6% HW	Unallocated 64%
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Of the remaining 64%:
at least 50% to

- a) mineral research & reclamation or
natural resource research &
reclamation, w/ preference to
mineral research & recl.

- b) the remainder to projects that
fit within the policy and
purpose expressed in (section 2).

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 2

DATE 032885

BILL NO. HB 913

1. Statement of Intent
 Page 1, line 5 through line 25, page 2
 Strike: Page 1, line 5 through line 25, page 2, in their entirety.
 Insert:

It is the intent of the legislature that the department of natural resources and conservation adopt rules necessary for the administration of the Montana mineral legacy program. Rules must specify application contents, evaluation criteria, financial arrangements, and reporting requirements for grants

under the Montana mineral legacy program.

It is the intent of the legislature that the department evaluate applications under only one grant program

and that the department have the authority to determine under which program a specific application must be evaluated. To accomplish this goal, rules must be adopted under this act to define

whether a grant application will be evaluated under the Montana mineral legacy program or another department program

The legislature intends that projects or activities in the following areas be given preferential consideration for funding under the Montana mineral legacy program for the 1985-87 biennium:

- (a) projects or activities that collect, organize, and retrieve natural resource data;
- (b) projects or activities consistent with the policy and purpose of the Montana mineral legacy program that are recommended by standing or interim legislative committees; and
- (c) projects or activities that promote effective hazardous waste management.

Preferential consideration means that, if a project in one of these categories is ranked nearly as high as a project outside these categories, that project must be given priority despite its inferior ranking.

The legislature further recognizes that effective hazardous waste management is of immediate and utmost importance to the citizens of the state of Montana. Therefore, it is the legislature's intent ^{that} projects or activities that promote a comprehensive state-wide hazardous waste management program receive a high level of funding during the 1985-87 biennium.

Finally, it is the intent of the legislature that future legislatures provide guidance to the department of natural resources and conservation concerning the evaluation of applications under the Montana mineral legacy program. This guidance is to be given by the attachment of directives regarding preferred program areas for the evaluation process two years in advance in the appropriations for project funding the upcoming biennium."

2. Title, lines 6 through 9
Following: "PROGRAM;" on line 6
Strike: remainder of line 6 through line 9

3. Title, line 11
Following: "FROM"
Strike: "THE COAL SEVERANCE TAX AND"

4. Title, line 14
Following: "15-35-108,"
Strike: "15-38-202,"
Following: "76-14-112,"
Strike: "85-1-601,"
Insert: "AND"

5. Title, lines 15 and 16
Following: "85-1-603"
Strike: "THROUGH 85-1-606, 85-1-608, 85-1-621, 90-2-101
THROUGH 90-2-103, 90-2-113, AND 90-2-124"

6. Title, line 17
Following: "SECTIONS"
Strike: "85-1-611, 85-1-612, 85-1-622, 90-2-104, 90-2-107"
Insert: "90-2-101"

7. Title, line 18
Following: "THROUGH"
Strike: "90-2-112, 90-2-121"
Insert: "90-2-104, 90-2-107"
Following: "90-2-121 THROUGH"
Strike: "90-2-123"
Insert: "90-2-113"
Following: "AND"
Strike: "90-2-126"
Insert: "90-2-121"

8. Page 1, line 23 through line 19, page 32
Strike: everything following the enacting clause.
Insert:

NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be cited as the "Montana Mineral Legacy Act".

NEW SECTION. Section 2. Policy and purpose.

It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. The

Montana mineral legacy program established in [sections 1 through 9] is intended to benefit the people of Montana by promoting the wise development of our water, minerals, and renewable resources and by enhancing environmental quality through effective conservation, reclamation, and hazardous waste management projects. The Montana mineral legacy program is supported by taxes derived from the extraction of Montana's nonrenewable resources. As Montana's nonrenewable resource base becomes depleted, the Montana mineral legacy program will help ensure that future generations of Montanans continue to enjoy a healthy environment and a diversified economy.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9], the following definitions apply:

"(1) "Activity" means an action or program to repair, reclaim, or mitigate environmental damage from past or future resource extraction or to provide for the protection of Montana's renewable resources through sound conservation or restoration."

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(4) "Person" means any individual, association, partnership, corporation, or other similar entity.

(5) "Project" means any activity or series of activities directed toward a specific goal and meeting the objectives of the Montana mineral legacy program through planned and coordinated research; application of technology;

environmental monitoring; environmental enhancement, remediation, or mitigation; policy analysis or intergovernmental coordination; feasibility study; design or construction of physical works; or any combination of these activities.

(6) "Public agency" means any department, board, agency, commission, or other subdivision of state or local government.

(7) "Public benefits" means those benefits which accrue to the citizens as a group and enhance the common well-being of the people of Montana."

NEW SECTION. Section 4. Operation of Montana mineral legacy program. (1) The Montana mineral legacy program is intended to accomplish its objectives by:

funding grants for projects or activities consistent with the policy and purpose provided in [section 2]

and the eligibility criteria in [section 5].

(2) The department shall administer the Montana mineral legacy program as follows:

(a) The department shall publicly solicit grant and loan applications, consistent with subsection (1),

, for use of Montana mineral legacy program funds.

(b) Any public agency may submit an application to the department to obtain funds for a project meeting the objectives of the Montana mineral legacy program.

(c) The department may not accept an application for a grant under the Montana mineral legacy program if an application for the same project or activity has been filed under any other program of the department for funding during the same biennium. If an application for a part of the project or activity has been filed under another program of the department, only that part for which the Montana mineral legacy program would be the sole possible funding source may be accepted for consideration under the Montana mineral legacy program. An application filed under another program of the department subsequent to a grant awarded under the Montana mineral legacy program may not be considered under that program for the duration of the biennium.

(d) The department shall forward for technical review a copy of each completed application to the state agency or agencies normally having program responsibility for the type of project proposed in the application. Each state agency in receipt of such applications shall submit to the department a brief written evaluation of each application.

(e) The department shall solicit and consider in its evaluation of proposed projects the views of interested and affected departments, boards, agencies, commissions, and other subdivisions of state or local governments or the federal government and of interested and affected persons.

(f) The department shall evaluate each completed application for Montana mineral legacy funds based on the criteria, objectives, and preferences established under

section (10) and by rules adopted under [section 5].

(g) The department shall present its recommendations to the governor, who shall submit to the legislature by the 20th day of any regular legislative session

all projects determined eligible for grants *under the* Montana mineral legacy program with his recommended priorities.

(h) The legislature may approve by appropriation or other appropriate means the grants it finds consistent with the policies and purposes of this program.

(i) The department shall monitor the use of grants and may require reports, audits, or other documentation from recipients.

(j) The department shall biennially prepare a report for the legislature describing the status of the Montana mineral legacy program. The report must describe ongoing projects and projects completed during the biennium. The report must also describe proposed projects for the coming biennium and may contain the recommendations made by the governor under subsection (2)(g).

NEW SECTION. Section 5. Eligibility requirements. To be eligible for funding under the Montana mineral legacy program, the proposed project or activity must provide benefits in one or more of the following categories:

- (a) mined land reclamation;
- (b) reclamation for past oil and gas extraction, exploration, or processing;
- (c) reforestation of areas damaged by mining or smelting activities;
- (d) recreational or natural areas in the vicinity of such areas lost or anticipated to be lost because of mineral extraction;
- (e) mitigation of social and economic impacts of natural resource development not covered by other statutes;
- (f) research demonstration and technical assistance that promotes the wise use of Montana's natural resources and makes processing more environmentally compatible;
- (g) protection of the state's natural resources through sound conservation, weed control, and other restoration programs;
- (h) research which assesses past or potential environmental damage resulting from natural resource development; and
- (i) investigation and remediation of sites when hazardous and toxic wastes threaten the environment and when funding from liable parties or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is unavailable."

NEW SECTION. Section 6. Rulemaking. The department shall adopt rules:

- (1) prescribing the form and content of applications;
- (2) governing the evaluation of applications for grants
- (3) governing the terms and conditions for making grants
- (4) establishing reporting requirements for recipients of grants
- (5) defining how the department will make the determinations required under [section 4(2)(c)]; and
- (6) specifying other procedures necessary for proper and efficient administration of the Montana mineral legacy program.

NEW SECTION. Section 7. Montana mineral legacy account. (1) There is created a Montana mineral legacy account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the Montana mineral legacy account all money allocated from the resource indemnity trust interest account set forth in Title 15, chapter 38, with the exception of those allocations made in 15-38-202."

(3) The Montana mineral legacy account

may receive money from any other source.

NEW SECTION. Section 8. Allocation of funds •

Funds in the Montana mineral legacy

account are allocated for the purposes of [sections 1 through 9] as follows:

(1) The governor shall request in his executive budget an amount determined as necessary for administration by the department of the Montana mineral legacy program. Administrative expenses include the salaries and expenses of personnel, equipment, office space, and other expenses incurred in the review of applications, negotiation of contracts, monitoring of projects, preparation of reports, and other functions necessary to administer the Montana mineral legacy program. The legislature may appropriate from the Montana mineral legacy account the funds it considers necessary to administer the Montana mineral legacy program.

(2) As provided in [section 8], an amount not to exceed \$200,000 ANNUALLY is allocated to the environmental contingency account.

(3) The remaining funds may be appropriated as grants to qualified projects or activities under the Montana mineral legacy program."

(4) Any fees collected by the department of health and environmental sciences from users of any facility funded under subsection (3) must be allocated to the department to pay operational costs of such facilities or, if the operational costs are adequately funded, to obtain matching funds under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Fees collected in excess of these needs must be deposited in the Montana mineral legacy account."

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NEW SECTION. Section 9. Environmental contingency
account. (1)

There is created an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the office of the governor. (2)

Except as provided in subsection (5), at the beginning of each fiscal year, \$200,000 from the Montana mineral legacy account must be allocated to an environmental contingency account.

(3) Funds may be expended from the environmental contingency account upon the authorization of the governor

to meet unanticipated public needs consistent with the following objectives:

(a) to support water development projects in communities that face an emergency or imminent need for such services or to prevent the physical failure of a water project;

(b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency not including:

(i) natural disasters adequately covered by other funding sources; or

(ii) fire;

(c) to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development; and

(d) to [fund the environmental quality protection fund provided for in section 2 of HB 766 or to] take [other] necessary actions, including the construction of facilities, to respond to actual or potential threats to persons, property, or the environment caused by hazardous wastes or other hazardous materials.

(4) Interest from funds in the environmental contingency account accrues to the Montana mineral legacy account.

(5) The environmental contingency account may receive no additional allocation for any fiscal year in which the balance in the account exceeds \$1,000,000 at the beginning of that fiscal year.

(6) The governor shall submit to the legislature at the beginning of each regular session a complete financial report on the environmental contingency account, including a description of all expenditures made since the preceding report.

NEW SECTION. Section ~~10~~ ¹². Prohibition on benefits to officers or employees -- penalty. (1) No member, officer, attorney, or other employee of the department or of the board may, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under the Montana mineral legacy program other than the salary, fee, or other compensation he may receive as such member, officer, attorney, or employee.

(2) Any person violating any provision of this section must upon conviction forfeit the consideration illegally received and be fined not more than \$2,000 or imprisoned for not more than 2 years, or both.

NEW SECTION. Section ~~11~~ ¹¹. Evaluation of applications.

(1) In evaluating applications and recommending to the recipients for grants under the Montana mineral legacy program, the department of natural resources and conservation shall:

(a) consider the need for each project and the extent and desirability of the public benefits from each proposed project;

(b) review the cost-effectiveness of the proposed project;

(c) promote previously funded projects which have demonstrated substantial progress and which have a defined and attainable end; *and*

(d) support those projects which would become eligible for matching funds by virtue of funding through the Montana mineral legacy program; which can demonstrate existing funding support from federal, state, or local agencies or

private parties; or which have the capability of becoming

(2) The department may not recommend allocation of funds for projects that are adequately covered by other state or federal programs.

(3) The department may not allocate funds for any project that would relieve -

any person of any obligations or liabilities under federal or state law, including common law, with respect to reclamation of mined land or to releases of hazardous substances or other pollutants or contaminants"

(4) Each legislature may set broad program areas to receive preference for the next project evaluation process under the Montana mineral legacy program. These preferences may not specify program areas according to geographic criteria or target specific projects or activities for funding."

[(5) In applying these evaluation criteria, reclamation projects and activities that directly relate to mitigation of resource extraction must be given preferential consideration.]

SECTION 12. SECTION 15-35-108, MCA, IS AMENDED TO

READ:

"15-35-108. Disposal of severance taxes. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 25% of total collections a year. After December 31, 1979, 50% of coal severance tax collections are allocated to this trust fund. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) Starting July 1, 1986, and ending June 30, 1987, 6% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund. Starting July 1, 1987, and ending June

30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) to the county in which coal is mined, 2% of the severance tax paid on the coal mined in that county until January 1, 1980, for such purposes as the governing body of the county may determine;

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(b) 2 1/2% until December 31, 1979, and thereafter 4 1/2% to the state special revenue fund to the credit of the alternative energy research development and demonstration account;

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(c) 26 1/2% until July 1, 1979, and thereafter 37 1/2% to the state special revenue fund to the credit of the local impact and education trust fund account;

(d) for each of the 2 fiscal years following June 30, 1977, 13% to the state special revenue fund to the credit of the coal area highway improvement account;

(e) 10% to the state special revenue fund for state equalization aid to public schools of the state;

(f) 1% to the state special revenue fund to the credit of the county land planning account;

(g) 1 1/4% to the credit of the renewable resource development bond fund until July 1, 1987;

(h) 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund shall be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition of sites and areas described in 23-1-102 and the operation and maintenance of sites so acquired;

(i) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(j) 1/2 of 1% to the state special revenue fund for conservation districts;

(k) 1 1/4% to the debt service fund until July 1, 1987; and 2.3125% thereafter until July 1, 1989; and thereafter 2.5% to the credit of the water development debt service fund;

(l) for the fiscal years following June 30, 1987, until July 1, 1989, 0.1875% to the rangeland improvement

loan special revenue account;

(m) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

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Section ~~B~~. Section 76-14-112, MCA, is amended to read:

"76-14-112. Rangeland improvement loan special revenue account. (1) There is created a rangeland improvement loan special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be allocated to the rangeland improvement loan earmarked special revenue account ~~±5%~~ of the total amount of renewable resource development grants and loans as provided by 90-2-113, 0.1875% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of the Constitution of the State of Montana for use under the rangeland loan improvement program through the biennium ending June 30, 1989; any principal and accrued interest received in repayment of a loan made under the rangeland improvement loan program; and any fees or charges collected by the department pursuant to 76-14-116 for the servicing of loans, including arrangements for obtaining security interests."

Section ~~14~~. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water development debt service fund created -- coal severance tax allocated. (1) There is created a water development debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges and allocates and directs to be credited to the water development debt service fund, as received, ~~±1/4%~~ 2.3125% through the biennium ending June 30, 1989, and then 2.5% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of The Constitution of the State of Montana."

NEW SECTION. Section ~~15~~. Repealer. Sections 90-2-101 through 90-2-104, 90-2-107 through 90-2-113, and 90-2-121 through 90-2-128, MCA, are repealed.

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NEW SECTION. Section 16 Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 17. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the

effective date of this act.

NEW SECTION. Section 17. Effective dates. (1) This act is effective on

passage and approval.

Proposed Amendments to HB 913:
Third Reading Copy
Senate Natural Resources Committee
March 29, 1985

Statement of Intent

1. Statement of Intent

Page 1, lines 10 through 13

Following: "grants"

Strike: "and loans under the water development program, the renewable resource development program, and the mineral reclamation and research"

Insert: "under the Montana mineral legacy"

2. Statement of Intent

Page 1, lines 14 and 15

Following: "grant"

Strike: "and loan"

3. Statement of Intent

Page 1, lines 18 through 21

Following: "define"

Strike: "by subject matter which grant or loan application will be evaluated under each of the three programs: water development, renewable resource development, and mineral reclamation and research"

Insert: "whether a grant application will be evaluated under the Montana mineral legacy program or another department program"

4. Statement of Intent

Page 1, line 22, through line 25, page 2

Strike: page 1, line 22 through line 25, page 2 in its entirety.

Insert: "It is the intent of the legislature that programs eligible for the Montana mineral legacy program provide benefits in one or more of the following categories:

- (a) mined land reclamation;
- (b) reclamation for past oil and gas extraction, exploration, or processing;
- (c) reforestation of areas damaged by mining or smelting activities;
- (d) recreational or natural areas that compensate for loss of recreation or natural areas because of resource extraction;
- (e) mitigation of social and economic impacts of natural resource development not covered by other statutes;
- (f) research demonstration and technical assistance that promotes the wise use of Montana's natural resources and makes processing more environmentally compatible;
- (g) protection of the state's natural resources through sound soil and water conservation, weed control, and other restoration programs

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO.

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- (h) research which assesses past or potential environmental damage resulting from natural resource development; and
- (i) investigation and remediation of sites when hazardous and toxic wastes threaten the environment and when funding from liable parties or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is unavailable.

The legislature further intends that projects or activities in the following areas be given preferential consideration for funding under the Montana mineral legacy program for the 1985-86 biennium: 85-87

- (a) projects or activities that collect, organize, and retrieve natural resource data;
- (b) projects or activities consistent with the policy and purpose of the Montana mineral legacy program that are recommended by standing or interim legislative committees; and
- (c) projects or activities that promote effective hazardous waste management

Preferential consideration means that, if a project in one of these categories is ranked nearly as high as a project outside these categories, that project must be given priority despite its inferior ranking.

[The legislature further recognizes that effective hazardous waste management is of immediate and utmost importance to the citizens of the state of Montana. Therefore, it is the legislature's intent projects or activities that promote a comprehensive state-wide hazardous waste management program receive a high level of funding during the 1985-86 biennium.]

Finally, it is the intent of the legislature that future legislatures provide guidance to the department of natural resources and conservation concerning the evaluation of applications under the Montana mineral legacy program. This guidance is to be given by the attachment of directives regarding preferred program areas for the evaluation process two years in advance in the appropriations for project funding in the upcoming biennium."

Section 1: no amendments

Section 2

5. Page 1, line 25.

Following: "purpose."

Insert: "It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources."

6. Page 2, line 12.
Following: "economy"
Strike: "based on natural resource development"

Section 3

7. Page 2.
Following: line 14
Insert: "(1) "Activity" means an action or program to repair, reclaim, or mitigate environmental damage from past or future resource extraction or to provide for the protection of Montana's renewable resources through sound conservation or restoration."
Renummer: subsequent subsections.

8. Page 3.
Following: line 8.
Insert: "(7) "Public benefits" means those benefits which accrue to the citizens as a group and enhance the common well-being of the people of Montana."

Section 4

9. Page 3, lines 11 through 21
Following: "by"
Strike: remainder of line 11 through line 21.
Insert: "funding grants for projects or activities consistent with the policy and purpose provided in [section 2]."
10. Page 3, lines 24 and 25
Following: "grant"
Strike: "and loan"
11. Page 3, line 25, and line 1, page 4
Following: "with"
Strike: "subsections (1) (a) through (1) (c)"
Insert: "subsection 1"
12. Page 4, line 3.
Following: "Any"
Strike: "person or"
13. Page 4, lines 7 through 11.
Strike: subsection (c) in its entirety.
Insert: "(c) The department may not accept an application for a grant under the Montana mineral legacy program if an application for the same project or activity has been filed under any other program of the department for funding during the same biennium. If an application for a part of the project or activity has been filed under another program of the department, only that part for which the Montana mineral legacy program would be the sole possible funding source may be accepted for consideration under the Montana mineral legacy program. An application filed under another program of the department subsequent to a grant awarded under the Montana mineral legacy program may not be considered under that program for the duration of the biennium."

14. Page 4, line 25, through line 7, page 5.

Following: "established"

Strike: remainder of line 25 through "(iv)" on line 7, page 5.

Insert: "by"

15. Page 5, lines 10 and 11.

Following: "session"

Strike: "a prioritized list of projects that he recommends to receive grants or loans under the Montana mineral legacy program"

Insert: "all projects determined eligible for grants or loans under the Montana mineral legacy program with his recommended priorities"

16. Page 5, line 13.

Following: "appropriation"

Insert: "to the department"

17. Page 5, line 14.

Following: "grants"

Strike: "and loans"

18. Page 5, lines 16 and 17.

Following: "grants"

Strike: "and loans"

19. Page 5, line 25, through page 6, line 2

Following: "subsection (2) (g)."

Strike: "The report may be issued in separate parts, each corresponding to one or more of the categories listed in subsection (1)."

Section 5

20. Page 6, line 7.

Following: "grants"

Strike: "and loans"

21. Page 6, line 9.

Following: "grants"

Strike: "and loans"

22. Page 6, line 11.

Following: "grants"

Strike: "or loans"

23. Page 6, line 12.

Following: "defining"

Strike: "by subject matter of the application"

24. Page 6, line 13.

Following: "make the"

Strike: "determination"

Insert: "determinations"

25. Page 6, line 14
Following: "[section 4(2)(c)];"
Insert: "and"

26. Page 6, lines 15 through 25.
Strike: subsections (6) and (7) in their entirety.
Renumber: subsequent subsection.

Section 6

27. Page 7, lines 8 through 19.
Strike: subsection (2) in its entirety.
Insert: "(2) There must be paid into the Montana mineral legacy account all money allocated from the resource indemnity trust interest account set forth in Title 15, chapter 38, with the exception of those allocations made in 15-38-202."

28. Page 7, lines 20 through 22.
Following: "account"
Strike: "or any account or funds within programs that are part of the Montana mineral legacy program"

Section 7

29. Page 7, lines 24 and 25.
Following: "funds" on line 24
Strike: "to project categories"

30. Page 8, line 17, through line 14, page 9.
Strike: subsections (3) and (4) in their entirety.
Insert: "(3) The remaining funds may be appropriated as grants to qualified projects or activities under the Montana mineral legacy program."
(4) Any fees collected by the department of health and environmental sciences from users of any facility funded under subsection (3) must be allocated to the department to pay operational costs of such facilities or, if the operational costs are adequately funded, to obtain matching funds under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Fees collected in excess of these needs must be deposited in the Montana mineral legacy account."

Section 8

31. Page 9, line 19.
Following: "(1)"
Insert: "There is created an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the office of the governor. (2)"
Following: "subsection"
Strike: "(3)"
Insert: "(5)"

32. Page 9, lines 22 and 23.

Following: "account"

Strike: "controlled by the office of the governor"

33. Page 9, line 24.

Strike: "(2)"

Insert: "(3)"

34. Page 10, following line 21.

Insert: "(4) Interest from funds in the environmental contingency
account accrues to the Montana mineral legacy account."

Renumber: subsequent subsections.

Section 9: no amendments.

Sections 10 and 11

*35. Page 11, line 19, through line 8, page 13.

Strike: sections 10 and 11 in their entirety.

Section 12

36. Page 13, lines 11 and 12.

Following: "under the"

Strike: "mineral reclamation and research"

Insert: "Montana mineral legacy"

37. Page 14, line 2.

Following: "self-sustaining"

Insert: "; and (e) consider the degree to which jobs are created for
persons who need job training, receive public assistance, or
are chronically unemployed"

38. Page 14, lines 7 through 9.

Following: "relieve"

Strike: "a liable party, as defined in rules adopted under [section 9],
of any financial liability or other legal liability.

(4) Applications for projects under the mineral reclamation
and research program may relate to any mineral as defined in
15-38-103."

Insert: "any person of any obligations or liabilities under federal or
state law, including common law, with respect to reclamation of
mined land or to releases of hazardous substances or other
pollutants or contaminants"

(4) Each legislature may set broad program areas to receive
priority for the next project evaluation process under the
Montana mineral legacy program. These priorities may not
specify program areas according to geographic criteria or
target specific projects or activities for funding."

[(5) In applying these evaluation criteria, reclamation
projects and activities that directly relate to mitigation of
resource extraction must be given preferential consideration.]"

19a. Page 6.

Following: line 2

Insert: "NEW SECTION. Section 5. Eligibility requirements. To be eligible for funding under the Montana mineral legacy program, the proposed project or activity must provide benefits in one or more of the following categories:

- (a) mined land reclamation;
- (b) reclamation for past oil and gas extraction, exploration, or processing;
- (c) reforestation of areas damaged by mining or smelting activities;
- (d) recreational or natural areas that compensate for loss of recreation or natural areas because of resource extraction;
- (e) mitigation of social and economic impacts of natural resource development not covered by other statutes;
- (f) research demonstration and technical assistance that promotes the wise use of Montana's natural resources and makes processing more environmentally compatible;
- (g) protection of the state's natural resources through sound soil and water conservation, weed control, and other restoration programs;
- (h) research which assesses past or potential environmental damage resulting from natural resource development; and
- (i) investigation and remediation of sites when hazardous and toxic wastes threaten the environment and when funding from liable parties or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is unavailable."

Renumber: subsequent sections.

Sections 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27

48. Page 21, line 5 through line 23, page 31.
Strike: sections 18 through 27 in their entirety.

Section 28

49. Page 31, lines 24 and 25.
Following: "sections"
Strike: "85-1-611, 85-1-612, 85-1-622"
Insert: "90-2-101 through"

50. Page 31, line 25.
Following: "90-2-107 through"
Strike: "90-2-112"
Insert: "90-2-113, and"

51. Page 32, line 1.
Following: "90-2-121 through"
Strike: "90-2-103, and 90-2-126 through"

52. Page 32.
Following: line 2.
Insert: "NEW SECTION. Section . Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Sections 29 and 30: no amendments

Section 31

53. Page 32, lines 10 through 17.
Strike: section 31 in its entirety.
Renumber: subsequent section.

Section 32: no amendments

Section 13

39. Page 16.

Following: lines 4 and 5

Insert: "(g) 1½% to the credit of the renewable resource development bond fund until July 1, 1987;"

Renumber: subsequent subsections. 40. Page 16, line 23.

Following: "1½%"

Insert: "1½% until July 1, 1987; and"

Following: "2.3125%"

Insert: "thereafter"

41. Page 16, lines 25 and 26

Following: "~~fund~~"

Strike: "Montana mineral legacy account established in [section 6]"

Insert: "to the credit of the water development debt service fund"

42. Page 17, line 2.

Following: "(k)"

Insert: "for the fiscal years following June 30, 1987,"

Section 14

43. Page 17, line 7, through line 12, page 18.

Strike: section 14 in its entirety.

Section 15: no amendments.

Section 16

44. Page 19, line 9, through line 13, page 20.

Strike: section 16 in its entirety.

Section 17

45. Page 20, line 16

Following: "~~tax~~"

Strike: "Montana mineral legacy account"

Insert: "coal severance tax"

46. Page 20, line 22.

Following: "~~37.5%~~"

Strike: "37%"

Insert: "2.3125% through the biennium ending June 30, 1989, and then 2.5%"

47. Page 21, lines 1 through 4.

Following: "~~Montana~~"

Strike: "by the montana mineral legacy account established in [section 6] and remaining after the allocations provided for in [section 7(1) and (2)]"

Insert: "from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of the tax to the trust fund established under Article IX, section 5, of The Constitution of the State of Montana"

STANDING COMMITTEE REPORT

Page 1 of 14

MARCH 29 1985

MR. PRESIDENT

NATURAL RESOURCES

We, your committee on.....

HOUSE BILL

913

having had under consideration.....

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ESTABLISHING MONTANA MINERAL LEGACY PROGRAM

Respectfully report as follows: That.....

HOUSE BILL

No. 913

be amended as follows:

1. Statement of Intent

Pages 1 and 2.

Strike: Pages 1 and 2 in their entirety.

Insert: "It is the intent of the legislature that the department of natural resources and conservation adopt rules necessary for the administration of the Montana mineral legacy program. Rules must specify application contents, evaluation criteria, financial arrangements, and reporting requirements for grants under the Montana mineral legacy program.

It is the intent of the legislature that the department evaluate applications under only one grant program and that the department have the authority to determine under which program a specific application must be evaluated. To accomplish this goal, rules must be adopted under this act to define whether a grant application will be evaluated under the Montana mineral legacy program or another department program.

The legislature intends that projects or activities in the following areas be given preferential consideration for funding under the Montana mineral legacy program for the 1985-87 biennium:

(a) projects or activities that collect, organize, and retrieve natural resource data;

(continued)

~~XXXXXX~~

~~XXXXXX~~

Continued.

(b) projects or activities consistent with the policy and purpose of the Montana mineral legacy program that are recommended by standing or interim legislative committees; and

(c) projects or activities that promote effective hazardous waste management.

Preferential consideration means that, if a project in one of these categories is ranked nearly as high as a project outside these categories, that project must be given priority despite its inferior ranking.

The legislature further recognizes that effective hazardous waste management is of immediate and utmost importance to the citizens of the state of Montana. Therefore, it is the legislature's intent that projects or activities that promote a comprehensive state-wide hazardous waste management program receive a high level of funding during the 1985-87 biennium.

Finally, it is the intent of the legislature that future legislatures provide guidance to the department of natural resources and conservation concerning the evaluation of applications under the Montana mineral legacy program. This guidance is to be given by the attachment of directives regarding preferred program areas for the evaluation process two years in advance in the appropriations for project funding for the upcoming biennium."

2. Title, lines 6 through 9.

Following: "PROGRAM;" on line 6

Strike: remainder of line 6 through line 9

3. Title, line 11.

Following: "FROM"

Strike: "THE COAL SEVERANCE TAX AND"

4. Title, line 14.

Following: "15-35-108,"

Strike: "15-38-202,"

Following: "76-14-112,"

Strike: "85-1-601,"

Insert: "AND"

5. Title, lines 15 and 16.

Following: "85-1-603" on line 15

Insert: ","

Strike: "THROUGH 85-1-606, 85-1-608, 85-1-621, 90-2-101
THROUGH 90-2-103, 90-2-113, AND 90-2-124"

MARCH 29..... 1985.....

6. Title, line 17.
Following: "SECTIONS"
Strike: "85-1-611, 85-1-612, 85-1-622,"
Insert: "90-2-101 THROUGH"

7. Title, line 13.
Following: line 17. "THROUGH"
Strike: "90-2-112,"
Insert: "90-2-113, AND"
Following: "90-2-121 THROUGH"
Strike: "90-2-123, AND 90-2-124"

8. Title, line 19.
Following: line 18
Strike: "THROUGH"

9. Pages 1 through 32.
Strike: everything following the enacting clause.
Insert: "NEW SECTION. Section 1. Short title. [section 1 through 9] may be cited as the 'Montana Mineral Legacy Act'."

NEW SECTION. Section 2. Policy and purpose. It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. The Montana mineral legacy program established in [sections 1 through 11] is intended to benefit the people of Montana by promoting the wise development of our water, minerals, and renewable resources and by enhancing environmental quality through effective conservation, reclamation, and hazardous waste management projects. The Montana mineral legacy program is supported by taxes derived from the extraction of Montana's nonrenewable resources. As Montana's nonrenewable resource base becomes depleted, the Montana mineral legacy program will help ensure that future generations of Montanans continue to enjoy a healthy environment and a diversified economy.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9], the following definitions apply:

(1) "Activity" means an action or program to repair, reclaim, or mitigate environmental damage from past or future resource extraction or to provide for the protection of Montana's renewable resources through sound conservation or restoration.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(4) "Person" means any individual, association, partnership, corporation, or other similar entity.

(5) "Project" means any activity or series of activities directed toward a specific goal and meeting the objectives of the Montana mineral legacy program through planned and coordinated research; application of technology; environmental monitoring; environmental enhancement, remediation, or mitigation; policy analysis or intergovernmental coordination; feasibility study; design or construction of physical works; or any combination of these activities.

(6) "Public agency" means any department, board, agency, commission, or other subdivision of state or local government.

(7) "Public benefits" means those benefits which accrue to the citizens as a group and enhance the common well-being of the people of Montana.

NEW SECTION. Section 4. Operation of Montana mineral legacy program. (1) The Montana mineral legacy program is intended to accomplish its objectives by funding grants for projects or activities consistent with the policy and purpose provided in [section 2] and the eligibility criteria in [section 5].

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(2) The department shall administer the Montana mineral legacy program as follows:

(a) The department shall publicly solicit grant and loan applications, consistent with subsection (1), for use of Montana mineral legacy program funds.

(b) Any public agency may submit an application to the department to obtain funds for a project meeting the objectives of the Montana mineral legacy program.

(c) The department may not accept an application for a grant under the Montana mineral legacy program if an application for the same project or activity has been filed under any other program of the department for funding during the same biennium. If an application for a part of the project or activity has been filed under another program of the department, only that part for which the Montana mineral legacy program would be the sole possible funding source may be accepted for consideration under the Montana mineral legacy program. An application filed under another program of the department subsequent to a grant awarded under the Montana mineral legacy program may not be considered under that program for the duration of the biennium.

(d) The department shall forward for technical review a copy of each completed application to the state agency or agencies normally having program responsibility for the type of project proposed in the application. Each state agency in receipt of such applications shall submit to the department a brief written evaluation of each application.

(e) The department shall solicit and consider in its evaluation of proposed projects the views of interested and affected departments, boards, agencies, commissions, and other subdivisions of state or local governments or the federal government and of interested and affected persons.

(f) The department shall evaluate each completed application for Montana mineral legacy funds based on the criteria, objectives, and preferences established under [section 10] and by rules adopted under [section 5].

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(g) The department shall present its recommendations to the governor, who shall submit to the legislature by the 20th day of any regular legislative session all projects determined eligible for grants under the Montana mineral legacy program with his recommended priorities.

(h) The legislature may approve by appropriation or other appropriate means the grants it finds consistent with the policies and purposes of this program.

(i) The department shall monitor the use of grants and may require reports, audits, or other documentation from recipients.

(j) The department shall biennially prepare a report for the legislature describing the status of the Montana mineral legacy program. The report must describe ongoing projects and projects completed during the biennium. The report must also describe proposed projects for the coming biennium and may contain the recommendations made by the governor under subsection (2)(g).

NEW SECTION. Section 5. Eligibility requirements. To be eligible for funding under the Montana mineral legacy program, the proposed project or activity must provide benefits in one or more of the following categories:

- (a) mined land reclamation;
- (b) reclamation for past oil and gas extraction, exploration, or processing;
- (c) reforestation of areas damaged by mining or smelting activities;
- (d) recreational or natural areas in the vicinity of such areas lost or anticipated to be lost because of mineral extraction;
- (e) mitigation of social and economic impacts of natural resource development not covered by other statutes;
- (f) research demonstration and technical assistance that promotes the wise use of Montana's natural resources and makes processing more environmentally compatible;
- (g) protection of the state's natural resources through sound conservation, weed control, and other restoration programs;

(h) research which assesses past or potential environmental damage resulting from natural resource development; and

(i) investigation and remediation of sites when hazardous and toxic wastes threaten the environment and when funding from liable parties or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is unavailable.

NEW SECTION. Section 6. Rulemaking. The department shall adopt rules:

(1) prescribing the form and content of applications;

(2) governing the evaluation of applications for grants;

(3) governing the terms and conditions for making grants;

(4) establishing reporting requirements for recipients of grants;

(5) defining how the department will make the determinations required under [section 4(2)(c)]; and

(6) specifying other procedures necessary for proper and efficient administration of the Montana mineral legacy program.

NEW SECTION. Section 7. Montana mineral legacy account. (1) There is created a Montana mineral legacy account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the Montana mineral legacy account all money allocated from the resource indemnity trust interest account set forth in Title 15, chapter 38, with the exception of those allocations made in 15-38-202.

(3) The Montana mineral legacy account may receive money from any other source.

NEW SECTION. Section 8. Allocation of funds. Funds in the Montana mineral legacy account are allocated for the purposes of [sections 1 through 9] as follows:

(1) The governor shall request in his executive budget an amount determined as necessary for administration by the department of the Montana mineral legacy program. Administrative expenses include the salaries and expenses of personnel, equipment, office space, and other expenses incurred in the review of applications, negotiation of contracts, monitoring of projects, preparation of reports, and other functions necessary to administer the Montana mineral legacy program. The legislature may appropriate from the Montana mineral legacy account the funds it considers necessary to administer the Montana mineral legacy program.

(2) As provided in [section 8], an amount not to exceed \$200,000 annually is allocated to the environmental contingency account.

(3) The remaining funds may be appropriated as grants to qualified projects or activities under the Montana mineral legacy program.

(4) Any fees collected by the department of health and environmental sciences from users of any facility funded under subsection (3) must be allocated to the department to pay operational costs of such facilities or, if the operational costs are adequately funded, to obtain matching funds under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Fees collected in excess of these needs must be deposited in the Montana mineral legacy account.

NEW SECTION. Section 9. Environmental contingency account.

(1) There is created an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the office of the governor.

(2) Except as provided in subsection (5), at the beginning of each fiscal year \$200,000 from the Montana mineral legacy account must be allocated to an environmental contingency account.

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(3) Funds may be expended from the environmental contingency account upon the authorization of the governor to meet unanticipated public needs consistent with the following objectives:

(a) to support water development projects in communities that face an emergency or imminent need for such services or to prevent the physical failure of a water project;

(b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency not including:

(i) natural disasters adequately covered by other funding sources; or

(ii) fire;

(c) to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development; and

(d) to fund the environmental quality protection fund provided for in [section 2 of HB 766] or to take other necessary actions, including the construction of facilities, to respond to actual or potential threats to persons, property, or the environment caused by hazardous wastes or other hazardous materials.

(4) Interest from funds in the environmental contingency account accrues to the Montana mineral legacy account.

(5) The environmental contingency account may receive no additional allocation for any fiscal year in which the balance in the account exceeds \$1,000,000 at the beginning of that fiscal year.

(6) The governor shall submit to the legislature at the beginning of each regular session a complete financial report on the environmental contingency account, including a description of all expenditures made since the preceding report.

NEW SECTION. Section 10. Prohibition on benefits to officers or employees -- penalty. (1) No member, officer, attorney, or other employee of the department or of the board may, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under the Montana mineral legacy program other than the salary, fee, or other compensation he may receive as such member, officer, attorney, or employee.

(2) Any person violating any provision of this section must upon conviction forfeit the consideration illegally received and be fined not more than \$2,000 or imprisoned for not more than 2 years, or both.

NEW SECTION. Section 11. Evaluation of applications.

(1) In evaluating applications and recommending to the recipients for grants under the Montana mineral legacy program, the department of natural resources and conservation shall:

(a) consider the need for each project and the extent and desirability of the public benefits from each proposed project;

(b) review the cost-effectiveness of the proposed project;

(c) promote previously funded projects which have demonstrated substantial progress and which have defined an attainable end; and

(d) support those projects which would become eligible for matching funds by virtue of funding through the Montana mineral legacy program; which can demonstrate existing funding support from federal, state, or local agencies or private parties, or which have the capability of becoming financially self-sustaining.

(2) The department may not recommend allocation of funds for projects that are adequately covered by other state or federal programs.

(3) The department may not allocate funds for any project that would relieve any person of any obligations or liabilities under federal or state law, including common law, with respect to reclamation of mined land or to releases of hazardous substances or other pollutants or contaminants.

(4) Each legislature may set broad program areas to receive preference for the next project evaluation process under the Montana mineral legacy program. These preferences may not specify program areas according to geographic criteria or target specific projects or activities for funding.

(5) In applying these evaluation criteria, reclamation projects and activities that directly relate to mitigation of resource extraction must be given preferential consideration.

Section 17. Section 15-35-108, MCA, is amended to read:

"15-35-108. Disposal of severance taxes. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 25% of total collections a year. After December 31, 1979, 50% of coal severance tax collections are allocated to this trust fund. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) Starting July 1, 1986, and ending June 30, 1987, 6% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund. Starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) to the county in which coal is mined, 2% of the severance tax paid on the coal mined in that county

until January 1, 1980, for such purposes as the governing body of the county may determine;

(b) 2 1/2% until December 31, 1979, and thereafter 4 1/2% to the state special revenue fund to the credit of the alternative energy research development and demonstration account;

(c) 26 1/2% until July 1, 1979, and thereafter 37 1/2% to the state special revenue fund to the credit of the local impact and education trust fund account;

(d) for each of the 2 fiscal years following June 30, 1977, 13% to the state special revenue fund to the credit of the coal area highway improvement account;

(e) 10% to the state special revenue fund for state equalization aid to public schools of the state;

(f) 1% to the state special revenue fund to the credit of the county land planning account;

(g) 1 1/4% to the credit of the renewable resource development bond fund until July 1, 1987;

(h) 5% to a nonexpandable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund shall be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition of sites and areas described in 23-1-102 and the operation and maintenance of sites so acquired;

(i) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(j) 1/2 of 1% to the state special revenue fund for conservation districts;

(k) 1 1/4% ~~to the debt service fund type~~ until July 1, 1987; and 2.3125% thereafter until July 1, 1989; and thereafter 2.5% to the credit of the water development debt service fund;

(l) for the fiscal years following June 30, 1987, until July 1, 1989, 0.1875% to the rangeland improvement loan special revenue account;

~~(i)~~ (m) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 13. Section 76-14-112, MCA, is amended to read:

"76-14-112. Rangeland improvement loan special revenue account. (1) There is created a rangeland improvement loan special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be allocated to the rangeland improvement loan earmarked special revenue account ~~15% of the total amount of renewable resource development grants and loans as provided by 90-2-113,~~ 0.1875% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of the Constitution of the state of Montana for use under the rangeland loan improvement program through the biennium ending June 30, 1989; any principal and accrued interest received in repayment of a loan made under the rangeland improvement loan program, and any fees or charges collected by the department pursuant to 76-14-116 for the servicing of loans, including arrangements for obtaining security interests."

Section 14. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water development debt service fund created -- coal severance tax allocated. (1) There is created a water development debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges and allocates and directs to be credited to the water development debt service fund, as received, ~~1-1/4%~~ 2.3125% through the biennium ending June 30, 1989, and then 2.5% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of The Constitution of the State of Montana."

NEW SECTION. Section 15. Repealer. Sections 90-2-101 through 90-2-104, 90-2-107 through 90-2-113, and 90-2-121 through 90-2-128, MCA, are repealed.

NEW SECTION. Section 16. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 17. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 18. Effective date. This act is effective on passage and approval.

AND, AS AMENDED

BE CONCURRED IN

(Statement of Intent Amended)