MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Spaeth, on January 10, 1989, at 8:00 a.m.

ROLL CALL

Members Present: All Committee Members present.

Members Excused: None

Members Absent: None

Staff Present: Carl Schweitzer, LFA
Jane Hamman, OBPP
Donna Grace, Committee Secretary

HEARING ON STATE LANDS DEPARTMENT

List of Testifying Proponents and What Group They Represent:

Jim Williams, Department of State Lands
Gary Amestoy, Department of State Lands
Kelly Blake, Department of State Lands
Gary Brown, Department of State Lands
Randy Mosley, Department of State Lands

List of Testifying Opponents and What Group They Represent:

None.

EXECUTIVE ACTION:

Centralized Services Division Tape 6:A(001)

The LFA Analysis is attached as Exhibit 1.

Mr. Schweitzer stated that after reevaluating the revenue estimates, he said he was willing to agree that there would be approximately one million dollars in the resource development fund and there would be funds to finance the executive proposal on the Trust Lands Management System. Mr. Williams said that they would develop two functions of the system, land inventory and land evaluation.

Discussion followed.

MOTION: Senator Jergeson moved that the amount approved for the Trust Management System on January 9 be amended to $343,000.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 2. (130) Employee Benefits.

MOTION: Representative Swift made the motion that the Executive Budget recommendation be adopted. There was no further discussion.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 3. Surveyors and Abstractors Consultant Services Costs to Perfect Title on Non-Trust Lands.

MOTION; Senator Devlin made the motion that the current level recommendation be adopted. Senator Jergeson said that this item was the result of the passage of HB 29 in the last session. It had a fiscal note attached when passed so it wasn't a surprise that this was contained in this budget request. No further discussion.

VOTE; MOTION PASSED. Senator Jergeson voted no. All others present voted yes.

Issue No. 4. (210) Increased Rental Space. 1991 only.

MOTION: Representative Swift made a motion that the committee adopt the LFA current level.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 5. (293) Operating Expenses Difference. Mr. Schweitzer explained that this item was mostly for travel for the oil and gas auditor who travels out of state to ensure that royalties are being paid to the state correctly. Mr. Williams introduced a letter from Don Hoffman of the Oil, Gas and Royalties Bureau of the Department of Revenue which indicated that it would be reasonable to expect a $15 to $20 return for every $1.00 spent. Exhibit 4.

MOTION: Senator Jergeson made the motion that the executive budget recommendation be adopted.

Following discussion, a substitute motion was made by Representative Swift that travel for the auditor position should be financed using one-half general funds and one-half resource development funds and, in addition, this expenditure should be re-examined before funding in the next session.

VOTE; SUBSTITUTE MOTION PASSED. Chairman Spaeth voted no. All others present voted yes.

Senator Jergeson stated that he would vote for the substitute motion, recognizing that when the resource development is discussed he would reopen the discussion if priorities are different.

Issue No. 6. (600) Equipment. Mr. Schweitzer stated that the LFA recommended $2,640 for office equipment and $10,000 each year for computer equipment. The executive budget recommended more money for computer upgrades.

MOTION: Senator Jergeson moved that the executive budget recommendation be adopted. No further discussion.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 7. Aeronautic Operating Expenses. Mr. Schweitzer explained that this was primarily for gas. The executive budget also contains $5,300 for training of pilots and travel for pilots , offset by a cut in maintenance costs.

MOTION: Senator Jergeson moved that a total of $7,500 be approved for training, travel and hanger rent. No further discussion.

VOTE; MOTION PASSED. All present voted yes.

MOTION: Representative Kimberly moved that the committee adopt the LFA current level for gasoline.

VOTE: MOTION PASSED. All present voted yes.

There were no further issues to be discussed in regard to the Centralized Service Division of the State Lands Department.

Reclamation Division

Mr. Amestoy continued his testimony, giving an overview of the Coal and Uranium Bureau and the Hardrock Bureau. Mr. Amestoy's comments are contained in Exhibit 2. He also continued his comments on the Abandoned Mine Reclamation Program which begin on page 9 of Exhibit 5 attached to the January 9 minutes.

Mr. Amestoy stated that the function of the Coal and Uranium Bureau is to administer and enforce the Montana Strip and Underground Mine Reclamation Act, the Montana Mine Siting Act, and the Montana Environmental Policy Act with respect to the two previously named acts, and the federal law, the Surface Mining Control and Reclamation Act of 1977. Mr. Amestoy emphasized the fact that the funding for this program is 30% state funds and 70% federal funds; however, these percentages are only estimates and could be either higher or lower.

In discussing the Hardrock Bureau, he stated that the function of the Bureau is to administer and enforce the Montana Metal Mine Reclamation Act and the Montana Environmental Policy Act with respect to hard rock mining (base and precious metals). Mr. Amestoy commented that if mining is, in fact, a "bright spot" in Montana's economy, he would urge the committee to fund the mine land reclamation program so it can have the financial resources to meet the demands of the mining industry and the public interest groups.

Discussion followed relative to the LFA's Issue No. 8. The issue involves whether or not the Reclamation Division should be funded with RIT funds (executive recommendation) or general funds (LFA recommendation). Chairman Spaeth stated that possibly this was an issue to be decided by the Appropriations Committee or even on the floor of the House.

<u>Land Administration Division</u> Tape 7:A(579)

Kelly Blake, Administrator of the Land Administration Division, presented testimony in support of the division's budget. His comments are contained in Exhibit 3. He stated that his division personnel manage school trust and endowment lands consisting of approximately 4.5 million acres of surface estate and 6.2 million acres of mineral estate. The Lands Division is responsible for activities relating to surface leasing, easements, rights-of-way, land use licenses, oil and gas leasing, coal leasing, mineral leasing, land exchanges and other uses of state trust lands. The program is responsible for periodic inspections and reviews of all of these activities to insure that trust land resources are being adequately protected and efficiently managed to increase revenue to the various trust funds. The lands program must also follow the guidelines of the Montana Environmental Policy Act and the antiquities Act on any actions relating to surface disturbance situations.

Mr. Blake also discussed the Resource Development program (316) This is the state land investment program which is responsible for deriving the highest and best use of state lands for the support of the School Trust by developing and conserving trust land assets. The program is managed by the Lands Division Administrator and responsibility is for developing and monitoring projects on state lands that will increase revenue to the trust, preserve or conserve state trust land resources and perfect title to lands claimed by the state. Total funding for this program is derived from a percentage of the Interest and Income Fund, not to exceed 2 1/2%. No general funds are expended by the program for salaries, operating or capital outlay funds for project development.

Announcements/Discussion: Chairman Spaeth announced that executive action on issues relative to the Reclamation Division will be considered at 8:00 a.m. on January 11. Following the executive action, Mr. Blake will continue his testimony on State Land Administration.

ADJOURNMENT

Adjournment At: 11:15 a.m.

Gary Spaeth

REP. GARY SPAETH, Chairman

GS/dg

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DAILY ROLL CALL

NATURAL RESOURCES SUBCOMMITTEE

DATE January 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
Representative Spaeth	✓		
Senator Devlin	✓		
Representative Kimberley	✓		
Representative Iverson	✓		
Representative Swift	✓		
Senator Jenkins	✓		
Senator Jergeson	✓		

Form CS-30A
Rev. 1985

LEGISLATIVE ACTION

AGENCY: Department of State Lands PROGRAM: Centralized Services

BUDGET ITEM	Fiscal 1990 Executive	Fiscal 1990 LFA Curr Lvl	Fiscal 1990 Difference	Fiscal 1991 Executive	Fiscal 1991 LFA Curr Lvl	Fiscal 1991 Difference
FTE	32.50	32.50	0.00	32.50	32.50	0.00
Personal Services	$902,417	$878,971	$23,446	$905,644	$881,845	$23,799
Operating Expenses	652,842	521,121	131,721	637,231	484,382	152,849
Equipment	27,140	16,140	11,000	21,000	10,000	11,000
Non-Operating	265,000	265,000	0	265,000	265,000	0
TOTAL EXPENSES	$1,847,399	$1,681,232	$166,167	$1,828,875	$1,641,227	$187,648
FUNDING						
General Fund	$1,354,116	$1,310,083	$44,033	$1,338,288	$1,275,571	$62,717
State Special Rev	188,233	80,529	107,704	185,357	74,579	110,778
Federal Revenue	121,526	109,986	11,540	121,526	110,280	11,246
Other Revenue	183,524	180,634	2,890	183,704	180,797	2,907
TOTAL FUNDING	$1,847,399	$1,681,232	$166,167	$1,828,875	$1,641,227	$187,648

ISSUE 1: Trust Lands Management System	General Fund	Gross
	$ -0-	$218,482

The executive budget recommends $218,482 more resource development funds for the trust lands management system than does LFA current level. The executive budget proposes that four new components of the system be developed in the 1991 biennium at a cost of $373,590. LFA current level provides $155,108, which is a continuation of the amount expended in fiscal 1988 and would provide for development of one or possibly two new components.

EXHIBIT 1
DATE 1-10-89
HB 100

General Fund	Gross

Revenue projections of the resource development fund which receives 2.5 percent of trust land income indicate that there will not be sufficient revenues to finance the executive proposal. As Table A indicates, the executive recommended expenditures of resource development funds would result in over-expending the available funds at the end of fiscal 1991 by $169,988.

Table A
Resource Development Fund - Department of State Lands
Fiscal Years 1989 - 1991

	Fiscal 1989	Fiscal 1990	Fiscal 1991
Beginning Fund Balance	$203,771	$101,391	$ (35,171)
Interest	15,398	10,000	10,000
0.025 of Trust Income	282,252	357,980	355,014
Total Funds Available	$501,421	$469,371	$ 329,843
Disbursements - Executive Budget			
Trust Management System	$ 73,559	$188,233	$ 185,357
Resource Development Division	293,433	280,477	278,652
Department of Revenue	33,038	35,832	35,832
Total Disbursements	$400,030	$504,542	$ 499,841
Ending Fund Balance	$101,391	$(35,171)	$(169,998)

There are two sub-issues contained in the issue. First, what is the correct revenue estimate; and second, what level of funding does the legislature wish to provide the trust management system.

The following two worksheets provide a format for the committee to make decisions on the 1991 biennial budget.

WORKSHEET 1

Resource Development Account
1991 Biennium Income Projections

	LFA Revenue Est.		OBPP Revenue Est.	
Projected Fund Balance at the end of Fiscal 1989		$ 101,391		$ 179,741
Fiscal 1990 Income				
STIP Interest	10,000		10,000	
2.5% of Trust Income	357,980		400,500	
Total FY 90 Income		367,980		410,500
Fiscal 1991 Income	10,000		10,000	
STIP Interest	355,014		400,500	
2.5% of Trust Income				
Total FY 91 Income		365,014		410,500
Total Available Income		$ 834,385		$1,000,741

Jan. 6, 1989

Resource Development Account
1991 Blennium Expenditures

	LFA	OBPP	Subcommittee
Projected Revenues	$834,385	$1,000,741	
Expenditures			
1. Dept of Revenue	71,664	67,833	
2. Resource Devel. Prog.	476,552	559,129	
3. Trust Mgmt. Syst.	155,108	373,590	
Total Expenditures	$ 703,324	$1,000,552	
Projected Fund Balance	$ 131,061	$ 189	

	General Fund	Gross
ISSUE 2: Employee Benefits	$ 7,164	$ 9,064
ISSUE 3: Surveyors and Abstractors Consultant Services Costs to Perfect Title on Non-Trust Lands	7,103	9,000
ISSUE 4: Increased Rental Space - Fiscal 1991 Only	13,089	15,840
ISSUE 5: Operating Expenses Difference - Primarily Travel for Oil and Gas Auditor	18,113	22,855
ISSUE 6: Equipment	17,363	22,000
ISSUE 7: Aeronautic Operating Expenses - Primarily Gasoline Costs	13,956	18,393

CSS:kj:dslw

EXHIBIT 2
DATE 1-10-89
HB 100

(03182) COAL AND URANIUM

30% State Fund/70% Federal Funds

The function of the Coal and Uranium Bureau is to administer and enforce the Montana Strip and Underground Mine Reclamation Act, the Montana Mine Siting Act, and the Montana Environmental Policy Act with respect to the two previously named acts; and the federal law, the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

As a result of the provisions of SMCRA, the funding of the Coal and Uranium Bureau is shared between Montana and the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement. The funding percentages are based upon 100% federal funding on federal lands and 50% federal funding on non-federal lands. Based on expected permitting activity during the next biennium, Coal Bureau funding is estimated to be 30% state funding and 70% federal funding for FY 90 and FY 91. Please note that the Federal Grant to fund this program is a "Hard Match" and that these percentages are only estimates. The actual percentages could be either higher or lower than these estimates. However, the Bureau is comfortable that 30% State Funding is in the range of acceptability. This is an increase of 10% in State Funding over previous years.

The Bureau has 14.9 FTE's. These positions are made up of a Bureau Chief, two Reclamation Supervisors, and one secretary, with the balance of the staff being Reclamation Specialists with natural resource backgrounds in hydrology, soils, vegetation, mine engineering, wildlife, aquatic biology and geology.

PERSONAL SERVICES:	FY 90	FY 91
	$433,005	$433,730
Current Level	14.90 FTE	14.90 FTE

Explanation: Personal Services for the Division includes salaries, employee benefits and health insurance.

Differences Between Executive and LFA Budget: The most significant difference between the Executive and LFA Budgets is the additional 2% of Vacancy Savings that is recommended in the LFA Budget. If the 2% vacancy savings as recommended by the LFA budget is added to the 2% vacancy savings and 2% salary increase as recommended in the Executive Budget is implemented, these figures are actually reduced by 6% and 8% for the respective years of the biennium. During FY 88 the Coal Bureau had 22% vacancy savings due to large turnover of technical staff. However, at this time, all vacancies have been filled and the bureau should remain fully staffed.

Considering that there are only 14.9 FTE's in this program, it is very difficult, if not impossible to make-up these funds from within the program. In addition, it has been stated that mining is a "bright spot" in Montana's economy, therefore I do not believe that it is wise to interrupt the mined land reclamation permit decision-making process by leaving vacant positions open to make-up vacancy savings. Therefore, I request that the Committee adopt the Executive Budget recommendations and limit the vacancy saving to no more than 2%.

OPERATING EXPENSES:	FY 90	FY 91
	$289,413	$287,767

Explanation: Operating Expenses for the Coal and Uranium Bureau include contracted services, supplies and materials, communications, travel, rent, repair and maintenance and other expenses.

A. Contracted Services:

Explanation: Contracted Services for the Bureau include laboratory testing, photographic and film services, information systems development and consultation and professional services for certain aspects of permit review that are beyond the expertise or capability of the Bureau.

Differences Between Executive and LFA Budget: The most significant differences in the Executive and LFA Budgets are in the budget categories listed below:

1. Legal Fees: ISSUE 6: Increased Legal Fees (LFA Handout, Page 2). The Coal and Uranium Bureau needs $10,000 per year for legal fees that are associated with coal mine permitting. At the present time, the Bureau is involved in existing and anticipated litigation on the Montco/Northern Plains Resource Council contested case hearing and appeal; the Divide/Storm King litigation; and various other prospecting and non-compliance issues.

2. Printing Costs: ISSUE 7: Increased Printing Costs (LFA Handout, Page 2) The Bureau needs additional funding for printing costs due to additional coordination requirements with the Office of Surface Mining with regard to administrative rule changes. Based on the ever changing nature of the Federal rules, the Bureau anticipates that the coal rules will be modified on an annual basis, thereby requiring an annual appropriation.

3. Contracted Services: ISSUE 9: Coal and Uranium Operating Expenses (LFA Handout, Page 3). The Bureau needs annual funding for hiring consultants to analyze specialized environmental and technical issues and to provide expert testimony that is beyond the expertise of the Bureau staff. The Bureau anticipates the need for expert consultation in the field of uranium prospecting and underground mining issues in the next biennium.

4. Supplies and Materials: ISSUE 9: Coal and Uranium Operating Expenses (LFA Handout, Page 3). The Bureau travels approximately 100,000 to 125,000 miles per year to perform its functions under the Montana Strip and Underground Mine Reclamation Act. Calculating an average of 18 miles per

gallon and $1.00 per gallon the annual cost of gasoline is approximately $6,000.

5. Travel: ISSUE 9: Coal and Uranium Operating Expenses (LFA Handout, Page 3). The Bureau's annual travel budget needs to be approximately $26,000 per year to adequately perform its functions under the Montana Strip and Underground Mine Reclamation Act. This figure is based on the actual FY87 expenditure of $25,447 when the Bureau was fully staffed.

6. Rental:

Explanation: Rental expenditures for the Bureau include normal yearly costs (i.e. building rental) plus aircraft rental. The Bureau needs to rent aircraft for monitoring reclamation success or failure, inspection and enforcement activities on both prospecting and mining and infra-red photography of alluvial valley floors and revegetated areas.

Difference Between Executive and LFA Budgets: The most significant difference between the Executive Budget and the LFA Budget is that the LFA Budget only funds building rental.

I request that the Committee approve the Executive Budget recommendations.

EQUIPMENT:	FY90	FY91
	$25,688	$37,688

Explanation: The Bureau equipment needs are basically limited to vehicles and computer hardware. Vehicles are needed so the staff can travel to the various mine sites to meet with the mine operators, complete inspection and enforcement activities and perform bond release inspections. The vehicles that are requested in the Executive Budget are for replacement vehicles. The computer hardware is needed so the Bureau can more efficiently manage the environmental baseline and monitoring data contained in the permit files and for computer modeling. In addition, the Office of Surface Mining has been encouraging the state regulatory authorities to develop computer capabilities. It has installed two computers that are dedicated to coal related functions. They are the Applicant-Violator System computer network and the Technical Information Processing System. These systems have direct links to Denver and a national computer network in West Virginia. The Division has also developed an Information Processing Plan that reflects the purchase of this equipment. The Bureau has found that many of the new younger employees that have been hired have extensive computer backgrounds and are more productive if they have computers at their disposal.

I recommend that the Committee approve the Executive Budget recommendations.

Difference Between Executive and LFA Budgets: ISSUE 8: Coal and Uranium Bureau Equipment Increases (LFA handout, Page 3). The differences between the Executive Budget and the LFA Budget for both FY90 and FY91 basically involve whether or not the Bureau will be allowed to purchase any equipment other than the replacement vehicles. The Executive Budget has additional funds available for the purchase of some computer and other necessary equipment that is not included in the LFA recommendation. One of the additional equipment items that the Bureau wishes to purchase is a hydraulic soil probe. This equipment is needed to vary soil replacement depths on reclamation for final bond release. This equipment would be available for use by the other Bureaus.

I request that the Committee approve the Executive Budget.

PROGRAM FUNDING: As discussed previously in this presentation, the federal funding for this program is based on a "hard match," - that is, for every state dollar in the program, there are corresponding federal dollars. Since the percentage figures for calculating the grant amounts are only "estimates," it is extremely important that some flexibility be allowed in the state funding portion.

The figures that were used to calculate the state/federal funding shares for FY90 and FY91 in the LFA Budget was approximately 73% federal and 27% state. The Executive Budget used 70% federal and 30% state. I recommend that the Committee approve the Executive Budget funding percentage to provide a small amount of flexibility in the amount of state and federal funding to allow for any errors in estimating acreages permitted.

In addition, when considering the funding for the Coal Program, please remember that in base year FY88, the Coal Bureau had 22% vacancy savings due to a large turnover in the staff and difficulties in re-hiring to fill these positions. This vacancy savings is reflected not only in Personal Services but also in travel, supplies and materials and communications. The actual budget expenditure for the Coal Bureau at full staff in FY 87 was $721,630. Therefore, I recommend that the Committee approve the Executive Budget recommendations.

TOTAL PROGRAM:	FY90	FY91
30% State:	$224,432	$227,755
70% Federal:	$523,674	$531,430
	$748,106	$759,185

BUDGET MODIFICATION FOR THE COAL PROGRAM

(92013) USGS/OSMRE DATA BASE

100% Federal Funds

The purpose of this modification is to continue an Office of Surface Mining pass-through grant to the United States Geological Survey in the first year of the next biennium. The grant funds will be used to study the hydrological effects of coal mining for use in determining cumulative hydrologic impact assessments. This is the third and final phase of a three-phase study that was previously funded in FY88 and FY89 through the budget amendment process.

There have been no state funds spent on this project in the past, nor will there be in the future. To date, the Office of Surface Mining has spent $180,000 through the state's Budget Amendment process and the U.S. Geological Survey has matched these funds. The last $180,000 of this project will complete the study. Funding is 100% federal.

This Modification will not effect the Coal bureau budget or funding percentages.

I request that the Committee approve the Executive Budget recommendations.

(03185) HARD ROCK

100% State Funds

The function of the Hard Rock Bureau is to administer and enforce the Montana Metal Mine Reclamation Act and the Montana Environmental Policy Act with respect to hard rock mining (base and precious metals). The Bureau has mine permitting and regulatory over all lands in the state. As a result, the Bureau has extensive interaction with the U.S. Forest Service and Bureau of Land Management. The permitted activity in Montana includes some 135 Operating Permits, 425 Exploration Licenses and 1,000 Small Miner Exclusion Statements. In addition, since the elimination of the Environmental Analysis Bureau in 1986/87, the Bureau staff has responsibilities in preparing EIS's and PER's for Montana Environmental Policy Act Compliance.

The Bureau has 10.0 FTE's. These positions are made up of one Bureau Chief, one Permit Coordinator and the balance of the staff has natural resource backgrounds in geology, soils, vegetation/range and hydrology.

Although the Bureau is funded by 100% State Funds, this budget has a unique component that other Reclamation Division Bureaus do not have. That is the existence of an earmarked revenue account (state special revenues) in the amount of $100,000 that has been generated over the last 15 years by the collection of fines, fees and penalties pursuant to 82-4-311 of the Metal Mine Reclamation Act. This fund is known as the Hard Rock Mining Account.

As provided for in the Hard Rock Act, "This account shall be available to the department by appropriation and shall be expended for the research, reclamation, and revegetation of land and the rehabilitation of water affected by any mining operations." The money generated by this provision of the Act has never been spent, but the idea is that the Hard Rock Bureau could utilize these funds to perform emergency remedial reclamation on permitted mine sites to prevent eminent catastrophic hazards to public health and safety if the need arose. In instances where permitted mines have filed for reorganization under Chapter 11 or bankruptcy under Chapter 7, the Department may need interim funding to prevent imminent hazards to public health and safety or environmental damage.

In the event the Department has to forfeit a reclamation bond because the mine permit holder failed to take appropriate remedial action, merely forfeiting the bond does not mean the Department actually has immediate access to the money. This is because (1) the actual bond forfeiture procedure can be very time consuming; (2) once the bond has been forfeited the Department must obtain spending authority through the Budget Amendment process; and (3) we have also experienced instances where the bonding company went defunct. If the Department has money available, the actual contracting of the remedial action can be completed under the emergency contracting provisions as outlined in existing statutes.

It is not anticipated that this fund would be used to reclaim permitted sites in lieu of mine operators supplying adequate reclamation bond for their mining operations. These funds cannot be spent for operating expenses.

The most significant difference between the Executive Budget and the LFA Budget for the biennium is that the State Fund portion of the LFA Budget for FY90 is $12,384 lower than the amount actually spent by the Bureau in the base year of FY88, which was $379,612, and $8,821 lower than the base year in FY91. This is similar to the issue outlined in the Opencut Bureau. The Bureau cannot continue to perform its required functions at the level of State Funding that is recommended in the LFA Budget.

Below, I have attempted to explain this very complicated budget.

PERSONAL SERVICES:		FY90	FY91
		$518,283	$421,524
	Current Level	10.00 FTE	10.00 FTE

Explanation: Personal Services for the Bureau include salaries, employee benefits and health insurance.

Differences Between Executive and LFA Budget: ISSUE 1: VACANCY SAVINGS (LFA Budget Book, Page C-36). The most significant difference between the Executive and LFA Budgets is the additional 2% of Vacancy Savings that is recommended in the LFA Budget as has been discussed previously in this presentation. Considering the fact that this program cannot afford to hold a vacant position open to make up vacancy savings due to the tremendous workload involved with hardrock permitting and short statutory timeframes, it is difficult, if not impossible to make up these funds from within the program. Therefore, I request that the Committee adopt the Executive Budget recommendations.

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OPERATING EXPENSES:	FY90	FY91
	$230,962	$133,790

Explanation: Operating Expenses for the Bureau include contracted services, supplies and materials, communications, travel, rent, repair and maintenance and other expenses.

A. Contracted Services

Explanation: Contracted Services for the Bureau include laboratory testing of soil and water samples, photographic and film services, information systems development, consultation and professional services for certain aspects of permit review that are beyond the expertise or capability of the Bureau, contracted services for reclamation on forfeited reclamation bonds and contracted services for emergency remedial action.

Differences Between Executive and LFA Budget: The most significant differences in the Executive and LFA Budgets are in budget categories of Contracted Services, Supplies and Materials, and Travel. These differences are explained below.

1. Contracted Services: To fully understand the difference between the Executive Budget of $168,804 for FY90 and the LFA Budget of $175,883 for FY90, one must understand that the Executive Budget and the LFA Budget for Contracted Services are made up of different components. The components of the Executive Budget are $100,00 from the Hard Rock Mining Account and $68,804 of other funds, of which $25,968 were base year expenditures. Therefore the actual spendable increase over the base year FY88 is $42,836.

   By comparison, the components of the LFA Contracted Services are $100,000 from the Hard Rock Mining Account, $50,000 from the Bond Forfeiture Appropriation [ISSUE 2: BOND FORFEITURE APPROPRIATION (LFA Handout, Page 2) and ISSUE 4: BOND FORFEITURE APPROPRIATION (LFA Budget Book, page C-37) as described in the Opencut presentation] and $25,883 of other funds which is the approximate amount spent in the base year of FY88. Therefore, due to this difference, I recommend that the Committee approve the Executive Budget recommendations.

2. Technical Evaluations: ISSUE 4: Technical Evaluations (LFA Handout, page 2) The Bureau needs to have funds available to hire consultants for certain aspects of permit review and MEPA compliance documents that are beyond the expertise and capability of the Bureau. Some of these areas include health risk assessments, damage to water supplies and tailings impoundment design. The Bureau has worked with a number of consultants in specialized areas of the mining industry that charge

from $700 to $1,000 per day for their services. Even if these expensive projects do not materialize, the Bureau could have numerous $5,000 to $10,000 contracts for smaller more site specific technical evaluations. Of the amount available for Contracted Services, $17,000 is used to fund a Water Quality Liaison position with the Department of Health, Water Quality Bureau.

3. Legal Fees and Court Costs: The Bureau needs to have funds available for legal fees and court costs. At the present time, there are several large mine permitting decisions that are very controversial and may lead to litigation that cannot be handled by our Department attorneys.

EQUIPMENT:	FY90	FY91
	$13,000	$13,000

Explanation: The Bureau's equipment needs are basically limited to vehicles. Vehicles are needed so the staff can travel to the various mine sites to meet with the mine operators, for inspection of project activities, and for meetings with the general public and other government agencies..

Differences Between Executive and LFA Budget: There basically is not very much difference between the Executive Budget and LFA Budget. However, to purchase a four-wheel drive vehicle, I believe that the full $13,000, as recommended by the Executive Budget, will be necessary.

I request that the Committee approve the Executive Budget recommendations.

TOTAL PROGRAM:	FY90	FY91
	$518,283	$421,524

Note: The $100,000 continuing appropriation is included in the FY90 figure.

(03185) HARD ROCK

100% State Funds

The function of the Hard Rock Bureau is to administer and enforce the Montana Metal Mine Reclamation Act and the Montana Environmental Policy Act with respect to hard rock mining (base and precious metals). The Bureau has mine permitting and regulatory over all lands in the state. As a result, the Bureau has extensive interaction with the U.S. Forest Service and Bureau of Land Management. The permitted activity in Montana includes some 135 Operating Permits, 425 Exploration Licenses and 1,000 Small Miner Exclusion Statements. In addition, since the elimination of the Environmental Analysis Bureau in 1986/87, the Bureau staff has responsibilities in preparing EIS's and PER's for Montana Environmental Policy Act Compliance.

The Bureau has 10.0 FTE's. These positions are made up of one Bureau Chief, one Permit Coordinator and the balance of the staff has natural resource backgrounds in geology, soils, vegetation/range and hydrology.

Although the Bureau is funded by 100% State Funds, this budget has a unique component that other Reclamation Division Bureaus do not have. That is the existence of an earmarked revenue account (state special revenues) in the amount of $100,000 that has been generated over the last 15 years by the collection of fines, fees and penalties pursuant to 82-4-311 of the Metal Mine Reclamation Act. This fund is known as the Hard Rock Mining Account.

As provided for in the Hard Rock Act, "This account shall be available to the department by appropriation and shall be expended for the research, reclamation, and revegetation of land and the rehabilitation of water affected by any mining operations." The money generated by this provision of the Act has never been spent, but the idea is that the Hard Rock Bureau could utilize these funds to perform emergency remedial reclamation on permitted mine sites to prevent eminent catastrophic hazards to public health and safety if the need arose. In instances where permitted mines have filed for reorganization under Chapter 11 or bankruptcy under Chapter 7, the Department may need interim funding to prevent imminent hazards to public health and safety or environmental damage.

In the event the Department has to forfeit a reclamation bond because the mine permit holder failed to take appropriate remedial action, merely forfeiting the bond does not mean the Department actually has immediate access to the money. This is because (1) the actual bond forfeiture procedure can be very time consuming; (2) once the bond has been forfeited the Department must obtain spending authority through the Budget Amendment process; and (3) we have also experienced instances where the bonding company went defunct. If the Department has money available, the actual contracting of the remedial action can be completed under the emergency contracting provisions as outlined in existing statutes.

It is not anticipated that this fund would be used to reclaim permitted sites in lieu of mine operators supplying adequate reclamation bond for their mining operations. These funds cannot be spent for operating expenses.

The most significant difference between the Executive Budget and the LFA Budget for the biennium is that the State Fund portion of the LFA Budget for FY90 is $12,384 lower than the amount actually spent by the Bureau in the base year of FY88, which was $379,612, and $8,821 lower than the base year in FY91. This is similar to the issue outlined in the Opencut Bureau. The Bureau cannot continue to perform its required functions at the level of State Funding that is recommended in the LFA Budget.

Below, I have attempted to explain this very complicated budget.

PERSONAL SERVICES:		FY90	FY91
		$518,283	$421,524
	Current Level	10.00 FTE	10.00 FTE

Explanation: Personal Services for the Bureau include salaries, employee benefits and health insurance.

Differences Between Executive and LFA Budget: ISSUE 1: VACANCY SAVINGS (LFA Budget Book, Page C-36). The most significant difference between the Executive and LFA Budgets is the additional 2% of Vacancy Savings that is recommended in the LFA Budget as has been discussed previously in this presentation. Considering the fact that this program cannot afford to hold a vacant position open to make up vacancy savings due to the tremendous workload involved with hardrock permitting and short statutory timeframes, it is difficult, if not impossible to make up these funds from within the program. Therefore, I request that the Committee adopt the Executive Budget recommendations.

OPERATING EXPENSES:	FY90	FY91
	$230,962	$133,790

Explanation: Operating Expenses for the Bureau include contracted services, supplies and materials, communications, travel, rent, repair and maintenance and other expenses.

A. Contracted Services

Explanation: Contracted Services for the Bureau include laboratory testing of soil and water samples, photographic and film services, information systems development, consultation and professional services for certain aspects of permit review that are beyond the expertise or capability of the Bureau, contracted services for reclamation on forfeited reclamation bonds and contracted services for emergency remedial action.

Differences Between Executive and LFA Budget: The most significant differences in the Executive and LFA Budgets are in budget categories of Contracted Services, Supplies and Materials, and Travel. These differences are explained below.

1. Contracted Services: To fully understand the difference between the Executive Budget of $168,804 for FY90 and the LFA Budget of $175,883 for FY90, one must understand that the Executive Budget and the LFA Budget for Contracted Services are made up of different components. The components of the Executive Budget are $100,00 from the Hard Rock Mining Account and $68,804 of other funds, of which $25,968 were base year expenditures. Therefore the actual spendable increase over the base year FY88 is $42,836.

   By comparison, the components of the LFA Contracted Services are $100,000 from the Hard Rock Mining Account, $50,000 from the Bond Forfeiture Appropriation [ISSUE 2: BOND FORFEITURE APPROPRIATION (LFA Handout, Page 2) and ISSUE 4: BOND FORFEITURE APPROPRIATION (LFA Budget Book, page C-37) as described in the Opencut presentation] and $25,883 of other funds which is the approximate amount spent in the base year of FY88. Therefore, due to this difference, I recommend that the Committee approve the Executive Budget recommendations.

2. Technical Evaluations: ISSUE 4: Technical Evaluations (LFA Handout, page 2) The Bureau needs to have funds available to hire consultants for certain aspects of permit review and MEPA compliance documents that are beyond the expertise and capability of the Bureau. Some of these areas include health risk assessments, damage to water supplies and tailings impoundment design. The Bureau has worked with a number of consultants in specialized areas of the mining industry that charge

from $700 to $1,000 per day for their services. Even if these expensive projects do not materialize, the Bureau could have numerous $5,000 to $10,000 contracts for smaller more site specific technical evaluations. Of the amount available for Contracted Services, $17,000 is used to fund a Water Quality Liaison position with the Department of Health, Water Quality Bureau.

3. Legal Fees and Court Costs: The Bureau needs to have funds available for legal fees and court costs. At the present time, there are several large mine permitting decisions that are very controversial and may lead to litigation that cannot be handled by our Department attorneys.

EQUIPMENT:	FY90	FY91
	$13,000	$13,000

Explanation: The Bureau's equipment needs are basically limited to vehicles. Vehicles are needed so the staff can travel to the various mine sites to meet with the mine operators, for inspection of project activities, and for meetings with the general public and other government agencies..

Differences Between Executive and LFA Budget: There basically is not very much difference between the Executive Budget and LFA Budget. However, to purchase a four-wheel drive vehicle, I believe that the full $13,000, as recommended by the Executive Budget, will be necessary.

I request that the Committee approve the Executive Budget recommendations.

TOTAL PROGRAM:	FY90	FY91
	$518,283	$421,524

Note: The $100,000 continuing appropriation is included in the FY90 figure.

BUDGET MODIFICATION FOR THE HARDROCK PROGRAM

(92002) SUPERFUND/HAZARDOUS WASTE LIAISON

100% Federal Funds

The Hard Rock Mining Bureau needs a Superfund/Hazardous Waste Liaison position (1.0 FTE) to coordinate the functions relating to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA/Superfund) and the Superfund Amendments and Reauthorization Act (SARA) and the corresponding Applicable or Relevant and Appropriate Requirements (ARAR's) for EPA'S remedial actions; the Resource Conservation and Recovery Act (RCRA) with respect to the development of a Non-Coal Mining Waste Program; and their corresponding relationship to the Montana Metal Mine Reclamation Act, the Montana Environmental Policy Act and Abandoned Mine Lands Program. Funding would be 100% federal funding, through a combination of EPA programs and possibly the Abandoned Mines Program.

Although I cannot precisely say when in this biennium the actual funding for this position would become available, I have talked to John Wordell, Director of the Montana Office of the Environmental Pprotection Agency and he assures me that the necessary funding mechanisms exist.

This position is needed because the Bureau is experiencing more and more interaction with the Environmental Protection Agency and the Department of Health and Environmental Sciences in the areas of overlapping and conflicting authorities between the various state and federal environmental and mine permitting laws.

I request that the Committee approve the Executive Budget recommendations.

TOTAL PROGRAM:	FY90	FY91
	$31,449	$30,711

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(03333) ENVIRONMENTAL ANALYSIS

100% Earmarked Revenue Account

The function of the Environmental Analysis Program is to prepare Environmental Impact Statements pursuant to the requirements of the Montana Environmental Policy Act. The preparation of an EIS is the responsibility of the agency that will be making the permitting decision. Fees are collected from the applicant requesting the state action pursuant to 75-1-205, MCA of the Montana Environmental Policy Act. The amount requested for each year of the biennium ($500,000) is only an estimate. If additional funding is necessary, the DSL will request a Budget Amendment.

Difference Between Executive and LFA Budget:

There are no differences between the Executive Budget and the LFA Budget. Both Budgets provide for full funding of this program.

This request is only for Spending Authority. Funds will only be collected and spent if an EIS is being prepared.

TOTAL PROGRAM	FY90	FY91
	$500,000	$500,000

Funding: State Special Revenue Account

ISSUES:

ISSUE 8: Reclamation Division Funding (LFA Budget Book, Page C-38) and ISSUE 3 (LFA Handout, Page 3). The issue of whether or not the Reclamation Division should be funded with the RIT Funds or the General Funds is beyond the jurisdiction of the Department.

ISSUE 10: Other Adjustments (LFA Handout, page 3) Mr. Schweitzer has identified "Other Adjustments" in the amount of $12,599 in FY91. Although I am not familiar with the details that make up this figure, I would be happy to discuss them with him at his convenience.

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SUMMARY

In summary, I would like to thank the Committee for the opportunity to make this presentation and their attention and patience. I would also like to thank Jane and Carl for their assistance.

When considering this budget request, I would ask you to please remember that there are three things you need to have to mine in Montana. They are (1) a mineral deposit; (2) capital to develop that deposit; and (3) compliance with Montana mining and environmental laws.

Therefore, if mining is in fact a "bright spot" in Montana's economy, please fund the mine land reclamation program so it can have the financial resources to meet the demands of the mining industry and the public interest groups.

EXHIBIT 3
DATE 1-10-89
HB 100

Program 04

General Statement

The Land Administration Division and its personnel manage school trust and endowment lands consisting of approximately 4.5 million acres of surface estate and 6.2 million acres of mineral estate. The Lands Division is responsible for activities relating to surface leasing, easements, rights-of-way, land use licenses, oil and gas leasing, coal leasing, mineral leasing, land exchanges and other uses of state trust lands. The program is responsible for periodic inspections and reviews of all of these activities to insure that trust land resources are being adequately protected and efficiently managed to increase revenue to the various trust funds. The lands program must also follow the guidelines of the Montana Environmental Policy Act and the Antiquities Act on any actions relating to surface disturbance situations.

The Lands Program generates considerable revenues to the Interest and Income Fund which is apportioned back to the school districts each year in relation to the amount of general fund monies that are spent by the program in carrying out its duties and responsibilities. In FY88 the Lands Program generated over 3.5 million dollars from grazing leases, over 8.8 million dollars from agriculture leases and over 3.9 million dollars in oil and gas leases rentals, penalties and bonus payments. In addition, the program generated over $100,000 in easements and rights-of-ways, over 2.5 million dollars in oil royalties, over $870,000 in gas royalties, over 2.5 million dollars in coal royalties and over $225,000 in sand and gravel royalties that are placed in the Permanent Trust Fund. The goal of the Lands Program is to continue to generate the greatest amount of revenue and maintain the long term productivity of the natural resources available on school trust and endowment lands. There are approximately 16,500 separate sections of land in Montana containing trust or endowment acreage. In total, the Lands Program manages over 20,000 leases and other agreements for the benefit of the school trust and eight endowed institutions. Program 04 is funded by 100% general fund monies.

LAND ADMINISTRATION

For the purposes of this presentation, all line items will be addressed, but I will only expand on those areas of special concern to the Lands Division budget. I have not include inflationary increases or decreases in my presentation.

Personal Services

Personal Services:	FY 90	FY 91
	$443,346	$444,272
	18.62 FTE	18.62 FTE

Explanation: Personal Services for the division includes salaries, longevity, employee benefits and health insurance.

Differences between the Executive and LFA Budgets:

The only differences between the Executive and LFA Budgets for Personal Services was the amount of vacancy savings. The Executive Budget recommended $9,048 in FY90 and $9,067 in FY91 while the LFA recommended $18,095 in FY90 and $18,132 in FY91, which is mainly due to the Lands Program funding the pay plan. The Lands Division budget cannot absorb any additional vacancy savings or pay plan increases within the existing budget without having serious effects in the functioning of the program. The Department would therefore request that the Executive FY90 and FY91 budget request be accepted by the committee.

Operating Expenses

Contracted Services:	FY ~~88~~ 90	FY ~~89~~ 91
	$19,345	$19,345

Explanation: Contracted Services expenditures for the Lands Division generally includes insurance, legal fees, printing, computer processing, photographic services, publicity and film services used in carrying out division responsibilities.

Differences between the Executive and LFA Budgets:

The main differences between the Executive and LFA Budgets for Contracted Services is the amount requested by the program to fund the purchase of new aerial photos for the Lands Division which amounts to $8,000 per year for FY90 and FY91. This point is raised in the LFA Handout Issue 1. These photos are necessary in evaluating changes in land use on state trust lands. The aerial photos the division currently has are over twenty years old and are becoming outdated and worn from use in the field. Many of the photos are not current and measuring agricultural acres for compliance with lease terms and provisions of the Federal Farm Program are necessary. It is the goal of the Lands Division to replace about 10% of these old photos per year at a cost of $8.00 per photo for a total of $8,000 per fiscal year. It is anticipated that the Department would contract with the Soil Conservation Service to obtain the most recent flight photos.

The Department requests that the recommendation in the Executive Budget be accepted by the Committee.

Supplies and Materials:	FY 88	FY 89
	$49,484	$49,737

Explanation: Supplies and Materials for the Lands Division generally include minor tools and instruments, gasoline, maps, weed control, photographic supplies, and general office supplies.

Differences between the Executive and LFA Budgets:

The difference between the Executive and LFA Budgets for Supplies and Materials is the amount of funding for weed control on state trust lands amounting to $18,617 for FY90 and FY91 as mentioned in the LFA Handout Issue 2. As a result of the Montana Weed Law (Section 7-22-2116, MCA) the Department is required to control weeds on lands that are state-owned and currently unleased. Although the Department makes every effort to lease all unleased tracts, however, there are acreages that cannot be leased. In the past biennium the Legislature appropriated $24,000 for each fiscal year to control weeds and the Executive Budget requested a reduction to approximately $20,000. The LFA request has eliminated the majority of funding for the control of weeds on state lands. The Department feels this funding is meaningful and a sincere attempt by the agency to manage the weed problems on unleased state lands. Only $1,383 were expended in FY88 and the remaining monies were reverted back to General Fund. More monies were not spent due to the late billing by the individual weed districts. Removal of this appropriation will create greater conflict with adjacent landowners. Currently, all of our field Land Use Specialists are licensed applicators and we would like to continue to do our part in trying to control weeds to preserve or enhance the productivity of trust lands. The Department realizes that the amount of money appropriated will not put a dent in the weed problems we have, but it will show that the Department is trying to do something in attempting to manage our weed problems.

The Department recommends that the Committee accept the Executive Budget recommendation and retain $20,000 for the control of weeds on unleased state trust lands.

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Communications:	FY 88	FY 89
	$30,269	$30,269

Explanation: Communication expenditures are telephone, postage and mailing expenses incurred by the Lands Division.

Differences between the Executive and LFA Budgets:

The budget recommendations between the Executive and LFA Budgets for Communications amounts to $5,400 in both FY90 and FY91 and is addressed by the LFA in the Handout under Issue 3. The Department has requested an increase telephone equipment for the installation of dedicated telephone lines to the Area Land Offices in Miles City, Billings and Lewistown. These lines will link those field offices to the Trust Land Management System in Helena so that up to date land status information is available to them for decision making purposes. The existing phone lines are not adequate in retrieving information in a timely fashion. The Lands Division must send hard copy information to the land office which takes more time. These dedicated lines will cost $150 per month per line for each of the Land Offices.

The Department recommends the Executive Budget request be accepted by the Committee.

Travel:	FY 88	FY 89
	$20,881	$20,881

Explanation: Travel expenditures are those expenses incurred for meals, lodging and motor vehicle rentals required by the Division staff to carry out their responsibilities, primarily field inspections.

Differences between the Executive and LFA Budgets:

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There are no differences between the Executive and LFA Budgets, consequently no changes are requested in the Executive Budget recommendation.

Rent:	FY 88	FY 89
	$8,131	$8,131

Explanation: Rent for the Lands Division is mainly attributable to costs relating to the department and private aircraft rental and office and equipment space expenses in our Area Land Offices.

Differences between the Executive and LFA Budgets:

The differences between the Executive and LFA Budgets for Rent in the Lands Program amounts to $4,836 in each fiscal year for Rent of non-Department of Administration buildings and $774 in each fiscal year for rental of Department of State Lands aircraft as mentioned in the LFA Handout Issue 4. The Department has requested an increase in Rent to accommodate the needs of the office personnel at the Area Land Offices in Lewistown, Glasgow and Miles City offices. These land offices also need to provide for protection and storage of equipment and the rent required to provide this protection has increased. In order to maintain the Land Offices for the benefit of our lessees, the Department must be able pay for the increased costs of rent.

The Department has also requested an increase in private and Department aircraft rental for the coming biennium amounting to $774 in each fiscal year. These aircraft rentals are needed mainly for the Lands Division personnel in Helena for attendance at meetings in small cities and towns across Montana relating to Department policies and land related problems in the field. The time savings in using these aircraft is very beneficial considering the time required in driving to locations mainly in Eastern Montana.

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The Department requests that the Committee accept the Executive Budget recommendation.

Utilities:

	FY 88	FY 89
	$1,245	$1,245

Explanation: Utilities are costs incurred for electricity, natural gas, water and sewage in the Area Land Offices.

Differences between the Executive and LFA Budgets:

There are no differences between the recommendations of the Executive and LFA Budgets, therefore, the Department requests that the Committee accept the Executive Budget recommendation.

Repair and Maintenance:

	FY 88	FY 89
	$6,619	$6,619

Explanation: Repair and maintenance expenses are costs incurred on field vehicles and other office equipment items and contracts.

Differences between the Executive and LFA Budgets:

There are no differences between the recommendations of the Executive and LFA Budgets, therefore, the Department requests that the Committee accept the Executive Budget recommendation.

Other Expenses:

	FY 88	FY 89
	$2,327	$2,327

Explanation: These expenses are mainly for training conference registration fees, dues, periodical subscriptions and relocation expenses needed for the Lands Division.

Differences between the Executive and LFA Budgets:

There are no differences between the recommendations of the Executive and LFA Budgets, therefore, the Department requests that the Committee accept the Executive Budget recommendation.

Equipment

Equipment:	FY ~~88~~ 90	FY ~~89~~ 91
	$31,500	$18,500

Explanation: Equipment expenditures include any vehicle purchases and office equipment for the Lands Division.

Differences between the Executive and LFA Budgets:

The differences between the Executive and LFA Budgets amount to $7,000 in FY90 and $4,000 in FY91 and are addressed in the LFA Handout Issue 5. For clarification, the Department has requested $27,500 in FY 90 and $14,500 in FY 91 for the purchase of a 4x4 pickups for use by the field offices. A 3/4 ton pickup is requested to replace DSL-967 that will have in excess of 127,000 miles by 1990 and a 1/2 ton pickup is requested to replace DSL-990 that will have in excess of 108,000 miles by June, 1990. A 3/4 ton pickup is requested in FY91 to replace DSL-142 that has in excess of 170,000 miles currently and is no longer reliable. These vehicles are utilized by the field offices in carrying out land inspections and reviews and it is necessary to have safe and reliable vehicles for their use. These vehicles average approximately 17,000 miles per year per vehicle.

The Department is also requesting $4,000 in both FY90 and FY91 for single use computer work stations for general office work in the Lands Division as set out in the Data Processing Management Plan developed by the Department. These computer work stations will also be utilized for obtaining information from the Trust Land Management System.

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The Department requests that the Committee accept the Executive Budget recommendation.

MODIFICATIONS

The Department is requesting the addition of 1.0 FTE for the Lands Division for a Mineral Accountant to review the current production and reporting information being submitted by lessees on producing oil and gas, coal and mineral leases.

1.0 FTE - Mineral Accountant	FY90	FY91
	$27,081	$22,833

The mineral accountant position would review the lease agreements to assure that the trust is receiving the correct royalties due and would work concurrently with the audits being conducted on our lessees by the Department of Revenue to assure that reporting standards are being met. Currently, the three persons in the Mineral Leasing Bureau do not have the background or time needed to analyze the 350 producing oil and gas leases and the associated communitization and unitization agreements that are tied to these and other leases. The majority of these leases have never undergone reviews or audits that are provided under the lease because of the difficulty and time consuming process. In order to have the correct royalty reporting for the credit of each trust, the Lands Division must have the manpower and expertise necessary to carry on the function. The LFA has not recommended the hiring of the mineral accountant for the Lands Program.

The Lands Division is also requesting a geologist to conduct comprehensive field inspections on all producing oil and gas, mineral, seismic and sand and gravel leases and licenses.

1.0 FTE - Geologist	FY90	FY91
	$50,552	$30,104

This position will evaluate each producing lease to assure that lease stipulations are being met and would also work on field audits on those leases undergoing financial audits by the Department of Revenue. This position would work under the Division's existing Geologist in evaluating lease applications, mineral exchanges, seismic monitoring, Board of Oil and Gas testimony, land and mineral exchange proposals and mineral title questions on trust lands. There is an extreme amount of backlogged work in mineral evaluations on the 6.2 million acres of trust mineral managed by the Lands Division. The FY90 request also includes equipment funding for the purchase of a 4x4 field vehicle for use by the Geologist.

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The Department requests that the Committee accept the Executive Budget recommendation for these two full time positions.

ISSUES

ISSUE 1: TRUST LANDS SUBSIDY OF HUNTING AND FISHING

The LFA has raised the issue of selling trust lands and while this may be an issue for the State as a whole, the Department does not feel it is a budget item for this Committee. The issue of selling the trust lands has become an issue since the LFA presented the Department of State Lands with the Draft Report to the Legislative Finance Committee about a year ago. As indicated in the text of this issue, the Board of Land Commissioners consisting of the Governor, Secretary of State, Attorney General, State Auditor and the Superintendent of Public Instruction have had a very consistent policy of not selling School Trust and Endowment Lands for the past 20 years, consequently the Department has not undertaken a sale policy. The issue of hunting and fishing access on trust lands has only become an issue in the last five years and is currently involved in lawsuit.

The LFA contends that there is a subsidy by the trust for hunting and fishing activities. The past Commissioner of State Lands, upon approval of the Board of Land Commissioners, started a program of licensing the hunting rights of blocked state trust land ownerships to the Department of Fish, Wildlife and Parks for public use and the Department intends to continue to work in that direction in other areas in the future. Lessees of trust lands currently have the ability to post those lands to unauthorized access under our administrative rules which includes the Department of Fish, Wildlife and Parks. The Lands Division is required by statute to lease the lands for the highest and best use. Consequently, we do issue leases to FW&P for big game wildlife grazing use. In many instances livestock grazing is a continued use on those lands as a tool in order to help or enhance wildlife habitat. In this situation the FW&P is treated like every other lessee and they have the ability to restrict public access as granted through the rules. However if the lands are opened to the public, there is no charge. The Department of State Lands is not leasing the lands described in the text of the issue for hunting and fishing. They are leased for grazing purposes only and as in all grazing and agricultural leases, the hunting rights are reserved by the Board.

The LFA has also recommended a financial plan for transfer of trust lands to the Department of Fish, Wildlife and Parks. This is a problem in that the transfer or sale of trust lands must be accommodated through the competitive bid process. A negotiated sale to the FW&P would be unconstitutional.

The Department does not have an opinion on any of the four options delineated by the LFA. However, there are technical problems as previously mentioned with the sale of trust lands without going through a competitive sale.

Program 05

RESOURCE DEVELOPMENT 316

General Statement:

The Resource Development Program is a state land investment program which is responsible for deriving the highest and best use of state lands for the support of the School Trust by developing and conserving trust land assets. This program is managed by the Lands Division Administrator. The seven FTE's are responsible for developing and monitoring projects on state lands that will increase revenue to the trust, preserve or conserve state trust land resources and perfect title to lands claimed by the state. The total funding for this program is derived from a percentage of the Interest and Income Fund not to exceed 2 1/2%. The percentage is determined by the Board of Land Commissioners. No general funds are expended by the program for salaries, operating or capital outlay funds for project development.

RESOURCE DEVELOPMENT BUDGET

For the purposes of the presentation, I will only refer to general comments on the Resource Development Program.

Personal Services

Personal Services:	FY 88	FY 89
	$196,544	$196,949
	7.0 FTE	7.0 FTE

Explanation: The personal services include the salaries, benefits and health insurance for the Resource Development Bureau within the Lands Division.

Differences between the Executive and LFA Budgets:

The only differences between the Executive and LFA Budgets for Personal Services is the amount of vacancy savings attributed each fiscal year. The Executive Budget recommends vacancy savings of $4,011 in FY90 and $4,019 in FY91 while the LFA recommends a vacancy savings of $8,022 in FY90 and $8,039 in FY91. For reasons previously mentioned in the Lands Program, I would request that the amount of vacancy savings stated in the Executive Budget be approved by the Committee.

Operating Expenses

Operating Expenses:	FY 88	FY 89
	$35,187	$36,103

Explanation: In general, the operating expenses for the resource development program are used to evaluate and develop projects on state trust lands. All projects funded out of the resource development program are addressed when a lessee shows an interest in developing state lands in range renovations, irrigation projects, cultural resource evaluations, title ownership perfections and the like. The program has experienced a downturn in projects which generally reflects the downturn in agricultural economics at this time. The program is continuing to perfect our water rights on state lands and continue monitoring and updating old projects already completed.

Differences between the Executive and LFA Budgets:

There are essentially no differences between the recommendations of the Executive and LFA Budgets and I would recommend that the LFA budget request be approved by the Committee.

Capital Outlay:	FY 88	FY 89

$45,000 $45,000

Explanation: Capital Outlay is the funding for which the resource development program pays for its projects on state lands, such as stockwater, range renovations, irrigation operations, saline seep analysis and other land related proposals.

Differences between the Executive and LFA Budgets:

The Executive Budget has requested $45,000 for both FY90 and FY91 for capital projects while the LFA has requested $10,047 for each fiscal year. The differences are mainly due to the differences in revenue projections that were discussed by Mr. Jim Williams in the Central Management Division Budget. The Resource Development Bureau will need at least $45,000 in order to do any projects, especially stock water and irrigation projects on state lands. Since there has been confusion on the amount of Resource Development monies that would be available, I would recommend that the Committee accept the recommendation of the Executive Budget. If the funds are not available for use for these projects then no projects will initiated. By approving the $45,000 funding level the Bureau would have legislative authority to utilize up to that amount should funding be available.

This concludes my presentation on the Lands Program 04 and Resource Development Program 05.

STATE LANDS' ROYALTY PROGRAM

STATUS REPORT

1) Audits collected in 1988 (through 12/88).

Lessee Name	Additional Royalty	Interest	Total Paid	Date Paid
a)Louis. Land & Expl.	$ 2,729	$ 1,001	$ 3,730	06/88
b)FMP Operating	72,059	41,833	113,892	08/88
c)Quintana Petr.	16,051	9,989	26,040	11/88
	$ 90,839	$ 52,823	$ 143,662	

2) Audits Assessed in 1988 (through 12/88).

Lessee Name	Additional Royalty	Interest	Total Due	Date Assessed
a)BWAB, INC.	$ 17,954	$ 10,276	$ 28,230	08/88
b)Irex Corp.	$ 5,745	$ 2,126	$ 7,871	08/88
c)Montana Power Co.	$ 282,352	$ 172,459	$ 454,811	08/88
d)Union Oil of Calif.	$ 39,248	$ 24,059	$ 63,307	08/88
e)Jack Miller, D.A.	$ 10,185	$ 6,317	$ 16,502	08/88
f)George Darrow, D.A.	$ 6,810	$ 3,968	$ 10,778	08/88
g)Cut Bank Gas Co.	$ 18,534	$ 11,495	$ 30.029	08/88
h)Amoco Production Co.	$ 40,849	$ 25,335	$ 66,184	08/88
i)Carl Iverson, D.A.	$ 820	$ 508	$ 1,328	08/88
j)Norfolk Energy, Inc.	$ 381,070	$ 216,492	$ 597,562	09/88
k)FMP Oper.(Loring U.)	$ 3,030	$ 7,755	$ 10,785	12/88
	$ 806,597	$ 480,790	$1,287,387	

3) Scheduling for Field Audit

a) FMP Operating -- January 16-27, 1989

b) Gary Williams -- March 6-10, 1989

c) Luff Production -- March 13-17, 1989

d) Union Oil of Calif. -- April 1989

4) Summary

	Audits Collected In 1988	Audits Collected Pre-1988	Total Collected
Royalty Due:	$ 101,302 (a)	$ 58,189	$ 159,491
Interest:	55,138 (a)	1,368	56,506
Total:	$ 156,440	$ 59,557	$ 215,997

	1988-Audit Assessments		Pre-1988 Audit Assessments	Total Assessments
Royalty Due:	$ 817,060	(a)(b)	$ 308,965	$ 1,126,025
Interest:	485,820	(a)(b)	38,406	524,226
Total:	$ 1,302,880		$ 347,371	$ 1,650,251

5) Misc

a) FMP Operating - refund reduction of $12,778.12 (requested $14,897.66, actual refund $2,119.54). $10,462.72 of royalty due, $2,315.40 of interest and $12,778.12 total due was included in the 1988 Collections and Assessments.

b) Conoco, Inc. was assessed interest on late payments. The amount assessed of $2,714.88, was included in the 1988-Audit Assessments above.

State Lands' Royalty PROGRAM

STATUS REPORT

4th Quarter 1988

1) Audits collected

Lessee Name	Additional Royalty	Interest	Total Paid	Date Paid
a)Quintana Petr.	16,051	9,989	26,040	11/88
	$ 16,051	$ 9,989	$ 26,040	

2) Audits Assessed

Lessee Name	Additional Royalty	Interest	Total Due	Date Assessed
a)FMP Oper.(Loring U.)	$ 3,030	$ 7,755	$ 10,785	12/88
	$ 3,030	$ 7,755	$ 10,785	

3) Update on protested audits

a) Mountain States Resources
- the DOL legal staff is working on this.

b) Balcron Oil Company
- the audit finds has been filed with district court for a ruling.

c) Cut Bank Gas Co.
- the audit has been protested by a letter, but no informal hearing has been scheduled.

d) Amoco Production Co.
- the audit has been protested by a letter, but no informal hearing has been scheduled.

e) Carl Iverson (CBS Oil Co.)
- the audit has been protested by a letter, and an audit conference has been requested.

f) Irex Corp.
- the audit has been protested, but no informal hearing has been held.

g) Norfolk Energy, Inc.
- the informal hearing has been held, a possible

settlement was discussed.

h) Montana Power Company
   - the informal hearing has been held, a settlement is pending agreement of the proposal.

4) <u>Audits in progress</u>

a) Ladd Petroleum Corp.
   - awaiting further sales records for the company.

b) Branch Oil & Gas
   - this audit is virtualy complete, and after legal council's permission it will be issued.

c) Xeno, Inc.
   - audit work is being completed.

d) Fulton Producing Company
   - audit work is being completed.

e) Shell Oil Company
   - audit work is being completed.

f) Santa Fe Energy
   - audit work is being completed

g) E. Doyle Huckaby
   - audit work is being completed

h) J. Burns Brown
   - audit is 70% complete, awaiting additional information.

i) Flying J Exploration & Production
   - audit is pending final approval

j) Riverbed Project
   - 30 potential wells have been identified. They are located along the Yellowstone River in the Williston Basin Area. We are currently awaiting information from the well operators pertaining to the exact acreage and area included within field spacing orders, and specific locations of the wells.
   - identified the Iverson 1-13 well, awaiting production information,purchase contracts,and owners' interest calculations from Texas International Oil Company.
   - Texas International is also the operator of two other potential wells that may space into the river.

5) <u>Scheduling for Field Audit</u>

a) FMP Operating -- January 16-27, 1989

b) Gary Williams -- March 6-10, 1989

c) Luff Productions -- March 13-17, 1989

d) Union Oil of Calif. -- April 1989

6) <u>Summary</u>

	Audits Collected 4th Qtr	Audits Collected 1st,2nd,3rd Qtr	1988-Total Collected
Royalty Due:	$ 16,051	$ 35,251	$ 101,302
Interest:	9,989	45,149	55,138
Total:	$ 26,040	$ 130,400	$ 156,440

	4th Qtr-Audit Assessments	1st,2nd,3rd Qtr Audit Assess	Total Assessments
Royalty Due:	$ 3,030	$ 814,030 (a)	$ 817,060
Interest:	10,470 (b)	475,350 (a)	485,820
Total:	$ 13,500	$ 1,289,380	$ 1,302,880

7) <u>Misc</u>

a) FMP Operating - refund reduction of $12,778.12 (requested $14,897.66, actual refund $2,119.54). $10,462.72 of royalty due and $2315.40 of interest, resulting in $12,778.12 total due which is included in the 1988 Collections and Assessments.

b) Conoco, Inc. was assessed interest on late payments. The amount assessed of $2,714.88, was included in the 1988-Audit Assessments above. (4th Quarter)

1-10-89
1

COPY

MEMORANDUM

TO: Jim Williams
Department of State Lands

FROM: Don Hoffman
Oil, Gas & Royalties Bureau
Department of Revenue

DATE: January 6, 1989

SUBJECT: Travel for position #140

The incumbent did not begin working until February 1, 1988. From February 1 through August 1, 1988 the incumbent did not travel because we were providing the necessary training and a background of knowledge regarding all phases of lease management, royalty calculation and payment. This initial "start-up" period occurs with all Revenue Agents hired by this Division, and insures the Revenue Agents will not travel until they have sufficient training to effectively use state resources. In addition, this protects royalty payors from having to deal with totally inexperienced state auditors, which would be a waste of their time.

Since the incumbent began travelling in July of 1988 he has participated in 12 field audits identifying potentially under-paid royalties in excess of $1 million. Recently a royalty payor agreed to pay royalties and interest in the amount of $305,000. That translates to $19 returned for each dollar spent ($305,000-$16,000). To identify these amounts we had to go to the companies headquarters and review their records, without a travel budget we could not have done this.

It would not be unreasonable to expect a $15-$20 return for each dollar spent during the 1990-1991 biennium.

Based upon our present calculations it costs $1,120 per trip per auditor for out of state travel. We anticipate that we can go on 10 trips per year. This is a travel budget $11,200 for each year of the biennium. Of this $11,200 38.9% is transportation, 14.9% is for meals, 38.2% is lodging and 8% is for car rentals.

EXHIBIT 4
DATE 1-10-89
HB 100

VISITOR'S REGISTER

______________________ SUBCOMMITTEE

AGENCY(S) ______________________ DATE 1-10-89

DEPARTMENT ______________________

NAME	REPRESENTING	SUP-PORT	OP-POSE
Randy Mosley	Dept. of State Lands	✓	
Jim Williams	DSL	✓	
Gary Amastoy	DSL	✓	
Kelly Blake	DSL	✓	
Gary G. Brown	DSL	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

FORM CS-33A
Rev. 1985