

HOUSE BILL NO 913

2/21 Introduced
2/21 Referred to Natural Resources
2/21 Fiscal Note Requested
2/22 Hearing
2/23 Committee Report-Bill Pass As Amended
2/23 Statement of Intent Attached
2/27 2nd Reading Pass
2/27 On Motion Rules Suspended
Placed on 3rd Reading This Day
2/27 Fiscal Note Received
2/27 3rd Reading Pass

Transmitted to Senate

3/06 Referred to Natural Resources
3/15 Hearing
3/29 Comm Report-Bill Concurred As Amended
Statement of Intent Amended
4/01 2nd Reading indefinitely Postponed

1 HOUSE BILL NO. 913
 2 INTRODUCED BY Jim Bran KRUEGER Jerry
 3 Carlovich Harington Miner Keenan Loy Bo

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE
 5 MONTANA MINERAL LEGACY PROGRAM; CONSOLIDATING WATER
 6 DEVELOPMENT, RENEWABLE RESOURCE DEVELOPMENT, MINERAL
 7 RECLAMATION AND RESEARCH, AND HAZARDOUS WASTE MANAGEMENT
 8 PROGRAMS UNDER THE MONTANA MINERAL LEGACY PROGRAM;
 9 ESTABLISHING THE MONTANA MINERAL LEGACY ACCOUNT; FUNDING THE
 10 ACCOUNT THROUGH PROCEEDS FROM THE COAL SEVERANCE TAX AND THE
 11 RESOURCE INDEMNITY TRUST TAX; ESTABLISHING AN ENVIRONMENTAL
 12 CONTINGENCY ACCOUNT WITHIN THE OFFICE OF THE GOVERNOR;
 13 AMENDING SECTIONS 15-35-108, 15-38-202, 76-14-112, 85-1-601,
 14 85-1-603 THROUGH 85-1-606, 85-1-608, 85-1-621, 90-2-101
 15 THROUGH 90-2-103, 90-2-113, AND 90-2-124, MCA; REPEALING
 16 SECTIONS 85-1-611, 85-1-612, 85-1-622, 90-2-104, 90-2-107
 17 THROUGH 90-2-112, 90-2-121 THROUGH 90-2-123, AND 90-2-126
 18 THROUGH 90-2-128, MCA; AND PROVIDING AN EFFECTIVE DATE."

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

23 NEW SECTION. Section 2. Policy and purpose. The
 24 Montana mineral legacy program established in [sections 1
 25 through 9] is intended to benefit the people of Montana by

1 promoting the wise development of our water, minerals, and
 2 renewable resources and by enhancing environmental quality
 3 through effective conservation, reclamation, and hazardous
 4 waste management projects. The Montana mineral legacy
 5 program is supported by taxes derived from the extraction of
 6 Montana's nonrenewable resources. As Montana's nonrenewable
 7 resource base becomes depleted, the Montana mineral legacy
 8 program will help ensure that future generations of
 9 Montanans continue to enjoy a healthy environment and a
 10 diversified economy based on natural resource development.

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

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

15 (2) "Department" means the department of natural
 16 resources and conservation provided for in Title 2, chapter
 17 15, part 33.

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

20 (4) "Project" means any activity or series of
 21 activities directed toward a specific goal and meeting the
 22 objectives of the Montana mineral legacy program through
 23 planned and coordinated research; application of technology;
 24 environmental monitoring; environmental enhancement,
 25 remediation, or mitigation; policy analysis or



1 intergovernmental coordination; feasibility study; design or
2 construction of physical works; or any combination of these
3 activities.

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

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

10 (a) funding grants and loans for the water development
11 program, provided for in Title 85, chapter 1, part 6;

12 (b) funding grants for the mineral reclamation and
13 research program, provided for in [sections 10 through 12];

14 (c) funding grants for the renewable resource
15 development program, provided for in Title 90, chapter 2,
16 part 1; and

17 (d) providing funds for the hazardous waste management
18 program, provided for in Title 75, chapter 10, parts 4 and
19 6.

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

22 (a) The department shall publicly solicit grant and
23 loan applications, consistent with subsections (1)(a)
24 through (1)(c), for use of Montana mineral legacy program
25 funds.

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

5 (c) The department shall accept applications and
6 determine which category of subsections (1)(a) through
7 (1)(c) is most appropriate for the evaluation of each
8 application. The department may not evaluate any application
9 for a specific project under more than one category.

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

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

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

24 (i) Title 85, chapter 1, part 6, for water development
25 projects;

1 (ii) [sections 10 through 12] for mineral reclamation
2 and research projects;

3 (iii) Title 90, chapter 2, part 1, for renewable
4 resource development projects; and

5 (iv) rules adopted under [section 5].

6 (g) The department shall present its recommendations
7 to the governor, who shall submit to the legislature by the
8 20th day of any regular legislative session a prioritized
9 list of projects that he recommends to receive grants or
10 loans under the Montana mineral legacy program.

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

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

17 (j) The department shall biennially prepare a report
18 for the legislature describing the status of the Montana
19 mineral legacy program. The report must describe ongoing
20 projects and projects completed during the biennium. The
21 report must also describe proposed projects for the coming
22 biennium and may contain the recommendations made by the
23 governor under subsection (2)(g). The report may be issued
24 in separate parts, each corresponding to one or more of the
25 categories listed in subsection (1).

1 NEW SECTION. Section 5. Rulemaking. The department
2 shall adopt rules:

3 (1) prescribing the form and content of applications;

4 (2) governing the evaluation of applications for
5 grants and loans;

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

8 (4) establishing reporting requirements for recipients
9 of grants or loans;

10 (5) defining by subject matter of the application how
11 the department will make the determination required under
12 [section 4(2)(c)];

13 (6) providing for the servicing of loans, including
14 arrangements for obtaining security interests and the
15 establishment of reasonable fees or charges;

16 (7) defining "liable party" for determinations on
17 project eligibility required for mineral reclamation
18 projects in [section 12]; the definition of liable party
19 must relate to financial responsibility for damages and
20 necessary remedial action and must be as consistent as
21 practicable with other state and federal laws defining
22 financial liability for reclamation or cleanup of mineral
23 development sites; and

24 (8) specifying other procedures necessary for proper
25 and efficient administration of the Montana mineral legacy

1 program.

2 NEW SECTION. Section 6. Montana mineral legacy
3 account. (1) There is created a Montana mineral legacy
4 account within the state special revenue fund established in
5 17-2-102.

6 (2) Money received by the state from the following
7 sources must be deposited in the Montana mineral legacy
8 account:

9 (a) all money available for appropriation and
10 expenditure from the resource indemnity trust fund, as
11 specified in 15-38-202; and

12 (b) 2.3125% through the biennium ending June 30, 1989,
13 and then 2.5% of all money from time to time received from
14 the coal severance tax collected under Title 15, chapter 35,
15 and remaining after allocation of such tax to the trust fund
16 established under Article IX, section 5, of the Constitution
17 of the State of Montana.

18 (3) The Montana mineral legacy account or any accounts
19 or funds within programs that are part of the Montana
20 mineral legacy program may receive money from any other
21 source.

22 NEW SECTION. Section 7. Allocation of funds to
23 project categories. Funds in the Montana mineral legacy
24 account are allocated for the purposes of [sections 1
25 through 9] as follows:

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

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

15 (3) Of the remaining funds:

16 (a) 37.5% is allocated for grants and loans to water
17 development projects;

18 (b) 37.5% is allocated for grants to mineral
19 reclamation and research projects;

20 (c) 15% is allocated for grants to renewable resource
21 development projects; and

22 (d) 10% is allocated for hazardous waste management,
23 as follows:

24 (i) 6% of the total funds being allocated under this
25 subsection (3) is allocated to the department of health and

1 environmental sciences to be used to implement the Montana
 2 Hazardous Waste Act and the federal Comprehensive
 3 Environmental Response, Compensation, and Liability Act of
 4 1980 in accordance with Title 75, chapter 10, part 6; and

5 (ii) the remaining 4% of the total funds being
 6 allocated under this subsection (3) is allocated to the
 7 department of health and environmental sciences to be used
 8 for the purposes of 75-10-412.

9 (4) Except as provided in [section 8], any funds
 10 appropriated but unexpended revert to the Montana mineral
 11 legacy account.

12 NEW SECTION. Section 8. Environmental contingency
 13 account. (1) Except as provided in subsection (3), at the
 14 beginning of each fiscal year, \$200,000 from the Montana
 15 mineral legacy account must be allocated to an environmental
 16 contingency account controlled by the office of the
 17 governor.

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

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

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

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

6 (ii) fire;

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

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

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

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

25 NEW SECTION. Section 9. Prohibition on benefits to

1 officers or employees -- penalty. (1) No member, officer,
 2 attorney, or other employee of the department or of the
 3 board may, directly or indirectly, be the beneficiary of or
 4 receive any fee, commission, gift, or other consideration
 5 for or in connection with any transaction or business under
 6 the Montana mineral legacy program other than the salary,
 7 fee, or other compensation he may receive as such member,
 8 officer, attorney, or employee.

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

13 NEW SECTION. Section 10. Mineral reclamation and
 14 research program. The mineral reclamation and research
 15 program is part of the Montana mineral legacy program
 16 provided for in [sections 1 through 9]. The mineral
 17 reclamation and research program is intended to utilize the
 18 funds allocated to it by the Montana mineral legacy program
 19 under [section 7(3)(b)] to provide grants to projects that
 20 meet the objectives of [section 11]. Grant applications for
 21 funds under the mineral reclamation and research program
 22 must be administered by the department of natural resources
 23 and conservation as specified in [section 4].

24 NEW SECTION. Section 11. Objectives of mineral
 25 reclamation and research program. The mineral reclamation

1 and research program is intended to:

2 (1) reclaim and restore, whenever applicable and
 3 practicable, land, soil, vegetation, water, and any other
 4 renewable resource adversely affected by exploration,
 5 mining, drilling, processing, or other development of any
 6 mineral;

7 (2) investigate resource damage and plan remedial
 8 action as part of a mineral reclamation project;

9 (3) provide recreational or natural areas in the
 10 vicinity of such areas lost or anticipated to be lost
 11 because of mineral extraction;

12 (4) provide for mitigation of social and economic
 13 impacts of natural resource development that is consistent
 14 with but not covered by other statutes;

15 (5) support research and demonstration projects which
 16 will develop, refine, or promote new technologies for more
 17 efficient or more environmentally compatible extraction,
 18 processing, use, or development of Montana's mineral
 19 resources and which will demonstrate those technologies in
 20 practice;

21 (6) support research to assess the environmental
 22 impacts of mineral development and to improve techniques for
 23 reclaiming and mitigating mineral development impacts; and

24 (7) provide funds for the implementation, operation,
 25 and administration of the natural heritage program and the

1 natural resource information system provided for in Title
2 90, chapter 15, parts 1 through 3.

3 NEW SECTION. Section 12. Evaluation of applications.

4 (1) In evaluating applications and recommending to the
5 governor recipients for grants under the mineral reclamation
6 and research program, the department of natural resources
7 and conservation shall:

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

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

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

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

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

25 (3) The department may not allocate funds for any

1 project that would relieve a liable party, as defined in
2 rules adopted under [section 5], of any financial liability
3 or other legal liability.

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

7 Section 13. Section 15-35-108, MCA, is amended to
8 read:

9 "15-35-108. Disposal of severance taxes. Severance
10 taxes collected under the provisions of this chapter are
11 allocated as follows:

12 (1) To the trust fund created by Article IX, section
13 5, of the Montana constitution, 25% of total collections a
14 year. After December 31, 1979, 50% of coal severance tax
15 collections are allocated to this trust fund. The trust fund
16 moneys shall be deposited in the fund established under
17 17-6-203(5) and invested by the board of investments as
18 provided by law.

19 (2) Starting July 1, 1986, and ending June 30, 1987,
20 6% of coal severance tax collections are allocated to the
21 highway reconstruction trust fund account in the state
22 special revenue fund. Starting July 1, 1987, and ending June
23 30, 1993, 12% of coal severance tax collections are
24 allocated to the highway reconstruction trust fund account
25 in the state special revenue fund.

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

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

9 (b) 2 1/2% until December 31, 1979, and thereafter
10 4 1/2% to the state special revenue fund to the credit of
11 the alternative energy research development and
12 demonstration account;

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

16 (d) for each of the 2 fiscal years following June 30,
17 1977, 13% to the state special revenue fund to the credit of
18 the coal area highway improvement account;

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

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

23 ~~(g) 1 1/4% to the credit of the renewable resource~~
24 ~~development bond fund;~~

25 ~~(h)(g)~~ 5% to a nonexpendable trust fund for the

1 purpose of parks acquisition or management, protection of
2 works of art in the state capitol, and other cultural and
3 aesthetic projects. Income from this trust fund shall be
4 appropriated as follows:

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

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

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

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

17 ~~(k)(j)~~ 1 1/4% 2.3125% until July 1, 1989, and
18 thereafter 2.5% to the debt-service-fund-type-to-the-credit
19 of-the-water-development-debt-service-fund Montana mineral
20 legacy account established in [section 6];

21 (k) 0.1875% to the rangeland improvement loan special
22 revenue account established in 76-14-112 until July 1, 1989;

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

1 Section 14. Section 15-38-202, MCA, is amended to
2 read:

3 "15-38-202. Investment of resource indemnity trust
4 fund -- expenditure -- minimum balance. ~~{1}~~ All moneys paid
5 into the resource indemnity trust fund shall be invested at
6 the discretion of the board of investments. All the net
7 earnings accruing to the resource indemnity trust fund shall
8 annually be added thereto until it has reached the sum of
9 \$10 million. Thereafter, ~~only~~ the net earnings ~~may--be~~
10 ~~appropriated--and--expended~~ must be credited to the Montana
11 mineral legacy account established in [section 6] until the
12 fund reaches \$100 million. Thereafter, all net earnings and
13 all receipts ~~shall-be-appropriated-by--the--legislature--and~~
14 ~~expended~~ must be credited to the Montana mineral legacy
15 account, provided that the balance in the fund may never be
16 less than \$100 million.

17 ~~{2}--Beginning-in-fiscal-year-1982,--provided-the-amount~~
18 ~~in--the--resource--indemnity--trust-fund-is-greater-than-\$10~~
19 ~~million,--30%--of--the--interest--income--of--the--resource~~
20 ~~indemnity--trust--fund--must--be--allocated--to--the--water~~
21 ~~development--state--special--revenue--account--created--by~~
22 ~~85-1-604.~~

23 ~~{3}--Beginning--in-fiscal-year-1986,--6%--of--the-interest~~
24 ~~income--of--the--resource--indemnity--trust--fund--must--be~~
25 ~~allocated--to--the--department--of--health-and-environmental~~

1 ~~sciences-to-be-used-to-implement-the-Montana-Hazardous-Waste~~
2 ~~Act-and-the-federal--Comprehensive--Environmental--Response,~~
3 ~~Compensation,--and--Liability-Act-of-1980-in-accordance-with~~
4 ~~Title-75,--chapter-10,--part-6. Any funds remaining unexpended~~
5 ~~at-the-end-of-each-fiscal-year-will-revert-to--the--resource~~
6 ~~indemnity-trust-interest-account."~~

7 Section 15. Section 76-14-112, MCA, is amended to
8 read:

9 "76-14-112. Rangeland improvement loan special revenue
10 account. (1) There is created a rangeland improvement loan
11 special revenue account within the state special revenue
12 fund established in 17-2-102.

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

1 servicing of loans, including arrangements for obtaining
2 security interests."

3 Section 16. Section 85-1-601, MCA, is amended to read:

4 "85-1-601. Purpose and policies. (1) The legislature
5 finds and declares that in order that the people of Montana
6 may enjoy the full economic and recreational benefits of the
7 state's water resources, the state must establish this
8 long-term water development program providing financial and
9 administrative assistance to private, local, and state
10 entities for water resource development projects and
11 activities.

12 (2) The purpose of the water development program is to
13 further the state's policies, set forth in 85-1-101,
14 regarding the conservation, development, and beneficial use
15 of water resources.

16 (3) The water development program is a part of the
17 Montana mineral legacy program, and the provisions of
18 [sections 1 through 9] govern the administration of the
19 water development program. The legislature recognizes that
20 water is one of the most valuable and important renewable
21 resources in Montana; therefore, it is appropriate that a
22 portion of the taxes on the removal of nonrenewable
23 resources be dedicated to the conservation, development, and
24 beneficial use of water resources.

25 (4) The development of water resources is of a high

1 priority because a large portion of Montana's present and
2 future economy is based either directly or indirectly on the
3 wise use of water.

4 (5) This water development program is an integral part
5 of the implementation and development of the comprehensive,
6 coordinated, multiple-use water resources plan known as the
7 "state water plan".

8 Section 17. Section 85-1-603, MCA, is amended to read:

9 "85-1-603. Water development debt service fund created
10 -- ~~coal-severance-tax~~ Montana mineral legacy account
11 allocated. (1) There is created a water development debt
12 service fund within the debt service fund type established
13 in 17-2-102.

14 (2) The state pledges and allocates and directs to be
15 credited to the water development debt service fund, as
16 received, ~~1-1/4%~~ 37.5% of all money from time to time
17 ~~received from the coal-severance-tax collected under Title~~
18 ~~15, chapter 35, and remaining after allocation of such tax~~
19 ~~to the trust fund established under Article IX, section 5,~~
20 ~~of the Constitution of the State of Montana by the Montana~~
21 ~~mineral legacy account established in [section 6] and~~
22 ~~remaining after the allocations provided for in [section~~
23 ~~7(1) and (2)]."~~

24 Section 18. Section 85-1-604, MCA, is amended to read:

25 "85-1-604. Water development state special revenue

1 account created -- revenues allocated -- limitations on
2 appropriations from account. (1) There is created a water
3 development state special revenue account within the state
4 special revenue fund established in 17-2-102.

5 (2) There shall be paid into the water development
6 state special revenue account:

7 (a) all revenues of the works and other money as
8 provided in 85-1-332;

9 ~~(b) 30% of the interest income of the resource~~
10 ~~indemnity trust fund as provided in and subject to the~~
11 ~~conditions of 15-38-202;~~

12 ~~(c)(b) the excess of the coal severance tax proceeds~~
13 ~~Montana mineral legacy account funds allocated by 85-1-603~~
14 ~~to the water development debt service fund above debt~~
15 ~~service requirements as provided in and subject to the~~
16 ~~conditions of 85-1-619;~~

17 ~~(d)(c) any principal and accrued interest received in~~
18 ~~repayment of a loan made from the proceeds of bonds issued~~
19 ~~under 85-1-617; and~~

20 ~~(e)(d) any fees or charges collected by the department~~
21 ~~pursuant to 85-1-616 for the servicing of loans, including~~
22 ~~arrangements for obtaining security interests.~~

23 (3) Appropriations may be made from the water
24 development state special revenue account for the following
25 purposes and subject to the following conditions:

1 (a) An amount less than or equal to that paid into the
2 account under 85-1-332 and only that amount may be
3 appropriated for the operation and maintenance of
4 state-owned projects and works. If the amount of money
5 available for appropriation under this subsection (3)(a) is
6 greater than that necessary for operation and maintenance
7 expenses, the excess may be appropriated as provided in
8 subsection (3)(b).

9 ~~(b) An amount less than or equal to that paid into the~~
10 ~~account from the resource indemnity trust~~ The remainder of
11 the account plus any excess from subsection (3)(a) ~~and only~~
12 ~~that amount~~ may be appropriated from the account for:

13 (i) the rehabilitation of state-owned projects and
14 works, including the rehabilitation of spillways of
15 state-owned dams;

16 (ii) the formulation of downstream emergency warning
17 and evacuation plans for state-owned dams;

18 (iii) the development of the hydropower potential of
19 state-owned dams;

20 (iv) assistance in the implementation of the water
21 reservations established under 85-2-316 of conservation
22 districts;

23 (v) the promotion of the development of offstream and
24 tributary storage;

25 (vi) the promotion of joint state-tribal,

1 state-federal, and state-tribal-federal water development;
 2 ~~{vii} administrative expenses, including but not~~
 3 ~~limited to the salaries and expenses of personnel,~~
 4 ~~equipment, office space, and other necessities incurred in~~
 5 ~~the administration of the water development program except~~
 6 ~~the administration of loans and grants, and~~
 7 {vii} loans and grants for water development projects
 8 and activities;
 9 {viii} the servicing of loans, including arrangements
 10 for obtaining security interests; and
 11 ~~{viii}{ix} any other expenditures that meet the~~
 12 ~~policies and objectives of the state water development~~
 13 ~~program.~~
 14 ~~{c} An amount less than or equal to that paid into the~~
 15 ~~account from the sources provided for in (c) through (e) of~~
 16 ~~subsection (2) and only that amount may be appropriated from~~
 17 ~~the account for loans and grants for water development~~
 18 ~~projects and activities, for administrative expenses,~~
 19 ~~including but not limited to the salaries and expenses of~~
 20 ~~personnel, equipment, and office space, for the servicing of~~
 21 ~~loans, including arrangements for obtaining security~~
 22 ~~interests, and for other necessities incurred in~~
 23 ~~administering the loans and grants."~~
 24 Section 19. Section 85-1-605, MCA, is amended to read:
 25 "85-1-605. Grants, loans, and bonds for state and

1 local government assistance. (1) The department may
 2 recommend to the legislature that grants and loans be made
 3 from ~~coal severance tax proceeds~~ funds deposited in the
 4 water development state special revenue account, that loans
 5 be made from water development bond proceeds deposited in
 6 the water development account, and that coal severance tax
 7 bonds be authorized pursuant to Title 17, chapter 5, part 7,
 8 to provide financial assistance to a department, agency,
 9 board, commission, or other division of state government or
 10 to a city, county, or other political subdivision or local
 11 government body of the state. The legislature may approve by
 12 appropriation or other appropriate means those grants and
 13 loans it finds consistent with the policies and purposes of
 14 the program.
 15 (2) The grants and loans provided for by this section
 16 may be made for the purchase, lease, development, or
 17 construction of water development projects and activities
 18 for the conservation, management, use, development, or
 19 protection of the water and related agricultural, land,
 20 fish, wildlife, and water recreation resources in the state;
 21 for the purpose of feasibility and design studies for such
 22 projects; for development of plans for and the
 23 rehabilitation, expansion, and modification of water
 24 development projects; for other water development projects
 25 and activities that will enhance the water resources of the

1 state; and for similar purposes approved by the
2 legislature."

3 Section 20. Section 85-1-606, MCA, is amended to read:

4 "85-1-606. Grants and loans to private persons. (1) To
5 encourage the construction and development of water
6 development projects and activities, the department may make
7 grants and loans to private persons from funds appropriated
8 from the water development state special revenue account and
9 may make loans to private persons from the water development
10 account. The grants and loans must be administered under the
11 provisions of the Montana mineral legacy program provided
12 for in [sections 1 through 9].

13 ~~(2) The department shall publicize the statutes and~~
14 ~~rules governing grants and loans to private persons for~~
15 ~~water development projects and activities; set and publicize~~
16 ~~application deadlines; and accept applications for grants~~
17 ~~and loans;~~

18 ~~(3) The department shall review, evaluate, and select~~
19 ~~water development projects and activities for which grants~~
20 ~~or loans may be awarded."~~

21 Section 21. Section 85-1-608, MCA, is amended to read:

22 "85-1-608. Applications for grants and loans to
23 private persons. (1) A department, agency, board,
24 commission, or other division of state government; any city,
25 county, or other political subdivision or local government

1 body; or a private person may apply for a grant or loan to
2 finance a water development project or activity to be
3 constructed, developed, and operated in Montana.

4 (2) An application for a loan or grant must be in the
5 form prescribed by the board or department and contain or be
6 accompanied by any information necessary to adequately
7 describe the proposed project or activity and necessary for
8 evaluation of the proposed project or activity under the
9 criteria set out in 85-1-609 and 85-1-610.

10 (3) An application must be submitted to the department
11 in accordance with the provisions of the Montana mineral
12 legacy program provided for in [sections 1 through 9]."

13 Section 22. Section 85-1-621, MCA, is amended to read:

14 "85-1-621. Report to the legislature. The department
15 shall prepare a biennial report to the legislature
16 describing the status of the water development program, as
17 required for the Montana mineral legacy program under
18 [section 4]. The report must describe ongoing projects and
19 activities and those which have been completed during the
20 biennium. The report must also describe proposed projects
21 and activities for the coming biennium and recommendations
22 for necessary appropriations. A copy of the report shall be
23 submitted to the president of the senate and the speaker of
24 the house and to such other members as may request a copy."

25 Section 23. Section 90-2-101, MCA, is amended to read:

1 "90-2-101. Policy and purpose. ~~{1}~~ In the development
 2 of the natural resources of the state, it is essential to
 3 distinguish between those which are and those which are not
 4 renewable; to make proper charges through taxation and
 5 otherwise for the depreciation of nonrenewable resources;
 6 and to invest a proper proportion of the tax and other
 7 revenues from nonrenewable resources in the replacement
 8 thereof with developments of renewable natural resources
 9 that will preserve for the citizens the benefit of the
 10 state's natural heritage and to ensure that the quality of
 11 existing public resources such as land, air, fish, wildlife,
 12 and recreational opportunities are not significantly
 13 diminished by developments supported by this part. The
 14 renewable resource development program, funded by and
 15 administered under the provisions of the Montana mineral
 16 legacy program established in [sections 1 through 9], is
 17 intended to achieve this purpose.

18 ~~{2}--in--order--to--finance--such--developments,--it--is~~
 19 ~~necessary--to--borrow--in--anticipation--of--the--receipt--of--the~~
 20 ~~revenues--so--that--replacement--will--not--lag--behind~~
 21 ~~consumption.--The--purpose--of--this--part--is--to--provide--a~~
 22 ~~procedure--for--borrowing--in--the--most--economical--way--for--this~~
 23 ~~purpose,--to--authorize--the--creation--of--debt--to--finance--the~~
 24 ~~first--stage--of--the--program,--and--to--describe--the--types--of~~
 25 ~~projects,--loans,--and--grants--to--be--included--in--the--program."~~

1 Section 24. Section 90-2-102, MCA, is amended to read:

2 "90-2-102. Definitions. Unless the context requires
 3 otherwise, in this part the following definitions apply:

4 {1} "Renewable resource development program" means
 5 such developments in the public interest of renewable
 6 natural resources of the state as shall from time to time be
 7 acquired, constructed, and financed from funds appropriated
 8 to the account and fund referred to in this section and from
 9 the proceeds of bonds issued in anticipation of the receipt
 10 of these funds.

11 ~~{2}--"Renewable-resource-development-bonds"--means--all~~
 12 ~~series--of--bonds--authorized--by--law--to--be--issued--pursuant--to~~
 13 ~~90-2-121--to--finance--any--part--of--the--renewable--resource~~
 14 ~~development-program-or-to-refund-any-such-bonds.~~

15 {3}{2} "Renewable resource development account" means
 16 a separate account which is created within the state special
 17 revenue fund established in 17-2-102 and shall be segregated
 18 by the treasurer from all other money in that or any other
 19 fund in the state treasury and used only to pay costs of the
 20 renewable resource development program, upon order of the
 21 board of natural resources and conservation under authority
 22 and within limitations provided by law.

23 ~~{4}--"Renewable-resource-development-bond-fund"--means--a~~
 24 ~~separate--fund--which--is--created--within--the--debt--service--fund~~
 25 ~~type--established--in--17-2-102--and--shall--be--segregated--by--the~~

1 ~~treasurers--from-all-other-money-in-that-or-any-other-fund-in~~
2 ~~the-treasury-and-used-only-as-provided-for-herein;~~

3 ~~{5}--"Treasurer"--means-the-state-treasurer;"~~

4 Section 25. Section 90-2-103, MCA, is amended to read:

5 "90-2-103. Constraints on developments generally. (1)
6 Renewable resource developments shall, whenever practicable,
7 be multiple-use projects and shall not significantly
8 diminish the quality of existing public resources such as
9 land, air, water, fish, wildlife, vegetation, and
10 recreational opportunities.

11 (2) Grants ~~or-loans~~ under this part may be made only
12 for renewable resource development programs that can be
13 shown to provide a tangible return to the state or its
14 citizens.

15 (3) To the extent practicable, all work on development
16 projects or programs under this part shall be performed by
17 contract with private persons or organizations, pursuant to
18 all requirements of law for awarding of such contracts."

19 Section 26. Section 90-2-113, MCA, is amended to read:

20 "90-2-113. Allocation of grants ~~and-loans~~. (1)
21 Subject to the requirements of 90-2-103, ~~loans-or~~ grants may
22 be proposed under this part for any worthwhile project for
23 the conservation, management, utilization, development, or
24 preservation of the land, water, timber, fish, wildlife,
25 vegetation, or other renewable resources of the state. Of

1 the-total-amount-of--grants--and--loans--proposed--for--each
2 biennium,--at-least:

3 {a}--15%--shall--be--designated--for--timber--stand
4 improvement-or-related-purposes;

5 {b}--40%--shall--be--designated--for--water--development
6 projects;

7 {c}--15%--shall--be--designated--for--improvements--on
8 agricultural-lands;

9 {d}--10%--shall--be--designated--for--conservation-districts
10 for-development-of-their-water-reservations;--and

11 {e}--20%--shall--be--designated--for--such-other-projects--as
12 the-department--considers--appropriate,--except--that--for--the
13 period--from--July--1,--1983,--through--June--30,--1989,
14 three-fourths-of-this-amount--shall--be--designated--for--loans
15 to--be--made--by--the-department--under--the-Montana-Rangeland
16 Resources-Act;

17 {2}--if-qualified-applications-are-not-received-by--the
18 department--to--meet--the--allocations--set--forth--in--subsection
19 {1},--the--remaining--allocation--shall--be--designated--for
20 qualified--projects--in--(a),--(b),--(c),--(d),--or--(e)--of
21 subsection--(1);

22 (2) An amount not to exceed 50% of the funds allocated
23 to the renewable resource development program under [section
24 7] may be granted to noxious weed control programs,
25 including grants to other funds or accounts established for

1 weed control efforts."

2 Section 27. Section 90-2-124, MCA, is amended to read:

3 "90-2-124. Appropriation of ~~coal-severance-tax~~ Montana
4 mineral legacy account. The state pledges and appropriates
5 and directs to be credited to the ~~debt--service--fund~~
6 renewable resource development account, as received, ~~1-1/4%~~
7 15% of all money from time to time received ~~from the~~
8 ~~collection--of--the--severance--tax--and--remaining--after~~
9 ~~allocation--of--such-tax-to-the-trust-fund-established-under~~
10 ~~section-5,--Article-IX,--of--the--Montana--constitution--and--such~~
11 ~~additional--amount--thereof,--if--any,--as--may--be--required--from~~
12 ~~time-to-time-to-provide-sufficient-funds--for--the--purposes~~
13 ~~stated--in-90-2-123(2),--provided--that--no--more--than--1-1/4%--of~~
14 ~~such-tax-collections--shall--be--deemed--to--be--pledged--for--the~~
15 ~~purpose-of-90-2-121(3)~~ by the Montana mineral legacy account
16 established in [section 6] and remaining after the
17 allocations provided for in [section 7(1) and (2)]."

18 NEW SECTION. Section 28. Repealer. Sections 85-1-611,
19 85-1-612, 85-1-622, 90-2-104, 90-2-107 through 90-2-112,
20 90-2-121 through 90-2-123, and 90-2-126 through 90-2-128,
21 MCA, are repealed.

22 NEW SECTION. Section 29. Coordination instruction. If
23 House Bill No. 766 is not passed and approved, the bracketed
24 portions of section 8 are void.

25 NEW SECTION. Section 30. Saving clause. This act does

1 not affect rights and duties that matured, penalties that
2 were incurred, or proceedings that were begun before the
3 effective date of this act.

4 NEW SECTION. Section 31. Existing rules. Any rules
5 adopted by the department of natural resources and
6 conservation or board of natural resources and conservation
7 governing the water development program established in Title
8 85, chapter 1, part 6, or the renewable resource development
9 program established in Title 90, chapter 2, part 1, remain
10 in effect until the department adopts rules under the
11 authority of section 5 to amend or supersede those rules.

12 NEW SECTION. Section 32. Effective date. This act is
13 effective July 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN493-85

Form BD-15

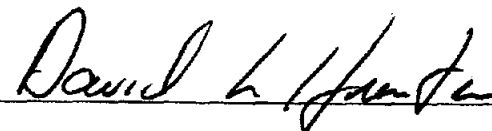
In compliance with a written request received February 22 19 85, there is hereby submitted a Fiscal Note for H.B. 913 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the Montana mineral legacy program; consolidating water development, renewable resource development, mineral reclamation and research, and hazardous waste management programs under the Montana mineral legacy program; establishing the Montana mineral legacy account; funding the account through proceeds from the coal severance tax and the resource indemnity trust tax; establishing an environmental contingency account within the office of the Governor.

ASSUMPTIONS:

1. Under the proposed law, tax distribution from Coal Severance Tax collections to the following funds will remain the same; Coal Tax Trust Fund, Highway Fund, Alternative Energy Research, Local Impact and Education Trust, School Equalization, County Land Planning, Parks Acquisition, State Library Commission, State General Fund, and Conservation District Operations.
2. Coal Severance Tax collections will be \$103,868,421 for FY1986 and \$112,033,493 for FY1987 (OBPP estimate).
3. The Montana mineral legacy program will receive no funding from sources mentioned in Section 6, Subsection 3 of the proposed bill during FY1986 and FY1987.
4. \$200,000 per year, the maximum amount allowed, of the Montana Mineral Legacy account, will be allocated to the environmental contingency fund under the proposed law.
5. Increased operating expenses would result from the newly created Mineral Reclamation and Research Program. These expenses were assumed to be the same as those estimated under Senate Bill 277, the Montana Legacy Program. Operating expenses for other programs would remain at current level.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 27, 1985

HB 913

	Under Current Law	FY1986 Under Proposed Law	Difference	Under Current Law	FY1987 Under Proposed Law	Difference
Revenue - Total	\$110,021,421	\$110,021,421	\$ 0	\$118,969,493	\$118,969,493	\$ 0
Allocations						
Renewable Resource Development	\$ 649,178	\$ 0	\$ (649,178)	\$ 616,184	\$ 0	\$ (616,184)
Water Development Account	2,495,078	0	(2,495,078)	2,696,984	0	(2,696,984)
Rangeland Improvement*	0	97,377	97,377	0	92,428	92,428
Department of Health & Environ Resource Indemnity Trust	369,180	0	(369,180)	416,160	0	(416,160)
Interest Account	3,937,920	0	(3,937,920)	4,439,040	0	(4,439,040)
Montana Mineral Legacy Account	0	7,353,979	7,353,979	0	8,075,940	8,075,940
	<u>\$7,451,356</u>	<u>\$7,451,356</u>	<u>\$ 0</u>	<u>\$8,168,368</u>	<u>\$8,168,368</u>	<u>\$ 0</u>
Montana Mineral Legacy Allocation						
Environmental Contingency Fund		\$ 200,000			\$ 200,000	
Water Development Projects		2,682,742			2,953,478	
Mineral Reclamation and Research		2,682,742			2,953,478	
Renewable Resource Development		1,073,097			1,181,390	
Hazardous Waste Management		715,398			787,594	
		<u>\$ 7,353,979</u>			<u>\$ 8,075,940</u>	

* Under the current law the rangeland improvement loan account amounts to 15% of the Renewable Resource Development Bond Fund.

	Current	FY1986 Proposed	Difference	Current	FY1987 Proposed	Difference
Expenditures:						
Personal Services	\$650,300	\$ 713,300	\$ 63,000	\$ 650,300	\$ 744,800	\$ 94,500
Operations	278,700	312,500	33,800	278,700	345,200	66,500
Equipment	0	8,200	8,200	0	11,000	11,000
	<u>\$929,000</u>	<u>\$1,034,000</u>	<u>\$105,000</u>	<u>\$ 929,000</u>	<u>\$1,101,000</u>	<u>\$172,000</u>

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Local government projects will compete with state and private projects for funds.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

None

TECHNICAL NOTE:

None

APPROVED BY COMM. ON
NATURAL RESOURCES

STATEMENT OF INTENT

HOUSE BILL 913

House Natural Resources Committee

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 and loans under the water development program, the renewable resource development program, and the mineral reclamation and research program.

It is the intent of the legislature that the department evaluate applications under only one of the three grant and loan programs 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 by subject matter which grant or loan applications will be evaluated under each of the three programs: water development, renewable resource development, and mineral reclamation and research.

The legislature recognizes that it is difficult to make a clear distinction as to whether certain water-related projects fall into the category of water development or renewable resource development. The legislature further

recognizes that conserving and enhancing water quality and water quantity are crucial aspects of providing a secure renewable resource base for future generations of Montanans. For these reasons, it is the intent of the legislature that qualifying projects in the following categories be eligible for grants from the renewable resource development program if such projects do not qualify under the criteria for the water development program or if sufficient funds are not available within the water development program:

(1) ground and surface water quality monitoring not directly related to a project under the hazardous waste management program or the mineral reclamation and research program;

(2) aquatic ecosystem research and conservation;

(3) development of water reservations by conservation districts; and

(4) water policy planning, administration, and interjurisdictional coordination.

It is the intent of the legislature that any rules adopted prior to the effective date of this act by the department or the board of natural resources and conservation governing the water development program or the renewable resource development program remain in effect until the department adopts rules under the authority of this act to amend or supersede those rules.



1 HOUSE BILL NO. 913

2 INTRODUCED BY D. BROWN, KRUEGER, MARKS, IVERSON,
3 PAVLOVICH, HARRINGTON, MENAHAN, KEENAN, LORY, COHEN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE
6 MONTANA MINERAL LEGACY PROGRAM; CONSOLIDATING WATER
7 DEVELOPMENT, RENEWABLE RESOURCE DEVELOPMENT, MINERAL
8 RECLAMATION AND RESEARCH, AND HAZARDOUS WASTE MANAGEMENT
9 PROGRAMS UNDER THE MONTANA MINERAL LEGACY PROGRAM;
10 ESTABLISHING THE MONTANA MINERAL LEGACY ACCOUNT; FUNDING THE
11 ACCOUNT THROUGH PROCEEDS FROM THE COAL SEVERANCE TAX AND THE
12 RESOURCE INDEMNITY TRUST TAX; ESTABLISHING AN ENVIRONMENTAL
13 CONTINGENCY ACCOUNT WITHIN THE OFFICE OF THE GOVERNOR;
14 AMENDING SECTIONS 15-35-108, 15-38-202, 76-14-112, 85-1-601,
15 85-1-603 THROUGH 85-1-606, 85-1-608, 85-1-621, 90-2-101
16 THROUGH 90-2-103, 90-2-113, AND 90-2-124, MCA; REPEALING
17 SECTIONS 85-1-611, 85-1-612, 85-1-622, 90-2-104, 90-2-107
18 THROUGH 90-2-112, 90-2-121 THROUGH 90-2-123, AND 90-2-126
19 THROUGH 90-2-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
20 DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

25 NEW SECTION. Section 2. Policy and purpose. The

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

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

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

17 (2) "Department" means the department of natural
18 resources and conservation provided for in Title 2, chapter
19 15, part 33.

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

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

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

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

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

12 (a) funding grants and loans for the water development
13 program, provided for in Title 85, chapter 1, part 6;

14 (b) funding grants for the mineral reclamation and
15 research program, provided for in [sections 10 through 12];

16 (c) funding grants for the renewable resource
17 development program, provided for in Title 90, chapter 2,
18 part 1; and

19 (d) providing funds for the hazardous waste management
20 program, provided for in Title 75, chapter 10, parts 4 and
21 6.

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

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

1 through (1)(c), for use of Montana mineral legacy program
2 funds.

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

7 (c) The department shall accept applications and
8 determine which category of subsections (1)(a) through
9 (1)(c) is most appropriate for the evaluation of each
10 application. The department may not evaluate any application
11 for a specific project under more than one category.

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

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

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

1 (i) Title 85, chapter 1, part 6, for water development
2 projects;

3 (ii) [sections 10 through 12] for mineral reclamation
4 and research projects;

5 (iii) Title 90, chapter 2, part 1, for renewable
6 resource development projects; and

7 (iv) rules adopted under [section 5].

8 (g) The department shall present its recommendations
9 to the governor, who shall submit to the legislature by the
10 20th day of any regular legislative session a prioritized
11 list of projects that he recommends to receive grants or
12 loans under the Montana mineral legacy program.

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

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

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

1 in separate parts, each corresponding to one or more of the
2 categories listed in subsection (1).

3 NEW SECTION. Section 5. Rulemaking. The department
4 shall adopt rules:

5 (1) prescribing the form and content of applications;

6 (2) governing the evaluation of applications for
7 grants and loans;

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

10 (4) establishing reporting requirements for recipients
11 of grants or loans;

12 (5) defining by subject matter of the application how
13 the department will make the determination required under
14 [section 4(2)(c)];

15 (6) providing for the servicing of loans, including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges;

18 (7) defining "liable party" for determinations on
19 project eligibility required for mineral reclamation
20 projects in [section 12]; the definition of liable party
21 must relate to financial responsibility for damages and
22 necessary remedial action and must be as consistent as
23 practicable with other state and federal laws defining
24 financial liability for reclamation or cleanup of mineral
25 development sites; and

1 (8) specifying other procedures necessary for proper
 2 and efficient administration of the Montana mineral legacy
 3 program.

4 NEW SECTION. Section 6. Montana mineral legacy
 5 account. (1) There is created a Montana mineral legacy
 6 account within the state special revenue fund established in
 7 17-2-102.

8 (2) Money received by the state from the following
 9 sources must be deposited in the Montana mineral legacy
 10 account:

11 (a) all money available for appropriation and
 12 expenditure from the resource indemnity trust fund, as
 13 specified in 15-38-202; and

14 (b) 2.3125% through the biennium ending June 30, 1989,
 15 and then 2.5% of all money from time to time received from
 16 the coal severance tax collected under Title 15, chapter 35,
 17 and remaining after allocation of such tax to the trust fund
 18 established under Article IX, section 5, of the Constitution
 19 of the State of Montana.

20 (3) The Montana mineral legacy account or any accounts
 21 or funds within programs that are part of the Montana
 22 mineral legacy program may receive money from any other
 23 source.

24 NEW SECTION. Section 7. Allocation of funds to
 25 project categories. Funds in the Montana mineral legacy

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

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

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

17 (3) Of the remaining funds:

18 (a) ~~37.5%~~ 37% is allocated for grants and loans to
 19 water development projects;

20 (b) ~~37.5%~~ 37% is allocated for grants to mineral
 21 reclamation and research projects;

22 (c) 15% is allocated for grants to renewable resource
 23 development projects; and

24 (d) ~~10%~~ 11% is allocated for hazardous waste
 25 management, as follows:

1 (i) 6% of the total funds being allocated under this
 2 subsection (3) is allocated to the department of health and
 3 environmental sciences to be used to implement the Montana
 4 Hazardous Waste Act and the federal Comprehensive
 5 Environmental Response, Compensation, and Liability Act of
 6 1980 in accordance with Title 75, chapter 10, part 6; and

7 (ii) the remaining ~~4%~~ 5% of the total funds being
 8 allocated under this subsection (3) is allocated to the
 9 department of health and environmental sciences to be used
 10 for the purposes of 75-10-412.

11 (4) ALLOCATIONS TO THE DEPARTMENT OF HEALTH AND
 12 ENVIRONMENTAL SCIENCES UNDER SUBSECTION (3)(D) MUST BE
 13 APPROPRIATED IN FULL AT THE BEGINNING OF THE BIENNIUM AS
 14 NECESSARY TO OBTAIN MATCHING FEDERAL FUNDS FOR THE BIENNIUM.

15 ~~††~~(5) Except as provided in [section 8], any funds
 16 appropriated but unexpended DURING THE BIENNIUM revert to
 17 the Montana mineral legacy account.

18 NEW SECTION. Section 8. Environmental contingency
 19 account. (1) Except as provided in subsection (3), at the
 20 beginning of each fiscal year, \$200,000 from the Montana
 21 mineral legacy account must be allocated to an environmental
 22 contingency account controlled by the office of the
 23 governor.

24 (2) Funds may be expended from the environmental
 25 contingency account upon the authorization of the governor

1 to meet unanticipated public needs consistent with the
 2 following objectives:

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

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

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

12 (ii) fire;

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

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

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

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

6 NEW SECTION. Section 9. Prohibition on benefits to
7 officers or employees -- penalty. (1) No member, officer,
8 attorney, or other employee of the department or of the
9 board may, directly or indirectly, be the beneficiary of or
10 receive any fee, commission, gift, or other consideration
11 for or in connection with any transaction or business under
12 the Montana mineral legacy program other than the salary,
13 fee, or other compensation he may receive as such member,
14 officer, attorney, or employee.

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

19 NEW SECTION. Section 10. Mineral reclamation and
20 research program. The mineral reclamation and research
21 program is part of the Montana mineral legacy program
22 provided for in [sections 1 through 9]. The mineral
23 reclamation and research program is intended to utilize the
24 funds allocated to it by the Montana mineral legacy program
25 under [section 7(3)(b)] to provide grants to projects that

1 meet the objectives of [section 11]. Grant applications for
2 funds under the mineral reclamation and research program
3 must be administered by the department of natural resources
4 and conservation as specified in [section 4].

5 NEW SECTION. Section 11. Objectives of mineral
6 reclamation and research program. The mineral reclamation
7 and research program is intended to:

8 (1) reclaim and restore, whenever applicable and
9 practicable, land, soil, vegetation, water, and any other
10 renewable resource adversely affected by exploration,
11 mining, drilling, processing, or other development of any
12 mineral;

13 (2) investigate resource damage and plan remedial
14 action as part of a mineral reclamation project;

15 (3) provide recreational or natural areas in the
16 vicinity of such areas lost or anticipated to be lost
17 because of mineral extraction;

18 (4) provide for mitigation of social and economic
19 impacts of natural resource development that is consistent
20 with but not covered by other statutes;

21 (5) support research and demonstration projects which
22 will develop, refine, or promote new technologies for more
23 efficient or more environmentally compatible extraction,
24 processing, use, or development of Montana's mineral
25 resources and which will demonstrate those technologies in

1 practice;

2 (6) support research to assess the environmental
3 impacts of mineral development and to improve techniques for
4 reclaiming and mitigating mineral development impacts; and

5 (7) provide funds for the implementation, operation,
6 and administration of the natural heritage program and the
7 natural resource information system provided for in Title
8 90, chapter 15, parts 1 through 3.

9 NEW SECTION. Section 12. Evaluation of applications.

10 (1) In evaluating applications and recommending to the
11 governor recipients for grants under the mineral reclamation
12 and research program, the department of natural resources
13 and conservation shall:

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

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

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

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

1 private parties; or which have the capability of becoming
2 financially self-sustaining.

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

6 (3) The department may not allocate funds for any
7 project that would relieve a liable party, as defined in
8 rules adopted under [section 5], of any financial liability
9 or other legal liability.

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

13 Section 13. Section 15-35-108, MCA, is amended to
14 read:

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

18 (1) To the trust fund created by Article IX, section
19 5, of the Montana constitution, 25% of total collections a
20 year. After December 31, 1979, 50% of coal severance tax
21 collections are allocated to this trust fund. The trust fund
22 moneys shall be deposited in the fund established under
23 17-6-203(5) and invested by the board of investments as
24 provided by law.

25 (2) Starting July 1, 1986, and ending June 30, 1987,

1 6% of coal severance tax collections are allocated to the
 2 highway reconstruction trust fund account in the state
 3 special revenue fund. Starting July 1, 1987, and ending June
 4 30, 1993, 12% of coal severance tax collections are
 5 allocated to the highway reconstruction trust fund account
 6 in the state special revenue fund.

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

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

15 (b) 2 1/2% until December 31, 1979, and thereafter
 16 4 1/2% to the state special revenue fund to the credit of
 17 the alternative energy research development and
 18 demonstration account;

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

22 (d) for each of the 2 fiscal years following June 30,
 23 1977, 13% to the state special revenue fund to the credit of
 24 the coal area highway improvement account;

25 (e) 10% to the state special revenue fund for state

1 equalization aid to public schools of the state;

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

4 ~~(g) 1 1/4% to the credit of the renewable resource~~
 5 ~~development bond fund;~~

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

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

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

16 ~~(i)(h)~~ 1% to the state special revenue fund to the
 17 credit of the state library commission for the purposes of
 18 providing basic library services for the students of all
 19 counties through library federations and for payment of the
 20 costs of participating in regional and national networking;

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

23 ~~(k)(j)~~ ~~1 1/4%~~ 2.3125% until July 1, 1989, and
 24 thereafter 2.5% to the ~~debt-service-fund-type-to-the-credit~~
 25 ~~of-the-water-development-debt-service-fund~~ Montana mineral

1 legacy account established in [section 6];
 2 (k) 0.1875% to the rangeland improvement loan special
 3 revenue account established in 76-14-112 until July 1, 1989;
 4 (1) all other revenues from severance taxes collected
 5 under the provisions of this chapter to the credit of the
 6 general fund of the state."
 7 Section 14. Section 15-38-202, MCA, is amended to
 8 read:
 9 "15-38-202. Investment of resource indemnity trust
 10 fund -- expenditure -- minimum balance. ~~(1)~~ All moneys paid
 11 into the resource indemnity trust fund shall be invested at
 12 the discretion of the board of investments. All the net
 13 earnings accruing to the resource indemnity trust fund shall
 14 annually be added thereto until it has reached the sum of
 15 \$10 million. Thereafter, ~~only~~ the net earnings ~~may~~ be
 16 ~~appropriated--and--expended~~ must be credited to the Montana
 17 mineral legacy account established in [section 6] until the
 18 fund reaches \$100 million. Thereafter, all net earnings and
 19 all receipts ~~shall be appropriated by the legislature and~~
 20 ~~expended~~ must be credited to the Montana mineral legacy
 21 account, provided that the balance in the fund may never be
 22 less than \$100 million.
 23 ~~(2) Beginning in fiscal year 1982, provided the amount~~
 24 ~~in the resource indemnity trust fund is greater than \$10~~
 25 ~~million, 30% of the interest income of the resource~~

1 ~~indemnity--trust--fund--must--be--allocated--to--the--water~~
 2 ~~development--state--special--revenue--account--created--by~~
 3 ~~85-1-604.~~
 4 ~~(3) Beginning in fiscal year 1986, 6% of the interest~~
 5 ~~income of the resource indemnity trust fund must be~~
 6 ~~allocated to the department of health and environmental~~
 7 ~~sciences to be used to implement the Montana Hazardous Waste~~
 8 ~~Act and the Federal Comprehensive Environmental Response,~~
 9 ~~Compensation, and Liability Act of 1980 in accordance with~~
 10 ~~Title 75, chapter 107, part 6. Any funds remaining unexpended~~
 11 ~~at the end of each fiscal year will revert to the resource~~
 12 ~~indemnity trust interest account."~~
 13 Section 15. Section 76-14-112, MCA, is amended to
 14 read:
 15 "76-14-112. Rangeland improvement loan special revenue
 16 account. (1) There is created a rangeland improvement loan
 17 special revenue account within the state special revenue
 18 fund established in 17-2-102.
 19 (2) There must be allocated to the rangeland
 20 improvement loan earmarked special revenue account 15% of
 21 the total amount of renewable resource development grants
 22 and loans as provided by 90-2-113, 0.1875% of all money from
 23 time to time received from the coal severance tax collected
 24 under Title 15, chapter 35, and remaining after allocation
 25 of such tax to the trust fund established under Article IX,

1 section 5, of the Constitution of the State of Montana for
 2 use under the rangeland loan improvement program through the
 3 biennium ending June 30, 1989; any principal and accrued
 4 interest received in repayment of a loan made under the
 5 rangeland improvement loan program; and any fees or charges
 6 collected by the department pursuant to 76-14-116 for the
 7 servicing of loans, including arrangements for obtaining
 8 security interests."

9 Section 16. Section 85-1-601, MCA, is amended to read:

10 "85-1-601. Purpose and policies. (1) The legislature
 11 finds and declares that in order that the people of Montana
 12 may enjoy the full economic and recreational benefits of the
 13 state's water resources, the state must establish this
 14 long-term water development program providing financial and
 15 administrative assistance to private, local, and state
 16 entities for water resource development projects and
 17 activities.

18 (2) The purpose of the water development program is to
 19 further the state's policies, set forth in 85-1-101,
 20 regarding the conservation, development, and beneficial use
 21 of water resources.

22 (3) The water development program is a part of the
 23 Montana mineral legacy program, and the provisions of
 24 [sections 1 through 9] govern the administration of the
 25 water development program. The legislature recognizes that

1 water is one of the most valuable and important renewable
 2 resources in Montana; therefore, it is appropriate that a
 3 portion of the taxes on the removal of nonrenewable
 4 resources be dedicated to the conservation, development, and
 5 beneficial use of water resources.

6 (4) The development of water resources is of a high
 7 priority because a large portion of Montana's present and
 8 future economy is based either directly or indirectly on the
 9 wise use of water.

10 (5) This water development program is an integral part
 11 of the implementation and development of the comprehensive,
 12 coordinated, multiple-use water resources plan known as the
 13 "state water plan".

14 Section 17. Section 85-1-603, MCA, is amended to read:

15 "85-1-603. Water development debt service fund created
 16 -- ~~coal--severance--tax~~ Montana mineral legacy account
 17 allocated. (1) There is created a water development debt
 18 service fund within the debt service fund type established
 19 in 17-2-102.

20 (2) The state pledges and allocates and directs to be
 21 credited to the water development debt service fund, as
 22 received, ~~1-1/4%~~ 37.5% 37% of all money from time to time
 23 ~~received from the coal severance tax collected under Title~~
 24 ~~15, chapter 35, and remaining after allocation of such tax~~
 25 ~~to the trust fund established under Article IX, section 5,~~

1 ~~of--The--Constitution-of-the-State-of-Montana by the Montana~~
 2 ~~mineral legacy account established in [section 6] and~~
 3 ~~remaining after the allocations provided for in [section~~
 4 ~~7(1) and (2)]."~~

5 Section 18. Section 85-1-604, MCA, is amended to read:
 6 "85-1-604. Water development state special revenue
 7 account created -- revenues allocated -- limitations on
 8 appropriations from account. (1) There is created a water
 9 development state special revenue account within the state
 10 special revenue fund established in 17-2-102.

11 (2) There shall be paid into the water development
 12 state special revenue account:

13 (a) all revenues of the works and other money as
 14 provided in 85-1-332;

15 ~~(b)--30%--of--the--interest--income--of--the---resource~~
 16 ~~indemnity--trust--fund--as--provided--in--and--subject--to--the~~
 17 ~~conditions-of-15-38-202;~~

18 ~~(c)(b)~~ the excess of the ~~coal-severance--tax--proceeds~~
 19 Montana mineral legacy account funds allocated by 85-1-603
 20 to the water development debt service fund above debt
 21 service requirements as provided in and subject to the
 22 conditions of 85-1-619;

23 ~~(d)(c)~~ any principal and accrued interest received in
 24 repayment of a loan made from the proceeds of bonds issued
 25 under 85-1-617; and

1 ~~(e)(d)~~ any fees or charges collected by the department
 2 pursuant to 85-1-616 for the servicing of loans, including
 3 arrangements for obtaining security interests.

4 (3) Appropriations may be made from the water
 5 development state special revenue account for the following
 6 purposes and subject to the following conditions:

7 (a) An amount less than or equal to that paid into the
 8 account under 85-1-332 and only that amount may be
 9 appropriated for the operation and maintenance of
 10 state-owned projects and works. If the amount of money
 11 available for appropriation under this subsection (3)(a) is
 12 greater than that necessary for operation and maintenance
 13 expenses, the excess may be appropriated as provided in
 14 subsection (3)(b).

15 ~~(b) An amount less than or equal to that paid into the~~
 16 ~~account--from--the--resource--indemnity--trust~~ The remainder of
 17 the account plus any excess from subsection (3)(a) and--only
 18 that amount may be appropriated from the account for:

19 (i) the rehabilitation of state-owned projects and
 20 works, including the rehabilitation of spillways of
 21 state-owned dams;

22 (ii) the formulation of downstream emergency warning
 23 and evacuation plans for state-owned dams;

24 (iii) the development of the hydropower potential of
 25 state-owned dams;

1 (iv) assistance in the implementation of the water
2 reservations established under 85-2-316 of conservation
3 districts;

4 (v) the promotion of the development of offstream and
5 tributary storage;

6 (vi) the promotion of joint state-tribal,
7 state-federal, and state-tribal-federal water development;

8 ~~{vii} administrative expenses, including but not
9 limited to the salaries and expenses of personnel,
10 equipment, office space, and other necessities incurred in
11 the administration of the water development program except
12 the administration of loans and grants, and~~

13 {vii} loans and grants for water development projects
14 and activities;

15 {viii} the servicing of loans, including arrangements
16 for obtaining security interests; and

17 ~~{viii}{ix} any other expenditures that meet the
18 policies and objectives of the state water development
19 program.~~

20 ~~{c}--An amount less than or equal to that paid into the
21 account from the sources provided for in {c} through {e}--of
22 subsection {2} and only that amount may be appropriated from
23 the account for loans and grants for water development
24 projects and activities; for administrative expenses;
25 including but not limited to the salaries and expenses of~~

1 ~~personnel, equipment, and office space, for the servicing of
2 loans, including arrangements for obtaining security
3 interests, and for other necessities incurred in
4 administering the loans and grants."~~

5 Section 19. Section 85-1-605, MCA, is amended to read:

6 "85-1-605. Grants, loans, and bonds for state and
7 local government assistance. (1) The department may
8 recommend to the legislature that grants and loans be made
9 from ~~coal severance tax proceeds~~ funds deposited in the
10 water development state special revenue account, that loans
11 be made from water development bond proceeds deposited in
12 the water development account, and that coal severance tax
13 bonds be authorized pursuant to Title 17, chapter 5, part 7,
14 to provide financial assistance to a department, agency,
15 board, commission, or other division of state government or
16 to a city, county, or other political subdivision or local
17 government body of the state. The legislature may approve by
18 appropriation or other appropriate means those grants and
19 loans it finds consistent with the policies and purposes of
20 the program.

21 (2) The grants and loans provided for by this section
22 may be made for the purchase, lease, development, or
23 construction of water development projects and activities
24 for the conservation, management, use, development, or
25 protection of the water and related agricultural, land,

1 fish, wildlife, and water recreation resources in the state;
 2 for the purpose of feasibility and design studies for such
 3 projects; for development of plans for and the
 4 rehabilitation, expansion, and modification of water
 5 development projects; for other water development projects
 6 and activities that will enhance the water resources of the
 7 state; and for similar purposes approved by the
 8 legislature."

9 Section 20. Section 85-1-606, MCA, is amended to read:

10 "85-1-606. Grants and loans to private persons. ~~(1)~~ To
 11 encourage the construction and development of water
 12 development projects and activities, the department may make
 13 grants and loans to private persons from funds appropriated
 14 from the water development state special revenue account and
 15 may make loans to private persons from the water development
 16 account. The grants and loans must be administered under the
 17 provisions of the Montana mineral legacy program provided
 18 for in [sections 1 through 9].

19 ~~(2)--The department shall publicize--the--statutes--and~~
 20 ~~rules--governing--grants--and--loans--to--private--persons--for~~
 21 ~~water--development--projects--and--activities--;--set--and--publicize~~
 22 ~~application--deadlines--;--and--accept--applications--for--grants~~
 23 ~~and--loans--;~~

24 ~~(3)--The--department--shall--review--;--evaluate--;--and--select~~
 25 ~~water--development--projects--and--activities--for--which--grants~~

1 ~~or--loans--may--be--awarded--;~~"

2 Section 21. Section 85-1-608, MCA, is amended to read:

3 "85-1-608. Applications for grants and loans to
 4 private--persons. (1) A department, agency, board,
 5 commission, or other division of state government; any city,
 6 county, or other political subdivision or local government
 7 body; or a private person may apply for a grant or loan to
 8 finance a water development project or activity to be
 9 constructed, developed, and operated in Montana.

10 (2) An application for a loan or grant must be in the
 11 form prescribed by the board or department and contain or be
 12 accompanied by any information necessary to adequately
 13 describe the proposed project or activity and necessary for
 14 evaluation of the proposed project or activity under the
 15 criteria set out in 85-1-609 and 85-1-610.

16 (3) An application must be submitted to the department
 17 in accordance with the provisions of the Montana mineral
 18 legacy program provided for in [sections 1 through 9]."

19 Section 22. Section 85-1-621, MCA, is amended to read:

20 "85-1-621. Report to the legislature. The department
 21 shall prepare a biennial report to the legislature
 22 describing the status of the water development program, as
 23 required for the Montana mineral legacy program under
 24 [section 4]. ~~The report must describe ongoing projects and~~
 25 ~~activities and those which have been--completed--during--the~~

1 biennium.---The--report--must--also--describe--proposed--projects
2 and--activities--for--the--coming--biennium--and--recommendations
3 for--necessary--appropriations.---A--copy--of--the--report--shall--be
4 submitted--to--the--president--of--the--senate--and--the--speaker--of
5 the--house--and--to--such--other--members--as--may--request--a--copy."

6 Section 23. Section 90-2-101, MCA, is amended to read:

7 "90-2-101. Policy and purpose. {1} In the development
8 of the natural resources of the state, it is essential to
9 distinguish between those which are and those which are not
10 renewable; to make proper charges through taxation and
11 otherwise for the depreciation of nonrenewable resources;
12 and to invest a proper proportion of the tax and other
13 revenues from nonrenewable resources in the replacement
14 thereof with developments of renewable natural resources
15 that will preserve for the citizens the benefit of the
16 state's natural heritage and to ensure that the quality of
17 existing public resources such as land, air, fish, wildlife,
18 and recreational opportunities are not significantly
19 diminished by developments supported by this part. The
20 renewable resource development program, funded by and
21 administered under the provisions of the Montana mineral
22 legacy program established in [sections 1 through 9], is
23 intended to achieve this purpose.

24 {2}--In--order--to--finance--such--developments,--it--is
25 necessary--to--borrow--in--anticipation--of--the--receipt--of--the

1 revenues---so---that---replacement---will---not---lag--behind
2 consumption.---The--purpose--of--this--part--is--to--provide--a
3 procedure--for--borrowing--in--the--most--economical--way--for--this
4 purpose,--to--authorize--the--creation--of--debt--to--finance--the
5 first--stage--of--the--program,--and--to--describe--the--types--of
6 projects,--loans,--and--grants--to--be--included--in--the--program."

7 Section 24. Section 90-2-102, MCA, is amended to read:

8 "90-2-102. Definitions. Unless the context requires
9 otherwise, in this part the following definitions apply:

10 (1) "Renewable resource development program" means
11 such developments in the public interest of renewable
12 natural resources of the state as shall from time to time be
13 acquired, constructed, and financed from funds appropriated
14 to the account and fund referred to in this section and from
15 the proceeds of bonds issued in anticipation of the receipt
16 of these funds.

17 {2}--"Renewable-resource-development-bonds"--means--all
18 series--of--bonds--authorized--by--law--to--be--issued--pursuant--to
19 90-2-121--to--finance--any--part--of--the--renewable--resource
20 development-program--or--to--refund--any--such--bonds:

21 {3}{2} "Renewable resource development account" means
22 a separate account which is created within the state special
23 revenue fund established in 17-2-102 and shall be segregated
24 by the treasurer from all other money in that or any other
25 fund in the state treasury and used only to pay costs of the

1 renewable resource development program, upon order of the
 2 board of natural resources and conservation under authority
 3 and within limitations provided by law.

4 ~~{4}--"Renewable-resource-development-bond-fund" means a~~
 5 ~~separate--fund-which-is-created-within-the-debt-service-fund~~
 6 ~~type-established-in-17-2-102-and-shall-be-segregated-by--the~~
 7 ~~treasurer--from-all-other-money-in-that-or-any-other-fund-in~~
 8 ~~the-treasury-and-used-only-as-provided-for-herein.~~

9 ~~{5}--"Treasurer" means the state treasurer."~~

10 Section 25. Section 90-2-103, MCA, is amended to read:

11 "90-2-103. Constraints on developments generally. (1)
 12 Renewable resource developments shall, whenever practicable,
 13 be multiple-use projects and shall not significantly
 14 diminish the quality of existing public resources such as
 15 land, air, water, fish, wildlife, vegetation, and
 16 recreational opportunities.

17 (2) Grants ~~or loans~~ under this part may be made only
 18 for renewable resource development programs that can be
 19 shown to provide a tangible return to the state or its
 20 citizens.

21 (3) To the extent practicable, all work on development
 22 projects or programs under this part shall be performed by
 23 contract with private persons or organizations, pursuant to
 24 all requirements of law for awarding of such contracts."

25 Section 26. Section 90-2-113, MCA, is amended to read:

1 "90-2-113. Allocation of grants ~~and loans~~. (1)
 2 Subject to the requirements of 90-2-103, ~~loans or~~ grants may
 3 be proposed under this part for any worthwhile project for
 4 the conservation, management, utilization, development, or
 5 preservation of the land, water, timber, fish, wildlife,
 6 vegetation, or other renewable resources of the state. ~~Of~~
 7 ~~the-total-amount-of--grants--and--loans--proposed--for--each~~
 8 ~~biennium, at least:~~

9 ~~{a}--15%--shall--be--designated--for--timber--stand~~
 10 ~~improvement-or-related-purposes;~~

11 ~~{b}--40%--shall--be--designated--for--water--development~~
 12 ~~projects;~~

13 ~~{c}--15%--shall--be--designated--for--improvements--on~~
 14 ~~agricultural-lands;~~

15 ~~{d}--10%--shall-be-designated-for-conservation-districts~~
 16 ~~for-development-of-their-water-reservations; and~~

17 ~~{e}--20%--shall-be-designated-for-such-other-projects-as~~
 18 ~~the-department-considers-appropriate, except--that--for--the~~
 19 ~~period--from--July--1,--1983,--through--June--30,--1989,~~
 20 ~~three-fourths-of-this-amount-shall-be-designated--for--loans~~
 21 ~~to--be--made--by--the-department-under-the-Montana-Rangeland~~
 22 ~~Resources-Act;~~

23 ~~{2}--if-qualified-applications-are-not-received-by--the~~
 24 ~~department--to--meet-the-allocations-set-forth-in-subsection~~
 25 ~~{1},--the--remaining--allocation--shall--be--designated--for~~

1 ~~qualified--projects--in--(a),--(b),--(c),--(d),--or--(e)--of~~
2 ~~subsection--(1).~~

3 (2) An amount not to exceed 50% of the funds allocated
4 to the renewable resource development program under [section
5 7] may be granted to noxious weed control programs,
6 including grants to other funds or accounts established for
7 weed control efforts."

8 Section 27. Section 90-2-124, MCA, is amended to read:

9 "90-2-124. Appropriation of ~~coal-severance-tax~~ Montana
10 mineral legacy account. The state pledges and appropriates
11 and directs to be credited to the ~~debt--service--fund~~
12 renewable resource development account, as received, ~~1-1/4%~~
13 15% of all money from time to time received ~~from the~~
14 ~~collection--of--the--severance--tax--and--remaining--after~~
15 ~~allocation--of--such--tax--to--the--trust--fund--established--under~~
16 ~~section--57--Article--IX--of--the--Montana--constitution--and--such~~
17 ~~additional--amount--thereof--if--any--as--may--be--required--from~~
18 ~~time--to--time--to--provide--sufficient--funds--for--the--purposes~~
19 ~~stated--in--90-2-123(2),--provided--that--no--more--than--1-1/4%--of~~
20 ~~such--tax--collections--shall--be--deemed--to--be--pledged--for--the~~
21 ~~purpose--of--90-2-121(3)~~ by the Montana mineral legacy account
22 established in [section 6] and remaining after the
23 allocations provided for in [section 7(1) and (2)]."

24 NEW SECTION. Section 28. Repealer. Sections 85-1-611,
25 85-1-612, 85-1-622, 90-2-104, 90-2-107 through 90-2-112,

1 90-2-121 through 90-2-123, and 90-2-126 through 90-2-128,
2 MCA, are repealed.

3 NEW SECTION. Section 29. Coordination instruction. If
4 House Bill No. 766 is not passed and approved, the bracketed
5 portions of section 8 are void.

6 NEW SECTION. Section 30. Saving clause. This act does
7 not affect rights and duties that matured, penalties that
8 were incurred, or proceedings that were begun before the
9 effective date of this act.

10 NEW SECTION. Section 31. Existing rules. Any rules
11 adopted by the department of natural resources and
12 conservation or board of natural resources and conservation
13 governing the water development program established in Title
14 85, chapter 1, part 6, or the renewable resource development
15 program established in Title 90, chapter 2, part 1, remain
16 in effect until the department adopts rules under the
17 authority of section 5 to amend or supersede those rules.

18 NEW SECTION. Section 32. Effective date. This act is
19 effective ~~July 17, 1985~~ ON PASSAGE AND APPROVAL.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 913

3 House Natural Resources Committee
4

5 It is the intent of the legislature that the department
6 of natural resources and conservation adopt rules necessary
7 for the administration of the Montana mineral legacy
8 program. Rules must specify application contents, evaluation
9 criteria, financial arrangements, and reporting requirements
10 for grants and loans under the water development program,
11 the renewable resource development program, and the mineral
12 reclamation and research program.

13 It is the intent of the legislature that the department
14 evaluate applications under only one of the three grant and
15 loan programs and that the department have the authority to
16 determine under which program a specific application must be
17 evaluated. To accomplish this goal, rules must be adopted
18 under this act to define by subject matter which grant or
19 loan applications will be evaluated under each of the three
20 programs: water development, renewable resource development,
21 and mineral reclamation and research.

22 The legislature recognizes that it is difficult to make
23 a clear distinction as to whether certain water-related
24 projects fall into the category of water development or
25 renewable resource development. The legislature further

1 recognizes that conserving and enhancing water quality and
2 water quantity are crucial aspects of providing a secure
3 renewable resource base for future generations of Montanans.
4 For these reasons, it is the intent of the legislature that
5 qualifying projects in the following categories be eligible
6 for grants from the renewable resource development program
7 if such projects do not qualify under the criteria for the
8 water development program or if sufficient funds are not
9 available within the water development program:

10 (1) ground and surface water quality monitoring not
11 directly related to a project under the hazardous waste
12 management program or the mineral reclamation and research
13 program;

14 (2) aquatic ecosystem research and conservation;

15 (3) development of water reservations by conservation
16 districts; and

17 (4) water policy planning, administration, and
18 interjurisdictional coordination.

19 It is the intent of the legislature that any rules
20 adopted prior to the effective date of this act by the
21 department or the board of natural resources and
22 conservation governing the water development program or the
23 renewable resource development program remain in effect
24 until the department adopts rules under the authority of
25 this act to amend or supersede those rules.

1 HOUSE BILL NO. 913

2 INTRODUCED BY D. BROWN, KRUEGER, MARKS, IVERSON,
3 PAVLOVICH, HARRINGTON, MENAHAN, KEENAN, LORY, COHEN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE
6 MONTANA MINERAL LEGACY PROGRAM; CONSOLIDATING WATER
7 DEVELOPMENT, RENEWABLE RESOURCE DEVELOPMENT, MINERAL
8 RECLAMATION AND RESEARCH, AND HAZARDOUS WASTE MANAGEMENT
9 PROGRAMS UNDER THE MONTANA MINERAL LEGACY PROGRAM;
10 ESTABLISHING THE MONTANA MINERAL LEGACY ACCOUNT; FUNDING THE
11 ACCOUNT THROUGH PROCEEDS FROM THE COAL SEVERANCE TAX AND THE
12 RESOURCE INDEMNITY TRUST TAX; ESTABLISHING AN ENVIRONMENTAL
13 CONTINGENCY ACCOUNT WITHIN THE OFFICE OF THE GOVERNOR;
14 AMENDING SECTIONS 15-35-108, 15-38-202, 76-14-112, 85-1-601,
15 85-1-603 THROUGH 85-1-606, 85-1-608, 85-1-621, 90-2-101
16 THROUGH 90-2-103, 90-2-113, AND 90-2-124, MCA; REPEALING
17 SECTIONS 85-1-611, 85-1-612, 85-1-622, 90-2-104, 90-2-107
18 THROUGH 90-2-112, 90-2-121 THROUGH 90-2-123, AND 90-2-126
19 THROUGH 90-2-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
20 DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

25 NEW SECTION. Section 2. Policy and purpose. The

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

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

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

17 (2) "Department" means the department of natural
18 resources and conservation provided for in Title 2, chapter
19 15, part 33.

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

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

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

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

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

12 (a) funding grants and loans for the water development
 13 program, provided for in Title 85, chapter 1, part 6;

14 (b) funding grants for the mineral reclamation and
 15 research program, provided for in [sections 10 through 12];

16 (c) funding grants for the renewable resource
 17 development program, provided for in Title 90, chapter 2,
 18 part 1; and

19 (d) providing funds for the hazardous waste management
 20 program, provided for in Title 75, chapter 10, parts 4 and
 21 6.

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

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

1 through (1)(c), for use of Montana mineral legacy program
 2 funds.

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

7 (c) The department shall accept applications and
 8 determine which category of subsections (1)(a) through
 9 (1)(c) is most appropriate for the evaluation of each
 10 application. The department may not evaluate any application
 11 for a specific project under more than one category.

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

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

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

1 (i) Title 85, chapter 1, part 6, for water development
2 projects;

3 (ii) [sections 10 through 12] for mineral reclamation
4 and research projects;

5 (iii) Title 90, chapter 2, part 1, for renewable
6 resource development projects; and

7 (iv) rules adopted under [section 5].

8 (g) The department shall present its recommendations
9 to the governor, who shall submit to the legislature by the
10 20th day of any regular legislative session a prioritized
11 list of projects that he recommends to receive grants or
12 loans under the Montana mineral legacy program.

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

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

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

1 in separate parts, each corresponding to one or more of the
2 categories listed in subsection (1).

3 NEW SECTION. Section 5. Rulemaking. The department
4 shall adopt rules:

5 (1) prescribing the form and content of applications;

6 (2) governing the evaluation of applications for
7 grants and loans;

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

10 (4) establishing reporting requirements for recipients
11 of grants or loans;

12 (5) defining by subject matter of the application how
13 the department will make the determination required under
14 [section 4(2)(c)];

15 (6) providing for the servicing of loans, including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges;

18 (7) defining "liable party" for determinations on
19 project eligibility required for mineral reclamation
20 projects in [section 12]; the definition of liable party
21 must relate to financial responsibility for damages and
22 necessary remedial action and must be as consistent as
23 practicable with other state and federal laws defining
24 financial liability for reclamation or cleanup of mineral
25 development sites; and

1 (8) specifying other procedures necessary for proper
2 and efficient administration of the Montana mineral legacy
3 program.

4 NEW SECTION. Section 6. Montana mineral legacy
5 account. (1) There is created a Montana mineral legacy
6 account within the state special revenue fund established in
7 17-2-102.

8 (2) Money received by the state from the following
9 sources must be deposited in the Montana mineral legacy
10 account:

11 (a) all money available for appropriation and
12 expenditure from the resource indemnity trust fund, as
13 specified in 15-38-202; and

14 (b) 2.3125% through the biennium ending June 30, 1989,
15 and then 2.5% of all money from time to time received from
16 the coal severance tax collected under Title 15, chapter 35,
17 and remaining after allocation of such tax to the trust fund
18 established under Article IX, section 5, of the Constitution
19 of the State of Montana.

20 (3) The Montana mineral legacy account or any accounts
21 or funds within programs that are part of the Montana
22 mineral legacy program may receive money from any other
23 source.

24 NEW SECTION. Section 7. Allocation of funds to
25 project categories. Funds in the Montana mineral legacy

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

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

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

17 (3) Of the remaining funds:

18 (a) ~~37-5%~~ 37% is allocated for grants and loans to
19 water development projects;

20 (b) ~~37-5%~~ 37% is allocated for grants to mineral
21 reclamation and research projects;

22 (c) 15% is allocated for grants to renewable resource
23 development projects; and

24 (d) ~~10%~~ 11% is allocated for hazardous waste
25 management, as follows:

1 (i) 6% of the total funds being allocated under this
 2 subsection (3) is allocated to the department of health and
 3 environmental sciences to be used to implement the Montana
 4 Hazardous Waste Act and the federal Comprehensive
 5 Environmental Response, Compensation, and Liability Act of
 6 1980 in accordance with Title 75, chapter 10, part 6; and

7 (ii) the remaining 4% 5% of the total funds being
 8 allocated under this subsection (3) is allocated to the
 9 department of health and environmental sciences to be used
 10 for the purposes of 75-10-412.

11 (4) ALLOCATIONS TO THE DEPARTMENT OF HEALTH AND
 12 ENVIRONMENTAL SCIENCES UNDER SUBSECTION (3)(D) MUST BE
 13 APPROPRIATED IN FULL AT THE BEGINNING OF THE BIENNIUM AS
 14 NECESSARY TO OBTAIN MATCHING FEDERAL FUNDS FOR THE BIENNIUM.

15 ~~(4)~~(5) Except as provided in [section 8], any funds
 16 appropriated but unexpended DURING THE BIENNIUM revert to
 17 the Montana mineral legacy account.

18 NEW SECTION. Section 8. Environmental contingency
 19 account. (1) Except as provided in subsection (3), at the
 20 beginning of each fiscal year, \$200,000 from the Montana
 21 mineral legacy account must be allocated to an environmental
 22 contingency account controlled by the office of the
 23 governor.

24 (2) Funds may be expended from the environmental
 25 contingency account upon the authorization of the governor

1 to meet unanticipated public needs consistent with the
 2 following objectives:

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

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

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

12 (ii) fire;

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

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

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

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

6 NEW SECTION. Section 9. Prohibition on benefits to
7 officers or employees -- penalty. (1) No member, officer,
8 attorney, or other employee of the department or of the
9 board may, directly or indirectly, be the beneficiary of or
10 receive any fee, commission, gift, or other consideration
11 for or in connection with any transaction or business under
12 the Montana mineral legacy program other than the salary,
13 fee, or other compensation he may receive as such member,
14 officer, attorney, or employee.

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

19 NEW SECTION. Section 10. Mineral reclamation and
20 research program. The mineral reclamation and research
21 program is part of the Montana mineral legacy program
22 provided for in [sections 1 through 9]. The mineral
23 reclamation and research program is intended to utilize the
24 funds allocated to it by the Montana mineral legacy program
25 under [section 7(3)(b)] to provide grants to projects that

1 meet the objectives of [section 11]. Grant applications for
2 funds under the mineral reclamation and research program
3 must be administered by the department of natural resources
4 and conservation as specified in [section 4].

5 NEW SECTION. Section 11. Objectives of mineral
6 reclamation and research program. The mineral reclamation
7 and research program is intended to:

8 (1) reclaim and restore, whenever applicable and
9 practicable, land, soil, vegetation, water, and any other
10 renewable resource adversely affected by exploration;
11 mining, drilling, processing, or other development of any
12 mineral;

13 (2) investigate resource damage and plan remedial
14 action as part of a mineral reclamation project;

15 (3) provide recreational or natural areas in the
16 vicinity of such areas lost or anticipated to be lost
17 because of mineral extraction;

18 (4) provide for mitigation of social and economic
19 impacts of natural resource development that is consistent
20 with but not covered by other statutes;

21 (5) support research and demonstration projects which
22 will develop, refine, or promote new technologies for more
23 efficient or more environmentally compatible extraction,
24 processing, use, or development of Montana's mineral
25 resources and which will demonstrate those technologies in

1 practice;

2 (6) support research to assess the environmental
3 impacts of mineral development and to improve techniques for
4 reclaiming and mitigating mineral development impacts; and

5 (7) provide funds for the implementation, operation,
6 and administration of the natural heritage program and the
7 natural resource information system provided for in Title
8 90, chapter 15, parts 1 through 3.

9 NEW SECTION. Section 12. Evaluation of applications.

10 (1) In evaluating applications and recommending to the
11 governor recipients for grants under the mineral reclamation
12 and research program, the department of natural resources
13 and conservation shall:

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

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

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

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

1 private parties; or which have the capability of becoming
2 financially self-sustaining.

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

6 (3) The department may not allocate funds for any
7 project that would relieve a liable party, as defined in
8 rules adopted under [section 5], of any financial liability
9 or other legal liability.

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

13 Section 13. Section 15-35-108, MCA, is amended to
14 read:

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

18 (1) To the trust fund created by Article IX, section
19 5, of the Montana constitution, 25% of total collections a
20 year. After December 31, 1979, 50% of coal severance tax
21 collections are allocated to this trust fund. The trust fund
22 moneys shall be deposited in the fund established under
23 17-6-203(5) and invested by the board of investments as
24 provided by law.

25 (2) Starting July 1, 1986, and ending June 30, 1987,

1 6% of coal severance tax collections are allocated to the
 2 highway reconstruction trust fund account in the state
 3 special revenue fund. Starting July 1, 1987, and ending June
 4 30, 1993, 12% of coal severance tax collections are
 5 allocated to the highway reconstruction trust fund account
 6 in the state special revenue fund.

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

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

15 (b) 2 1/2% until December 31, 1979, and thereafter
 16 4 1/2% to the state special revenue fund to the credit of
 17 the alternative energy research development and
 18 demonstration account;

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

22 (d) for each of the 2 fiscal years following June 30,
 23 1977, 13% to the state special revenue fund to the credit of
 24 the coal area highway improvement account;

25 (e) 10% to the state special revenue fund for state

1 equalization aid to public schools of the state;

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

4 ~~(g) 1 1/4% to the credit of the renewable resource~~
 5 ~~development bond fund;~~

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

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

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

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

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

23 ~~(k)~~(j) ~~1 1/4%~~ 2.3125% until July 1, 1989, and
 24 ~~thereafter 2.5%~~ to the debt-service-fund-type-to-the-credit
 25 ~~of-the-water-development-debt-service-fund~~ Montana mineral

1 legacy account established in [section 6];

2 (k) 0.1875% to the rangeland improvement loan special
 3 revenue account established in 76-14-112 until July 1, 1989;

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

7 Section 14. Section 15-38-202, MCA, is amended to
 8 read:

9 "15-38-202. Investment of resource indemnity trust
 10 fund -- expenditure -- minimum balance. (i) All moneys paid
 11 into the resource indemnity trust fund shall be invested at
 12 the discretion of the board of investments. All the net
 13 earnings accruing to the resource indemnity trust fund shall
 14 annually be added thereto until it has reached the sum of
 15 \$10 million. Thereafter, ~~only the net earnings may be~~
 16 appropriated and expended must be credited to the Montana
 17 mineral legacy account established in [section 6] until the
 18 fund reaches \$100 million. Thereafter, all net earnings and
 19 all receipts shall be appropriated by the legislature and
 20 expended must be credited to the Montana mineral legacy
 21 account, provided that the balance in the fund may never be
 22 less than \$100 million.

23 ~~(2) Beginning in fiscal year 1987, provided the amount~~
 24 ~~in the resource indemnity trust fund is greater than \$10~~
 25 ~~million, 30% of the interest income of the resource~~

1 ~~indemnity trust fund must be allocated to the water~~
 2 ~~development state special revenue account created by~~
 3 ~~85-i-604.~~

4 ~~(3) Beginning in fiscal year 1987, 6% of the interest~~
 5 ~~income of the resource indemnity trust fund must be~~
 6 ~~allocated to the department of health and environmental~~
 7 ~~sciences to be used to implement the Montana Hazardous Waste~~
 8 ~~Act and the federal Comprehensive Environmental Response,~~
 9 ~~Compensation, and Liability Act of 1980 in accordance with~~
 10 ~~Title 75, chapter 10, part 6. Any funds remaining unexpended~~
 11 ~~at the end of each fiscal year will revert to the resource~~
 12 ~~indemnity trust interest account."~~

13 Section 15. Section 76-14-112, MCA, is amended to
 14 read:

15 "76-14-112. Rangeland improvement loan special revenue
 16 account. (1) There is created a rangeland improvement loan
 17 special revenue account within the state special revenue
 18 fund established in 17-2-102.

19 (2) There must be allocated to the rangeland
 20 improvement loan earmarked special revenue account 15%
 21 of the total amount of renewable resource development grants
 22 and loans as provided by 90-2-113, 0.1875% of all money from
 23 time to time received from the coal severance tax collected
 24 under Title 15, chapter 35, and remaining after allocation
 25 of such tax to the trust fund established under Article IX,

1 section 5, of the Constitution of the State of Montana for
 2 use under the rangeland loan improvement program through the
 3 biennium ending June 30, 1989; any principal and accrued
 4 interest received in repayment of a loan made under the
 5 rangeland improvement loan program; and any fees or charges
 6 collected by the department pursuant to 76-14-116 for the
 7 servicing of loans, including arrangements for obtaining
 8 security interests."

9 Section 16. Section 85-1-601, MCA, is amended to read:

10 "85-1-601. Purpose and policies. (1) The legislature
 11 finds and declares that in order that the people of Montana
 12 may enjoy the full economic and recreational benefits of the
 13 state's water resources, the state must establish this
 14 long-term water development program providing financial and
 15 administrative assistance to private, local, and state
 16 entities for water resource development projects and
 17 activities.

18 (2) The purpose of the water development program is to
 19 further the state's policies, set forth in 85-1-101,
 20 regarding the conservation, development, and beneficial use
 21 of water resources.

22 (3) The water development program is a part of the
 23 Montana mineral legacy program, and the provisions of
 24 [sections 1 through 9] govern the administration of the
 25 water development program. The legislature recognizes that

1 water is one of the most valuable and important renewable
 2 resources in Montana; therefore, it is appropriate that a
 3 portion of the taxes on the removal of nonrenewable
 4 resources be dedicated to the conservation, development, and
 5 beneficial use of water resources.

6 (4) The development of water resources is of a high
 7 priority because a large portion of Montana's present and
 8 future economy is based either directly or indirectly on the
 9 wise use of water.

10 (5) This water development program is an integral part
 11 of the implementation and development of the comprehensive,
 12 coordinated, multiple-use water resources plan known as the
 13 "state water plan".

14 Section 17. Section 85-1-603, MCA, is amended to read:

15 "85-1-603. Water development debt service fund created
 16 -- coal--severance--tax Montana mineral legacy account
 17 allocated. (1) There is created a water development debt
 18 service fund within the debt service fund type established
 19 in 17-2-102.

20 (2) The state pledges and allocates and directs to be
 21 credited to the water development debt service fund, as
 22 received, ~~1-1/4%~~ 37.5% 37% of all money from time to time
 23 ~~received from the coal severance tax collected under title~~
 24 ~~15, chapter 95, and remaining after allocation of such tax~~
 25 ~~to the trust fund established under Article IX, section 5,~~

1 ~~of--The--Constitution-of-the-State-of-Montana~~ by the Montana
 2 mineral legacy account established in [section 6] and
 3 remaining after the allocations provided for in [section
 4 7(1) and (2)]."

5 Section 18. Section 85-1-604, MCA, is amended to read:

6 "85-1-604. Water development state special revenue
 7 account created -- revenues allocated -- limitations on
 8 appropriations from account. (1) There is created a water
 9 development state special revenue account within the state
 10 special revenue fund established in 17-2-102.

11 (2) There shall be paid into the water development
 12 state special revenue account:

13 (a) all revenues of the works and other money as
 14 provided in 85-1-332;

15 ~~(b)--30%--of--the--interest--income--of--the---resource~~
 16 ~~indemnity--trust--fund--as--provided--in--and--subject-to-the~~
 17 ~~conditions-of-15-38-202,~~

18 ~~(c)~~ (b) the excess of the ~~coal-severance--tax--proceeds~~
 19 Montana mineral legacy account funds allocated by 85-1-603
 20 to the water development debt service fund above debt
 21 service requirements as provided in and subject to the
 22 conditions of 85-1-619;

23 ~~(d)~~ (c) any principal and accrued interest received in
 24 repayment of a loan made from the proceeds of bonds issued
 25 under 85-1-617; and

1 ~~(e)~~ (d) any fees or charges collected by the department
 2 pursuant to 85-1-616 for the servicing of loans, including
 3 arrangements for obtaining security interests.

4 (3) Appropriations may be made from the water
 5 development state special revenue account for the following
 6 purposes and subject to the following conditions:

7 (a) An amount less than or equal to that paid into the
 8 account under 85-1-332 and only that amount may be
 9 appropriated for the operation and maintenance of
 10 state-owned projects and works. If the amount of money
 11 available for appropriation under this subsection (3)(a) is
 12 greater than that necessary for operation and maintenance
 13 expenses, the excess may be appropriated as provided in
 14 subsection (3)(b).

15 ~~(b) An amount less than or equal to that paid into the~~
 16 ~~account--from--the--resource--indemnity--trust~~ The remainder of
 17 the account plus any excess from subsection (3)(a) and ~~--only~~
 18 ~~that--amount~~ may be appropriated from the account for:

19 (i) the rehabilitation of state-owned projects and
 20 works, including the rehabilitation of spillways of
 21 state-owned dams;

22 (ii) the formulation of downstream emergency warning
 23 and evacuation plans for state-owned dams;

24 (iii) the development of the hydropower potential of
 25 state-owned dams;

1 (iv) assistance in the implementation of the water
 2 reservations established under 85-2-316 of conservation
 3 districts;

4 (v) the promotion of the development of offstream and
 5 tributary storage;

6 (vi) the promotion of joint state-tribal,
 7 state-federal, and state-tribal-federal water development;

8 ~~(vii) administrative expenses, including but not
 9 limited to the salaries and expenses of personnel,
 10 equipment, office space, and other necessities incurred in
 11 the administration of the water development program except
 12 the administration of loans and grants; and~~

13 (vii) loans and grants for water development projects
 14 and activities;

15 (viii) the servicing of loans, including arrangements
 16 for obtaining security interests; and

17 ~~(viii)(ix) any other expenditures that meet the~~
 18 ~~policies and objectives of the state water development~~
 19 ~~program.~~

20 ~~(e) An amount less than or equal to that paid into the~~
 21 ~~account from the sources provided for in (c) through (e) of~~
 22 ~~subsection (2) and only that amount may be appropriated from~~
 23 ~~the account for loans and grants for water development~~
 24 ~~projects and activities; for administrative expenses,~~
 25 ~~including but not limited to the salaries and expenses of~~

1 ~~personnel, equipment, and office space, for the servicing of~~
 2 ~~loans, including arrangements for obtaining security~~
 3 ~~interests, and for other necessities incurred in~~
 4 ~~administering the loans and grants."~~

5 Section 19. Section 85-1-605, MCA, is amended to read:

6 "85-1-605. Grants, loans, and bonds for state and
 7 local government assistance. (1) The department may
 8 recommend to the legislature that grants and loans be made
 9 from coal severance tax proceeds funds deposited in the
 10 water development state special revenue account, that loans
 11 be made from water development bond proceeds deposited in
 12 the water development account, and that coal severance tax
 13 bonds be authorized pursuant to Title 17, chapter 5, part 7,
 14 to provide financial assistance to a department, agency,
 15 board, commission, or other division of state government or
 16 to a city, county, or other political subdivision or local
 17 government body of the state. The legislature may approve by
 18 appropriation or other appropriate means those grants and
 19 loans it finds consistent with the policies and purposes of
 20 the program.

21 (2) The grants and loans provided for by this section
 22 may be made for the purchase, lease, development, or
 23 construction of water development projects and activities
 24 for the conservation, management, use, development, or
 25 protection of the water and related agricultural, land,

1 fish, wildlife, and water recreation resources in the state;
 2 for the purpose of feasibility and design studies for such
 3 projects; for development of plans for and the
 4 rehabilitation, expansion, and modification of water
 5 development projects; for other water development projects
 6 and activities that will enhance the water resources of the
 7 state; and for similar purposes approved by the
 8 legislature."

9 Section 20. Section 85-1-606, MCA, is amended to read:

10 "85-1-606. Grants and loans to private persons. ~~(1)~~ To
 11 encourage the construction and development of water
 12 development projects and activities, the department may make
 13 grants and loans to private persons from funds appropriated
 14 from the water development state special revenue account and
 15 may make loans to private persons from the water development
 16 account. The grants and loans must be administered under the
 17 provisions of the Montana mineral legacy program provided
 18 for in [sections 1 through 9].

19 ~~(2)--The department shall publicize the statutes and~~
 20 ~~rules governing grants and loans to private persons for~~
 21 ~~water development projects and activities, set and publicize~~
 22 ~~application deadlines, and accept applications for grants~~
 23 ~~and loans.~~

24 ~~(3)--The department shall review, evaluate, and select~~
 25 ~~water development projects and activities for which grants~~

1 ~~or loans may be awarded."~~

2 Section 21. Section 85-1-608, MCA, is amended to read:

3 "85-1-608. Applications for grants and loans to
 4 private persons. (1) A department, agency, board,
 5 commission, or other division of state government; any city,
 6 county, or other political subdivision or local government
 7 body; or a private person may apply for a grant or loan to
 8 finance a water development project or activity to be
 9 constructed, developed, and operated in Montana.

10 (2) An application for a loan or grant must be in the
 11 form prescribed by the board or department and contain or be
 12 accompanied by any information necessary to adequately
 13 describe the proposed project or activity and necessary for
 14 evaluation of the proposed project or activity under the
 15 criteria set out in 85-1-609 and 85-1-610.

16 (3) An application must be submitted to the department
 17 in accordance with the provisions of the Montana mineral
 18 legacy program provided for in [sections 1 through 9]."

19 Section 22. Section 85-1-621, MCA, is amended to read:

20 "85-1-621. Report to the legislature. The department
 21 shall prepare a biennial report to the legislature
 22 describing the status of the water development program, as
 23 required for the Montana mineral legacy program under
 24 [section 4]. The report must describe ongoing projects and
 25 activities and those which have been completed during the

1 biennium. The report must also describe proposed projects
 2 and activities for the coming biennium and recommendations
 3 for necessary appropriations. A copy of the report shall be
 4 submitted to the president of the senate and the speaker of
 5 the house and to such other members as may request a copy."

6 Section 23. Section 90-2-101, MCA, is amended to read:

7 "90-2-101. Policy and purpose. (1) In the development
 8 of the natural resources of the state, it is essential to
 9 distinguish between those which are and those which are not
 10 renewable; to make proper charges through taxation and
 11 otherwise for the depreciation of nonrenewable resources;
 12 and to invest a proper proportion of the tax and other
 13 revenues from nonrenewable resources in the replacement
 14 thereof with developments of renewable natural resources
 15 that will preserve for the citizens the benefit of the
 16 state's natural heritage and to ensure that the quality of
 17 existing public resources such as land, air, fish, wildlife,
 18 and recreational opportunities are not significantly
 19 diminished by developments supported by this part. The
 20 renewable resource development program, funded by and
 21 administered under the provisions of the Montana mineral
 22 legacy program established in [sections 1 through 9], is
 23 intended to achieve this purpose.

24 (2) In order to finance such developments, it is
 25 necessary to borrow in anticipation of the receipt of the

1 revenues so that replacement will not lag behind
 2 consumption. The purpose of this part is to provide a
 3 procedure for borrowing in the most economical way for this
 4 purpose, to authorize the creation of debt to finance the
 5 first stage of the program, and to describe the types of
 6 projects, loans, and grants to be included in the program."

7 Section 24. Section 90-2-102, MCA, is amended to read:

8 "90-2-102. Definitions. Unless the context requires
 9 otherwise, in this part the following definitions apply:

10 (1) "Renewable resource development program" means
 11 such developments in the public interest of renewable
 12 natural resources of the state as shall from time to time be
 13 acquired, constructed, and financed from funds appropriated
 14 to the account and fund referred to in this section and from
 15 the proceeds of bonds issued in anticipation of the receipt
 16 of these funds.

17 (2) "Renewable resource development bonds" means all
 18 series of bonds authorized by law to be issued pursuant to
 19 90-2-121 to finance any part of the renewable resource
 20 development program or to refund any such bonds.

21 (3) (2) "Renewable resource development account" means
 22 a separate account which is created within the state special
 23 revenue fund established in 17-2-102 and shall be segregated
 24 by the treasurer from all other money in that or any other
 25 fund in the state treasury and used only to pay costs of the

1 renewable resource development program, upon order of the
2 board of natural resources and conservation under authority
3 and within limitations provided by law.

4 ~~(4) -- "Renewable resource development bond fund" means a~~
5 ~~separate fund which is created within the debt service fund~~
6 ~~type established in 17-2-102 and shall be segregated by the~~
7 ~~treasurer from all other money in that or any other fund in~~
8 ~~the treasury and used only as provided for herein.~~

9 ~~(5) -- "Treasurer" means the state treasurer."~~

10 Section 25. Section 90-2-103, MCA, is amended to read:

11 "90-2-103. Constraints on developments generally. (1)
12 Renewable resource developments shall, whenever practicable,
13 be multiple-use projects and shall not significantly
14 diminish the quality of existing public resources such as
15 land, air, water, fish, wildlife, vegetation, and
16 recreational opportunities.

17 (2) Grants ~~or loans~~ under this part may be made only
18 for renewable resource development programs that can be
19 shown to provide a tangible return to the state or its
20 citizens.

21 (3) To the extent practicable, all work on development
22 projects or programs under this part shall be performed by
23 contract with private persons or organizations, pursuant to
24 all requirements of law for awarding of such contracts."

25 Section 26. Section 90-2-113, MCA, is amended to read:

1 "90-2-113. Allocation of grants and ~~loans~~. (1)
2 Subject to the requirements of 90-2-103, ~~loans or~~ grants may
3 be proposed under this part for any worthwhile project for
4 the conservation, management, utilization, development, or
5 preservation of the land, water, timber, fish, wildlife,
6 vegetation, or other renewable resources of the state. Of
7 the total amount of ~~grants and loans~~ proposed for each
8 biennium, at least:

9 (a) ~~15%~~ shall be designated for ~~timber stand~~
10 ~~improvement or related purposes;~~

11 (b) ~~40%~~ shall be designated for ~~water development~~
12 ~~projects;~~

13 (c) ~~15%~~ shall be designated for ~~improvements on~~
14 ~~agricultural lands;~~

15 (d) ~~10%~~ shall be designated for ~~conservation districts~~
16 ~~for development of their water reservations; and~~

17 (e) ~~20%~~ shall be designated for ~~such other projects as~~
18 ~~the department considers appropriate; except that for the~~
19 ~~period from July 1, 1983, through June 30, 1989,~~
20 ~~three-fourths of this amount shall be designated for loans~~
21 ~~to be made by the department under the Montana Range and~~
22 ~~Resources Act.~~

23 (2) ~~If qualified applications are not received by the~~
24 ~~department to meet the allocations set forth in subsection~~
25 ~~(1), the remaining allocation shall be designated for~~

1 ~~qualified projects in (a), (b), (c), (d), or (e) of~~
 2 ~~subsection (1).~~

3 (2) An amount not to exceed 50% of the funds allocated
 4 to the renewable resource development program under [section
 5 7] may be granted to noxious weed control programs,
 6 including grants to other funds or accounts established for
 7 weed control efforts."

8 Section 27. Section 90-2-124, MCA, is amended to read:

9 "90-2-124. Appropriation of ~~coal-severance-tax~~ Montana
 10 mineral legacy account. The state pledges and appropriates
 11 and directs to be credited to the ~~debt-service-fund~~
 12 renewable resource development account, as received, ~~1-1/4%~~
 13 15% of all money from time to time received from the
 14 ~~collection of the severance tax and remaining after~~
 15 ~~allocation of such tax to the trust fund established under~~
 16 ~~section 5, Article IX, of the Montana constitution and such~~
 17 ~~additional amount thereof, if any, as may be required from~~
 18 ~~time to time to provide sufficient funds for the purposes~~
 19 ~~stated in 90-2-123(2), provided that no more than 1-1/4% of~~
 20 ~~such tax collections shall be deemed to be pledged for the~~
 21 ~~purpose of 90-2-121(3) by the Montana mineral legacy account~~
 22 ~~established in [section 6] and remaining after the~~
 23 ~~allocations provided for in [section 7(1) and (2)]."~~

24 NEW SECTION. Section 28. Repealer. Sections 85-1-611,
 25 85-1-612, 85-1-622, 90-2-104, 90-2-107 through 90-2-112,

1 90-2-121 through 90-2-123, and 90-2-126 through 90-2-128,
 2 MCA, are repealed.

3 NEW SECTION. Section 29. Coordination instruction. If
 4 House Bill No. 766 is not passed and approved, the bracketed
 5 portions of section 8 are void.

6 NEW SECTION. Section 30. Saving clause. This act does
 7 not affect rights and duties that matured, penalties that
 8 were incurred, or proceedings that were begun before the
 9 effective date of this act.

10 NEW SECTION. Section 31. Existing rules. Any rules
 11 adopted by the department of natural resources and
 12 conservation or board of natural resources and conservation
 13 governing the water development program established in Title
 14 86, chapter 1, part 6, or the renewable resource development
 15 program established in Title 90, chapter 2, part 1, remain
 16 in effect until the department adopts rules under the
 17 authority of section 5 to amend or supersede those rules.

18 NEW SECTION. Section 32. Effective date. This act is
 19 effective July 1, 1985 ON PASSAGE AND APPROVAL.

-End-

SENATE

STANDING COMMITTEE REPORT

HB913
NATURAL RESOURCES
PAGE 2 of 14

Page 1 of 14

MARCH 29 1985

MARCH 29 1985

MR. PRESIDENT

NATURAL RESOURCES

We, your committee on.....

having had under consideration..... HOUSE BILL No. 913

third reading copy (blue color)

(MOHAR)

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

XXXXXXXXXX

Dorothy Cole

XXXXXX

(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"

Dorothy Cole

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 18.
Following: line 17. "THROUGH"
Strike: "90-2-112,"
Insert: "90-2-113, AND"
Following: "90-2-121 THROUGH"
Strike: "90-2-123, AND 90-2-126"

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.

Donatley Cook

MARCH 29 1985

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].

Donatley Cook

MARCH 29 1985

(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].

Dwight Cole

MARCH 29 1985

(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;

Dwight Cole

(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.

Dorothy Cook

Dorothy Cook

MARCH 29 19 85

(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.

Dorothy Cook

MARCH 29 19 85

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.

Dorothy Cook

(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

Dorothy Cook

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 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 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."

Dorothy Cook

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, ~~1-2/4%~~ 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)

Dorothy Eck

Dorothy Eck
SENATOR DOROTHY ECK