

SENATE BILL NO. 373

INTRODUCED BY BLAYLOCK, D. BROWN,  
MARKS, ECK, REGAN, IVERSON

BY REQUEST OF THE DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION

IN THE SENATE

FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 20, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.  STATEMENT OF INTENT ADOPTED.
FEBRUARY 21, 1987	PRINTING REPORT.
FEBRUARY 23, 1987	SECOND READING, DO PASS.
FEBRUARY 24, 1987	ENGROSSING REPORT.
FEBRUARY 25, 1987	THIRD READING, PASSED. AYES, 49; NOES, 0.  TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 3, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 88; NOES, 10.  RETURNED TO SENATE.

MARCH 31, 1987

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

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INTRODUCED BY *Senate BILL NO. 373*  
*Blaylock* *Don Bran* *Mark Ed*  
BY REQUEST OF THE DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; SPECIFYING ALLOCATIONS FROM THE INTEREST INCOME OF THE RESOURCE INDEMNITY TRUST FUND TO THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM AND THE RENEWABLE RESOURCE DEVELOPMENT PROGRAM; AMENDING SECTIONS 15-38-102, 15-38-202, 75-1-1101, 76-14-112, AND 90-2-111, MCA; REPEALING SECTIONS 75-1-1102, 75-1-1111, 75-1-1112, AND 90-2-113, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 10] may be cited as the "Reclamation and Development Grants Program Act".

NEW SECTION. Section 2. Policy and purpose. (1) The policy of the state of Montana expressed in the Reclamation and Development Grants Program Act is to provide a state capability to fund projects that indemnify the people of the state for the effects of mineral development on public resources and that meet other crucial needs serving the

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public interest and the total environment of the citizens of Montana.

(2) The purposes of the reclamation and development grants program are to:

(a) repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resource extraction; and

(b) develop and ensure the quality of public resources for the benefit of all Montanans.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 10], the following definitions apply:

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

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

(3) "Financially feasible" means that adequate funds are available to complete the project as approved.

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

(5) "Mineral development" means exploration, extraction, processing, or other activity related to the



1 production of a mineral.

2 (6) "Mitigation" means the act of rectifying an impact  
3 by repairing, rehabilitating, or restoring the affected  
4 environment; reducing or eliminating an impact over time by  
5 operations that preserve or maintain the environment; or  
6 compensating for an impact by replacing or providing  
7 substitute resources or habitats.

8 (7) "Project" means a planned and coordinated action  
9 or series of actions addressing an objective consistent with  
10 the policy and purpose of the reclamation and development  
11 grants program. A project may consist of problem analysis,  
12 feasibility or design studies, environmental monitoring,  
13 remedial action plans or implementation, technology  
14 demonstration, research, construction or acquisition of  
15 capital facilities, or other related actions.

16 (8) "Public benefits" means those benefits that accrue  
17 to citizens as a group and enhance the common well-being of  
18 the people of Montana.

19 (9) "Public resources" means the natural resources of  
20 the state, including air, water, soil, minerals, vegetation,  
21 and fish and wildlife, and the economic, social, and  
22 cultural conditions of Montana citizens.

23 (10) "Reclamation and development grants account" means  
24 the reclamation and development grants special revenue  
25 account established in [section 4].

1 (11) "Technically feasible" means that a project or  
2 activity can be designed, constructed, operated, or carried  
3 out to accomplish its objectives, utilizing accepted  
4 engineering and other technical principles and concepts.

5 NEW SECTION. Section 4. Reclamation and development  
6 grants account. (1) There is a reclamation and development  
7 grants special revenue account within the state special  
8 revenue fund established in 17-2-102.

9 (2) There must be paid into the reclamation and  
10 development grants account money allocated from the interest  
11 income of the resource indemnity trust fund under the  
12 provisions of 15-38-202.

13 (3) Appropriations may be made from the reclamation  
14 and development grants account for the following purposes:

15 (a) grants for designated projects; and

16 (b) administrative expenses, including the salaries  
17 and expenses of personnel, equipment, office space, and  
18 other expenses necessarily incurred in the administration of  
19 the grants program. These expenses may be funded prior to  
20 funding of projects.

21 NEW SECTION. Section 5. State and local grants. (1)  
22 Any department, agency, board, commission, or other division  
23 of state government or any city, county, or other political  
24 subdivision or tribal government within the state may apply,  
25 in accordance with the procedures established by the

1 department, for a grant from the reclamation and development  
2 grants account for a project that is consistent with the  
3 policy and purpose of the reclamation and development grants  
4 program.

5 (2) The department shall evaluate applications under  
6 the eligibility criteria provided in [section 6] and the  
7 evaluation criteria provided in [section 7].

8 (3) The department shall solicit and consider in its  
9 evaluation of applications the views of interested persons  
10 and public agencies.

11 (4) Based on its evaluation of eligible applications,  
12 the department shall recommend to the governor projects to  
13 receive grants from the reclamation and development grants  
14 account.

15 (5) The governor shall submit all proposals, with his  
16 recommended priorities, to the legislature by the first day  
17 of any regular legislative session. The legislature may  
18 approve by appropriation or other appropriate means grants  
19 for those projects it finds consistent with the policies and  
20 purposes of the reclamation and development grants program.  
21 The department shall administer and oversee the grants to  
22 approved projects and monitor the projects.

23 NEW SECTION. Section 6. Eligibility requirements. (1)  
24 Except as provided under subsection (2), to be eligible for  
25 funding under the reclamation and development grants

1 program, the proposed project must provide benefits in one  
2 or more of the following categories:

3 (a) reclamation of land, water, or other resources  
4 adversely affected by mineral development;

5 (b) mitigation of damage to public resources caused by  
6 mineral development;

7 (c) research, demonstration, or technical assistance  
8 to promote the wise use of Montana minerals, including  
9 efforts to make processing more environmentally compatible;

10 [(d) investigation and remediation of sites where  
11 hazardous wastes or regulated substances threaten public  
12 health or the environment;] and

13 (e) research to assess existing or potential  
14 environmental damage resulting from mineral development.

15 (2) If sufficient eligible and qualified applications  
16 satisfying the mineral development objectives provided for  
17 in subsection (1) are not received or if there is a crucial  
18 state need, the department may evaluate and the governor may  
19 recommend that the legislature approve funding for projects  
20 that:

21 (a) enhance Montana's economy through the development  
22 of natural resources; or

23 (b) develop, promote, protect, or further Montana's  
24 total environment and public interest, including the general  
25 health, safety, welfare, and public resources of Montana

1 citizens and communities.

2 (3) To be eligible for funding under the reclamation  
3 and development grants program, a project must:

4 (a) be technically and financially feasible;

5 (b) be the best cost-effective alternative to address  
6 a problem or attain an objective;

7 (c) comply with statutory and regulatory standards  
8 protecting environmental quality; and

9 (d) be from an applicant able and willing to enter  
10 into a contract with the department for the implementation  
11 of the proposed project or activity.

12 (4) A project is not eligible for funding under the  
13 reclamation and development grants program to the extent  
14 that the project is eligible for and can reasonably be  
15 expected to receive funding from other state or federal  
16 reclamation programs or any other program or act that  
17 provides funding to accomplish remedial action for  
18 environmental damage or if the project is permitted under  
19 Title 82, chapter 4 or 11.

20 (5) A proposed project is not eligible for funding  
21 under the reclamation and development grants program if  
22 there is a liable party who would be relieved of financial  
23 or legal responsibility and who can reasonably be expected  
24 to be held responsible.

25 NEW SECTION. Section 7. Evaluation criteria. The

1 department shall consider the following criteria in  
2 evaluating eligible applications and in selecting projects  
3 to be recommended to the governor for funding:

4 (1) the degree to which the project will provide  
5 benefits in its eligibility category or categories;

6 (2) the degree to which the project will provide  
7 public benefits;

8 (3) the degree to which the project will promote,  
9 enhance, or advance the policies and purposes of the  
10 reclamation and development grants program;

11 (4) the degree to which the project will provide for  
12 the conservation of natural resources;

13 (5) the degree of need and urgency for the project;

14 (6) the extent to which the project sponsor or local  
15 entity is contributing to the costs of the project or is  
16 generating additional nonstate funds;

17 (7) the degree to which jobs are created for persons  
18 who need job training, receive public assistance, or are  
19 chronically unemployed; and

20 (8) any other criteria the department considers  
21 necessary to carry out the policies and purposes of the  
22 reclamation and development grants program.

23 NEW SECTION. Section 8. Conditions of grants.  
24 Disbursement of grant funds under [sections 1 through 10] is  
25 subject to the following conditions which must be met by

1 project sponsors:

2 (1) A scope of work and budget for the project must be  
3 approved by the department. Reduction in the scope of work  
4 or budget may not affect priority activities or  
5 improvements.

6 (2) Other funds required for project completion must  
7 have been committed and the commitment must be documented.

8 (3) An agreement between the department and the grant  
9 applicant must be executed in a timely manner, taking into  
10 consideration any changed conditions or circumstances that  
11 govern the administration and disbursement of funds.

12 (4) Any other specific requirements must be  
13 accomplished as considered necessary by the department to  
14 accomplish the purpose of the grant as evidenced from the  
15 application to the department or the proposal to the  
16 legislature.

17 (5) State funding for a project under [sections 1  
18 through 10] is not intended to relieve a liable party from  
19 financial or legal responsibility.

20 NEW SECTION. Section 9. Adoption of rules. The board  
21 may adopt rules to:

22 (1) prescribe the form and content of applications for  
23 grants;

24 (2) describe the terms and conditions of making  
25 grants;

1 (3) prescribe a monitoring program to evaluate the  
2 effectiveness of funded projects; and

3 (4) develop any other procedures necessary to  
4 accomplish the objectives of the reclamation and development  
5 grants program.

6 NEW SECTION. Section 10. Penalty. No member, officer,  
7 attorney, or other employee of the board or the department  
8 may directly or indirectly be the beneficiary of or receive  
9 any fee, commission, gift, or other consideration in  
10 connection with any transaction or business under the  
11 reclamation and development grants program other than the  
12 salary, fee, or other compensation that he may receive as a  
13 member, officer, attorney, or employee. A person convicted  
14 of violating any provision of this section shall be punished  
15 by a fine not to exceed \$2,000 plus the value of any  
16 consideration illegally received or by imprisonment for a  
17 term not to exceed 2 years, or both. Any fines collected  
18 under this section must be deposited in the reclamation and  
19 development grants account.

20 Section 11. Section 15-38-102, MCA, is amended to  
21 read:

22 "~~15-38-102. Legislative policy. It is the policy of~~  
23 ~~this state to provide security against loss or damage to our~~  
24 ~~environment from the extraction of nonrenewable natural~~  
25 ~~resources. Recognizing that the total environment consists~~

1 ~~of--our--air,--water,--soil,--flora,--fauna,--and--also--of--those~~  
 2 ~~social,--economic,--and--cultural--conditions--that--influence--our~~  
 3 ~~communities--and--the--lives--of--our--individual--citizens,--it--is~~  
 4 ~~necessary--that--this--state--be--indemnified--for--the--extraction~~  
 5 ~~of--those--resources,--Therefore,--it--is--the--purpose--of--this~~  
 6 ~~chapter--to--provide--for--the--creation--of--a--resource--indemnity~~  
 7 ~~trust--in--order--that--the--people--and--resources--of--Montana--may~~  
 8 ~~long--endure. It is the policy of the state of Montana to~~  
 9 indemnify its citizens for the loss of long-term value  
 10 resulting from the depletion of its mineral resource base  
 11 and for environmental damage caused by mineral development.  
 12 This policy of indemnification is achieved by establishing a  
 13 permanent resource indemnity trust from the proceeds of a  
 14 tax levied on mineral extraction and by allocating spendable  
 15 trust revenues:

16 (1) to protect and restore the environment from  
 17 damages resulting from mineral development; and

18 (2) to support a variety of development programs that  
 19 benefit the economy of the state and the lives of Montana  
 20 citizens."

21 Section 12. Section 15-38-202, MCA, is amended to  
 22 read:

23 "15-38-202. Investment of resource indemnity trust  
 24 fund -- expenditure -- minimum balance. (1) All moneys paid  
 25 into the resource indemnity trust fund shall be invested at

1 the discretion of the board of investments. All the net  
 2 earnings accruing to the resource indemnity trust fund shall  
 3 annually be added thereto until it has reached the sum of  
 4 \$10 million. Thereafter, only the net earnings may be  
 5 appropriated and expended until the fund reaches \$100  
 6 million. Thereafter, all net earnings and all receipts shall  
 7 be appropriated by the legislature and expended, provided  
 8 that the balance in the fund may never be less than \$100  
 9 million.

10 (2) At the beginning of each biennium, an amount not  
 11 to exceed \$175,000 is allocated from the interest income of  
 12 the resource indemnity trust fund to the environmental  
 13 contingency account pursuant to the conditions of 75-1-1101.  
 14 The remainder of the interest income is allocated as  
 15 follows:

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

22 (b) Beginning in fiscal year 1986, 6% of the  
 23 interest income of the resource indemnity trust fund must be  
 24 allocated to the department of health and environmental  
 25 sciences to be used to implement the Montana Hazardous Waste



1 Act and the federal Comprehensive Environmental Response,  
2 Compensation, and Liability Act of 1980 in accordance with  
3 Title 75, chapter 10, part 6. The allocation in this  
4 subsection (2)(b) must be appropriated for each full  
5 biennium as necessary to obtain matching federal funds for  
6 the biennium.

7 (c) Beginning in fiscal year 1990, 8% of the interest  
8 income from the resource indemnity trust fund must be  
9 allocated to the renewable resource development account  
10 provided for in Title 90, chapter 2.

11 (d) Beginning in fiscal year 1990, [56%] of the  
12 interest income from the resource indemnity trust fund must  
13 be allocated to the reclamation and development grants  
14 account provided for in [section 4].

15 (3) Any formal budget document prepared by the  
16 legislature or the executive branch that proposes to  
17 appropriate funds from the resource indemnity trust interest  
18 account other than as provided for by the allocations in  
19 subsection (2) must specify the amount of money from each  
20 allocation that is proposed to be diverted and the proposed  
21 use of the diverted funds. A formal budget document includes  
22 a printed and publicly distributed budget proposal or  
23 recommendation, an introduced bill, or a bill developed  
24 during the legislative appropriation process or otherwise  
25 during a legislative session."

1 Section 13. Section 75-1-1101, MCA, is amended to  
2 read:

3 "75-1-1101. Environmental contingency account  
4 objectives. (1) There is created an environmental  
5 contingency account within the state special revenue fund  
6 established in 17-2-102. The environmental contingency  
7 account is controlled by the governor.

8 ~~(2) Except as provided in subsection (5), at the~~  
9 ~~beginning of each fiscal year, 5% of the funds appropriated~~  
10 ~~to the department of natural resources and conservation from~~  
11 ~~the resource indemnity trust interest account, not to exceed~~  
12 ~~\$175,000 in fiscal year 1987, must be allocated to the~~  
13 ~~environmental contingency account. At the beginning of each~~  
14 ~~biennium, \$175,000 must be allocated to the environmental~~  
15 ~~contingency account from the interest income of the resource~~  
16 ~~indemnity trust fund with the following exceptions:~~

17 (a) if at the beginning of any biennium the  
18 unobligated cash balance in the environmental contingency  
19 account equals or exceeds \$750,000, no allocation will be  
20 made; and

21 (b) if at the beginning of any biennium the  
22 unobligated cash balance in the environmental contingency  
23 account is less than \$750,000, then an amount less than or  
24 equal to the difference between the unobligated cash balance  
25 and \$750,000, but not to exceed \$175,000, must be allocated

1 to the environmental contingency account from the interest  
 2 income of the resource indemnity trust fund.

3 (3) Funds are statutorily appropriated, as provided in  
 4 17-7-502, from the environmental contingency account upon  
 5 the authorization of the governor to meet unanticipated  
 6 public needs consistent with the following objectives:

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

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

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

16 (ii) fire;

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

20 (d) to fund the environmental quality protection fund  
 21 provided for in 75-10-704 or to take other necessary  
 22 actions, including the construction of facilities, to  
 23 respond to actual or potential threats to persons, property,  
 24 or the environment caused by hazardous wastes or other  
 25 hazardous materials.

1 ~~{4}--The environmental contingency account may--receive~~  
 2 ~~no--additional--allocation--for--any--fiscal--year--in--which--the~~  
 3 ~~balance--in--the--account--exceeds--\$1,000,000--at--the--beginning~~  
 4 ~~of--that--fiscal--year--~~

5 {5}{4} Interest from funds in the environmental  
 6 contingency account accrues to the resource indemnity trust  
 7 interest account.

8 {6}{5} The governor shall submit to the legislature at  
 9 the beginning of each regular session a complete financial  
 10 report on the environmental contingency account, including a  
 11 description of all expenditures made since the preceding  
 12 report."

13 Section 14. 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 account 15% of the total amount  
 21 of--renewable--resource--development--grants--and--loans--as  
 22 provided--by--90-2-113 \$185,000 for the biennium ending June  
 23 30, 1989, from the renewable resource development account  
 24 created in 90-2-125, any principal and accrued interest  
 25 received in repayment of a loan made under the rangeland

1 improvement loan program, and any fees or charges collected  
2 by the department pursuant to 76-14-116 for the servicing of  
3 loans, including arrangements for obtaining security  
4 interests."

5 Section 15. Section 90-2-111, MCA, is amended to read:

6 "90-2-111. Grants to ~~divisions--of~~ state and local  
7 government. (1) The department of natural resources and  
8 conservation may recommend to the governor that grants from  
9 the renewable resource development account provided for by  
10 this part be made to any department, agency, board,  
11 commission, or other division of state government or to any  
12 political subdivision of state government.

13 (2) The department shall solicit and consider in its  
14 evaluation of proposed projects the views of interested and  
15 affected departments, boards, agencies, and other  
16 subdivisions of state and federal government and of other  
17 interested and affected persons.

18 (3) The governor shall submit those grant proposals  
19 having his approval to the legislature by the 20th day of  
20 any legislative session. Those grant proposals approved by  
21 the legislature shall be administered by the department.

22 (4) The grants provided for by this section may be  
23 made for the purchase, lease, or construction of projects  
24 for the conservation, management, utilization, development,  
25 or preservation of the land, vegetation, fish, wildlife,

1 recreational, and other renewable resources in the state;  
2 for the purpose of feasibility and design studies for such  
3 projects; for development of plans for the rehabilitation,  
4 expansion, or modification of existing projects; and for  
5 such other and further similar purposes as the legislature  
6 may approve.

7 (5) In recommending grants under this section, the  
8 department and the governor shall consider the special  
9 requirements and benefits of proposals that provide for the  
10 long-term compilation and management of information on the  
11 natural resources of Montana. These proposals contribute to  
12 the efficient management of renewable resources, benefit a  
13 variety of public and private users, and require a  
14 continuing commitment of resources to maintain currency and  
15 utility. In consequence of these values and conditions,  
16 projects providing for the long-term compilation and  
17 management of natural resource information may be considered  
18 for funding in consecutive funding cycles and may not be  
19 penalized for having received funds previously from the  
20 renewable resource development program.

21 ~~(5)~~(6) The department may adopt rules as required to  
22 govern the terms and conditions for making grants pursuant  
23 to this section."

24 NEW SECTION. Section 16. Repealer. (1) Sections  
25 75-1-1102, 75-1-1111, and 75-1-1112, MCA, are repealed.

1 (2) Section 90-2-113, MCA, is repealed.

2 NEW SECTION. Section 17. Extension of authority. Any  
3 existing authority of the department of natural resources  
4 and conservaton or the board of natural resources and  
5 conservation and the department of revenue to make rules on  
6 the subject of the provisions of this act is extended to the  
7 provisions of this act.

8 NEW SECTION. Section 18. Coordination instruction. If  
9 House Bill No. 777, including the section of that bill  
10 amending 15-38-202, is passed and approved:

11 (1) the bracketed material in section 12(2)(d) of this  
12 act allocating funds to the reclamation and development  
13 grants account must read "50%"; and

14 (2) the bracketed material in section 6 is void.

15 NEW SECTION. Section 19. Severability. If a part of  
16 this act is invalid, all valid parts that are severable from  
17 the invalid part remain in effect. If a part of this act is  
18 invalid in one or more of its applications, the part remains  
19 in effect in all valid applications that are severable from  
20 the invalid applications.

21 NEW SECTION. Section 20. Saving clause. This act does  
22 not affect rights and duties that matured, penalties that  
23 were incurred, or proceedings that were begun before the  
24 effective date of this act.

25 NEW SECTION. Section 21. Effective dates. (1) This

1 act, except for section 16(1), is effective July 1, 1987.

2 (2) Section 16(1) is effective July 1, 1989.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB373, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the reclamation and development grants program; specifying allocations from the interest income of the resource indemnity trust fund to the reclamation and development grants program and the renewable resource development program; and providing effective dates.

ASSUMPTIONS:

1. Under the proposed law, \$175,000 must be allocated each biennium, from the interest income of the resource indemnity trust fund to the environmental contingency account. The remainder of RIT interest income is allocated as per assumption 3.
2. The cash balance of the environmental contingency fund will be \$140,000 at the beginning of the FY88-89 biennium (DNRC).
3. Resource indemnity trust interest earnings are allocated as follows: 30%-water development; 6%-Department of Health; and 64% available for appropriation.
4. Resource indemnity trust interest earnings will be \$6,278,000 in FY88 and \$6,669,000 in FY89 (REAC).

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Resource Indemnity Trust Interest	\$6,278,000	\$6,278,000	\$ 0	\$6,669,000	\$6,669,000	\$ 0

FUND INFORMATION:

	FY88	Difference	FY89	Difference
Water Development	\$1,883,000	\$ (52,100)	\$2,001,000	\$ 0
Dept. of Health	377,000	(10,820)	400,000	0
Remaining Receipts	3,843,000	(57,592)	4,268,000	0
Envir. Contingency*	175,000	0	0	0

\* Current law appropriates \$175,000 for the biennium; and, the executive request for FY88-89 includes \$175,000 for the biennium.

*David L. Hunter* DATE *2/24/87*  
 DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

*Chet Blaylock* DATE *2/25/87*  
 CHET BLAYLOCK, PRIMARY SPONSOR

Fiscal Note for SB373, as introduced.

513 373

Fiscal Note Request, SB373, as introduced.

Form BD-15

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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Beginning in FY90 the allocation of RIT interest (remaining after \$175,000 is allocated to the environmental contingency account) under this proposal would be: 8%-renewable resource development account; 56%-reclamation and development grants account; 30%- water development account; and 6%-Department of Health.

Coordination Instructions: HB718, HB777, HB760, each request specific utilization of RIT funds. Depending upon the passage of each of these bills, the funding specified in this fiscal note for SB373 could change.

APPROVED BY COMM. ON  
NATURAL RESOURCES

1 STATEMENT OF INTENT

2 SENATE BILL 373

3 Senate Natural Resources Committee

4

5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority in section 9 to the board  
7 of natural resources and conservation for the establishment  
8 and administration of the reclamation and development grants  
9 program.

10 The intent is to provide the board with the authority  
11 to adopt rules necessary to administer the reclamation and  
12 development grants program. The authority as described in  
13 section 9 includes establishing rules:

14 (1) prescribing the form and content of applications  
15 for grants;

16 (2) describing the terms and conditions of making  
17 grants;

18 (3) prescribing a monitoring program to evaluate the  
19 effectiveness of funded projects and activities; and

20 (4) developing any procedures necessary to accomplish  
21 the objectives of the reclamation and development grants  
22 program.

## 1 SENATE BILL NO. 373

2 INTRODUCED BY BLAYLOCK, D. BROWN,

3 MARKS, ECK, REGAN, IVERSON

4 BY REQUEST OF THE DEPARTMENT OF  
5 NATURAL RESOURCES AND CONSERVATION6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE  
8 RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; SPECIFYING  
9 ALLOCATIONS FROM THE INTEREST INCOME OF THE RESOURCE  
10 INDEMNITY TRUST FUND TO THE RECLAMATION AND DEVELOPMENT  
11 GRANTS PROGRAM AND THE RENEWABLE RESOURCE DEVELOPMENT  
12 PROGRAM; AMENDING SECTIONS 15-38-102, 15-38-202, 75-1-1101,  
13 76-14-112, AND 90-2-111, MCA; REPEALING SECTIONS 75-1-1102,  
14 75-1-1111, 75-1-1112, AND 90-2-113, MCA; AND PROVIDING  
15 EFFECTIVE DATES."  
16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. Section 1. Short title. [Sections 1  
19 through 10] may be cited as the "Reclamation and Development  
20 Grants Program Act".21 NEW SECTION. Section 2. Policy and purpose. (1) The  
22 policy of the state of Montana expressed in the Reclamation  
23 and Development Grants Program Act is to provide a state  
24 capability to fund projects that indemnify the people of the  
25 state for the effects of mineral development on public1 resources and that meet other crucial needs serving the  
2 public interest and the total environment of the citizens of  
3 Montana.4 (2) The purposes of the reclamation and development  
5 grants program are to:6 (a) repair, reclaim, and mitigate environmental damage  
7 to public resources from nonrenewable resource extraction;  
8 and9 (b) develop and ensure the quality of public resources  
10 for the benefit of all Montanans.11 NEW SECTION. Section 3. Definitions. As used in  
12 [sections 1 through 10], 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) "Financially feasible" means that adequate funds  
19 are available to complete the project as approved.20 (4) "Mineral" means any precious stones or gems, gold,  
21 silver, copper, coal, lead, petroleum, natural gas, oil,  
22 uranium, or other nonrenewable merchantable products  
23 extracted from the surface or subsurface of the state of  
24 Montana.

25 (5) "Mineral development" means exploration,



1 extraction, processing, or other activity related to the  
2 production of a mineral.

3 (6) "Mitigation" means the act of rectifying an impact  
4 by repairing, rehabilitating, or restoring the affected  
5 environment; reducing or eliminating an impact over time by  
6 operations that preserve or maintain the environment; or  
7 compensating for an impact by replacing or providing  
8 substitute resources or habitats.

9 (7) "Project" means a planned and coordinated action  
10 or series of actions addressing an objective consistent with  
11 the policy and purpose of the reclamation and development  
12 grants program. A project may consist of problem analysis,  
13 feasibility or design studies, environmental monitoring,  
14 remedial action plans or implementation, technology  
15 demonstration, research, construction or acquisition of  
16 capital facilities, or other related actions.

17 (8) "Public benefits" means those benefits that accrue  
18 to citizens as a group and enhance the common well-being of  
19 the people of Montana.

20 (9) "Public resources" means the natural resources of  
21 the state, including air, water, soil, minerals, vegetation,  
22 and fish and wildlife, and the economic, social, and  
23 cultural conditions of Montana citizens.

24 (10) "Reclamation and development grants account" means  
25 the reclamation and development grants special revenue

1 account established in [section 4].

2 (11) "Technically feasible" means that a project or  
3 activity can be designed, constructed, operated, or carried  
4 out to accomplish its objectives, utilizing accepted  
5 engineering and other technical principles and concepts.

6 NEW SECTION. Section 4. Reclamation and development  
7 grants account. (1) There is a reclamation and development  
8 grants special revenue account within the state special  
9 revenue fund established in 17-2-102.

10 (2) There must be paid into the reclamation and  
11 development grants account money allocated from the interest  
12 income of the resource indemnity trust fund under the  
13 provisions of 15-38-202.

14 (3) Appropriations may be made from the reclamation  
15 and development grants account for the following purposes:

16 (a) grants for designated projects; and

17 (b) administrative expenses, including the salaries  
18 and expenses of personnel, equipment, office space, and  
19 other expenses necessarily incurred in the administration of  
20 the grants program. These expenses may be funded prior to  
21 funding of projects.

22 NEW SECTION. Section 5. State and local grants. (1)  
23 Any department, agency, board, commission, or other division  
24 of state government or any city, county, or other political  
25 subdivision or tribal government within the state may apply,

1 in accordance with the procedures established by the  
2 department, for a grant from the reclamation and development  
3 grants account for a project that is consistent with the  
4 policy and purpose of the reclamation and development grants  
5 program.

6 (2) The department shall evaluate applications under  
7 the eligibility criteria provided in [section 6] and the  
8 evaluation criteria provided in [section 7].

9 (3) The department shall solicit and consider in its  
10 evaluation of applications the views of interested persons  
11 and public agencies.

12 (4) Based on its evaluation of eligible applications,  
13 the department shall recommend to the governor projects to  
14 receive grants from the reclamation and development grants  
15 account.

16 (5) The governor shall submit all proposals, with his  
17 recommended priorities, to the legislature by the first day  
18 of any regular legislative session. The legislature may  
19 approve by appropriation or other appropriate means grants  
20 for those projects it finds consistent with the policies and  
21 purposes of the reclamation and development grants program.  
22 The department shall administer and oversee the grants to  
23 approved projects and monitor the projects.

24 NEW SECTION. Section 6. Eligibility requirements. (1)  
25 Except as provided under subsection (2), to be eligible for

1 funding under the reclamation and development grants  
2 program, the proposed project must provide benefits in one  
3 or more of the following categories:

4 (a) reclamation of land, water, or other resources  
5 adversely affected by mineral development;

6 (b) mitigation of damage to public resources caused by  
7 mineral development;

8 (c) research, demonstration, or technical assistance  
9 to promote the wise use of Montana minerals, including  
10 efforts to make processing more environmentally compatible;

11 [(d) investigation and remediation of sites where  
12 hazardous wastes or regulated substances threaten public  
13 health or the environment;] and

14 (e) research to assess existing or potential  
15 environmental damage resulting from mineral development.

16 (2) If sufficient eligible and qualified applications  
17 satisfying the mineral development objectives provided for  
18 in subsection (1) are not received or if there is a crucial  
19 state need, the department may evaluate and the governor may  
20 recommend that the legislature approve funding for projects  
21 that:

22 (a) enhance Montana's economy through the development  
23 of natural resources; or

24 (b) develop, promote, protect, or further Montana's  
25 total environment and public interest, including the general

1 health, safety, welfare, and public resources of Montana  
2 citizens and communities.

3 (3) To be eligible for funding under the reclamation  
4 and development grants program, a project must:

- 5 (a) be technically and financially feasible;  
6 (b) be the best cost-effective alternative to address  
7 a problem or attain an objective;  
8 (c) comply with statutory and regulatory standards  
9 protecting environmental quality; and  
10 (d) be from an applicant able and willing to enter  
11 into a contract with the department for the implementation  
12 of the proposed project or activity.

13 (4) A project is not eligible for funding under the  
14 reclamation and development grants program to the extent  
15 that the project is eligible for and can reasonably be  
16 expected to receive funding from other state or federal  
17 reclamation programs or any other program or act that  
18 provides funding to accomplish remedial action for  
19 environmental damage or if the project is permitted under  
20 Title 82, chapter 4 or 11.

21 (5) A proposed project is not eligible for funding  
22 under the reclamation and development grants program if  
23 there is a liable party who would be relieved of financial  
24 or legal responsibility and who can reasonably be expected  
25 to be held responsible.

1 NEW SECTION. Section 7. Evaluation criteria. The  
2 department shall consider the following criteria in  
3 evaluating eligible applications and in selecting projects  
4 to be recommended to the governor for funding:

- 5 (1) the degree to which the project will provide  
6 benefits in its eligibility category or categories;  
7 (2) the degree to which the project will provide  
8 public benefits;  
9 (3) the degree to which the project will promote,  
10 enhance, or advance the policies and purposes of the  
11 reclamation and development grants program;  
12 (4) the degree to which the project will provide for  
13 the conservation of natural resources;  
14 (5) the degree of need and urgency for the project;  
15 (6) the extent to which the project sponsor or local  
16 entity is contributing to the costs of the project or is  
17 generating additional nonstate funds;  
18 (7) the degree to which jobs are created for persons  
19 who need job training, receive public assistance, or are  
20 chronically unemployed; and  
21 (8) any other criteria the department considers  
22 necessary to carry out the policies and purposes of the  
23 reclamation and development grants program.

24 NEW SECTION. Section 8. Conditions of grants.  
25 Disbursement of grant funds under [sections 1 through 10] is

1 subject to the following conditions which must be met by  
2 project sponsors:

3 (1) A scope of work and budget for the project must be  
4 approved by the department. Reduction in the scope of work  
5 or budget may not affect priority activities or  
6 improvements.

7 (2) Other funds required for project completion must  
8 have been committed and the commitment must be documented.

9 (3) An agreement between the department and the grant  
10 applicant must be executed in a timely manner, taking into  
11 consideration any changed conditions or circumstances that  
12 govern the administration and disbursement of funds.

13 (4) Any other specific requirements must be  
14 accomplished as considered necessary by the department to  
15 accomplish the purpose of the grant as evidenced from the  
16 application to the department or the proposal to the  
17 legislature.

18 (5) State funding for a project under [sections 1  
19 through 10] is not intended to relieve a liable party from  
20 financial or legal responsibility.

21 NEW SECTION. Section 9. Adoption of rules. The board  
22 may adopt rules to:

23 (1) prescribe the form and content of applications for  
24 grants;

25 (2) describe the terms and conditions of making

1 grants;

2 (3) prescribe a monitoring program to evaluate the  
3 effectiveness of funded projects; and

4 (4) develop any other procedures necessary to  
5 accomplish the objectives of the reclamation and development  
6 grants program.

7 NEW SECTION. Section 10. Penalty. No member, officer,  
8 attorney, or other employee of the board or the department  
9 may directly or indirectly be the beneficiary of or receive  
10 any fee, commission, gift, or other consideration in  
11 connection with any transaction or business under the  
12 reclamation and development grants program other than the  
13 salary, fee, or other compensation that he may receive as a  
14 member, officer, attorney, or employee. A person convicted  
15 of violating any provision of this section shall be punished  
16 by a fine not to exceed \$2,000 plus the value of any  
17 consideration illegally received or by imprisonment for a  
18 term not to exceed 2 years, or both. Any fines collected  
19 under this section must be deposited in the reclamation and  
20 development grants account.

21 Section 11. Section 15-38-102, MCA, is amended to  
22 read:

23 "~~15-38-102. Legislative policy. It is the policy of~~  
24 ~~this state to provide security against loss or damage to our~~  
25 ~~environment from the extraction of nonrenewable natural~~

1 resources--Recognizing that the total--environment--consists  
 2 of--our--air,--water,--soil,--flora,--fauna,--and--also--of--those  
 3 social,--economic,--and--cultural--conditions--that--influence--our  
 4 communities--and--the--lives--of--our--individual--citizens,--it--is  
 5 necessary--that--this--state--be--indemnified--for--the--extraction  
 6 of--those--resources.--Therefore,--it--is--the--purpose--of--this  
 7 chapter--to--provide--for--the--creation--of--a--resource--indemnity  
 8 trust--in--order--that--the--people--and--resources--of--Montana--may  
 9 long--endure. It is the policy of the state of Montana to  
 10 indemnify its citizens for the loss of long-term value  
 11 resulting from the depletion of its mineral resource base  
 12 and for environmental damage caused by mineral development.  
 13 This policy of indemnification is achieved by establishing a  
 14 permanent resource indemnity trust from the proceeds of a  
 15 tax levied on mineral extraction and by allocating spendable  
 16 trust revenues:

17 (1) to protect and restore the environment from  
 18 damages resulting from mineral development; and

19 (2) to support a variety of development programs that  
 20 benefit the economy of the state and the lives of Montana  
 21 citizens."

22 Section 12. Section 15-38-202, MCA, is amended to  
 23 read:

24 "15-38-202. Investment of resource indemnity trust  
 25 fund -- expenditure -- minimum balance. (1) All moneys paid

1 into the resource indemnity trust fund shall be invested at  
 2 the discretion of the board of investments. All the net  
 3 earnings accruing to the resource indemnity trust fund shall  
 4 annually be added thereto until it has reached the sum of  
 5 \$10 million. Thereafter, only the net earnings may be  
 6 appropriated and expended until the fund reaches \$100  
 7 million. Thereafter, all net earnings and all receipts shall  
 8 be appropriated by the legislature and expended, provided  
 9 that the balance in the fund may never be less than \$100  
 10 million.

11 (2) At the beginning of each biennium, an amount not  
 12 to exceed \$175,000 is allocated from the interest income of  
 13 the resource indemnity trust fund to the environmental  
 14 contingency account pursuant to the conditions of 75-1-1101.  
 15 The remainder of the interest income is allocated as  
 16 follows:

17 (2)(a) Beginning in fiscal year 1982, provided the  
 18 amount in the resource indemnity trust fund is greater than  
 19 \$10 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 (2)(b) Beginning in fiscal year 1986, 6% of the  
 24 interest 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. The allocation in this  
 5 subsection (2)(b) must be appropriated for each full  
 6 biennium as necessary to obtain matching federal funds for  
 7 the biennium.

8 (c) Beginning in fiscal year 1990, 8% of the interest  
 9 income from the resource indemnity trust fund must be  
 10 allocated to the renewable resource development account  
 11 provided for in Title 90, chapter 2.

12 (d) Beginning in fiscal year 1990, [56%] of the  
 13 interest income from the resource indemnity trust fund must  
 14 be allocated to the reclamation and development grants  
 15 account provided for in [section 4].

16 (3) Any formal budget document prepared by the  
 17 legislature or the executive branch that proposes to  
 18 appropriate funds from the resource indemnity trust interest  
 19 account other than as provided for by the allocations in  
 20 subsection (2) must specify the amount of money from each  
 21 allocation that is proposed to be diverted and the proposed  
 22 use of the diverted funds. A formal budget document includes  
 23 a printed and publicly distributed budget proposal or  
 24 recommendation, an introduced bill, or a bill developed  
 25 during the legislative appropriation process or otherwise

1 during a legislative session."

2 Section 13. Section 75-1-1101, MCA, is amended to  
 3 read:

4 "75-1-1101. Environmental contingency account  
 5 objectives. (1) There is created an environmental  
 6 contingency account within the state special revenue fund  
 7 established in 17-2-102. The environmental contingency  
 8 account is controlled by the governor.

9 ~~(2) Except as provided in subsection (5), at the~~  
 10 ~~beginning of each fiscal year, 5% of the funds appropriated~~  
 11 ~~to the department of natural resources and conservation from~~  
 12 ~~the resource indemnity trust interest account, not to exceed~~  
 13 ~~\$175,000 in fiscal year 1987, must be allocated to the~~  
 14 ~~environmental contingency account. At the beginning of each~~  
 15 ~~biennium, \$175,000 must be allocated to the environmental~~  
 16 ~~contingency account from the interest income of the resource~~  
 17 ~~indemnity trust fund with the following exceptions:~~

18 (a) if at the beginning of any biennium the  
 19 unobligated cash balance in the environmental contingency  
 20 account equals or exceeds \$750,000, no allocation will be  
 21 made; and

22 (b) if at the beginning of any biennium the  
 23 unobligated cash balance in the environmental contingency  
 24 account is less than \$750,000, then an amount less than or  
 25 equal to the difference between the unobligated cash balance

1 and \$750,000, but not to exceed \$175,000, must be allocated  
2 to the environmental contingency account from the interest  
3 income of the resource indemnity trust fund.

4 (3) Funds are statutorily appropriated, as provided in  
5 17-7-502, from the environmental contingency account upon  
6 the authorization of the governor to meet unanticipated  
7 public needs consistent with the following objectives:

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

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

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

17 (ii) fire;

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

21 (d) to fund the environmental quality protection fund  
22 provided for in 75-10-704 or to take other necessary  
23 actions, including the construction of facilities, to  
24 respond to actual or potential threats to persons, property,  
25 or the environment caused by hazardous wastes or other

1 hazardous materials.

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

6 ~~(5)~~(4) Interest from funds in the environmental  
7 contingency account accrues to the resource indemnity trust  
8 interest account.

9 ~~(6)~~(5) The governor shall submit to the legislature at  
10 the beginning of each regular session a complete financial  
11 report on the environmental contingency account, including a  
12 description of all expenditures made since the preceding  
13 report."

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

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

20 (2) There must be allocated to the rangeland  
21 improvement loan earmarked account ~~15% of the total amount~~  
22 ~~of renewable resource development grants and loans as~~  
23 provided by 90-2-113 \$185,000 for the biennium ending June  
24 30, 1989, from the renewable resource development account  
25 created in 90-2-125, any principal and accrued interest

1 received in repayment of a loan made under the rangeland  
2 improvement loan program, and any fees or charges collected  
3 by the department pursuant to 76-14-116 for the servicing of  
4 loans, including arrangements for obtaining security  
5 interests."

6 Section 15. Section 90-2-111, MCA, is amended to read:

7 "90-2-111. Grants to ~~divisions--of~~ state and local  
8 government. (1) The department of natural resources and  
9 conservation may recommend to the governor that grants from  
10 the renewable resource development account provided for by  
11 this part be made to any department, agency, board,  
12 commission, or other division of state government or to any  
13 political subdivision of state government.

14 (2) The department shall solicit and consider in its  
15 evaluation of proposed projects the views of interested and  
16 affected departments, boards, agencies, and other  
17 subdivisions of state and federal government and of other  
18 interested and affected persons.

19 (3) The governor shall submit those grant proposals  
20 having his approval to the legislature by the 20th day of  
21 any legislative session. Those grant proposals approved by  
22 the legislature shall be administered by the department.

23 (4) The grants provided for by this section may be  
24 made for the purchase, lease, or construction of projects  
25 for the conservation, management, utilization, development,

1 or preservation of the land, vegetation, fish, wildlife,  
2 recreational, and other renewable resources in the state;  
3 for the purpose of feasibility and design studies for such  
4 projects; for development of plans for the rehabilitation,  
5 expansion, or modification of existing projects; and for  
6 such other and further similar purposes as the legislature  
7 may approve.

8 (5) In recommending grants under this section, the  
9 department and the governor shall consider the special  
10 requirements and benefits of proposals that provide for the  
11 long-term compilation and management of information on the  
12 natural resources of Montana. These proposals contribute to  
13 the efficient management of renewable resources, benefit a  
14 variety of public and private users, and require a  
15 continuing commitment of resources to maintain currency and  
16 utility. In consequence of these values and conditions,  
17 projects providing for the long-term compilation and  
18 management of natural resource information may be considered  
19 for funding in consecutive funding cycles and may not be  
20 penalized for having received funds previously from the  
21 renewable resource development program.

22 †5†(6) The department may adopt rules as required to  
23 govern the terms and conditions for making grants pursuant  
24 to this section."

25 NEW SECTION. Section 16. Repealer. (1) Sections



1 75-1-1102, 75-1-1111, and 75-1-1112, MCA, are repealed.

2 (2) Section 90-2-113, MCA, is repealed.

3 NEW SECTION. Section 17. Extension of authority. Any  
4 existing authority of the department of natural resources  
5 and conservaton or the board of natural resources and  
6 conservation and the department of revenue to make rules on  
7 the subject of the provisions of this act is extended to the  
8 provisions of this act.

9 NEW SECTION. Section 18. Coordination instruction. If  
10 House Bill No. 777, including the section of that bill  
11 amending 15-38-202, is passed and approved:

12 (1) the bracketed material in section 12(2)(d) of this  
13 act allocating funds to the reclamation and development  
14 grants account must read "50%"; and

15 (2) the bracketed material in section 6 is void.

16 NEW SECTION. Section 19. Severability. If a part of  
17 this act is invalid, all valid parts that are severable from  
18 the invalid part remain in effect. If a part of this act is  
19 invalid in one or more of its applications, the part remains  
20 in effect in all valid applications that are severable from  
21 the invalid applications.

22 NEW SECTION. Section 20. Saving clause. This act does  
23 not affect rights and duties that matured, penalties that  
24 were incurred, or proceedings that were begun before the  
25 effective date of this act.

1 NEW SECTION. Section 21. Effective dates. (1) This  
2 act, except for section 16(1), is effective July 1, 1987.  
3 (2) Section 16(1) is effective July 1, 1989.

-End-

1                   SENATE BILL NO. 373  
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3                   MARKS, ECK, REGAN, IVERSON  
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THERE ARE NO CHANGES IN SB 373 AND DUE  
TO LENGTH WILL NOT BE RE-RUN. PLEASE REFER  
TO SECOND READING (YELLOW) COPY FOR  
COMPLETE TEXT.

1 STATEMENT OF INTENT

2 SENATE BILL 373

3 Senate Natural Resources Committee

4  
5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority in section 9 to the board  
7 of natural resources and conservation for the establishment  
8 and administration of the reclamation and development grants  
9 program.

10 The intent is to provide the board with the authority  
11 to adopt rules necessary to administer the reclamation and  
12 development grants program. The authority as described in  
13 section 9 includes establishing rules:

14 (1) prescribing the form and content of applications  
15 for grants;

16 (2) describing the terms and conditions of making  
17 grants;

18 (3) prescribing a monitoring program to evaluate the  
19 effectiveness of funded projects and activities; and

20 (4) developing any procedures necessary to accomplish  
21 the objectives of the reclamation and development grants  
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21 silver, copper, coal, lead, petroleum, natural gas, oil,  
22 uranium, or other nonrenewable merchantable products  
23 extracted from the surface or subsurface of the state of  
24 Montana.

25 (5) "Mineral development" means exploration,

1 extraction, processing, or other activity related to the  
2 production of a mineral.

3 (6) "Mitigation" means the act of rectifying an impact  
4 by repairing, rehabilitating, or restoring the affected  
5 environment; reducing or eliminating an impact over time by  
6 operations that preserve or maintain the environment; or  
7 compensating for an impact by replacing or providing  
8 substitute resources or habitats.

9 (7) "Project" means a planned and coordinated action  
10 or series of actions addressing an objective consistent with  
11 the policy and purpose of the reclamation and development  
12 grants program. A project may consist of problem analysis,  
13 feasibility or design studies, environmental monitoring,  
14 remedial action plans or implementation, technology  
15 demonstration, research, construction or acquisition of  
16 capital facilities, or other related actions.

17 (8) "Public benefits" means those benefits that accrue  
18 to citizens as a group and enhance the common well-being of  
19 the people of Montana.

20 (9) "Public resources" means the natural resources of  
21 the state, including air, water, soil, minerals, vegetation,  
22 and fish and wildlife, and the economic, social, and  
23 cultural conditions of Montana citizens.

24 (10) "Reclamation and development grants account" means  
25 the reclamation and development grants special revenue

1 account established in [section 4].

2 (11) "Technically feasible" means that a project or  
3 activity can be designed, constructed, operated, or carried  
4 out to accomplish its objectives, utilizing accepted  
5 engineering and other technical principles and concepts.

6 NEW SECTION. Section 4. Reclamation and development  
7 grants account. (1) There is a reclamation and development  
8 grants special revenue account within the state special  
9 revenue fund established in 17-2-102.

10 (2) There must be paid into the reclamation and  
11 development grants account money allocated from the interest  
12 income of the resource indemnity trust fund under the  
13 provisions of 15-38-202.

14 (3) Appropriations may be made from the reclamation  
15 and development grants account for the following purposes:

16 (a) grants for designated projects; and

17 (b) administrative expenses, including the salaries  
18 and expenses of personnel, equipment, office space, and  
19 other expenses necessarily incurred in the administration of  
20 the grants program. These expenses may be funded prior to  
21 funding of projects.

22 NEW SECTION. Section 5. State and local grants. (1)  
23 Any department, agency, board, commission, or other division  
24 of state government or any city, county, or other political  
25 subdivision or tribal government within the state may apply,

1 in accordance with the procedures established by the  
2 department, for a grant from the reclamation and development  
3 grants account for a project that is consistent with the  
4 policy and purpose of the reclamation and development grants  
5 program.

6 (2) The department shall evaluate applications under  
7 the eligibility criteria provided in [section 6] and the  
8 evaluation criteria provided in [section 7].

9 (3) The department shall solicit and consider in its  
10 evaluation of applications the views of interested persons  
11 and public agencies.

12 (4) Based on its evaluation of eligible applications,  
13 the department shall recommend to the governor projects to  
14 receive grants from the reclamation and development grants  
15 account.

16 (5) The governor shall submit all proposals, with his  
17 recommended priorities, to the legislature by the first day  
18 of any regular legislative session. The legislature may  
19 approve by appropriation or other appropriate means grants  
20 for those projects it finds consistent with the policies and  
21 purposes of the reclamation and development grants program.  
22 The department shall administer and oversee the grants to  
23 approved projects and monitor the projects.

24 NEW SECTION. Section 6. Eligibility requirements. (1)  
25 Except as provided under subsection (2), to be eligible for

1 funding under the reclamation and development grants  
2 program, the proposed project must provide benefits in one  
3 or more of the following categories:

4 (a) reclamation of land, water, or other resources  
5 adversely affected by mineral development;

6 (b) mitigation of damage to public resources caused by  
7 mineral development;

8 (c) research, demonstration, or technical assistance  
9 to promote the wise use of Montana minerals, including  
10 efforts to make processing more environmentally compatible;

11 [(d) investigation and remediation of sites where  
12 hazardous wastes or regulated substances threaten public  
13 health or the environment;] and

14 (e) research to assess existing or potential  
15 environmental damage resulting from mineral development.

16 (2) If sufficient eligible and qualified applications  
17 satisfying the mineral development objectives provided for  
18 in subsection (1) are not received or if there is a crucial  
19 state need, the department may evaluate and the governor may  
20 recommend that the legislature approve funding for projects  
21 that:

22 (a) enhance Montana's economy through the development  
23 of natural resources; or

24 (b) develop, promote, protect, or further Montana's  
25 total environment and public interest, including the general

1 health, safety, welfare, and public resources of Montana  
2 citizens and communities.

3 (3) To be eligible for funding under the reclamation  
4 and development grants program, a project must:

- 5 (a) be technically and financially feasible;
- 6 (b) be the best cost-effective alternative to address  
7 a problem or attain an objective;
- 8 (c) comply with statutory and regulatory standards  
9 protecting environmental quality; and
- 10 (d) be from an applicant able and willing to enter  
11 into a contract with the department for the implementation  
12 of the proposed project or activity.

13 (4) A project is not eligible for funding under the  
14 reclamation and development grants program to the extent  
15 that the project is eligible for and can reasonably be  
16 expected to receive funding from other state or federal  
17 reclamation programs or any other program or act that  
18 provides funding to accomplish remedial action for  
19 environmental damage or if the project is permitted under  
20 Title 82, chapter 4 or 11.

21 (5) A proposed project is not eligible for funding  
22 under the reclamation and development grants program if  
23 there is a liable party who would be relieved of financial  
24 or legal responsibility and who can reasonably be expected  
25 to be held responsible.

1 NEW SECTION. Section 7. Evaluation criteria. The  
2 department shall consider the following criteria in  
3 evaluating eligible applications and in selecting projects  
4 to be recommended to the governor for funding:

- 5 (1) the degree to which the project will provide  
6 benefits in its eligibility category or categories;
- 7 (2) the degree to which the project will provide  
8 public benefits;
- 9 (3) the degree to which the project will promote,  
10 enhance, or advance the policies and purposes of the  
11 reclamation and development grants program;
- 12 (4) the degree to which the project will provide for  
13 the conservation of natural resources;
- 14 (5) the degree of need and urgency for the project;
- 15 (6) the extent to which the project sponsor or local  
16 entity is contributing to the costs of the project or is  
17 generating additional nonstate funds;
- 18 (7) the degree to which jobs are created for persons  
19 who need job training, receive public assistance, or are  
20 chronically unemployed; and
- 21 (8) any other criteria the department considers  
22 necessary to carry out the policies and purposes of the  
23 reclamation and development grants program.

24 NEW SECTION. Section 8. Conditions of grants.  
25 Disbursement of grant funds under [sections 1 through 10] is

1 subject to the following conditions which must be met by  
2 project sponsors:

3 (1) A scope of work and budget for the project must be  
4 approved by the department. Reduction in the scope of work  
5 or budget may not affect priority activities or  
6 improvements.

7 (2) Other funds required for project completion must  
8 have been committed and the commitment must be documented.

9 (3) An agreement between the department and the grant  
10 applicant must be executed in a timely manner, taking into  
11 consideration any changed conditions or circumstances that  
12 govern the administration and disbursement of funds.

13 (4) Any other specific requirements must be  
14 accomplished as considered necessary by the department to  
15 accomplish the purpose of the grant as evidenced from the  
16 application to the department or the proposal to the  
17 legislature.

18 (5) State funding for a project under [sections 1  
19 through 10] is not intended to relieve a liable party from  
20 financial or legal responsibility.

21 NEW SECTION. Section 9. Adoption of rules. The board  
22 may adopt rules to:

23 (1) prescribe the form and content of applications for  
24 grants;

25 (2) describe the terms and conditions of making

1 grants;

2 (3) prescribe a monitoring program to evaluate the  
3 effectiveness of funded projects; and

4 (4) develop any other procedures necessary to  
5 accomplish the objectives of the reclamation and development  
6 grants program.

7 NEW SECTION. Section 10. Penalty. No member, officer,  
8 attorney, or other employee of the board or the department  
9 may directly or indirectly be the beneficiary of or receive  
10 any fee, commission, gift, or other consideration in  
11 connection with any transaction or business under the  
12 reclamation and development grants program other than the  
13 salary, fee, or other compensation that he may receive as a  
14 member, officer, attorney, or employee. A person convicted  
15 of violating any provision of this section shall be punished  
16 by a fine not to exceed \$2,000 plus the value of any  
17 consideration illegally received or by imprisonment for a  
18 term not to exceed 2 years, or both. Any fines collected  
19 under this section must be deposited in the reclamation and  
20 development grants account.

21 Section 11. Section 15-38-102, MCA, is amended to  
22 read:

23 "~~15-38-102. Legislative policy. It is the policy of~~  
24 ~~this state to provide security against loss or damage to our~~  
25 ~~environment from the extraction of nonrenewable natural~~



1 resources--Recognizing that the total--environment--consists  
 2 of--our--air,--water,--soil,--flora,--fauna,--and--also--of--those  
 3 social,--economic,--and--cultural--conditions--that--influence--our  
 4 communities--and--the--lives--of--our--individual--citizens,--it--is  
 5 necessary--that--this--state--be--indemnified--for--the--extraction  
 6 of--those--resources. Therefore, it is--the--purpose--of--this  
 7 chapter--to--provide--for--the--creation--of--a--resource--indemnity  
 8 trust--in--order--that--the--people--and--resources--of--Montana--may  
 9 long--endure. It is the policy of the state of Montana to  
 10 indemnify its citizens for the loss of long-term value  
 11 resulting from the depletion of its mineral resource base  
 12 and for environmental damage caused by mineral development.  
 13 This policy of indemnification is achieved by establishing a  
 14 permanent resource indemnity trust from the proceeds of a  
 15 tax levied on mineral extraction and by allocating spendable  
 16 trust revenues:

17 (1) to protect and restore the environment from  
 18 damages resulting from mineral development; and

19 (2) to support a variety of development programs that  
 20 benefit the economy of the state and the lives of Montana  
 21 citizens."

22 Section 12. Section 15-38-202, MCA, is amended to  
 23 read:

24 "15-38-202. Investment of resource indemnity trust  
 25 fund -- expenditure -- minimum balance. (1) All moneys paid

1 into the resource indemnity trust fund shall be invested at  
 2 the discretion of the board of investments. All the net  
 3 earnings accruing to the resource indemnity trust fund shall  
 4 annually be added thereto until it has reached the sum of  
 5 \$10 million. Thereafter, only the net earnings may be  
 6 appropriated and expended until the fund reaches \$100  
 7 million. Thereafter, all net earnings and all receipts shall  
 8 be appropriated by the legislature and expended, provided  
 9 that the balance in the fund may never be less than \$100  
 10 million.

11 (2) At the beginning of each biennium, an amount not  
 12 to exceed \$175,000 is allocated from the interest income of  
 13 the resource indemnity trust fund to the environmental  
 14 contingency account pursuant to the conditions of 75-1-1101.  
 15 The remainder of the interest income is allocated as  
 16 follows:

17 (2)(a) Beginning in fiscal year 1982, provided the  
 18 amount in the resource indemnity trust fund is greater than  
 19 \$10 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 (2)(b) Beginning in fiscal year 1986, 6% of the  
 24 interest 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. The allocation in this  
5 subsection (2)(b) must be appropriated for each full  
6 biennium as necessary to obtain matching federal funds for  
7 the biennium.

8 (c) Beginning in fiscal year 1990, 8% of the interest  
9 income from the resource indemnity trust fund must be  
10 allocated to the renewable resource development account  
11 provided for in Title 90, chapter 2.

12 (d) Beginning in fiscal year 1990, [56%] of the  
13 interest income from the resource indemnity trust fund must  
14 be allocated to the reclamation and development grants  
15 account provided for in [section 4].

16 (3) Any formal budget document prepared by the  
17 legislature or the executive branch that proposes to  
18 appropriate funds from the resource indemnity trust interest  
19 account other than as provided for by the allocations in  
20 subsection (2) must specify the amount of money from each  
21 allocation that is proposed to be diverted and the proposed  
22 use of the diverted funds. A formal budget document includes  
23 a printed and publicly distributed budget proposal or  
24 recommendation, an introduced bill, or a bill developed  
25 during the legislative appropriation process or otherwise

1 during a legislative session."

2 Section 13. Section 75-1-1101, MCA, is amended to  
3 read:

4 "75-1-1101. Environmental contingency account  
5 objectives. (1) There is created an environmental  
6 contingency account within the state special revenue fund  
7 established in 17-2-102. The environmental contingency  
8 account is controlled by the governor.

9 ~~(2) Except as provided in subsection (5), at the~~  
10 ~~beginning of each fiscal year, 5% of the funds appropriated~~  
11 ~~to the department of natural resources and conservation from~~  
12 ~~the resource indemnity trust interest account, not to exceed~~  
13 ~~\$175,000 in fiscal year 1987, must be allocated to the~~  
14 ~~environmental contingency account. At the beginning of each~~  
15 ~~biennium, \$175,000 must be allocated to the environmental~~  
16 ~~contingency account from the interest income of the resource~~  
17 ~~indemnity trust fund with the following exceptions:~~

18 (a) if at the beginning of any biennium the  
19 unobligated cash balance in the environmental contingency  
20 account equals or exceeds \$750,000, no allocation will be  
21 made; and

22 (b) if at the beginning of any biennium the  
23 unobligated cash balance in the environmental contingency  
24 account is less than \$750,000, then an amount less than or  
25 equal to the difference between the unobligated cash balance

1 and \$750,000, but not to exceed \$175,000, must be allocated  
 2 to the environmental contingency account from the interest  
 3 income of the resource indemnity trust fund.

4 (3) Funds are statutorily appropriated, as provided in  
 5 17-7-502, from the environmental contingency account upon  
 6 the authorization of the governor to meet unanticipated  
 7 public needs consistent with the following objectives:

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

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

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

17 (ii) fire;

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

21 (d) to fund the environmental quality protection fund  
 22 provided for in 75-10-704 or to take other necessary  
 23 actions, including the construction of facilities, to  
 24 respond to actual or potential threats to persons, property,  
 25 or the environment caused by hazardous wastes or other

1 hazardous materials.

2 ~~{4}--The environmental contingency account may receive~~  
 3 ~~no additional allocation for any fiscal year in which the~~  
 4 ~~balance in the account exceeds \$1,000,000 at the beginning~~  
 5 ~~of that fiscal year;~~

6 {5}{4} Interest from funds in the environmental  
 7 contingency account accrues to the resource indemnity trust  
 8 interest account.

9 {6}{5} The governor shall submit to the legislature at  
 10 the beginning of each regular session a complete financial  
 11 report on the environmental contingency account, including a  
 12 description of all expenditures made since the preceding  
 13 report."

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

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

20 (2) There must be allocated to the rangeland  
 21 improvement loan earmarked account ~~15% of the total amount~~  
 22 ~~of renewable resource development grants and loans as~~  
 23 ~~provided by 90-2-113 \$185,000 for the biennium ending June~~  
 24 ~~30, 1989, from the renewable resource development account~~  
 25 ~~created in 90-2-125, any principal and accrued interest~~

1 received in repayment of a loan made under the rangeland  
2 improvement loan program, and any fees or charges collected  
3 by the department pursuant to 76-14-116 for the servicing of  
4 loans, including arrangements for obtaining security  
5 interests."

6 Section 15. Section 90-2-111, MCA, is amended to read:

7 "90-2-111. Grants to divisions--of state and local  
8 government. (1) The department of natural resources and  
9 conservation may recommend to the governor that grants from  
10 the renewable resource development account provided for by  
11 this part be made to any department, agency, board,  
12 commission, or other division of state government or to any  
13 political subdivision of state government.

14 (2) The department shall solicit and consider in its  
15 evaluation of proposed projects the views of interested and  
16 affected departments, boards, agencies, and other  
17 subdivisions of state and federal government and of other  
18 interested and affected persons.

19 (3) The governor shall submit those grant proposals  
20 having his approval to the legislature by the 20th day of  
21 any legislative session. Those grant proposals approved by  
22 the legislature shall be administered by the department.

23 (4) The grants provided for by this section may be  
24 made for the purchase, lease, or construction of projects  
25 for the conservation, management, utilization, development,

1 or preservation of the land, vegetation, fish, wildlife,  
2 recreational, and other renewable resources in the state;  
3 for the purpose of feasibility and design studies for such  
4 projects; for development of plans for the rehabilitation,  
5 expansion, or modification of existing projects; and for  
6 such other and further similar purposes as the legislature  
7 may approve.

8 (5) In recommending grants under this section, the  
9 department and the governor shall consider the special  
10 requirements and benefits of proposals that provide for the  
11 long-term compilation and management of information on the  
12 natural resources of Montana. These proposals contribute to  
13 the efficient management of renewable resources, benefit a  
14 variety of public and private users, and require a  
15 continuing commitment of resources to maintain currency and  
16 utility. In consequence of these values and conditions,  
17 projects providing for the long-term compilation and  
18 management of natural resource information may be considered  
19 for funding in consecutive funding cycles and may not be  
20 penalized for having received funds previously from the  
21 renewable resource development program.

22 ~~(5)(6)~~ (6) The department may adopt rules as required to  
23 govern the terms and conditions for making grants pursuant  
24 to this section."

25 NEW SECTION. Section 16. Repealer. (1) Sections

1 75-1-1102, 75-1-1111, and 75-1-1112, MCA, are repealed.

2 (2) Section 90-2-113, MCA, is repealed.

3 NEW SECTION. Section 17. Extension of authority. Any  
4 existing authority of the department of natural resources  
5 and conservaton or the board of natural resources and  
6 conservation and the department of revenue to make rules on  
7 the subject of the provisions of this act is extended to the  
8 provisions of this act.

9 NEW SECTION. Section 18. Coordination instruction. If  
10 House Bill No. 777, including the section of that bill  
11 amending 15-38-202, is passed and approved:

12 (1) the bracketed material in section 12(2)(d) of this  
13 act allocating funds to the reclamation and development  
14 grants account must read "50%"; and

15 (2) the bracketed material in section 6 is void.

16 NEW SECTION. Section 19. Severability. If a part of  
17 this act is invalid, all valid parts that are severable from  
18 the invalid part remain in effect. If a part of this act is  
19 invalid in one or more of its applications, the part remains  
20 in effect in all valid applications that are severable from  
21 the invalid applications.

22 NEW SECTION. Section 20. Saving clause. This act does  
23 not affect rights and duties that matured, penalties that  
24 were incurred, or proceedings that were begun before the  
25 effective date of this act.

1 NEW SECTION. Section 21. Effective dates. (1) This  
2 act, except for section 16(1), is effective July 1, 1987.  
3 (2) Section 16(1) is effective July 1, 1989.

-End-