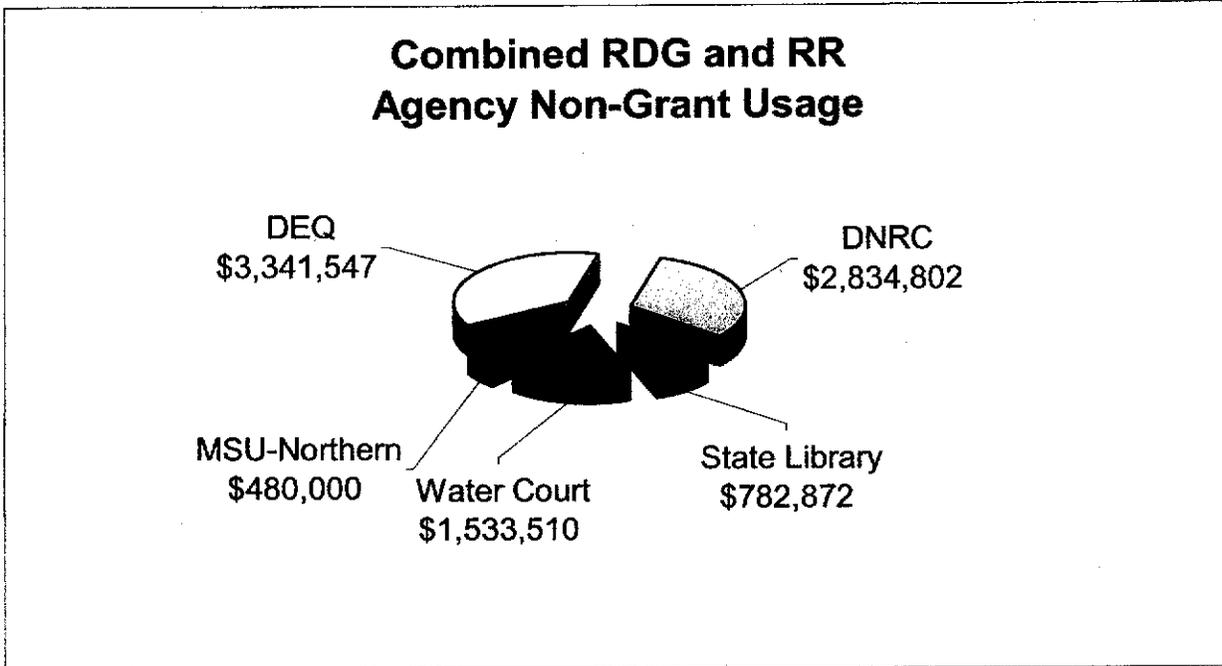


Combined Reclamation & Development and Renewable Resource Non-Grant Legislative Appropriations for Upcoming Biennium:



Non-Grant and Loan Legislative Appropriations Reclamation and Development and Renewable Resource Grant Accounts					
Program	Water Court	MSU Northern	DEQ	DNRC	State Library
DEQ-Central Management-Legal			\$ 88,378		
DEQ-Enforcement Division			9,648		
DEQ-Permitting Division			3,243,521		
MSU - Northern		480,000			
Judiciary Water Court	1,533,510				
DNRC-Centralized Services Division				\$ 22,000	
DNRC-Conservation and Resource Division				1,630,243	
DNRC-Water Resources Division				107,428	
DNRC - Flathead Basin Commission				16,002	
DNRC-CD Position				140,857	
DNRC-Irrigation				300,000	
DNRC-Missouri River CD				160,000	
DNRC-St Marry-Hydrologist				122,404	
DNRC-Engineer				124,132	
Pay Plan				211,736	
Library Commission-State Library					\$ 782,872
TOTAL Non-Grant Legislative Appropriations	\$ 1,533,510	\$ 480,000	\$ 3,341,547	\$ 2,834,802	\$ 782,872
Summary:					
Total Grants			\$ 5,313,303		
Total Non-Grant Appropriations			6,959,221		
Total Reclamation & Development Appropriations			\$ 12,272,524		

STATUTES that do not allow the expenditure of money outside grant and loan programs:

90-2-1104. Reclamation and development grants account. (1) There is a reclamation and development grants special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the reclamation and development grants account money allocated from:

(a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;

(b) the resource indemnity and ground water assessment tax under provisions of 15-38-106;

(c) the metal mines license tax proceeds as provided in 15-37-117(1)(d); and

(d) the oil and gas production tax as provided in 15-36-331.

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

(a) grants for designated projects; and

(b) administrative expenses, including salaries and expenses for personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded before funding of projects.

85-1-604. Renewable resource grant and loan program state special revenue account created -- revenue allocated -- limitations on appropriations from account.

(1) There is a renewable resource grant and loan program state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent that they are required to be credited to the renewable resource loan debt service fund pursuant to 85-1-603, there must be paid into the renewable resource grant and loan program state special revenue account:

(a) the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(b) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource loan debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619; and

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

(3) Appropriations may be made from the renewable resource grant and loan program state special revenue account for:

(a) grants for designated projects; and

(b) administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of the grant and loan program. The expenses under this subsection

(3)(b) may be funded before funding of projects.

Montana Supreme Court Decision No. 86-270: Butte-Silver Bow vs. The State of Montana (decided Jan. 19, 1989)

7. States:

Resource Indemnity Trust Act does not limit appropriation and allocation of trust funds to reclamation of lands disturbed by taking of natural resources, but permits appropriations for programs or uses which improve environment and rectify damage thereto. MCA 15-38-103(4), 15-28-203(1).

8. Mines and Minerals

States:

Appropriations from Resource Indemnity Trust Fund for reclamation division of Department of State Lands, Department of Livestock and Department of Natural Resources did not violate statute requiring that expenditures from trust fund not be made for general operating expenses of state agencies, where funds were expended for operation of programs related to improving total environment or rectifying damage thereto, and thus allocation of funds did not violate the trustee's fiduciary duties. MCA 15-38-293(2).

Opinion of the Court:

"Upon examination of the specific violations alleged by petitioners, we find a problem of semantics. Petitioners identify appropriations made to Department of State Lands, (DSL) the Department of Livestock, and the Department of Natural Resources in the 1987 biennium, as having been made for general operating expenses. We find it ironic that one of the expenditures, alleged as having been made for "general Operations," was for the reclamation division of the DSL in 1986. The funding for the reclamation division was provided in total by Trust funds and federal funds allocated for similar use. The division is responsible for regulating mining related disturbances in the state and enforcing the following acts: The Metal Mine Reclamation Act, the Open Cut Mining Act, the Montana Strip Mine and Underground Mine Reclamation Act, and the Underground Mine Siting Act. The activities conducted by the division are admittedly administrative in nature, but are essential to ensuring that the total environment of the state is improved and damage thereto is rectified. The Argument that Trust Funds allocated towards operation of these programs is in violation of § 15-38-203(2), MCA, is without merit. In each case, the State has shown the funds were expended for the operation of programs related to the total environment or rectifying damage thereto.

"The allocation of Trust funds for these programs did not constitute an expenditure for general operating expenses of state agencies in violation of § 15-38-203(2), MCA. Consequently, we hold the use of funds for programs related to improving the total environment does not violate respondents' fiduciary duty towards the Trust in allocating Trust funds. ..."

Summary of Possible Short-Term Legislative Solutions:

1. Change 90-2-1104, MCA, and 85-1-604, MCA to allow uses other than grants and related administrative costs. A sunset provision could be provided to allow time for a study group to be formed and to address problems.
2. Change statute that directs the RIT interest revenue stream to the reclamation and development and renewable resource accounts. RIT interest revenue could be re-directed into accounts that specifically allow water court, library, mining, and water activities.
3. Award grants from the renewable resource and reclamation and development accounts that could be used for water court, library, mining, and water activities.
4. Provide general fund appropriations water court, library, mining, and water activities currently funded by the renewable resource and reclamation and development accounts.
5. Authorize a broad-based RIT Study Group to develop and analyze solutions and report its findings to the 2007 Legislature.