SENATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 3/9/05
BILL NO. TBA

**** Bill No. ****

Introduced By **********

By Request of the *********

A Bill for an Act entitled: "An Act requiring the environmental quality council to conduct a study on split estates of mineral owners and surface owners and coal bed methane reclamation and bonding; providing for a subcommittee of the environmental quality council; providing that the environmental quality council may add nonlegislative members to a subcommittee; providing an appropriation; amending sections 5-5-211 and 15-36-331, MCA; and providing an immediate effective date and a termination date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Interim study on split estates of mineral owners and surface owners and coal bed methane reclamation and bonding.** (1) The environmental quality council provided for in Title 5, chapter 16 shall conduct an interim study on:

(a) split estates with regard to ownership of minerals and ownership of surface property;

(b) reclamation of surface property affected by coal bed methane development;

(c) bonding requirements for coal bed methane production; and

(d) alternatives for addressing coal bed methane waste

water.

(2) (a) The environmental quality council shall establish a subcommittee to conduct the study and report back to the full council. The subcommittee members must be appointed by the chair of the environmental quality council with concurrence of the vice-chair. The subcommittee shall include:

(i) two members from the house of representatives that are on the environmental quality council and are from different political parties;

(ii) a public member that is on the environmental quality council that was appointed by the speaker of the house;

(iii) two members from the senate that are on the environmental quality council and are from different political parties;

(iv) a public member that is on the environmental quality council and was appointed by the president of the senate; and

(v) two at large members that may be members of the legislature or the public and that are not currently serving on the environmental quality council.

(b) All of the members of the subcommittee having voting privileges on issues taken up by the subcommittee. The two public members provided for in subsection (2)(a)(v) do not have voting privileges on the full environmental quality council. The environmental quality council must approve the subcommittee's final recommendations and other work products that will be represented as being produced or endorsed by the environmental quality council.

(3) The portion of the study addressing split estates must include but is not limited to:

(a) procedures and timelines for giving notice to surface owners;

(b) surface use agreement minimum provisions;

(c) elements that must be considered in surface use agreements;

(d) provisions for addressing disagreement on estimated damages between the surface owner and the mineral owner; and

(e) bonding requirements, if any, based on the type of activity.

(4) The portion of the study specifically addressing reclamation and bonding for coal bed methane operations must include but is not limited to:

(a) assessing current requirements for reclamation and bonding for coal bed methane operations and determine if they are adequate;

(b) evaluating laws related to surface damage, coal bed methane exploration, coal bed methane operations, and coal bed methane reclamation in other states;

(c) exploring alternatives and approaches for balancing mineral rights with surface rights;

(d) identifying the relationship between federal law and state law with regard to split estates and jurisdiction; and

(e) evaluating the necessity and feasability of post operation reclamation requirements or alternatives including water pits and impoundments.

(5) The environmental quality council shall report to the 60th Legislature on its findings and recommendations, including any recommendations for legislation.

Section 2. Section 5-5-211, MCA, is amended to read:

"5-5-211. Appointment and composition of interim committees. (1) Senate interim committee members must be appointed by the committee on committees.

(2) House interim committee members must be appointed by the speaker of the house.

(3) Appointments to interim committees must be made by the time of adjournment of the legislative session.

(4) A legislator may not serve on more than two interim committees unless no other legislator is available or is willing to serve.

(5) (a) Subject to subsection (5)(b), the composition of each interim committee must be as follows:

(i) four members of the house, no more than two of whom may be of one political party; and

(ii) four members of the senate, no more than two of whom may be of one political party.

(b) If the committee workload requires, the legislative council may request the appointing authority to appoint one or two additional interim committee members from each political party.

(6) The membership of the interim committees must be provided for by legislative rules. The rules must identify the

committees from which members are selected, and the appointing authority shall attempt to select not less than 50% of the members from the standing committees that consider issues within the jurisdiction of the interim committee. In making the appointments, the appointing authority shall take into account term limits of members so that committee members will be available to follow through on committee activities and recommendations in the next legislative session.

(7) An interim committee <u>or the environmental quality council</u> may create subcommittees. Nonlegislative members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503."

{*Internal References to 5-5-211:*
*5-5-229 *x*}

Section 3. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(3) (a) For tax year 2003 and succeeding tax years, the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

	2003	2004	2005	2006 and succeeding tax years
Big Horn	45.03%	45.04%	45.04%	45.05%
Blaine	57.56%	57.84%	58.11%	58.39%
Carbon	50.24%	49.59%	48.93%	48.27%
Chouteau	56.67%	57.16%	57.65%	58.14%
Custer	103.63%	92.27%	80.9%	69.53%
Daniels	48.31%	49.15%	49.98%	50.81%
Dawson	56.32%	53.48%	50.64%	47.79%
Fallon	39.89%	40.52%	41.15%	41.78%
Fergus	112.2%	97.86%	83.52%	69.18%
Garfield	54.51%	51.66%	48.81%	45.96%
Glacier	76.56%	70.65%	64.74%	58.83%

Golden Valley	55.5%	56.45%	57.41%	58.37%
Hill	66.97%	66.15%	65.33%	64.51%
Liberty	63.32%	61.53%	59.73%	57.94%
McCone	58.75%	55.81%	52.86%	49.92%
Musselshell	57.06%	54.25%	51.44%	48.64%
Petroleum	67.8%	61.21%	54.62%	48.04%
Phillips	53.3%	53.54%	53.78%	54.02%
Pondera	104.14%	87.51%	70.89%	54.26%
Powder River	64.7%	63.44%	62.17%	60.9%
Prairie	38.43%	39.08%	39.73%	40.38%
Richland	45.23%	45.97%	46.72%	47.47%
Roosevelt	46.75%	46.4%	46.06%	45.71%
Rosebud	37.41%	38.05%	38.69%	39.33%
Sheridan	46.64%	47.09%	47.54%	47.99%
Stillwater	56.05%	55.2%	54.35%	53.51%
Sweet Grass	58.23%	59.24%	60.24%	61.24%
Teton	53.01%	50.71%	48.4%	46.1%
Toole	56.2%	56.67%	57.14%	57.61%
Valley	59.82%	57.02%	54.22%	51.43%
Wibaux	47.71%	48.19%	48.68%	49.16%
Yellowstone	50.69%	49.37%	48.06%	46.74%
All other counties	50.15%	50.15%	50.15%	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions

of 15-1-501, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for the fiscal year ending June 30, 2003, to be distributed as follows:

(i) a total of $400,000 to the coal bed methane protection account established in 76-15-904; and

(ii) all remaining proceeds to the state general fund;

(b) for the fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(v) for fiscal year 2006, $50,000 to the environmental quality council to conduct a split estates and coal bed methane study as provided in [section 1]; and

~~(v)~~ (vi) all remaining proceeds to the state general fund;

(c) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

(ii) 2.95% to the orphan share account established in 75-10-743;

(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(iv) all remaining proceeds to the state general fund."

{*Internal References to 15-36-331:*
15-1-501 x *15-36-304x* *15-36-332x* *75-10-743x*
76-15-904x *82-11-135x* *90-2-1104x*}

NEW SECTION. **Section 4. Appropriation.** The $50,000 allocated to the environmental quality council in 15-36-331 is appropriated to the environmental quality council for the purposes provided in [section 1].

NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. {standard} Termination.** [Sections 1 and 3] terminate December 31, 2006.

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{Name : Krista Lee Evans
Title : Resource Policy Analyst
Agency: Legislative Environmental Policy Office
Phone : 444-1640
E-Mail: kevans@mt.gov}