

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
FTE	383.48	383.48	385.48	385.48	383.48	385.48	2.00	0.52%
Personal Services	24,910,379	26,767,880	26,822,917	26,844,949	51,678,259	53,667,866	1,989,607	3.85%
Operating Expenses	21,054,758	27,281,233	28,735,706	28,479,989	48,335,991	57,215,695	8,879,704	18.37%
Equipment & Intangible Assets	60,755	118,872	101,740	101,740	179,627	203,480	23,853	13.28%
Grants	1,635,863	1,806,461	1,635,863	1,635,863	3,442,324	3,271,726	(170,598)	(4.96%)
Benefits & Claims	0	0	425,000	425,000	0	850,000	850,000	n/a
Transfers	32,398	30,332	32,398	32,398	62,730	64,796	2,066	3.29%
Total Costs	\$47,694,153	\$56,004,778	\$57,753,624	\$57,519,939	\$103,698,931	\$115,273,563	\$11,574,632	11.16%
General Fund	5,162,636	5,287,921	6,457,202	6,200,552	10,450,557	12,657,754	2,207,197	21.12%
State Special	24,657,802	29,342,925	31,164,648	31,135,556	54,000,727	62,300,204	8,299,477	15.37%
Federal Special	17,873,715	21,373,932	20,131,774	20,183,831	39,247,647	40,315,605	1,067,958	2.72%
Total Funds	\$47,694,153	\$56,004,778	\$57,753,624	\$57,519,939	\$103,698,931	\$115,273,563	\$11,574,632	11.16%

Agency Description

Mission Statement: To protect, promote, and improve a clean and healthful environment to benefit present and future generations.

For additional information see the agency profile.

Agency Highlights

Department of Environmental Quality Major Budget Highlights
<ul style="list-style-type: none"> ◆ The executive proposes to increase the department's budget by 11.3% from the 2013 biennium due to statewide present law adjustments and new proposals ◆ \$6.9 million in operating adjustments ◆ Hard rock reclamation projects and operating expenses amounting to \$6.1 million ◆ Approximately \$562,400 from general fund for database replacements and upgrades ◆ \$200,000 general fund switch request for the subdivisions program ◆ The department's pay increases amounted to approximately \$255,700 for the biennium

Agency Discussion

Agency Personal Services Narrative

The personal services budget for the 2015 biennium would increase over the base primarily due to the following factors:

- Statewide present law adjustments
 - Pay increases given partway through the year that are annualized to full year funding in the 2015 biennium at a cost of approximately \$255,700.
 - Vacancy savings of approximately 8.0% compared to the budgeted 4.0%
 - Other unspecified adjustments such as longevity and payroll tax changes to fully fund positions

According to the department, the pay increases provided in FY 2012:

- Focused on rank and file employees and addressed internal equity issues, while conservatively considering what the department could afford and maintain from a fiscal standpoint
- Targeted newer employees with the highest risk of leaving
- No pay adjustments were awarded to engineers, attorneys or management at or above the bureau chief level

The department provided the following information pertaining to hiring and recruitment:

- Half of the department's employee turnover in the past several years has been employees with the agency less than five years
- Averaged 18 applicants for the agency compared to 22 applicants across state government
- Adequate number of qualified applicants, except for the computer systems analyst positions
- The department has a consistent window of 24 days from the time when a job closes and an offer is made to an applicant, and plans to continue to improve this time frame

The department provided the following information pertaining to retirements:

- The department has adopted succession planning
- 40 employees are eligible for retirement, or 9.4% of the department
- Of that 9.4%, 17.5% are managers and 72.5% are other professional staff

Agency-wide Decision Packages

There are common decision packages across the department. The legislature may wish to examine and/or take action on the packages as a group.

Base operating adjustments are requested in each division, totaling \$6.9 million, including \$297,301 from the general fund, for the 2015 biennium. The figure below illustrates the amounts for each division.

Common Decision Packages 2015 Biennium		
Division	FY 2014	FY 2015
Central Services (DP 1005)	\$270,210	\$269,438
Planning, Prevention and Assistance (DP 2001)	1,632,477	1,632,477
Enforcement (DP 3001)	40,359	38,408
Remediation (DP 4001)	175,774	176,574
Permitting and Compliance (DP 5001)	1,272,458	1,271,020
Petro Board (DP 9001)	<u>51,350</u>	<u>51,350</u>
Total	<u>\$3,442,628</u>	<u>\$3,439,267</u>

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. A summary of the entire 2015 biennium 5% plan submitted for this agency is in the appendix.

IT Systems

State agencies have identified information technology (IT) systems that are critical to the state as a whole or to the agency. Further, state agencies have assessed the age of the systems to establish whether the system is:

- New
- Emerging
- Mature
- Declining
- Obsolete

The Legislative Finance Committee recommended that House Appropriations and Senate Finance and Claims Committee leadership direct the Long Range Planning Subcommittee to meet jointly with each of the appropriate joint appropriations subcommittees to discuss priorities related to critical IT systems, and that state agencies be prepared to discuss:

- Current plans to address obsolescence
- Costs to replace the system
- Costs of maintaining the current system
- Risks associated with both retaining the current system and replacing the system

LFD staff will be prepared to discuss issues related to those systems that have been determined to be either critical to the state as a whole or to the agency and either declining or obsolete. Issues include security, continuity of operations, and funding.

Agency Goals and Objectives

Goals and objectives for the agency can be found in the appendix.

Funding

The following table shows agency funding by source of authority, as proposed by the executive. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Department Of Environmental Quality Funding by Source of Authority 2015 Biennium Budget					
Funds	HB 2	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds
General Fund	\$12,657,754	\$0	\$0	\$12,657,754	9.2%
State Special Total	62,300,204	-	7,963,076	70,263,280	51.0%
Federal Special Total	40,315,605	-	-	40,315,605	29.3%
Proprietary Total	-	14,528,211	-	14,528,211	10.5%
Current Unrestricted	-	-	-	-	0.0%
Other Total	-	-	-	-	0.0%
Total All Funds	\$115,273,563	\$14,528,211	\$7,963,076	\$137,764,850	
Percent - Total All Sources	83.7%	10.5%	5.8%		

The department's largest source of funding at 50.9% is state special revenue. This revenue is derived from permitting fees, fines, and bonds proceeds utilized to support specific department functions such as permitting, enforcement, and remediation. The federal revenue is provided from the U.S. Environmental Protection Agency (EPA) performance partnership grant, the Superfund Program, and other federal grant resources. The partnership grant is a block grant to the state to provide funding the EPA had previously made through individual grants. Federal grants have varying match requirements. Wetland grants require 25% match, drinking water capital improvement requires a 20% match, and nonpoint source funding can require as much as a 40% match. General fund is utilized for personal services and related operating expenses such as travel, communications, and equipment.

Resource Indemnity Trust

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests that the legislature provide adequate remedies for environmental protection from degradation. It specifically requires "all lands disturbed by the taking of natural resources shall be reclaimed" and requires the existence of a resource indemnity trust (RIT) fund for that purpose, to be funded by taxes on the extraction of natural resources. The Constitution further states, "The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000) guaranteed by the state against loss or diversion." The state Constitution

requires a trust, but does not require the trust to be funded. The legislature utilized certain natural resource extraction tax proceeds as a revenue source for the trust. In February of 2002, the Governor certified that the balance of the trust had exceeded the \$100 million threshold. Tax proceeds previously directed to the RIT have been re-directed by the legislature ever since.

Accounts Receiving RIT Related Revenue

The biennial executive budget contains \$19.3 million in RIT related funding to support a number of natural resource activities from a number of accounts. The department is the largest recipient of these funds. The following discusses the accounts and the current uses. From those accounts, appropriations are made by the legislature to support natural resource agencies and activities. The major accounts of importance are as follows:

- Oil & Gas production mitigation account – funds utilized by the Montana Board of Oil and Gas for properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations
- Future Fisheries – funds provided to the Department of Fish, Wildlife and Parks to reclaim habitat and spawning areas of the bull and cutthroat trout
- Hazardous Waste/CERCLA - funds provided to the Remediation Division of the department for the implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Environmental contingency account (ECA) - an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment
- Environmental quality protection fund (EQPF) - utilized by the Remediation Division to identify, investigate, negotiate, and prosecute individuals/entities to achieve remedial action or recover costs and damages. This fund is also referred to as the state Superfund
- Water storage account – fund provided to the Water Resources Division of the Department of Natural Resources and Conservation for rehabilitation and major maintenance on state owned water projects
- Ground water assessment account - funds groundwater monitoring and characterization studies completed by the Montana Bureau of Mines and Geology at the University of Montana in Butte
- Orphan share account - used by the department to fund the percent of remediation activities at a contaminated site that is attributable to a bankrupt or otherwise insolvent entity
- Natural resources operations – funds operating costs of Montana’s natural resource agencies, including this department and the Department of Natural Resources and Conservation
- Natural resource projects - provides grants and loans to enhance Montana’s renewable resources through projects that measurably conserve, develop, manage or preserve resources or to repair, reclaim, and mitigate environmental damage to public resources. These funds are managed by the Conservation and Development Division of the Department of Natural Resources and Conservation

RIT Distributions and Tax Proceeds

Since the \$100 million RIT trust threshold was met and natural resource taxes were no longer required to be deposited to the trust, the legislature has statutorily allocated these three taxes: 1) resource indemnity and ground water assessment, 2) metalliferous mine, and 3) applicable portions of the oil & gas tax.

- Resource indemnity and ground water assessment (RIGWA) taxes are paid by person(s) who engage in or carry on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source. These taxes are distributed to a number of natural resource accounts.
 - The first \$296,156 is deposited into the Superfund debt service account
 - \$366,000 is deposited into the ground water assessment account
 - The remaining funds are distributed 50% into the reclamation and development grant program account
 - Any remaining funds to the Natural Resources Project Account
- The metalliferous mine tax is paid by persons engaged in the mining of gold, silver, copper, lead, and other metals or precious or semiprecious stones. 7% of this tax is deposited to the natural resources operations fund.

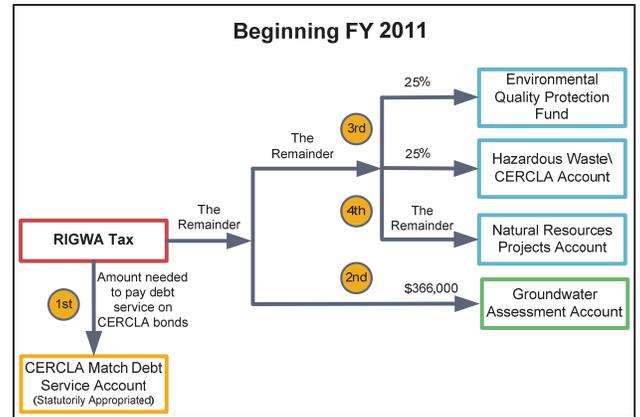
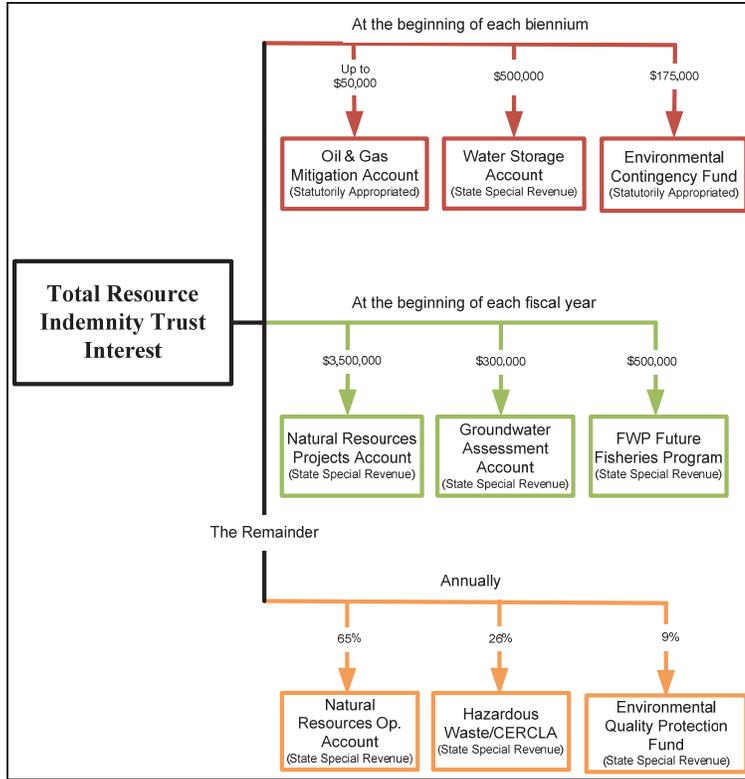
- A portion of oil and gas production taxes are used for natural resource activities. This portion is distributed 2.99% to the orphan share account and 1.45% to the natural resources operations and 1.45% to the natural resources project funds.

RIT Distributions –Interest Allocations

Allocations of RIT interest earnings are not restricted by the Constitution. The legislature has chosen to directly and indirectly allocate interest for a number of purposes. The statutory allocations are not directed to be funded in any particular order of preference.

- Direct allocations: 15-38-202, MCA directs where the interest from the RIT is allocated. Direct allocations are made to a number of sources.
 - Made at the beginning of the biennium:
 - Oil and gas production mitigation account (\$50,000)
 - Environmental contingency account (\$175,000)
 - Water storage account (\$500,000)
 - Made on an annual basis:
 - Allocations to the natural resources projects fund (\$3.5 million)
 - Ground water assessment account (\$0.3 million)
 - Future fisheries fund (\$0.5 million)
- Indirect allocations: After direct interest allocations are made, 15-38-202, MCA directs the remaining interest on a formula basis.
 - 65% to the natural resources operations fund
 - 26% to the hazardous waste/CERCLA fund
 - 9% to the environmental quality protection fund

The flow of taxes and interest into the related accounts is illustrated in the following figures.



Expenditures

The figure on the following page shows the executive’s requested use of the RIT interest and related funds. The figure provides the balance at the end of FY 2013, projected revenues and appropriations for FY 2015, and the biennial effect of revenues and the executive request for the 2015 biennium.

Resource Indemnity Funding										
Related Funds	02010 Oil & Gas	02022 Future Fish	02070 HazWas	02107 ECA	02162 EQPF	02216 Wa Sto	02289 GRW	02472 Orphan Share	02576 Operations	2577 Projects
Beginning FY2013 Fund Balance	\$389,398	\$1,265,466	\$569,528	\$697,712	\$5,386,454	\$950,000	\$0	\$10,040,797	\$1,775,947	\$6,795,909
RIT Interest		\$494,479	\$93,860		\$32,490		\$300,000		\$234,650	\$3,500,000
STIP	\$1,000		1,726		10,000	\$1,500				
RIGWA			386,961		386,961		366,000		386,961	773,922
Metal Mines Tax									1,339,000	
Oil and Gas Tax	50,000							\$3,189,018	2,183,666	2,335,010
Other Income	0				792,311	35,000			3,500	3,525
FY 2013 Total Revenues & Fund Balance	\$440,398	\$1,759,945	\$1,052,075	\$697,712	\$6,608,216	\$986,500	\$666,000	\$13,229,815	\$5,923,724	\$13,408,366
FY 2013 Appropriations	<u>(\$166,216)</u>		<u>(\$621,637)</u>	<u>(\$25,000)</u>	<u>(\$4,099,429)</u>	<u>(\$250,768)</u>	<u>(\$666,000)</u>	(\$4,119,422)	(\$3,995,487)	
FY 2013 Budget Amendment										
Transfers									(11,756)	
Reserved for Capital Appropriations										
HB 6 and HB 7 Appropriation		<u>(\$1,765,366)</u>						<u>(\$5,825,311)</u>	<u>(\$623,000)</u>	(12,191,663)
Project Line Item Veto Richland County HB 7										<u>\$293,000</u>
Projected Fund Balance Ending FY 2013	\$274,182	(\$5,421)	\$430,438	\$672,712	\$2,508,787	\$735,732	\$0	\$3,285,082	\$1,293,481	\$1,509,703
Revenues for 2015 Biennium										
RIT Interest - Direct		<u>\$985,521</u>	\$94,640		\$32,760	\$485,521	\$591,313		\$236,600	\$6,898,646
RIGWA			957,922		957,922		732,000			1,915,844
Anticipated reversions										
Short Term Investment Pool - Interest	\$2,000		<u>\$3,473</u>		20,000	3,000		\$45,000		
Admin Fees					1,553,586					
Metal Mines Tax									2,534,000	
Oil and Gas Tax	<u>\$100,000</u>							<u>\$6,428,717</u>	<u>\$4,402,037</u>	4,707,128
Agency Generated Revenues					7,530,000	<u>\$70,000</u>				<u>\$31,000</u>
Transfers - Other										
Other Income					<u>\$1,036</u>					
Projected Fund Balance Beginning FY 2014	\$376,182	\$980,100	\$1,486,473	\$672,712	\$12,603,055	\$1,294,253	\$1,323,313	\$9,758,799	\$8,466,118	\$15,062,321
Appropriations for 2015 Biennium										
UM-Bureau of Mines							(\$1,332,000)		(\$351,772)	
DNRC - Centralized Services									(76,404)	
DNRC - Conservation and Resource Devel. Division									(1,362,355)	
DNRC-Water Resources Division									(415,867)	
DNRC - Board of Oil & Gas	<u>(\$200,000)</u>									
DNRC - Forestry/Trust Lands									(187,314)	
DEQ-Central Management									(266,492)	
DEQ-Planning, Prevention & Assistance			(\$155,504)						0	
DEQ-Enforcement			(1,406)						(12,544)	
DEQ-Remediation			(161,594)		<u>(\$7,596,939)</u>			<u>(\$872,529)</u>	0	
DEQ-Permitting & Compliance			<u>(480,562)</u>						(3,796,414)	
Judiciary-Water Court									<u>(2,062,727)</u>	
HB 6 and HB 7 Request										<u>(14,967,628)</u>
Total Appropriations	<u>(\$200,000)</u>	\$0	<u>(\$799,066)</u>	\$0	<u>(\$7,596,939)</u>	\$0	<u>(\$1,332,000)</u>	<u>(\$872,529)</u>	<u>(\$8,531,889)</u>	<u>(\$14,967,628)</u>
Adjustments for Agency 5% plans	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	
Ending Fund Balance	\$176,182	\$980,100	\$687,407	\$672,712	\$5,006,116	\$1,294,253	(\$8,687)	\$8,886,270	(\$65,771)	\$94,693

The largest requests are:

- o \$7.6 million from the environmental quality protection fund (EQPF) for the DEQ Remediation Division
- o \$8.5 million from natural resources operations, of which \$6.1 million is for support of the DEQ Permitting and Compliance Division.

In total, the executive is requesting \$19.3 million in RIT related authority, \$13.3 million of which is for the department.

The condition of these funds represents some key issues of RIT funding.

LFD
ISSUE

Funds would be Over Expended

The executive request results in negative ending fund balances in FY 2015 for two accounts:

- o Natural resources operations fund is projected to be a negative \$65,771
 - o The revenues for this account since it was created in 2008 have averaged \$351,769 annually, compared to the current estimate of \$0 for FY 2014 and \$236,660 for FY 2015
- o Groundwater fund is projected to be a negative \$8,687

The executive assumes sufficient revenues to make all statutory allocations in full as well as historically average amounts. Due primarily to low interest rates, and that certain allocations must be made at the beginning of each biennium, the Legislative Fiscal Division (LFD) revenue estimates are expected to be lower than the amount necessary to fulfill the statutory allocations for FY 2014 and have been allocated proportionately among the funds receiving RIT interest. The chart below shows the amounts that the funds are expected to receive according to statute and what the LFD is estimating the revenues to be and how they are being allocated.

RIT Interest Receiving Funds									
Statutory Revenues vs. Estimated Revenues									
	02010	02022	02070	02107	02162	02216	02289	02576	2577
	Oil & Gas	Future Fish	HazWas	ECA	EQPF	Wa Sto	GRW	Operations	Projects
Statutory requirements									
FY 2014	\$0	\$500,000	26% of the	\$0	9% of the	\$0	\$300,000	65% of the	\$3,500,000
FY 2015	0	500,000	remainder of	0	remainder	0	300,000	remainder of	3,500,000
2015 Biennium	<u>50,000</u>	<u>0</u>	interst	<u>175,000</u>	of interst	<u>500,000</u>	<u>0</u>	interst	<u>0</u>
Total	<u>\$50,000</u>	<u>\$1,000,000</u>	income	<u>\$175,000</u>	income	<u>\$500,000</u>	<u>\$600,000</u>	income	<u>\$7,000,000</u>
Revenue Estimates									
FY 2014	\$0	\$485,521	\$0	\$0	\$0	\$0	\$291,313	\$0	\$3,398,646
FY 2015	0	500,000	94,640	0	0	0	300,000	236,600	3,500,000
2015 Biennium	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>485,521</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$0</u>	<u>\$985,521</u>	<u>\$94,640</u>	<u>\$0</u>	<u>\$0</u>	<u>\$485,521</u>	<u>\$591,313</u>	<u>\$236,600</u>	<u>\$6,898,646</u>

The legislature has the following option as to how to proceed:

- o A temporary or permanent reallocation of RIT interest
- o Transfer funds from a healthier fund, such as the orphan share fund. Per the main RIT table, the fund has a projected ending fund balance of \$8.9 million. The risk to this transfer is that the liability for the orphan share is unknown
- o Amend the statute to prioritize the funds receiving revenue from the RIT interest
- o Take no action, and if the fund balances do not meet approved appropriations limits then the departments will be unable to spend the full amount of the appropriation

LFD ISSUE	<u>Impacts of the Federal Budget Control Act of 2011 and Other Federal Action</u>
	<p>The Budget Control Act (BCA) includes automatic spending reductions, called sequesters, that are currently scheduled to take effect January 2, 2013. For discretionary non-defense spending the estimated amount of the reduction is 8.2%. The major federal funding sources of this agency would be subject to sequester in the current bill.</p> <p>As a result of the various conditions included in the BCA funding for the Department of Environmental Quality may be reduced beyond what is shown in the executive’s proposed budget. The legislature may wish to discuss the potential impact on federal funds with the agency as the federal budget negotiations picture becomes clearer.</p>

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	5,162,636	5,162,636	10,325,272	81.57%	47,694,153	47,694,153	95,388,306	82.75%
Statewide PL Adjustments	91,581	93,616	185,197	1.46%	1,785,331	1,813,975	3,599,306	3.12%
Other PL Adjustments	295,932	295,471	591,403	4.67%	7,537,293	7,535,416	15,072,709	13.08%
New Proposals	907,053	648,829	1,555,882	12.29%	736,847	476,395	1,213,242	1.05%
Total Budget	\$6,457,202	\$6,200,552	\$12,657,754		\$57,753,624	\$57,519,939	\$115,273,563	

Language and Statutory Authority

The department requests the following language in HB 2.

"The program is authorized to decrease federal special revenue and increase state special revenue in the drinking water and/or water pollution control revolving loan programs by a like amount within the administration account, when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes."

"If federal funds are received to help meet the annual shortfall in operating and maintenance costs at the Zortman-Landusky mine sites, this general fund spending authority will be reduced by the same amount"

"The department is appropriated up to \$1,000,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2015 biennium for the purpose of paying contract expenses related to the recovery of funds."