

Chapter 27

ABANDONED MINE LAND FUNDS

Original House Bill No. 121

AN ACT relating to abandoned mine land funds; authorizing application for funds; appropriating and specifying authorized use of funds; modifying past authorizations; providing for reports; specifying and amending reversion dates for funds; providing for an abandoned mine land funds balancing account; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. [Future AML funding]

(a) No application to the federal office of surface mining for grants from the state of Wyoming's share of abandoned mine land funds from the Surface Mining Control and Reclamation Act Amendments of 2006, Section 411(h)(i), pursuant to 2007 H.R. 6111, shall be made except as expressly authorized by the legislature. Grant funds received for the projects authorized in this act may, but are not required to be, deposited into the state abandoned mine land funds reserve account pursuant to W.S. 35-11-1210. All funds received from the authorized grants are appropriated to the department of environmental quality in the amounts specified in this section to be expended for the purposes set forth in this section.

(b) The legislature authorizes the department of environmental quality to submit grant applications to the federal office of surface mining for distribution of a portion of funds specified in subsection (a) of this section, including funds previously deposited in the reserve account created by W.S. 35-11-1210(a), for the period ending June 30, 2013 for the following projects:

(i) Two million two hundred thousand dollars (\$2,200,000.00) for the solid waste orphaned site program administered by the department of environmental quality;

(ii) One million four hundred seventy-five thousand dollars (\$1,475,000.00) to the department of environmental quality air quality division for addressing statewide energy impacts;

(iii) One million eight hundred fifty-six thousand seven hundred twenty-four dollars (\$1,856,724.00) to the department of environmental quality air quality division for expenditure on operations and maintenance of ambient air monitors.

(c) The legislature authorizes the department of environmental quality to submit grant applications to the federal office of surface mining for distribution of a portion of funds specified in subsection (a) of this section to the University of Wyoming, the Wyoming wildlife and natural resources trust, the Wyoming water development commission and the Wyoming department of transportation for the period ending June 30, 2013 for distribution to the specified account or entity for the following projects:

(i) Three hundred fifty thousand dollars (\$350,000.00) to the University of Wyoming for Level II planning for renovation and addition to the facilities of the college of engineering and applied science;

(ii) Ten million dollars (\$10,000,000.00) to the University of Wyoming for athletics facilities matching funds for the renovation of the arena auditorium. After qualifying contributions and revenue bonds meeting the requirements of this paragraph have been received and issued, the state treasurer shall distribute these matching funds to the university and the project may commence. Funds subject to this paragraph shall not lapse until June 30, 2017. No funds from this source shall be distributed to the university until:

(A) Revenue bonds issued pursuant to W.S. 21-17-402 through 21-17-450 of an equal amount have been issued for renovation costs. The revenue bonds shall be primarily paid from revenues generated by university athletic events and facilities. The university may pledge other revenue streams for bond payment as authorized by W.S. 21-17-402 through 21-17-450. The bonds are eligible for supplemental coverage in accordance with W.S. 9-4-1003. To the extent practicable, bond counsel resident to Wyoming shall be utilized to issue the revenue bonds to be used in this project; and

(B) Ten million dollars (\$10,000,000.00) has been matched by qualifying contributions of funds other than state of Wyoming funds, which contributions shall meet the provisions of W.S. 21-16-1001 through 21-16-1003, including valuation of matching funds.

(iii) Five million dollars (\$5,000,000.00) to the University of Wyoming school of energy resources for implementation of strategic areas of concentration for the school of energy resources as described in the school's strategic plan. These funds shall be expended only to the extent that they are matched dollar for dollar from private funds or funds other than state of Wyoming funds;

(iv) Six million dollars (\$6,000,000.00) to the Wyoming wildlife and natural resources trust income account for project funding, except that that no funds appropriated under this paragraph shall be used to purchase or acquire conservation easements or other development rights;

(v) Three million five hundred thousand dollars (\$3,500,000.00) to the University of Wyoming for an agriculture building in Sheridan;

(vi) Twenty-three million twenty-five thousand dollars (\$23,025,000.00) to the Wyoming water development commission for the Gillette Madison water project as authorized by W.S. 99-3-1405; and

(vii) Thirty million dollars (\$30,000,000.00) to the highway fund for highway projects.

(d) Except for funds specified in this subsection, funds appropriated under this section shall be for the period beginning with the effective date of this act and ending June 30, 2014. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), any unexpended, unobligated funds subject to:

(i) Paragraph (c)(ii) of this section for the athletics matching program shall not revert until June 30, 2017;

(ii) Paragraph (c)(iii) of this section for the school of energy resources matching funds shall not revert until June 30, 2018;

(iii) Paragraph (c)(v) of this section for the University of Wyoming agriculture building in Sheridan shall not revert until June 30, 2016.

(e) The joint minerals, business and economic development interim committee, in consultation with the governor, the college of engineering, the school of energy resources at the University of Wyoming and the community college commission, shall:

(i) Assist in the development of the parameters for the renovation and reconstruction plan for the college of engineering at the University of Wyoming, which plan shall be designed in cost and approach to lead the university toward a tier one academic and research institution in areas of excellence appropriate for Wyoming. It is anticipated that the budget for the project will approximate one hundred million dollars (\$100,000,000.00) or so much as is reasonably needed to accomplish this task;

(ii) Develop a plan for the use of an appropriate amount of anticipated remaining abandoned mine land funds to fund programs that support and enhance new and existing technologies important to the economy of Wyoming. The programs may include grants and equipment purchases that will recruit and retain innovative research and technological advances with a goal to create sustainable jobs and economic development along with improving the prestige and quality of teaching at the college of engineering and community colleges.

Section 2. [AML FUNDING - REDIRECTION OF PRIOR AUTHORIZATIONS]

(a) The legislature authorizes the department of environmental quality to submit new grant applications or modify existing grant applications to the federal office of surface mining to redirect previously authorized funds as specified in this section. The redirected funds shall be used for the projects as specified in subsection (b) of this section:

(i) Of the amounts authorized for clean coal research funds under 2008 Wyoming Session Laws, Chapter 48, Section 320, as amended by 2009 Wyoming Session Laws, Chapter 159, creating a new Section 339(c)(ii), four million two hundred fifty thousand one hundred fifty-four dollars (\$4,250,154.00) shall be redirected;

(ii) Of the amounts authorized for carbon sequestration research and demonstration project funds under 2010 Wyoming Session Laws, Chapter 39, Section 320(c)(ii), forty million dollars (\$40,000,000.00), and from clean coal technology research funds under Section 320(c)(v) one million dollars (\$1,000,000.00) shall be redirected.

(b) The grant applications submitted by the department to the federal office of surface mining shall seek authority to redirect the funds for the following projects:

(i) Ten million dollars (\$10,000,000.00) to the University of Wyoming for implementation of strategic areas of concentration for the school of energy resources as described in the school's strategic plan;

(ii) Ten million dollars (\$10,000,000.00) to the University of Wyoming for implementation of strategic areas of concentration for the school of energy resources as described in the school's strategic plan. These funds

shall be expended only to the extent that they are matched dollar for dollar from private funds or public funds other than state of Wyoming funds;

(iii) One million dollars (\$1,000,000.00) to the department of transportation for a compressed natural gas fueling station and conversion of existing vehicles or purchase of new vehicles for the department or the University of Wyoming powered by compressed natural gas, subject to the following conditions:

(A) The construction and operation shall be subject to oversight by the department of administration and information;

(B) To the extent permissible under Wyoming law, the station shall be constructed by Wyoming residents as defined in W.S. 16-6-101(a)(i);

(C) The station shall be available to the university, the department of transportation, school districts, local governments and private payers using credit cards and shall be located to enhance usage by the public and private sectors;

(D) No expenditure for a natural gas fueling station shall be made unless authorized by the governor after the department of transportation and university explore the possibility of constructing and operating the station in conjunction with the private sector. After construction the station may be sold at any time;

~~(E) Any nongifted proceeds from the sale of the station shall be deposited in the general fund. [LANGUAGE SHOWN AS STRICKEN VETOED BY GOVERNOR MARCH 8, 2012.]~~

(iv) Seven hundred fifty thousand one hundred fifty-four dollars (\$750,154.00) to the University of Wyoming for Level II planning for the project specified in paragraph (c)(i) of section 1 of this act;

(v) Ten million dollars (\$10,000,000.00) to the University of Wyoming school of energy resources for the continuation of clean coal research as recommended by the clean coal research task force pursuant to W.S. 21-17-121;

(vi)(A) Five hundred thousand dollars (\$500,000.00) to the University of Wyoming school of energy resources for the purpose of providing grants to conduct one (1) or more studies to determine the feasibility of constructing a commercial scale minerals to value added products facility in Wyoming. All studies, data and analysis produced using funds from this appropriation shall be the property of the state of Wyoming. Grants authorized under this paragraph shall be awarded by the clean coal task force pursuant to W.S. 21-17-121. The studies shall identify:

(I) Whether a commercial scale facility which converts minerals to value added products would be economically viable in Wyoming given projected energy prices and regulatory trends;

(II) Attributes unique to the state of Wyoming which mitigate for and against construction of a commercial scale minerals to value added products facility in the state;

(III) The best available technologies for the commercial scale conversion of minerals to value added products in Wyoming;

(IV) Potential obstacles to the construction of a minerals to value added products facility in Wyoming and possible strategies to address those obstacles, including, but not limited to the following:

- (1) Regional and national political climate;
- (2) Economic issues;
- (3) Regulatory issues; and
- (4) Transportation.

(V) Potential input sources of minerals and water for the facility and potential markets for the final value added product and any other products created during the conversion process;

(VI) Whether, and at what level and in what form, state support is necessary for the development of such a project. The study shall identify possible state incentives available for the construction of a commercial scale minerals to value added products facility and determine which incentives are likely to have the most benefit to industry and the citizens of the state of Wyoming.

(B) The University of Wyoming school of energy resources and the clean coal task force shall report to the joint minerals, business and economic development interim committee on the results of the studies authorized by this paragraph on or before September 1, 2012. The task force shall also provide recommendations to the committee for grants under subparagraph (C) of this paragraph based on applications received by the task force. The joint minerals, business and economic development interim committee shall then recommend to the governor the funding level for each application;

(C) Nine million dollars (\$9,000,000.00) to the governor's office for the purpose of supporting the construction and operation of a commercial scale facility which converts minerals to value added products. Applications for grants under this subparagraph shall be received by the clean coal task force. Grants authorized under this subparagraph shall be awarded by the governor after receiving the recommendation of the joint minerals, business and economic development interim committee in accordance with this section. The governor may take all actions necessary to ensure the legality of an expenditure of any portion of this appropriation. No funds shall be expended from this appropriation to provide salaries. No funds shall be expended from this appropriation without:

(I) A dollar for dollar match of funds not from the state of Wyoming;

(II) A signed written agreement between the University of Wyoming school of energy resources and the grantee, providing that all data, information, studies and analysis produced with funds from this appropriation or matching funds involving the siting of a commercial scale minerals to value added products facility shall be transferred to the state of Wyoming upon abandonment of the project by the grantee as directed by the governor;

(III) A determination by the clean coal task force that the grant has a reasonable likelihood of leveraging a substantial future capital investment in a large plant siting in this state. In the event of multiple grant requests, the task force shall consider and give weight to whether the applicant has demonstrated a past record of producing jobs in Wyoming and whether the applicant has and is likely to maintain a nexus to the state of Wyoming.

(D) As used in this paragraph a "commercial scale minerals to value added products facility" may include commercial scale minerals to liquid fuels or other value added products facilities but shall not include any facility which will derive fifty percent (50%) or more of its anticipated revenues from the generation of electricity.

(vii) Two million dollars (\$2,000,000.00) to the Wyoming pipeline authority to begin to develop and implement a permitting process to further a carbon dioxide pipeline network across federal lands in Wyoming. The Wyoming pipeline authority shall perform this work in coordination with the University of Wyoming school of energy resources and the enhanced oil recovery institute;

(viii) One million dollars (\$1,000,000.00) to the University of Wyoming for the school of energy resources to continue research related to carbon storage and enhanced oil recovery. These funds shall be expended only to the extent that they are matched dollar for dollar from private funds or public funds other than state of Wyoming funds;

(ix) Seven hundred thousand dollars (\$700,000.00) to the University of Wyoming college of engineering to conduct basic and applied research into rare earth materials to determine new processing technologies, improved uses and new production methods. The University of Wyoming college of engineering shall provide a report on the findings of the research conducted under this paragraph to the joint minerals, business and economic development interim committee not later than December 1, 2013;

(x) One hundred thousand dollars (\$100,000.00) to the University of Wyoming school of energy resources for the purpose of providing grants to conduct one (1) or more studies to evaluate the feasibility of using Wyoming natural resources to manufacture glass and glass products in Wyoming. Grants authorized under this paragraph shall be awarded by the clean coal task force. The University of Wyoming school of energy resources and the clean coal task force shall report to the joint minerals, business and economic development interim committee on the results of the studies authorized by this paragraph not later than June 1, 2013; and

(xi) Two hundred thousand (\$200,000.00) to the Wyoming geological survey to conduct geological analysis on potential rare earth material deposits and other deposits and catalog deposits in Wyoming outside of the known deposits of rare earth minerals in the bear lodge mountains in Crook County. The Wyoming geological survey shall provide a report on the findings of the geological analysis conducted under this paragraph to the joint minerals, business and economic development interim committee not later than June 1, 2013.

(c) Except for funds specified in this subsection, funds appropriated under this section shall be for the period beginning with the effective date of this

section and ending June 30, 2014. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), any unexpended, unobligated funds subject to:

(i) Paragraph (b)(i) of this section shall not revert until June 30, 2016;

(ii) Paragraph (b)(ii) of this section shall not revert until June 30, 2018;

(iii) Paragraph (b)(v) of this section shall not revert until June 30, 2016;

(iv) Subparagraph (b)(vi)(C) of this section shall not revert until June 30, 2016;

(v) Paragraph (b)(vii) of this section shall not revert until June 30, 2016; and

(vi) Paragraph (b)(viii) of this section shall not revert until June 30, 2016.

Section 3. The department of environmental quality, in consultation with the University of Wyoming and with the approval of the governor, may substitute other University of Wyoming purposes in its grant applications under subsections 1(c) and 2(b) of this act but only as necessary to replace university block grant funds expended as necessary to satisfy requirements prohibiting the use of abandoned mine land funds to match federal funds, where matching fund requirements would unduly delay a project, or where the use of federal abandoned mine land funds would be impractical for projects pursuant to section 1, paragraphs (c)(i), (ii), (iii) and (v) and section 2, paragraphs (b)(i), (ii), (iv), (v), (vi)(A), (viii), (ix) and (x) of this act.

Section 4. The governor may substitute funds from the 2012 Senate File 0001, section 2, section 045, department of transportation general fund appropriation to the commission, for any project funded with abandoned mine land funds in this act in order to expedite expenditure of abandoned mine land funds as the governor determines necessary or convenient. Abandoned mine land funds received for a project for which general funds were substituted pursuant to this section shall be distributed to the transportation commission upon receipt. Any substitution of funds pursuant to this section shall be in accordance with the b-11 process authorized by W.S. 9-2-1005(b)(ii) and shall be reported by the governor to the joint appropriations committee in the monthly report provided by W.S. 9-2-1005(o).

Section 5.

(a) From funds within the abandoned mine land funds balancing account created as W.S. 35-11-1210(e) under section 6 of this act, there is appropriated, as available:

(i) Fourteen million two hundred thousand dollars (\$14,200,000.00) to the University of Wyoming for the performing arts building. The University of Wyoming may raise private funds and issue revenue bonds pursuant to W.S. 21-17-402 through 21-17-450 for amounts up to fourteen million two hundred thousand dollars (\$14,200,000.00) for renovation and construction associated

with the performing arts building. Any bonds issued shall be eligible for supplemental coverage in accordance with W.S. 9-4-1003. To the extent practicable, bond counsel used on the issuance of the revenue bonds for this project shall be resident to Wyoming;

(ii) Fifteen million eight hundred thousand dollars (\$15,800,000.00) to an account which shall be held by the state treasurer for distribution to the university of Wyoming for construction costs of the engineering building as provided in this paragraph. The funds shall be available to be matched by qualifying contributions meeting the provisions of W.S. 21-16-1401 through 21-16-1403, including valuation of matching funds. Funds under this paragraph shall only be available for expenditure as specifically authorized by the legislature.

Section 6. W.S. 35-11-1210 by creating a new subsection (e) is amended to read:

35-11-1210. Abandoned mine land funds reserve account.

(e) There is created the abandoned mine land funds balancing account. Notwithstanding other provisions of this section, the legislature may deposit into the balancing account and appropriate therefrom funds as it determines appropriate to substitute for or supplement abandoned mine land funds received from the federal government, from the Surface Mining Control and Reclamation Act Amendments of 2006, Section 411(h)(1).

Section 7. 2008 Wyoming Session Laws, Chapter 48, Section 320(e), as amended by 2009 Wyoming Session Laws, Chapter 159, Section 346 and as further amended by 2010 Wyoming Session Laws, Chapter 39, Section 322 is amended to read:

Section 320.

(e) Except for funds subject to paragraphs (a)(v), (vi) and (vii) and subsection (c) of this section, funds appropriated under this section shall be for the period beginning with the effective date of this section and ending June 30, 2009. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), any unexpended unobligated funds subject to:

(iv) Subsection (c) of this section shall not revert until June 30, ~~2012~~2016.

Section 8. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved March 8, 2012.