Indirect Allocations: After direct interest allocations are made, 15-38-202 MCA directs the remaining interest on a formula basis. Fiscal year 2005 the formula provided: 25.5 percent to the renewable resources grant and loan account, 45 percent to the reclamation and development grant program account, 22 percent to the hazardous waste/CERCLA account and 7.5 percent to the environmental quality protection fund.

- Ground water assessment account - funds for groundwater monitoring and characterization studies
- Reclamation and Development Grant Program - provides grants to repair, reclaim, and mitigate environmental damage to public resources from non-renewable resource extraction.
- Orphan Share Account - used to fund the percent of remediation activities at a contaminated site that are attributable to a bankrupt or otherwise insolvent entity.
- Hazardous Waste/CERCLA - funds for the implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act.
- Environmental Quality Protection Fund - utilized to identify, investigate, negotiate and prosecute individuals/entities to achieve remedial action or recover costs and damages.
- Coal Bed Methane Protection Account - available to compensate private landowners or water right holders for damage caused by coal bed methane development after July 1, 2005.
- 6 mill University System - state-wide mill levy to support the Montana University System
- Environmental Contingency Account -an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment.
- Future Fisheries - use of funds to reclaim habitat and spawning areas of the bull and cutthroat trout.
- Oil & Gas Production Mitigation Account - funds

or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations.

- Renewable Resource Grant and Loan Program - provides grants and loans to enhance Montana's renewable resources through projects that measurably conserve, develop, manage or preserve resources.
- Water Storage Account - used for grants and loans to fund water storage projects.

- Resource Indemnity and Ground Water Assessment (RIGWA) - taxes paid by person(s) who engages in or carries 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.
- Oil and Gas Taxes - taxes on the production of oil and gas.

"Allocations of RIT interest earnings are not restricted by the constitution."

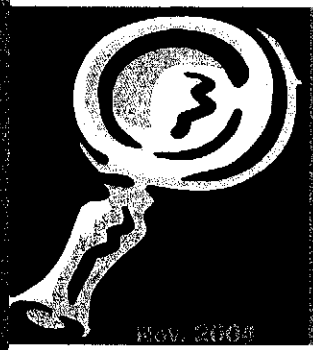
Legislative Fiscal Division

www.leg.state.mt.us/fiscal

LFD Mission Statement

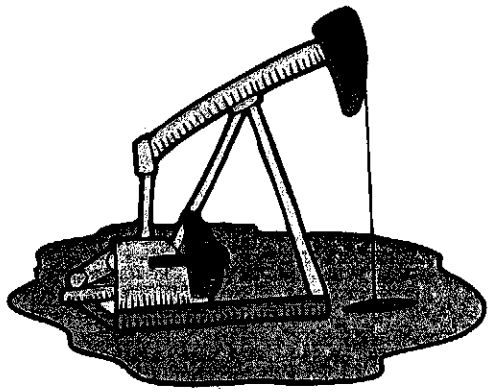
We are committed to enhancing the legislative process through understandable and objective fiscal policy analysis and information.

LEGISLATIVE FISCAL DIVISION



RESOURCE INDEMNITY TRUST

Nov. 2004 Fiscal Pocket Guide



"The state constitution requires a trust, but does not require the trust to be funded.."

EXHIBIT 7
DATE 3.23.05
HB HJ36

Primary Contact: Barbara Smith
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Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and request the legislature to 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.

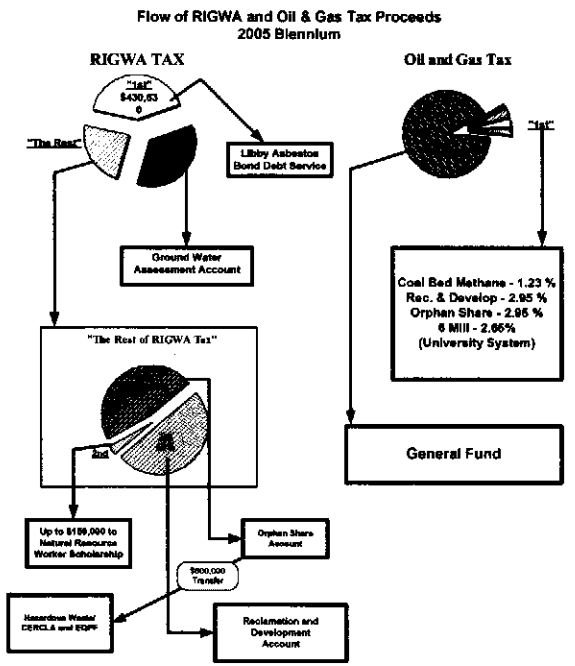
The Constitution further states, "The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars ($100,000,000) guaranteed by the state against loss or diversion."

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. Consequently, the trust no longer receives revenue and those tax proceeds previously directed to the RIT were re-directed by the 2003 and 2005 legislatures.

The legislature provides for statutory allocation of the resource indemnity and ground water assessment (RIGWA) and applicable portions of the oil & gas tax that originally funded the RIT. The RIGWA and the application portion of the oil & gas tax are now distributed to a number of natural resource accounts.

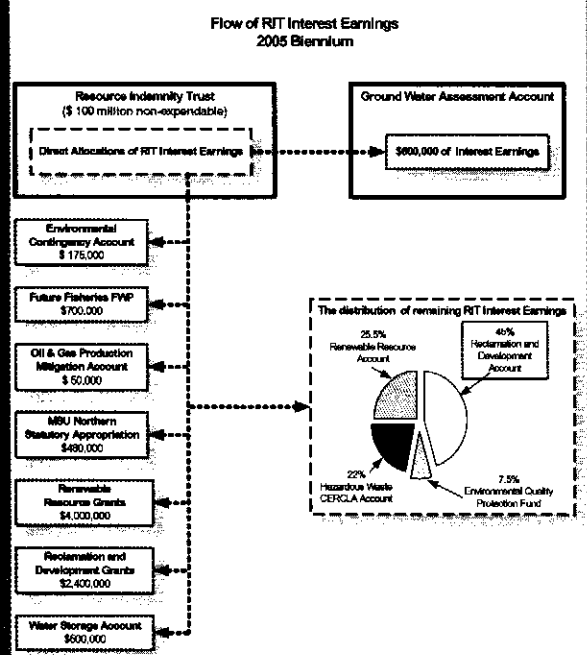
RIGWA -The first $460,630 is deposited into the Libby Asbestos Bond Debt Service account; the second $366,000 is deposited into the ground water assessment account. The remaining funds are distributed as follows: 50 percent into the reclamation and development grant program account, up to $150,000 into the natural resources worker scholarship fund, and any remaining funds to the orphan share account.

Applicable portion of the oil and gas taxes - The first disbursements are 1.23 percent to the coal bed methane protection account, 2.95 percent to the reclamation and development grant program account, 2.95 percent to the orphan share account and 2.65 percent to the 6- mill account for the university system. The remaining balance or 90.22 percent is transferred to the general fund.



During the 2005 session, concern about the solvency of two RIT accounts, hazardous waste/CERCLA and the environmental quality protection fund, was raised. Legislation was passed to provide the ability to transfer up to $600,000 from the orphan share account to prevent a negative balance in either account. If this transfer occurs, the hazardous waste/CERCLA and environmental quality protection funds must reimburse the orphan share account when funds become available.

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.

Direct Allocations: 15-38-202 MCA directs where the interest from the RIT is allocated, now and in the future. Direct allocations are made to a number of accounts. The table below represents the allocations of RIT interest earnings for the 2005 biennium. Allocations to the environmental contingency account, oil & gas production mitigation account and the water storage account are made at the beginning of the biennium. The other allocations are made at the beginning of each fiscal year; the figure in the table below represents the total of both years.

Indirect Allocations: See next page