



Resource Indemnity Trust

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Resource Indemnity Trust (RIT) - Enabling Act

February 2015

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests 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. Tax proceeds previously directed to the RIT have been re-directed by the legislature ever since.

The allocation of the RIT interest and groundwater assessment taxes were modified due to the passage and approval of HB 116 during the 2007 legislative session. The changes in allocation were made in an attempt to streamline the distribution of funds and address cash flow issues.

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.

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 center table represents the allocations of RIT interest earnings for the 2011 biennium. Allocations to the oil & gas production mitigation account, the environmental contingency 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 represents the total of both years.

Indirect Allocations: After direct interest allocations are made, 15-38-202 MCA directs the remaining interest on a formula basis. The formula provides: 1) 65 percent to the natural resource operations fund; 2) 26 percent to the hazardous waste/CERCLA account; and 3) 9 percent to the environmental quality protection fund.

Tax Descriptions

- Resource Indemnity and Ground Water Assessment (RIGWA) - taxes paid by those 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.
- Oil and Gas Taxes - taxes on the production of oil and gas.

RIT Distributions—Tax

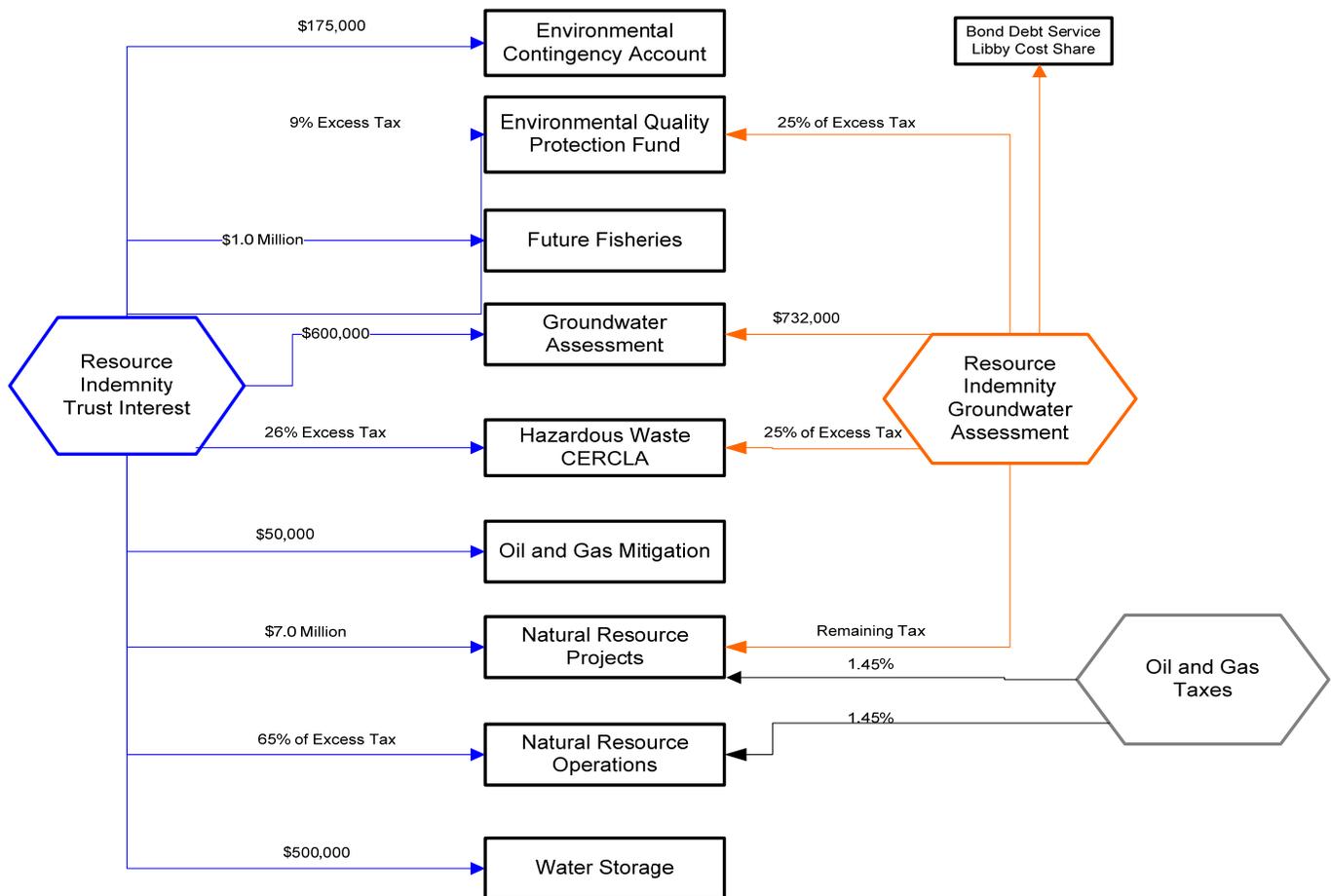
The legislature provides for statutory allocation of the resource indemnity and ground water assessment (RIGWA) and applicable portions of the oil & gas tax that originally funded the RIT. The RIGWA and the application portion of the oil & gas tax are now distributed to a number of natural resource accounts.

Fund Descriptions

A RIT fund is defined as a fund receiving RIT interest or RIGWA taxes

- Ground water assessment account - funds groundwater monitoring and characterization studies
- Natural Resource Project - funds grants and loans to address damage from non-renewable extraction as well as funding for projects that conserve, develop or manage, or preserve resources
- 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 (CERCLA).
- Environmental Quality Protection Fund - utilized to identify, investigate, negotiate and prosecute individuals/entities to achieve remedial action or recover costs and damages under the state superfund program.
- Environmental Contingency Account—controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment.
- Future Fisheries - funds to reclaim habitat and spawning areas of the bull and cutthroat trout impacted by mining.
- Oil & Gas Production Mitigation Account - funds 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.
- Natural Resource Operations - funds to support the natural resource programs within state government.
- Water Storage Account - funds for repair and maintenance of state owned water facilities.

Resource Indemnity Trust Interest and the Resource Indemnity Groundwater Assessment 2013 Biennium



Applicable portion of the oil and gas taxes - The disbursements to RIT related funds include 1.45 percent to the natural resource project fund and an additional 1.45 percent to the natural resource operations fund.

RIGWA -The proceeds are first deposited to the Comprehensive Environmental Rehabilitation Liability Account (CERCLA) Bond Debt Service fund. For fiscal years 2012 and 2013, the estimated amounts are \$269,137 and \$266,850.

The second deposit is to the ground water assessment account of \$366,000 annually. After these transactions have taken place, the remaining funds are split 25 percent to the environmental quality protection fund, 25 percent to the hazardous waste CERCLA fund and the remaining to the natural resource project fund.