

HOUSE BILL NO. 748
INTRODUCED BY R. DEVLIN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND REVISING THE LAWS RELATING TO THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES; CHANGING THE METHOD FOR DISTRIBUTING OIL AND NATURAL GAS PRODUCTION TAXES TO STATE FUNDS AND TO LOCAL TAXING UNITS; ESTABLISHING PERCENTAGE DISTRIBUTION AMOUNTS FOR LOCAL TAXING UNITS; PROVIDING A STATUTORY APPROPRIATION FOR THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES TO LOCAL TAXING UNITS; AMENDING SECTIONS 7-1-2111, 15-1-501, 15-36-304, 15-36-314, 15-36-315, 15-38-113, 15-38-202, 17-7-502, 75-10-743, 76-15-904, 82-11-135, 85-2-905, AND 90-2-1104, MCA; REPEALING SECTIONS 15-36-320 AND 15-36-324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. 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 [section 2] 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 [section 2].

(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, 7.13% to be distributed as follows:

(i) at the beginning of fiscal year 2003, 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, 2005, 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; and

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

(c) for the fiscal year beginning July 1, 2005, 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) 5.90% to the reclamation and development grants special revenue account established in 90-2-1104;

and

(iii) all remaining proceeds to the state general fund; and

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

(i) 7.13% to the reclamation and development grants special revenue account established in 90-2-1104;

and

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

NEW SECTION. Section 2. Distribution of taxes to taxing units -- appropriation. (1) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under [section 1(3)] to each eligible county.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%

Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county.

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board

of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The distribution to taxing units under this section is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.

Section 3. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made as follows:

- (a) first class--all counties having a taxable valuation of \$50 million or more;
- (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;
- (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;
- (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;
- (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;
- (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;
- (g) seventh class--all counties having a taxable valuation of less than \$5 million.

(2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county

as of the time of determination plus:

- (a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;
- (b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;
- (c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;
- (d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;
- (e) the value provided by the department of revenue under ~~15-36-324(14)~~ [section 2(7)];
- (f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141;
- (g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation property under 15-6-141;
- (h) the value provided by the department of revenue under 15-24-3001; and
- ~~(h)~~(i) 6% of the taxable value of the county on January 1 of each tax year."

Section 4. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under ~~15-36-324~~ [section 1];
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping

by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under ~~the operation of the Montana Alcoholic Beverage Code~~ Title 16, chapters 1 through 4 and 6.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

Section 5. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in ~~15-36-324~~ [sections 1 and 2].

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the

department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) stripper well exemption production	0.5%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, ~~provided that~~ if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, ~~provided that~~ if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production. Stripper well exemption production is taxed as provided in subsection (5)(c) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$38 a barrel.

(d) For the purposes of subsection (6)(c), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131."

Section 6. Section 15-36-314, MCA, is amended to read:

"15-36-314. Deficiency assessment -- local government severance tax deficiency assessment -- review -- penalty and interest. (1) ~~When~~ If the department determines that the amount of the tax due, including the amount due for the local government severance tax, is greater than the amount disclosed by a return, it shall

mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) (a) The department shall collect deficiency assessments of the local government severance tax in the same manner as it collects oil and natural gas production tax deficiency assessments.

(b) Any local government severance taxes that are collected on oil and natural gas production occurring after December 31, 1988, and before January 1, 1995, must be treated as current revenue for the purposes of distribution and must be distributed pursuant to ~~15-36-324(12)(a)~~ [section 2].

(3) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216."

Section 7. Section 15-36-315, MCA, is amended to read:

"15-36-315. Credit or refund for overpayment -- refund from county -- interest on overpayment.

(1) If the department determines that the amount of tax, penalty, or interest due for any taxable period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed pursuant to ~~15-36-324~~ [section 2], must be withheld from the current distribution made pursuant to ~~15-36-324~~ [section 2].

(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to ~~15-36-324~~ [section 2] and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the department.

(3) A refund that is paid by the department for an overpayment of the local government severance tax for oil or natural gas production occurring after December 31, 1988, and before January 1, 1995, must be treated as issued for the current distribution period for distribution purposes, and the refund must be apportioned in the same manner as taxes are distributed pursuant to ~~15-36-324(12)(a)~~ [section 2].

(4) Except as provided in subsection (5), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(5) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1."

Section 8. Section 15-38-113, MCA, is amended to read:

"15-38-113. Exemption from resource indemnity and ground water assessment tax. (1) A person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1, is exempt from the resource indemnity and ground water assessment tax.

(2) A person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, part 3, is exempt from the resource indemnity and ground water assessment tax."

Section 9. Section 15-38-202, MCA, is amended to read:

"15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, ~~including money payable into the fund under the provisions of 15-36-324 and 15-37-117,~~ must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. ~~Thereafter~~ After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection

(2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$1.2 million and for fiscal years beginning on or after July 1, 2005, \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants;

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905; and

(v) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$350,000 and for fiscal years beginning on or after July 1, 2005, \$500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified projects.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 25.5% and for fiscal years beginning on or after July 1, 2005, 30% of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 22% and for fiscal years beginning on or after July 1, 2005, 26% of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 45% and for fiscal years beginning on or after July 1, 2005, 35% of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 7.5% and

for fiscal years beginning on or after July 1, 2005, 9% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)

15-38-202. (Effective July 1, 2009) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, ~~including money payable into the fund under the provisions of 15-36-324 and 15-37-117,~~ must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. ~~Thereafter~~ After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource

indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates June 30, 2014--sec. 5, Ch. 497, L. 1999.)

15-38-202. (Effective July 1, 2014) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, ~~including money payable into the fund under the provisions of 15-36-324 and 15-37-117,~~ must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. ~~Thereafter~~ After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(ii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and

(iii) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

Section 10. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; ~~15-36-324~~ [section 2]; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 11. Section 75-10-743, MCA, is amended to read:

"75-10-743. (Temporary) Orphan share state special revenue account -- reimbursement of claims -- payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and must be used to reimburse remedial action costs claimed pursuant to 75-10-742

through 75-10-752 and to pay costs incurred by the department in defending the orphan share.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(c) funds allocated from the resource indemnity and ground water assessment tax proceeds provided for in 15-38-106;

(d) funds received from the distribution of oil and natural gas production taxes pursuant to [section 1];

(e) unencumbered funds remaining in the abandoned mines state special revenue account;

~~(e)~~(f) interest income on the account;

~~(f)~~(g) funds received from settlements pursuant to 75-10-719(7); and

~~(g)~~(h) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share fund does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share fund, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share fund does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsection (8), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the department's costs incurred in defending the orphan share in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(7) (a) ~~On August 21, 2002, \$1,000 is transferred from the orphan share fund to the general fund.~~ If sufficient money remains in the orphan share fund on June 29, 2003, \$999,000 must be transferred to the general fund.

(b) If any money remains in the orphan share fund after June 30, 2005, and after outstanding claims are paid, the money must be deposited in the general fund.

(8) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(9) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process. (Terminates June 30, 2005--sec. 30, Ch. 415, L. 1997.)"

Section 12. Section 76-15-904, MCA, is amended to read:

"76-15-904. Coal bed methane protection account -- use. (1) There is a coal bed methane protection account in the state special revenue fund.

(2) ~~At the beginning of each fiscal year, there~~ There must be deposited in the account a total of \$400,000 ~~of the proceeds from the distribution of oil and natural gas production taxes, as provided in 15-36-324~~ [section 1].

(3) All money paid into the account must be invested by the board of investments. Earnings from investments must be deposited in the account.

(4) Subject to the conditions of subsection (5), money deposited in the account must be used to compensate landowners and water right holders for damages attributable to coal bed methane development as

provided in this part.

(5) Money deposited in the fund and earnings of the fund may not be expended until after June 30, 2005. For fiscal years beginning after June 30, 2005, principal and earnings may be expended only in the case of an emergency. For fiscal years beginning after June 30, 2011, principal and earnings in the account may be expended for any purpose authorized pursuant to this part.

(6) Money in the account must be appropriated to the department for use by conservation districts that have private landowners or water right holders who qualify for compensation as provided in 76-15-905. (Subsection (2) terminates June 30, 2011--sec. 10, Ch. 531, L. 2001.)"

Section 13. Section 82-11-135, MCA, is amended to read:

"82-11-135. Money earmarked for board expenses. The state treasurer shall deposit all money distributed to the board under ~~15-36-324~~ [section 1] and collected under this chapter in the state special revenue fund. The money must be used for the purpose of paying all expenses of the board and for no other purpose. The board shall use the money subject to biennial appropriations by the legislature. Income and interest from investment of the board's money in the state special revenue fund must be credited to the board."

Section 14. Section 85-2-905, MCA, is amended to read:

"85-2-905. Ground water assessment account. (1) There is a ground water assessment account within the special revenue fund established in 17-2-102. The Montana bureau of mines and geology is authorized to expend amounts from the account necessary to carry out the purposes of this part.

(2) The account may be used by the Montana bureau of mines and geology only to carry out the provisions of this part.

(3) Subject to the direction of the ground water assessment steering committee, the Montana bureau of mines and geology shall investigate opportunities for the participation and financial contribution of agencies of federal and local governments to accomplish the purposes of this part.

(4) There must be deposited in the account:

(a) at the beginning of each fiscal year, \$366,000 of the proceeds from the resource indemnity and ground water assessment tax, as authorized by 15-38-106, and \$300,000 of the interest earnings from the resource indemnity trust fund, as authorized by 15-38-202, unless at the beginning of the fiscal year the unobligated cash balance in the ground water assessment account:

(i) equals or exceeds \$666,000, in which case an allocation may not be made and the proceeds must

be deposited in the resource indemnity trust fund established by 15-38-201; or

(ii) is less than \$666,000, in which case an amount equal to the difference between the unobligated cash balance and \$666,000 must be allocated to the ground water assessment account and any remaining amount must be deposited in the resource indemnity trust fund established by 15-38-201;

(b) funds provided by state government agencies and by local governments to carry out the purposes of this part;

(c) proceeds allocated to the account as provided in ~~15-36-324~~ and 15-38-106; and

(d) funds provided by any other public or private sector organization or person in the form of gifts, grants, or contracts specifically designated to carry out the purposes of this part."

Section 15. Section 90-2-1104, MCA, is amended to read:

"90-2-1104. Reclamation and development grants account. (1) There is a reclamation and development grants special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the reclamation and development grants account money allocated from:

(a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;

(b) the resource indemnity and ground water assessment tax under provisions of 15-38-106;

(c) the metal mines license tax proceeds as provided in 15-37-117(1)(d); and

(d) the oil and gas production tax as provided in ~~15-36-324~~ and ~~15-38-106~~ [section 1].

(3) Appropriations may be made from the reclamation and development grants account for the following purposes:

(a) grants for designated projects; and

(b) administrative expenses, including salaries and expenses for personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded before funding of projects."

NEW SECTION. **Section 16. Repealer.** Sections 15-36-320 and 15-36-324, MCA, are repealed.

NEW SECTION. **Section 17. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 36, part 3, and the provisions of Title 15, chapter 36, part 3, apply to [sections 1 and 2].

NEW SECTION. **Section 18. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 19. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 20. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax revenue derived from oil and natural gas production occurring after December 31, 2002.

- END -