

**SENATE BILL 247**

**Introduced by Keating**

1/25	Introduced
1/25	Referred to Taxation
1/25	First Reading
1/25	Fiscal Note Requested
1/30	Fiscal Note Received
2/01	Fiscal Note Printed
2/09	Hearing
2/11	Tabled in Committee

1 Senate BILL NO. 247  
 2 INTRODUCED BY Hattery  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE RESOURCE  
 5 INDEMNITY TRUST TAX WHEN THE RESOURCE INDEMNITY TRUST FUND  
 6 REACHES \$100 MILLION; REALLOCATING METALLIFEROUS MINES  
 7 LICENSE TAXES; AMENDING SECTIONS 15-37-117, 15-38-103,  
 8 15-38-202, 82-11-162, AND 85-2-905, MCA; REPEALING SECTIONS  
 9 15-38-104, 15-38-105, 15-38-106, 15-38-107, 15-38-108,  
 10 15-38-109, 15-38-110, 15-38-111, 15-38-112, 15-38-113,  
 11 15-38-121, 15-38-125, 15-38-126, 15-38-127, AND 15-38-136,  
 12 MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY  
 13 DATE."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 15-38-202, MCA, is amended to read:  
 17 "15-38-202. Investment of resource indemnity trust fund  
 18 -- expenditure -- minimum balance. (1) All money paid into  
 19 the resource indemnity trust fund on or before the date the  
 20 fund reaches \$100 million, as certified by the governor  
 21 through executive order, including money payable into the  
 22 fund under the provisions of 15-37-117, ~~shall~~ must be  
 23 invested at the discretion of the board of investments. All  
 24 the net earnings accruing to the resource indemnity trust  
 25 fund ~~shall~~ must annually be added to the trust fund until it

1 has reached the sum of \$10 million. Thereafter, only the net  
 2 earnings may be appropriated and expended until the fund  
 3 reaches \$100 million, as certified by the governor through  
 4 executive order. Thereafter, all ~~net--earnings--and--all~~  
 5 ~~receipts~~ interest income shall must be appropriated by the  
 6 legislature and expended, provided that the balance in the  
 7 fund may never be less than \$100 million.

8 (2) (a) At the beginning of each biennium, there is  
 9 allocated from the interest income of the resource indemnity  
 10 trust fund:

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

14 (ii) beginning in fiscal year 1992, an amount not to  
 15 exceed \$50,000 to the oil and gas production damage  
 16 mitigation account pursuant to the conditions of 82-11-161.

17 (b) The remainder of the interest income is allocated  
 18 as follows:

19 (i) ~~Beginning--in-fiscal-year-1982, provided the amount~~  
 20 ~~in the resource indemnity trust fund is greater than \$10~~  
 21 ~~million, An amount equal to 30% of the interest income of~~  
 22 the resource indemnity trust fund must be allocated to the  
 23 water development state special revenue account created by  
 24 85-1-604.

25 (ii) ~~Beginning in fiscal year 1988, An amount equal to~~

1 12% of the interest income of the resource indemnity trust  
2 fund must be allocated to the hazardous waste/CERCLA special  
3 revenue account provided for in 75-10-621.

4 (iii) Beginning-in-fiscal-year-1990, An amount equal to  
5 8% of the interest income from the resource indemnity trust  
6 fund must be allocated to the renewable resource development  
7 account provided for in Title 90, chapter 2.

8 (iv) Beginning-in-fiscal-year-1990, An amount equal to  
9 46% of the interest income from the resource indemnity trust  
10 fund must be allocated to the reclamation and development  
11 grants account provided for in 90-2-1104.

12 (v) Beginning-in-fiscal-year-1990, An amount equal to  
13 4% of the interest income of the resource indemnity trust  
14 fund must be allocated to the environmental quality  
15 protection fund provided for in 75-10-704.

16 (3) Any formal budget document prepared by the  
17 legislature or the executive branch that proposes to  
18 appropriate funds from the resource indemnity trust interest  
19 account other than as provided for by the allocations in  
20 subsection (2) must specify the amount of money from each  
21 allocation that is proposed to be diverted and the proposed  
22 use of the diverted funds. A formal budget document includes  
23 a printed and publicly distributed budget proposal or  
24 recommendation, an introduced bill, or a bill developed  
25 during the legislative appropriation process or otherwise

1 during a legislative session."

2 **Section 2.** Section 15-37-117, MCA, is amended to read:

3 "15-37-117. (Temporary) Disposition of metalliferous  
4 mines license taxes. (1) Except as provided in subsection  
5 (4), metalliferous mines license taxes collected under the  
6 provisions of this part are allocated as follows:

7 (a) to the credit of the general fund of the state, 58%  
8 of total collections each year;

9 (b) to the state special revenue fund to the credit of  
10 a hard-rock mining impact trust account, 1.5% of total  
11 collections each year;

12 (c) 15.5% of total collections each year to the:

13 (i) state resource indemnity trust fund, 15.5% of total  
14 collections each year on or before the date the resource  
15 indemnity trust fund reaches \$100 million, as certified by  
16 the governor through executive order; or

17 (ii) general fund after the date of the executive order  
18 referred to in subsection (1)(c)(i);

19 (d) to the county or counties identified as  
20 experiencing fiscal and economic impacts, resulting in  
21 increased employment or local government costs, under an  
22 impact plan for a large-scale mineral development prepared  
23 and approved pursuant to 90-6-307, in direct proportion to  
24 the fiscal and economic impacts determined in the plan or,  
25 if no an impact plan has not been prepared, to the county in

1 which the mine is located, 25% of total collections each  
2 year, to be allocated by the county commissioners as  
3 follows:

4 (i) not less than 40% to the county hard-rock mine  
5 trust reserve account established in 7-6-2225; and

6 (ii) all money not allocated to the account pursuant to  
7 subsection (1)(d)(i) to be further allocated as follows:

8 (A) 33 1/3% is allocated to the county for planning or  
9 economic development activities;

10 (B) 33 1/3% is allocated to the elementary school  
11 districts within the county that have been affected by the  
12 development or operation of the metal mine; and

13 (C) 33 1/3% is allocated to the high school districts  
14 within the county that have been affected by the development  
15 or operation of the metal mine.

16 (2) When an impact plan for a large-scale mineral  
17 development approved pursuant to 90-6-307 identifies a  
18 jurisdictional revenue disparity, the county shall  
19 distribute the proceeds allocated under subsection (1)(d) in  
20 a manner similar to that provided for property tax sharing  
21 under Title 90, chapter 6, part 4.

22 (3) The department shall return to the county in which  
23 metals are produced the tax collections allocated under  
24 subsection (1)(d). The allocation to the county described by  
25 subsection (1)(d) is a statutory appropriation pursuant to

1 17-7-502.

2 (4) The proceeds of the surtax collected under  
3 15-37-126 must be deposited to the credit of the general  
4 fund.

5 15-37-117. (Effective on receipt of taxes on production  
6 occurring prior to January 1, 1993) Disposition of  
7 metalliferous mines license taxes. (1) Metalliferous mines  
8 license taxes collected under the provisions of this part  
9 are allocated as follows:

10 (a) to the credit of the general fund of the state, 58%  
11 of total collections each year;

12 (b) to the state special revenue fund to the credit of  
13 a hard-rock mining impact trust account, 1.5% of total  
14 collections each year;

15 (c) 15.5% of total collections each year to the:

16 (i) state resource indemnity trust fund, ~~15.5% of total~~  
17 ~~collections--each--year~~ on or before the date the resource  
18 indemnity trust fund reaches \$100 million, as certified by  
19 the governor through executive order; or

20 (ii) general fund after the date of the executive order  
21 referred to in subsection (1)(c)(i);

22 (d) to the county or counties identified as  
23 experiencing fiscal and economic impacts, resulting in  
24 increased employment or local government costs, under an  
25 impact plan for a large-scale mineral development prepared

and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if no an impact plan has not been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for planning or economic development activities;

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(d) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which

metals are produced the tax collections allocated under subsection (1)(d). The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502."

**Section 3.** Section 82-11-162, MCA, is amended to read:

"82-11-162. Release of producing oil or gas well from drilling bond -- fee. Upon receipt of notification by the owner on a form prescribed by the board, payment by the owner of \$125, and proof from the owner that a well completed after June 30, 1989, is producing oil or gas in commercial quantities ~~and--is--subject--to--the--tax--under~~ 15-38-104, the board shall release and absolve the owner of the well from the bond required under 82-11-123."

**Section 4.** Section 85-2-905, MCA, is amended to read:

"85-2-905. (Temporary) Ground water assessment account.

(1) There is a ground water assessment account within the state 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) the portion of the application filing fee for a permit to beneficially use ground water, allocated pursuant to 85-2-302(2);

(b) the portion of the filing fee for processing notices of completion of ground water development, allocated pursuant to 85-2-306(5);

(c) the portion of the water well contractor, driller, and monitoring well constructor license fees, allocated pursuant to 37-43-303(2), and the portion of the license renewal fee, allocated pursuant to 37-43-307(1);

(d) the portion of public water supply system fees, allocated pursuant to 75-6-108;

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

(f) 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. (Terminates July 1, 1993--sec. 22, Ch. 769, L. 1991.)

85-2-905. (Effective July 1, 1993) Ground water assessment account. (1) There is a ground water assessment account within the state 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) on July 1, 1993, and at the beginning of each succeeding fiscal year, 14.1% of the proceeds from the resource indemnity and ground water assessment tax as authorized by 15-30-106, unless at the beginning of the fiscal year the unobligated cash balance in the ground water assessment account;~~

~~(b) equals or exceeds \$666,000, in which case no allocation will be made and the funds must be deposited in the resource indemnity trust fund established by 15-30-201;~~

1 or

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

8 {b}{a} funds provided by federal or state government  
9 agencies and by local governments to carry out the purposes  
10 of this part; and

11 {c}{b} funds provided by any other public or private  
12 sector organization or person in the form of gifts, grants,  
13 or contracts specifically designated to carry out the  
14 purposes of this part."

15 **Section 5.** Section 15-38-103, MCA, is amended to read:

16 "15-38-103. **Definitions** Definition. As used in this  
17 chapter, the following definitions apply:

18 {1}-"Department"-means-department-of-revenue;

19 {2}-"Gross-value-of-product"-means,-except-as-provided  
20 in-15-38-125-through-15-38-127,-the-market-value-of-any  
21 merchantable-mineral-extracted-or-produced-during-the  
22 taxable-year;

23 {3}-"Mineral"-means-any-precious-stones-or-gems,-gold,  
24 silver,-copper,-coal,-lead,-petroleum,-natural-gas,-oil,  
25 uranium,-or-other-nonrenewable-merchantable-products

1 extracted-from-the-surface-or-subsurface-of-the-state-of  
2 Montana;

3 {4}-"Total total environment" means air, water, soil,  
4 flora, and fauna and the social, economic, and cultural  
5 conditions that influence communities and individual  
6 citizens."

7 NEW SECTION. **Section 6. Repealer.** Sections 15-38-104,  
8 15-38-105, 15-38-106, 15-38-107, 15-38-108, 15-38-109,  
9 15-38-110, 15-38-111, 15-38-112, 15-38-113, 15-38-121,  
10 15-38-125, 15-38-126, 15-38-127, and 15-38-136, MCA, are  
11 repealed.

12 NEW SECTION. **Section 7. Applicability.** Taxes owed for  
13 the previous year's production must be paid pursuant to  
14 15-38-106, as it read on July 1, 1993.

15 NEW SECTION. **Section 8. Effective dates.** (1) [Sections  
16 1, 2, and this section] are effective on passage and  
17 approval.

18 (2) [Sections 3 through 7] are effective on the date  
19 that the governor by executive order certifies to the  
20 secretary of state that the resource indemnity trust fund  
21 has reached \$100 million. The secretary of state shall  
22 notify the department of revenue and the legislative council  
23 of the certification.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0247, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act repealing the Resource Indemnity Trust Tax when the Resource Indemnity Trust Fund reaches \$100 million; reallocating Metalliferous Mines License Taxes; and providing effective dates and an applicability date.

ASSUMPTIONS:

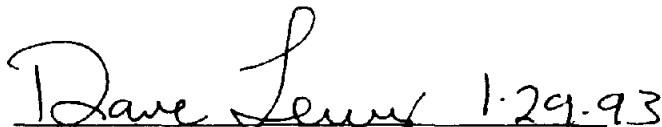
1. The Resource Indemnity Trust (RIT) Fund balance will be \$91,292,000 at the end of FY94 and \$95,291,000 at the end of FY95 (OBPP/LFA).
2. The Resource Indemnity and Ground Water Assessment Tax (RIGWAT) will not be repealed until the RIT Fund reaches \$100 million.


FISCAL IMPACT:

Because the RIT Fund is not estimated to reach a \$100 million balance during the FY94/FY95 biennium, the proposed legislation has no fiscal impact in the FY94/FY95 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Under current law, when the Resource Indemnity Trust Fund reaches a balance of \$100 million, all net earnings and receipts (RITT/RIGWAT collections) may be appropriated and expended. Under the proposed legislation, the amount that may be appropriated will be reduced when the tax is repealed. Based on recent experience this reduction is in the \$4 million per year range.

  
DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/1/93  
THOMAS F. KEATING, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0247, as introduced  
**SB 247**